

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
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ATTORNEY GENERAL

November 4, 1988

MICHALE DEAN
Health Resources Division

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Procedures for Exceptions to Martorioums

The above-referenced rule has been approved as to its legality by the Attorney General on October 31, 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 accoradance 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.

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Enclosures

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

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

Jal

File No. 1524 — Docket No. T.0009, T320

DATE RECEIVED 10/17/88 — ADOPTED W/O HEARING ~~Case~~

REVIEW DATE ~~10/26/88~~ — EMERGENCY RULE ✓

DUE DATE 10/31/88 — REVISOR APPROVED _____

APPROVED 10/31/88 — REVISOR DISAPPROVED _____

DISAPPROVED _____ — FILED W/SEC. OF STATE 11/1/88

WITHDRAWN _____ — RETURNED TO AGENCY 11/1/88

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)

5/16/88 Date published in State Register
no Comments

_____ ~~Petition for Adoption of a Rule (if applicable)~~

_____ ~~Board's Authorizing Resolution~~

_____ ~~Date adopted~~

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

1988 L. ch 689 Art 2 § 39 Statutory Authority
no Small Business Statement
yes Expenditure of public money statement
yes Signature

_____ ~~Statement of Need and Reasonableness (if applicable)~~

_____ ~~Small Business Statement~~
_____ ~~Fees - § 16A.128~~

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

7/27/88 Date (30)/25 days before adoption
yes Notice attached
yes Copy of rule or summary attached

✓ Publication in State Register

8/1/88 Date (30)/25 days before adoption

_____ 180-day deadline from:

_____ ~~end of comment period (§ 14.26) (rules without hearing)~~
12/30/88 effective date of statutory authority (§ 14.29) (emergency rules)

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

10/14/88 Date

✓ Written requests, submissions or comments (6)

✓ Declaration of attorney

John Brevig Name of SAAG representing agency

✓ Notice of Submission to Atty. Gen. (if applicable)

✓ Aff. of Mailing Notice to Atty. Gen. (if applicable)

AG Copy

Department of Health

Adopted Emergency Rules Relating to Procedures for Exceptions to Moratoriums

Rules as Adopted

PROCEDURES FOR EXCEPTIONS TO NURSING HOME BED MORATORIUM

4655.1070 [EMERGENCY] DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4655.1070 to ~~4655.1100~~ 4655.1098 [Emergency], the following terms have the meanings given them in this part.

Subp. 2. **Advisory review panel.** "Advisory review panel" means the group of individuals that must form recommendations according to part 4655.1086 [Emergency] and that is appointed by the Interagency Board for Quality Assurance under Minnesota Statutes, section 144A.073, subdivision 3, and part 4655.1074 [Emergency].

Subp. 3. **Allowable costs.** "Allowable costs" means costs allowable according to part 9549.0035, subpart 1.

Subp. 4. **Alternative care grant.** "Alternative care grant" has the meaning given in part 9505.2395, subpart 4.

~~Subp. 5. Alternative care grant use. "Alternative care grant use" means the information determined under part 4655.1084 [Emergency], subpart 9.~~

Subp. ~~6.~~ 5. **Annual statistical report.** "Annual statistical report" means the report incorporated by reference under part 4655.1072 [Emergency].

Subp. ~~7.~~ 6. **Appraised value.** "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used for resident care as determined under part 9549.0060.

Subp. ~~8.~~ 7. **Attached fixture.** "Attached fixture" has the meaning given in part 9549.0020, subpart 6.

Subp. ~~9.~~ 8. **Attached hospital.** "Attached hospital" means

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a hospital that is under common ownership and operation with a nursing home and shares with that nursing home the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services.

Subp. ~~10.~~ 9. **Buildings.** "Buildings" has the meaning given in part 9549.0020, subpart 7.

Subp. ~~11.~~ 10. **Certified boarding care home.** "Certified boarding care home" means a facility licensed under parts 4655.0090 to 4655.1060 and 4655.1200 to 4655.9900, and certified to participate in medical assistance under United States Code, title 42, sections 1396 to 1396p as amended through July 18, 1984.

Subp. ~~12.~~ 11. **Commenced construction.** "Commenced construction" has the meaning given it under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (b).

Subp. ~~13.~~ 12. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or the commissioner's representative.

Subp. ~~14.~~ 13. **Conversion.** "Conversion" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (a).

Subp. ~~15.~~ 14. **Cost report.** "Cost report" means the document and supporting material specified by the commissioner of the Department of Human Services and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate ~~determination~~ determination.

Subp. ~~16.~~ 15. **Department.** "Department" means the Minnesota Department of Human Services.

~~Subp.-17.--Environmental-conditions.--"Environmental conditions"-means-the-conditions-reviewed-under-part-4655.1084 [Emergency],-subpart-10.~~

Subp. ~~18.~~ 16. **Estimated operating costs.** "Estimated operating costs" means a facility's estimated operating costs during the first two years after completion of the project.

Subp. ~~19.~~ 17. **Facility.** "Facility" means the attached

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hospital, nursing home, or certified boarding care home named on a proposal.

~~Subp. 20. Financing costs. "Financing costs" means the estimated long-term financing costs that, according to part 4655.1078 [Emergency], item H, must be provided with a proposal.~~

Subp. ~~21.~~ 18. **Hospital.** "Hospital" means an acute care institution ~~as defined in~~ licensed under Minnesota Statutes, ~~section 144.696, subdivision 3, and maintained primarily to treat and care for persons with disorders other than tuberculosis or mental diseases~~ sections 144.50 to 144.58.

Subp. ~~22.~~ 19. **Interagency board for quality assurance or IBQA.** "Interagency Board for Quality Assurance" or "IBQA" means the board established under Minnesota Statutes, section 144A.31, subdivision 1.

Subp. ~~23.~~ 20. **Land improvement.** "Land improvement" has the meaning given in part 9549.0020, subpart 28.

Subp. ~~24.~~ 21. **Medical assistance.** "Medical assistance" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. ~~25.~~ 22. **Medical assistance cost.** "Medical assistance cost" means the biennial amount by which medical assistance payments will change if a proposal is implemented. Medical assistance costs are determined according to part 4655.1084 [Emergency], subpart 2.

Subp. ~~26.~~ 23. **Nursing home.** "Nursing home" means a facility licensed according to Minnesota Statutes, chapter 144A.

Subp. ~~27.~~ 24. **Operating costs.** "Operating costs" has the meaning given in part 9549.0020, subpart 32.

Subp. ~~28.~~ 25. **Proposal.** "Proposal" means a detailed written plan for a conversion, renovation, replacement, or upgrading.

Subp. ~~29.~~ 26. **Proposer.** "Proposer" means the organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the IBQA.

Subp. ~~30.~~ 27. **Renovation.** "Renovation" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1,

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paragraph (b).

Subp. ~~31.~~ 28. **Replacement.** "Replacement" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (c).

Subp. ~~32.~~ 29. **Soft costs.** "Soft costs" means costs capitalized as part of the project relating to implementation of the proposal, including:

A. sales taxes on materials;

B. contractor's overhead and profit;

C. architect and engineering fees;

D. construction period interest;

E. permits, zoning, and construction financing;

F. feasibility, economic, and demographic studies;

G. legal, accounting, and consulting fees relating to creation of the development; and

H. cost of designing the improvements.

Subp. ~~33.~~ 30. **Statutory restriction.** "Statutory restriction" means a replacement restriction, conversion restriction, or upgrading restriction as described under Minnesota Statutes, section 144A.073, subdivisions 5 to 7.

Subp. ~~34.~~ 31. **Submission deadline.** "Submission deadline" means the date ~~that is established~~ by which a proposal must be received by the IBQA, which, according to part 4655.1080 [Emergency], subpart 3, is no later than 90 days after the date a request for proposals is published in the State Register.

Subp. ~~35.~~ 32. **Upgrading.** "Upgrading" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (d).

Subp. ~~36.~~ 33. **Working day.** "Working day" means Monday to Friday, excluding legal holidays recognized by the state of Minnesota.

4655.1072 [EMERGENCY] INCORPORATION BY REFERENCE OF ANNUAL STATISTICAL REPORT.

The "Annual Statistical Report to the Commissioner of Health, 1988; Nursing Home, Boarding Care Home, Supervised

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Living Report" is incorporated by reference and is available through the Minitex interlibrary loan system. The report is subject to frequent change.

4655.1074 [EMERGENCY] APPOINTMENT OF ADVISORY REVIEW PANEL.

Subpart 1. **Procedures.** The IBQA shall appoint an advisory review panel according to subparts 2 to 5.

Subp. 2. **Membership.** The advisory review panel must consist of five members: two representatives from organizations that represent consumers of nursing home services, two representatives from organizations representing providers of nursing home services, and one who has a background in long-term care and either accounting, engineering, or building construction.

Subp. 3. **Advisory review panel chairperson.** The executive director of the IBQA shall chair and convene the advisory review panel.

Subp. ~~3.~~ 4. **Nominations.** A member of the advisory review panel must be nominated. Anyone can nominate an advisory review panel member.

The IBQA shall publish in the State Register a request for nominations to the advisory review panel no later than 30 days after the effective date of parts 4655.1070 to ~~4655.1100~~ 4655.1098 [Emergency] and at least 30 days before the expiration date of the term of an advisory review panel member. A nomination must be written, must state the name and address of the nominee, must include a description of the nominee's professional experience and training, and must state the positions indicated under subpart 2 for which the person is being nominated.

Subp. ~~4.~~ 5. **Appointments.** A nominee shall be appointed by a majority vote of the IBQA.

Subp. ~~5.~~ 6. **Length of term.** A term on the advisory review panel begins the first working day after the vote of the IBQA appointing a person to the panel. An advisory review panel member representing consumers and one representing providers

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shall serve two years on the panel. The remaining consumer and provider members shall serve three-year terms. The member with the background in long-term care and either accounting, engineering, or building construction shall serve a three-year term. An advisory review panel member may serve an unlimited number of consecutive terms.

4655.1076 [EMERGENCY] IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Subpart 1. **When** Date of publication of request for proposals. The IBQA shall publish in the State Register a request for proposals ~~on the first Monday~~ within 30 days after the effective date of parts 4655.1070 to 4655.1100 [Emergency] and within 30 days of the first day of each state fiscal biennium.

Subp. 2. **Contents of a request for proposals.** The request for proposals must state:

A. a proposal submission deadline date consistent with part 4655.1080 [Emergency], subpart 3;

B. the amount of the legislative appropriation available for medical assistance costs or state that proposals will not be requested because no appropriations were made;

C. other relevant information regarding current state long-term care policy goals; and

D. that the information under part 4655.1078 [Emergency] must be included in a proposal.

4655.1078 [EMERGENCY] FORMAT AND CONTENTS OF A PROPOSAL.

A proposal must be on a form approved by the commissioner and must:

A. include the name, telephone number, and address of the proposer or other authorized person who can be contacted by the commissioner or the IBQA with questions regarding the proposal;

B. include the name and address of the nursing home or boarding care home for which the project is being proposed;

C. be signed by a qualified representative of the entity submitting the proposal;

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D. state whether the proposal is for renovation, replacement, conversion, or upgrading;

E. describe the problem the proposal will address;

F. include schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation;

G. include a cost estimate, prepared by a contractor or architect and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by item F, including costs of buildings, attached fixtures, land improvements, construction site preparation, and related soft costs;

H. provide current estimated long-term financing costs of the proposal, including amount and sources of money, annual payments scheduled, interest rates, length of term, closing costs and fees, and insurance costs~~, and other information on loans for~~ that are directly related to the building, attached fixtures, ~~lands~~ land, land improvements, and building site preparation;

I. state the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented;

J. state the current annual care-related and other operating costs and also an estimation of these costs if the proposal were implemented;

K. describe the environmental conditions in the facility that are reviewed under part 4655.1084 [Emergency], subpart 10, and any proposed changes in those conditions;

L. for proposals involving replacement of all or part of a facility, provide the property identification number and a general description of the proposed location of a replacement facility;

M. provide an estimate of the costs ~~and benefits~~ of renovation as an alternative to replacement or of replacement as an alternative to renovation; ~~and~~

N. include the estimated beginning date of

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construction for renovation and replacements and the proposed timetable for completion of construction; and

O. briefly explain why the proposer chose replacement rather than renovation or renovation rather than replacement.

4655.1080 [EMERGENCY] SUBMISSION OF PROPOSAL.

Subpart 1. **Who may submit a proposal.** A proposal must be submitted by a proposer.

Subp. 2. **Where to submit a proposal.** A proposal must be submitted to the IBQA.

Subp. 3. **Submission deadline.** A proposal must be received by the IBQA no later than 90 days after the date a request for proposals is published in the State Register.

4655.1082 [EMERGENCY] INITIAL SCREENING OF PROPOSALS BY IBQA.

The IBQA shall process a proposal according to items A to L.

A. The IBQA shall determine whether a proposal was submitted according to the submission deadline under part 4655.1080 [Emergency], subpart 3.

B. If a proposal was not submitted according to the deadline indicated under part 4655.1080 [Emergency], subpart 3, the IBQA shall return the proposal to the proposer with a written notice that the proposal will not receive further consideration because the proposal was received after the submission deadline.

C. If a proposal is received according to the deadline, the IBQA shall determine whether the proposal meets the definition of conversion, renovation, replacement, or upgrading as those terms are defined under part 4655.1070 [Emergency]. If a ~~aproposal that~~ proposal does not meet any of those definitions ~~must be returned~~, the IBQA shall return that proposal to the proposer ~~without~~ with a written notice that the proposal will not receive further consideration because it does not meet the definition of conversion, renovation, replacement, or upgrading.

D. If the proposal is for an exception that meets the definition of upgrading, renovation, replacement, or conversion

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as those terms are defined under part 4655.1070 [Emergency], the IBQA shall determine whether the proposal is substantially complete and consistent with part 4655.1078 [Emergency]. A proposal is substantially complete and consistent if it contains the information specified in part 4655.1078 [Emergency], items B, D to K, and M.

E. If an item required for a substantially complete proposal under item D is missing from a proposal that is submitted to the IBQA, the proposal shall be returned to the proposer with a written notice that the proposal will not receive further consideration because of the missing item.

F. If a proposal is substantially complete and consistent according to item D, staff shall, if needed, ask for additional information in writing within ten days after the submission deadline. Additional information shall be requested only if, in the judgment of the IBQA, the additional information is needed to clarify or support previously submitted information.

~~G.--Additional-information-requested-under-item-F-must be-submitted-within-17-days-after-the-submission-deadline.~~

~~H.~~ G. If requested additional information is not received within ~~14~~ 17 days after the submission deadline, the proposal shall be returned to the proposer with a notice that the proposal is not approved because the additional information was not ~~submitted-according-to~~ received within 17 days following the submission deadline.

~~I.~~ H. A proposal that is not completed by the submission of additional information requested under item F shall be returned to the proposer with a notice that the proposal will not receive further consideration because the requested additional information submitted was insufficient.

~~J.~~ I. If the format and contents of a proposal submitted to the commissioner are substantially complete and consistent with part 4655.1078 [Emergency], the IBQA shall determine whether the proposal satisfies the statutory restrictions.

~~K.~~ J. If a proposal fails to satisfy a statutory

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restriction, the IBQA shall return the proposal to the proposer with a written notice stating that the proposal will not receive further consideration because it does not satisfy a statutory restriction.

~~b.~~ K. If a proposal satisfies all statutory restrictions, data regarding the proposal shall be collected according to part 4655.1084 [Emergency]. The IBQA shall submit the findings and other information from the review conducted under part 4655.1084 [Emergency] to the ~~advisor~~ advisory review panel to review and form recommendations on the proposal according to part 4655.1086 [Emergency].

4655.1084 [EMERGENCY] DATA COLLECTION.

Subpart 1. **Staff.** The IBQA and the commissioners of agencies represented on the IBQA shall assign staff to collect the data under subparts 2 to 14. The IBQA shall use the data collected under this part to develop recommendations to the commissioner under part 4655.1094 [Emergency] on a proposal screened under part 4655.1082 [Emergency].

Subp. 2. **Medical assistance cost of a proposal.** The medical assistance costs of a proposal shall be ~~determined~~ estimated by:

A. reviewing the accuracy of operating costs provided according to part 4655.1078 [Emergency], item J;

B. determining the accuracy of the real estate taxes and special assessments provided under part 4655.1078 [Emergency], item I;

C. determining the increase in allowable appraised value according to part 9549.0060, subpart 4; staff shall assume that the costs provided under part 4655.1078 [Emergency], item G, are equal to the total increase in appraised value;

D. determining the increase in the allowable annual costs of the elements identified in part 4655.1078 [Emergency], item H, according to part 9549.0060, subparts 5, 6, and 7;

E. determining an estimate of the total allowable annual costs for the cost categories reviewed in items B to D;

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F. determining an estimate of the number of medical assistance resident days and of the proportion of medical assistance resident days to total resident days using information from the most recent cost report of the facility;

G. multiplying the proportion of resident days developed in item F by the estimated annual costs developed in item E;

H. determining the annual medical assistance costs of the proposal by multiplying the amount found in item G by the most recent proportion of medical assistance paid by the state of Minnesota; and

I. multiplying the amount found in item H by two to yield the biennial medical assistance cost of the proposal.

Subp. 3. **Cost information.** The current and projected costs of the proposal shall be calculated according to cost per licensed bed, percent change in cost per licensed bed, and total biennial state and medical assistance costs.

Subp. 4. **Age-related data.** The percentage of individuals in the county of the facility and of counties contiguous to that county who are 65 to 74 years of age, 75 to 84 years of age, and who are 85 or more years of age shall be calculated using either census data or projections of the state demographer based on census data, whichever provides the more recent estimate.

Subp. 5. **Facility occupancy.** The average occupancy rate of the facility's existing beds shall be obtained from the most recent Annual Statistical Report.

Subp. 6. **County-region occupancy.** The average percentage occupancy of the existing licensed beds of all the facilities in the county of the facility and of all facilities in counties contiguous to that county according to the most recent Annual Statistical Report, shall be calculated.

Subp. 7. **Number of licensed beds.** The number of nursing home and licensed ~~long-term~~ boarding care home beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and

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for the state shall be calculated.

Subp. 8. **Number of occupied licensed beds.** The number of occupied nursing home and licensed ~~long-term~~ boarding care home beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 9. **Alternative care grant use.** Alternative care grant use ~~is~~ means the dollar amount and percentage of alternative care grant allocations used by the county in which the facility is located in the most recent year for which data is available~~.--Alternative-care-grant-use~~, and shall be obtained for each proposal that is acceptable according to part 4655.1082 [Emergency]. The amount of alternative care grant per person 65 years of age or older spent in the county in which the facility is located, in counties contiguous to the county of the facility, and in the state shall be calculated.

Subp. 10. **Environmental conditions for evaluation.** Information shall be developed that describes the differences between selected existing environmental conditions described under this subpart and ~~current~~ the corresponding state licensing standards for new construction and between the proposed correction changes in these environmental conditions and ~~current~~ the state licensing standards for new construction. This subpart refers only to those parts of the facility affected by the proposal.

The development of selected information ~~under-this subpart~~ for the purpose of evaluation, comparison, and ranking does not supersede or limit licensing and certification ~~procedures~~ requirements established in chapters 4660 and 9505. The environmental conditions and standards for physical plant evaluation are listed in items A to L.

A. The width of corridors shall be compared with the standards in part 4660.1500, subpart 2.

B. The width of door frames shall be compared with the standards in part 4660.1460, subpart 2.

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C. Fire exit enclosures shall be compared with the standards in part 4660.0300.

D. The method and materials of construction of the building shall be compared with the standards for Group D occupancy in the State Building Code. "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration according to Minnesota Statutes, section 16B.59, and contained in chapter 1300.

E. The number of beds per resident room and the floor area per bed shall be compared to standards in parts 4660.1400 and 4660.1430, subpart 3.

F. The amount of artificial light in resident rooms and major activity areas shall be compared to standards in parts 4660.9900 and 4660.9910.

G. The amount of natural light in resident rooms shall be compared with the standard in part 4660.1450.

H. The number and type of bathing facilities or ~~toileting~~ toilet facilities adjacent to bedrooms shall be compared to the standards in parts 4660.2400, subpart 2, and 4660.2500.

I. Ventilation arrangements shall be compared to the standards in part 4660.8300.

J. Dining room space shall be compared to the ~~standard~~ standards in ~~part~~ parts 4660.4830 to 4660.8380.

K. Day room space shall be compared to the standard in part 4660.4820.

L. Heating and cooling arrangements shall be compared to the standards in part 4660.8200.

Subp. 11. **History of state licensing correction orders and federal certification deficiencies.** For each proposal that is acceptable according to part 4655.1082 [Emergency], the accumulated number and content of licensing correction orders and federal certification deficiencies ~~for~~ incurred during the two ~~most-recently-completed-federal-certification-periods~~ years before the submission deadline for the proposal shall be collected.

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Subp. 12. **History of licensing and certification waivers.** The number and purpose of licensing and federal certification waivers ~~for the~~ incurred during the two ~~most recently completed federal certification periods~~ years before the submission deadline for a proposal shall be collected.

Subp. 13. **History of complaints.** The number and content of licensing and federal certification complaints about a facility received during the two ~~most recently completed federal certification periods~~ years before the deadline for submission of a proposal shall be collected. Substantiated and indeterminable complaints must be included in the data collected under this subpart. If ownership of a facility has changed in the two years before the submission deadline, a history of complaints shall be collected only for the tenure of the current owner.

Subp. 14. **History of sanctions.** The number and content of sanctions relating to licensure and certification that have been levied against a facility and incurred during the two ~~most recently completed federal certification periods~~ years before the submission deadline for the proposal shall be collected.

4655.1086 [EMERGENCY] FORMATION OF ADVISORY REVIEW PANEL RECOMMENDATIONS TO IBQA.

Subpart 1. **Review of proposals.** A proposal ~~submitted according to the deadline for submission,~~ that satisfies the requirements of part 4655.1082 [Emergency] shall be reviewed, evaluated, and ranked by the advisory review panel.

Subp. 2. **Method of evaluation.** The advisory review panel shall evaluate proposals using the information submitted according to parts 4655.1078 [Emergency] and 4655.1080 [Emergency] and the data collected by staff under part 4655.1084 [Emergency].

Subp. 3. **Ranking of proposals.** The advisory review panel shall rank proposals to indicate which proposals should be approved in order of priority based on the criteria in parts 4655.1084 [Emergency] and 4655.1090 [Emergency], items A to H.

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Subp. 4. **Formation of recommendations to the IBQA.** Based on the ranking of proposals, the advisory review panel shall recommend that the IBQA recommend approval or disapproval of a proposal. The advisory review panel shall provide written justifications for its recommendations to the IBQA.

Subp. 5. **Deadline for submission of recommendations.** The advisory review panel must submit its recommendations to the IBQA no later than ten days after receipt of the staff review information.

4655.1088 [EMERGENCY] PUBLIC HEARING.

The IBQA shall hold one public hearing on all proposals submitted in response to a request for proposals. The public hearing shall be held after the submission deadline under part 4655.1080 [Emergency], subpart 3, but before the IBQA submits recommendations to the commissioner. The IBQA shall publish a notice of the public hearing in the State Register that states the time, date, place, and subject of the hearing.

4655.1090 [EMERGENCY] EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

The IBQA shall use the findings of the staff data collection process, the advisory review panel, and the public hearing to evaluate, compare, and rank the proposals according to the long-term care needs they address. An evaluation, comparison, or ranking must be based on the criteria under the following items:

A. Occupancy that is determined according to:

(1) the extent to which the average occupancy rate of the facility supports the need for the proposed project in comparison with the average occupancy rate of all facilities in the county of the facility, of the contiguous counties, and with the statewide occupancy rate;

(2) the extent to which the number and proportion of individuals in the county of the facility and of contiguous counties in the age groups 65 to 74, 75 to 84, and 85 and over support the need for the proposal as determined through

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comparison with other counties and the state;

(3) the extent to which the current supply of nursing home and licensed ~~long-term~~ boarding care home beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties, regions, and the state; and

(4) the extent to which the number of occupied nursing home and licensed ~~long-term~~ boarding care home beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties and the state.

B. The extent to which the proposal enhances the availability and use of alternative care services.

C. The extent to which the proposal reduces the number of ~~long-term~~ nursing home and licensed boarding care home resident rooms with more than two beds.

D. The extent to which a proposal is cost effective in terms of its use of state money, medical assistance cost, cost per licensed bed, change in cost per licensed bed, and, for renovation and replacement proposals, in terms of the costs of renovation in lieu of a proposed replacement or of replacement in lieu of a proposed renovation.

E. The ~~proposal's compliance~~ extent to which the proposal complies with licensing regulations as specified in parts 4660.0300 and 4655.1000.

F. The extent to which a proposal improves the conditions that affect health, safety, or comfort of the residents of a facility, including environmental conditions described in part 4655.1084 [Emergency], subpart 10.

G. The extent to which the physical design ~~of~~ identified in a proposal will improve the quality of life, comfort, and convenience of the residents through improvements such as increased privacy, increased opportunities for social interaction, improved temperature control, or improved efficiency of care.

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H. The extent to which the proposed changes are necessary to meet medical assistance certification and licensing requirements for that facility.

4655.1092 [EMERGENCY] REIMBURSEMENT LIMITS.

Subpart 1. **Cost reimbursement.** The acceptance or determination of costs under parts 4655.1070 to 4655.1100 [Emergency] is not binding for reimbursement. Actual reimbursement of costs is determined according to parts 9549.0010 to 9549.0080.

Subp. 2. **Medical assistance costs.** The sum of the estimated medical assistance costs of all recommended proposals during the first two years of operation must not exceed the amount provided by the legislature as noted in the request for proposals according to part 4655.1076 [Emergency], subpart 2, item B.

4655.1094 ~~[BQA~~ [EMERGENCY] IBQA RECOMMENDATIONS TO COMMISSIONER.

The IBQA shall recommend that the commissioner approve or disapprove a proposal. A recommendation under this part must be based on the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency]. A written report of the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency], and the recommendations formed under this part must be submitted to the commissioner not more than 21 days after receipt of the recommendations of the advisory review panel.

4655.1096 [EMERGENCY] COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

Subpart 1. **Approval or disapproval of a proposal.** The commissioner shall approve or disapprove a proposal within 30 days after receiving the IBQA recommendations.

Subp. 2. **Notice of approval or disapproval.** No later than ten days after the commissioner's approval or disapproval of a proposal the commissioner shall send a written notice of approval or disapproval to the proposer. The notice must state

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the reasons for the approval or disapproval.

Subp. 3. **Expiration of commissioner's approval.** The commissioner's approval of a proposal expires 12 months after the date of the commissioner's signature on the notice of approval unless the facility has commenced construction.

4655.1098 [EMERGENCY] DOCUMENTATION.

Subpart 1. **Preliminary plans.** The proposer of a renovation, replacement, or upgrading that is approved by the commissioner shall submit preliminary plans as defined in part 4660.0600 before drawing final plans.

Subp. 2. **Final working drawings.** The proposer of ~~an accepted proposal for~~ a renovation or replacement that is approved by the commissioner shall submit final architectural, mechanical, and electrical drawings as defined in parts 4660.0700 and 4660.0800 to the Minnesota Department of Health for review and approval before implementation of the project.

Subp. 3. **Changes in approved projects.** Changes in approved projects for renovation, replacement, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according to part 4660.0900.

Subp. 4. **Change orders.** If the commissioner approves the reported changes in a project, a change order permitting the changes shall be issued. The issuance of a change order does not alter the allowable costs as ~~determined~~ estimated in part 4655.1084 [Emergency], subpart 2.

Subp. 5. **Cost overruns.** The proposer shall immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.

Subp. 6. **Final statement of costs.** On completion of the proposed project, the proposer shall submit to the Department of Human Services, a final statement of costs that includes a sworn statement of actual costs of items for which costs were estimated according to part 4655.1078 [Emergency], item G, and

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that compares the actual costs to the estimates.

~~4655.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS.~~

~~Any cost overrun that is 110 percent or more greater than the costs estimated in part 4655.1078 [Emergency], item G, shall be penalized. The amount of money over 110 percent of the costs estimated in part 4655.1078 [Emergency], item G, shall be subtracted from the facility's appraisal conducted under parts 9549.0010 to 9549.0080 for a period of five years.~~

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Joan Anderson Growe
Secretary of State 2:55 PM

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10/31 1988

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Health

Proposed Emergency Rules Relating to Procedures for Exceptions to Moratoriums

Rules as Proposed (all new material)

PROCEDURES FOR EXCEPTIONS TO NURSING HOME BED MORATORIUM

4655.1070 [EMERGENCY] DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4655.1070 to 4655.1100 [Emergency], the following terms have the meanings given them in this part.

Subp. 2. **Advisory review panel.** "Advisory review panel" means the group of individuals that must form recommendations according to part 4655.1086 [Emergency] and that is appointed by the Interagency Board for Quality Assurance under Minnesota Statutes, section 144A.073, subdivision 3, and part 4655.1074 [Emergency].

Subp. 3. **Allowable costs.** "Allowable costs" means costs allowable according to part 9549.0035, subpart 1.

Subp. 4. **Alternative care grant.** "Alternative care grant" has the meaning given in part 9505.2395, subpart 4.

Subp. 5. **Alternative care grant use.** "Alternative care grant use" means the information determined under part 4655.1084 [Emergency], subpart 9.

Subp. 6. **Annual statistical report.** "Annual statistical report" means the report incorporated by reference under part 4655.1072 [Emergency].

Subp. 7. **Appraised value.** "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used for resident care as determined under part 9549.0060.

Subp. 8. **Attached fixture.** "Attached fixture" has the meaning given in part 9549.0020, subpart 6.

Subp. 9. **Attached hospital.** "Attached hospital" means a

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hospital that is under common ownership and operation with a nursing home and shares with that nursing home the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services.

Subp. 10. **Buildings.** "Buildings" has the meaning given in part 9549.0020, subpart 7.

Subp. 11. **Certified boarding care home.** "Certified boarding care home" means a facility licensed under parts 4655.0090 to 4655.1060 and 4655.1200 to 4655.9900, and certified to participate in medical assistance under United States Code, title 42, sections 1396 to 1396p as amended through July 18, 1984.

Subp. 12. **Commenced construction.** "Commenced construction" has the meaning given it under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (b).

Subp. 13. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or the commissioner's representative.

Subp. 14. **Conversion.** "Conversion" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (a).

Subp. 15. **Cost report.** "Cost report" means the document and supporting material specified by the commissioner of the Department of Human Services and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate determiniation.

Subp. 16. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 17. **Environmental conditions.** "Environmental conditions" means the conditions reviewed under part 4655.1084 [Emergency], subpart 10.

Subp. 18. **Estimated operating costs.** "Estimated operating costs" means a facility's estimated operating costs during the first two years after completion of the project.

Subp. 19. **Facility.** "Facility" means the attached

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hospital, nursing home, or certified boarding care home named on a proposal.

Subp. 20. **Financing costs.** "Financing costs" means the estimated long-term financing costs that, according to part 4655.1078 [Emergency], item H, must be provided with a proposal.

Subp. 21. **Hospital.** "Hospital" means an acute care institution as defined in Minnesota Statutes, section 144.696, subdivision 3, and maintained primarily to treat and care for persons with disorders other than tuberculosis or mental diseases.

Subp. 22. **Interagency board for quality assurance or IBQA.** "Interagency Board for Quality Assurance" or "IBQA" means the board established under Minnesota Statutes, section 144A.31, subdivision 1.

Subp. 23. **Land improvement.** "Land improvement" has the meaning given in part 9549.0020, subpart 28.

Subp. 24. **Medical assistance.** "Medical assistance" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 25. **Medical assistance cost.** "Medical assistance cost" means the biennial amount by which medical assistance payments will change if a proposal is implemented. Medical assistance costs are determined according to part 4655.1084 [Emergency], subpart 2.

Subp. 26. **Nursing home.** "Nursing home" means a facility licensed according to Minnesota Statutes, chapter 144A.

Subp. 27. **Operating costs.** "Operating costs" has the meaning given in part 9549.0020, subpart 32.

Subp. 28. **Proposal.** "Proposal" means a detailed written plan for a conversion, renovation, replacement, or upgrading.

Subp. 29. **Proposer.** "Proposer" means the organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the IBQA.

Subp. 30. **Renovation.** "Renovation" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (b).

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Subp. 31. **Replacement.** "Replacement" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (c).

Subp. 32. **Soft costs.** "Soft costs" means costs relating to implementation of the proposal, including:

A. sales taxes on materials;

B. contractor's overhead and profit;

C. architect and engineering fees;

D. construction period interest;

E. permits, zoning, and construction financing;

F. feasibility, economic, and demographic studies;

G. legal, accounting, and consulting fees relating to creation of the development; and

H. cost of designing the improvements.

Subp. 33. **Statutory restriction.** "Statutory restriction" means a replacement restriction, conversion restriction, or upgrading restriction as described under Minnesota Statutes, section 144A.073, subdivisions 5 to 7.

Subp. 34. **Submission deadline.** "Submission deadline" means the date that is established according to part 4655.1080 [Emergency], subpart 3.

Subp. 35. **Upgrading.** "Upgrading" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (d).

Subp. 36. **Working day.** "Working day" means Monday to Friday, excluding legal holidays recognized by the state of Minnesota.

4655.1072 [EMERGENCY] INCORPORATION BY REFERENCE OF ANNUAL STATISTICAL REPORT.

The "Annual Statistical Report to the Commissioner of Health, 1988; Nursing Home, Boarding Care Home, Supervised Living Report" is incorporated by reference and is available through the Minitex interlibrary loan system. The report is subject to frequent change.

4655.1074 [EMERGENCY] APPOINTMENT OF ADVISORY REVIEW PANEL.

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Subpart 1. **Procedures.** The IBQA shall appoint an advisory review panel according to subparts 2 to 5.

Subp. 2. **Membership.** The advisory review panel must consist of two representatives from organizations that represent consumers of nursing home services, two representatives from organizations representing providers of nursing home services, and one who has a background in long-term care and either accounting, engineering, or building construction. The executive director of the IBQA shall chair and convene the advisory review panel.

Subp. 3. **Nominations.** A member of the advisory review panel must be nominated. Anyone can nominate an advisory review panel member.

The IBQA shall publish in the State Register a request for nominations to the advisory review panel no later than 30 days after the effective date of parts 4655.1070 to 4655.1100 [Emergency] and at least 30 days before the expiration date of the term of an advisory review panel member. A nomination must be written, must state the name and address of the nominee, and must state the positions indicated under subpart 2 for which the person is being nominated.

Subp. 4. **Appointments.** A nominee shall be appointed by a majority vote of the IBQA.

Subp. 5. **Length of term.** A term on the advisory review panel begins the first working day after the vote of the IBQA appointing a person to the panel. An advisory review panel member representing consumers and one representing providers shall serve two years on the panel. The remaining consumer and provider members shall serve three-year terms. The member with the background in long-term care and either accounting, engineering, or building construction shall serve a three-year term. An advisory review panel member may serve an unlimited number of consecutive terms.

4655.1076 [EMERGENCY] IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Subpart 1. **When.** The IBQA shall publish in the State

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Register a request for proposals on the first Monday of each state fiscal biennium.

Subp. 2. **Contents of a request for proposals.** The request for proposals must state:

A. a proposal submission deadline date consistent with part 4655.1080 [Emergency], subpart 3;

B. the amount of the legislative appropriation available for medical assistance costs or state that proposals will not be requested because no appropriations were made;

C. other relevant information regarding current state long-term care policy goals; and

D. that the information under part 4655.1078 [Emergency] must be included in a proposal.

4655.1078 [EMERGENCY] FORMAT AND CONTENTS OF A PROPOSAL.

A proposal must be on a form approved by the commissioner and must:

A. include the name, telephone number, and address of the proposer or other authorized person who can be contacted by the commissioner or the IBQA with questions regarding the proposal;

B. include the name and address of the nursing home or boarding care home for which the project is being proposed;

C. be signed by a qualified representative of the entity submitting the proposal;

D. state whether the proposal is for renovation, replacement, conversion, or upgrading;

E. describe the problem the proposal will address;

F. include schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation;

G. include a cost estimate, prepared by a contractor and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by item F, including costs of buildings, attached fixtures, land improvements, construction site

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preparation, and related soft costs;

H. provide current estimated long-term financing costs of the proposal, including amount and sources of money, annual payments scheduled, interest rates, length of term, closing costs and fees, insurance costs, and other information on loans for building, attached fixtures, lands, land improvements, and building site preparation;

I. state the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented;

J. state the current annual care-related and other operating costs and also an estimation of these costs if the proposal were implemented;

K. describe the environmental conditions in the facility and any proposed changes in those conditions;

L. for proposals involving replacement of all or part of a facility, provide the property identification number and a general description of the proposed location of a replacement facility;

M. provide an estimate of the costs and benefits of renovation as an alternative to replacement or of replacement as an alternative to renovation; and

N. include the estimated beginning date of construction for renovation and replacements and the proposed timetable for completion of construction.

4655.1080 [EMERGENCY] SUBMISSION OF PROPOSAL.

Subpart 1. **Who may submit a proposal.** A proposal must be submitted by a proposer.

Subp. 2. **Where to submit a proposal.** A proposal must be submitted to the IBQA.

Subp. 3. **Submission deadline.** A proposal must be received by the IBQA no later than 90 days after the date a request for proposals is published in the State Register.

4655.1082 [EMERGENCY] INITIAL SCREENING OF PROPOSALS BY IBQA.

The IBQA shall process a proposal according to items A to L.

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A. The IBQA shall determine whether a proposal was submitted according to the submission deadline under part 4655.1080 [Emergency], subpart 3.

B. If a proposal was not submitted according to the deadline indicated under part 4655.1080 [Emergency], subpart 3, the IBQA shall return the proposal to the proposer with a written notice that the proposal will not receive further consideration because the proposal was received after the submission deadline.

C. If a proposal is received according to the deadline, the IBQA shall determine whether the proposal meets the definition of conversion, renovation, replacement, or upgrading as those terms are defined under part 4655.1070 [Emergency]. A proposal that does not meet any of those definitions must be returned to the proposer without further consideration.

D. If the proposal is for an exception that meets the definition of upgrading, renovation, replacement, or conversion as those terms are defined under part 4655.1070 [Emergency], the IBQA shall determine whether the proposal is substantially complete and consistent with part 4655.1078 [Emergency]. A proposal is substantially complete and consistent if it contains the information specified in part 4655.1078 [Emergency], items B, D to K, and M.

E. If an item required for a substantially complete proposal under item D is missing from a proposal that is submitted to the IBQA, the proposal shall be returned to the proposer with a written notice that the proposal will not receive further consideration because of the missing item.

F. If a proposal is substantially complete and consistent according to item D, staff shall, if needed, ask for additional information in writing within ten days after the submission deadline. Additional information shall be requested only if, in the judgment of the IBQA, the additional information is needed to clarify or support previously submitted information.

G. Additional information requested under item F must

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be submitted within 17 days after the submission deadline.

H. If requested additional information is not received within 14 days after the submission deadline, the proposal shall be returned to the proposer with a notice that the proposal is not approved because the additional information was not submitted according to the deadline.

I. A proposal that is not completed by the submission of additional information requested under item F shall be returned to the proposer with a notice that the proposal will not receive further consideration because the requested additional information submitted was insufficient.

J. If the format and contents of a proposal submitted to the commissioner are substantially complete and consistent with part 4655.1078 [Emergency], the IBQA shall determine whether the proposal satisfies the statutory restrictions.

K. If a proposal fails to satisfy a statutory restriction, the IBQA shall return the proposal to the proposer with a written notice stating that the proposal will not receive further consideration because it does not satisfy a restriction.

L. If a proposal satisfies all restrictions, data regarding the proposal shall be collected according to part 4655.1084 [Emergency]. The IBQA shall submit the findings and other information from the review conducted under part 4655.1084 [Emergency] to the advisor review panel to review and form recommendations on the proposal according to part 4655.1086 [Emergency].

4655.1084 [EMERGENCY] DATA COLLECTION.

Subpart 1. **Staff.** The IBQA and the commissioners of agencies represented on the IBQA shall assign staff to collect the data under subparts 2 to 14. The IBQA shall use the data collected under this part to develop recommendations to the commissioner under part 4655.1094 [Emergency] on a proposal screened under part 4655.1082 [Emergency].

Subp. 2. **Medical assistance cost of a proposal.** The medical assistance costs of a proposal shall be determined by:

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A. reviewing the accuracy of operating costs provided according to part 4655.1078 [Emergency], item J;

B. determining the accuracy of the real estate taxes and special assessments provided under part 4655.1078 [Emergency], item I;

C. determining the increase in allowable appraised value according to part 9549.0060, subpart 4; staff shall assume that the costs provided under part 4655.1078 [Emergency], item G, are equal to the total increase in appraised value;

D. determining the increase in the allowable annual costs of the elements identified in part 4655.1078 [Emergency], item H, according to part 9549.0060, subparts 5, 6, and 7;

E. determining an estimate of the total allowable annual costs for the cost categories reviewed in items B to D;

F. determining an estimate of the number of medical assistance resident days and of the proportion of medical assistance resident days to total resident days using information from the most recent cost report of the facility;

G. multiplying the proportion of resident days developed in item F by the estimated annual costs developed in item E;

H. determining the annual medical assistance costs of the proposal by multiplying the amount found in item G by the most recent proportion of medical assistance paid by the state of Minnesota; and

I. multiplying the amount found in item H by two to yield the biennial medical assistance cost of the proposal.

Subp. 3. **Cost information.** The current and projected costs of the proposal shall be calculated according to cost per licensed bed, percent change in cost per licensed bed, and total biennial state and medical assistance costs.

Subp. 4. **Age-related data.** The percentage of individuals in the county of the facility and of counties contiguous to that county who are 65 to 74 years of age, 75 to 84 years of age, and who are 85 or more years of age shall be calculated using either census data or projections of the state demographer based on

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census data, whichever provides the more recent estimate.

Subp. 5. **Facility occupancy.** The average occupancy rate of the facility's existing beds shall be obtained from the most recent Annual Statistical Report.

Subp. 6. **County-region occupancy.** The average percentage occupancy of the existing licensed beds of all the facilities in the county of the facility and of all facilities in counties contiguous to that county according to the most recent Annual Statistical Report, shall be calculated.

Subp. 7. **Number of licensed beds.** The number of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 8. **Number of occupied licensed beds.** The number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 9. **Alternative care grant use.** Alternative care grant use is the dollar amount and percentage of alternative care grant allocations used by the county in which the facility is located in the most recent year for which data is available. Alternative care grant use shall be obtained for each proposal that is acceptable according to part 4655.1082 [Emergency]. The amount of alternative care grant per person 65 years of age or older spent in the county in which the facility is located, in counties contiguous to the county of the facility, and in the state shall be calculated.

Subp. 10. **Environmental conditions.** Information shall be developed that describes the differences between existing environmental conditions and current state licensing standards for new construction and between the proposed changes in environmental conditions and current state licensing standards

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for new construction.

The development of information under this subpart does not supersede licensing and certification procedures. The environmental conditions and standards are listed in items A to L.

A. The width of corridors shall be compared with the standards in part 4660.1500, subpart 2.

B. The width of door frames shall be compared with the standards in part 4660.1460, subpart 2.

C. Fire exit enclosures shall be compared with the standards in part 4660.0300.

D. The method and materials of construction of the building shall be compared with the standards for Group D occupancy in the State Building Code. "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration according to Minnesota Statutes, section 16B.59, and contained in chapter 1300.

E. The number of beds per resident room and the floor area per bed shall be compared to standards in parts 4660.1400 and 4660.1430, subpart 3.

F. The amount of artificial light in resident rooms and major activity areas shall be compared to standards in parts 4660.9900 and 4660.9910.

G. The amount of natural light in resident rooms shall be compared with the standard in part 4660.1450.

H. The number of bathing or toileting facilities adjacent to bedrooms shall be compared to the standards in parts 4660.2400, subpart 2, and 4660.2500.

I. Ventilation arrangements shall be compared to the standards in part 4660.8300.

J. Dining room space shall be compared to the standard in part 4660.4830.

K. Day room space shall be compared to the standard in part 4660.4820.

L. Heating and cooling arrangements shall be compared to the standards in part 4660.8200.

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Subp. 11. **History of state licensing correction orders federal certification deficiencies.** For each proposal that is acceptable according to part 4655.1082 [Emergency], the accumulated number and content of licensing correction orders and federal certification deficiencies for the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

Subp. 12. **History of licensing and certification waivers.** The number and purpose of waivers for the two most recently completed federal certification periods before the submission deadline for a proposal shall be collected.

Subp. 13. **History of complaints.** The number and content of complaints about a facility received during the two most recently completed federal certification periods before the deadline for submission of a proposal shall be collected. If ownership of a facility has changed in the two years before the submission deadline, a history of complaints shall be collected only for the tenure of the current owner.

Subp. 14. **History of sanctions.** The number and content of sanctions relating to licensure and certification that have been levied against a facility during the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

4655.1086 [EMERGENCY] FORMATION OF ADVISORY REVIEW PANEL RECOMMENDATIONS TO IBQA.

Subpart 1. **Review of proposals.** A proposal submitted according to the deadline for submission, that satisfies the requirements of part 4655.1082 [Emergency] shall be reviewed, evaluated, and ranked by the advisory review panel.

Subp. 2. **Method of evaluation.** The advisory review panel shall evaluate proposals using the information submitted according to parts 4655.1078 [Emergency] and 4655.1080 [Emergency] and the data collected by staff under part 4655.1084 [Emergency].

Subp. 3. **Ranking of proposals.** The advisory review panel

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shall rank proposals to indicate which proposals should be approved in order of priority based on the criteria in parts 4655.1084 [Emergency] and 4655.1090 [Emergency], items A to H.

Subp. 4. **Formation of recommendations to the IBQA.** Based on the ranking of proposals, the advisory review panel shall recommend that the IBQA recommend approval or disapproval of a proposal. The advisory review panel shall provide written justifications for its recommendations to the IBQA.

Subp. 5. **Deadline for submission of recommendations.** The advisory review panel must submit its recommendations to the IBQA no later than ten days after receipt of the staff review information.

4655.1088 [EMERGENCY] PUBLIC HEARING.

The IBQA shall hold one public hearing on all proposals submitted in response to a request for proposals. The public hearing shall be held after the submission deadline under part 4655.1080 [Emergency], subpart 3, but before the IBQA submits recommendations to the commissioner. The IBQA shall publish a notice of the public hearing in the State Register that states the time, date, place, and subject of the hearing.

4655.1090 [EMERGENCY] EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

The IBQA shall use the findings of the staff data collection process, the advisory review panel, and the public hearing to evaluate, compare, and rank the proposals according to the long-term care needs they address. An evaluation, comparison, or ranking must be based on the criteria under the following items:

A. Occupancy that is determined according to:

(1) the extent to which the average occupancy rate of the facility supports the need for the proposed project in comparison with the average occupancy rate of all facilities in the county of the facility, of the contiguous counties, and with the statewide occupancy rate;

(2) the extent to which the number and proportion

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of individuals in the county of the facility and of contiguous counties in the age groups 65 to 74, 75 to 84, and 85 and over support the need for the proposal as determined through comparison with other counties and the state;

(3) the extent to which the current supply of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties, regions, and the state; and

(4) the extent to which the number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties and the state.

B. The extent to which the proposal enhances the availability and use of alternative care services.

C. The extent to which the proposal reduces the number of long-term care resident rooms with more than two beds.

D. The extent to which a proposal is cost effective in terms of its use of state money, medical assistance cost, cost per licensed bed, change in cost per licensed bed, and, for renovation and replacement proposals, in terms of the costs of renovation in lieu of a proposed replacement or of replacement in lieu of a proposed renovation.

E. The proposal's compliance with licensing regulations as specified in parts 4660.0300 and 4655.1000.

F. The extent to which a proposal improves the conditions that affect health, safety, or comfort of the residents of a facility, including environmental conditions described in part 4655.1084 [Emergency], subpart 10.

G. The extent to which the design of a proposal will improve the quality of life of the residents.

H. The extent to which the proposed changes are necessary to meet medical assistance certification and licensing requirements for that facility.

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4655.1092 [EMERGENCY] REIMBURSEMENT LIMITS.

Subpart 1. **Cost reimbursement.** The acceptance or determination of costs under parts 4655.1070 to 4655.1100 [Emergency] is not binding for reimbursement. Actual reimbursement of costs is determined according to parts 9549.0010 to 9549.0080.

Subp. 2. **Medical assistance costs.** The sum of the estimated medical assistance costs of all recommended proposals during the first two years of operation must not exceed the amount provided by the legislature as noted in the request for proposals according to part 4655.1076 [Emergency], subpart 2, item B.

4655.1094 IBQA [EMERGENCY] RECOMMENDATIONS TO COMMISSIONER.

The IBQA shall recommend that the commissioner approve or disapprove a proposal. A recommendation under this part must be based on the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency]. A written report of the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency], and the recommendations formed under this part must be submitted to the commissioner not more than 21 days after receipt of the recommendations of the advisory review panel.

4655.1096 [EMERGENCY] COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

Subpart 1. **Approval or disapproval of a proposal.** The commissioner shall approve or disapprove a proposal within 30 days after receiving the IBQA recommendations.

Subp. 2. **Notice of approval or disapproval.** No later than ten days after the commissioner's approval or disapproval of a proposal the commissioner shall send a written notice of approval or disapproval to the proposer. The notice must state the reasons for the approval or disapproval.

Subp. 3. **Expiration of commissioner's approval.** The commissioner's approval of a proposal expires 12 months after the date of the commissioner's signature on the notice of approval unless the facility has commenced construction.

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4655.1098 [EMERGENCY] DOCUMENTATION.

Subpart 1. **Preliminary plans.** The proposer of a renovation, replacement, or upgrading that is approved by the commissioner shall submit preliminary plans as defined in part 4660.0600 before drawing final plans.

Subp. 2. **Final working drawings.** The proposer of an accepted proposal for renovation or replacement shall submit final architectural, mechanical, and electrical drawings as defined in parts 4660.0700 and 4660.0800 to the Minnesota Department of Health for review and approval before implementation of the project.

Subp. 3. **Changes in approved projects.** Changes in approved projects for renovation, replacement, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according to part 4660.0900.

Subp. 4. **Change orders.** If the commissioner approves the reported changes in a project, a change order permitting the changes shall be issued. The issuance of a change order does not alter the allowable costs as determined in part 4655.1084 [Emergency], subpart 2.

Subp. 5. **Cost overruns.** The proposer shall immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.

Subp. 6. **Final statement of costs.** On completion of the proposed project, the proposer shall submit to the Department of Human Services, a final statement of costs that includes a sworn statement of actual costs of items for which costs were estimated according to part 4655.1078 [Emergency], item G, and that compares the actual costs to the estimates.

4655.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS.

Any cost overrun that is 110 percent or more greater than the costs estimated in part 4655.1078 [Emergency], item G, shall be penalized. The amount of money over 110 percent of the costs

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estimated in part 4655.1078 [Emergency], item G, shall be subtracted from the facility's appraisal conducted under parts 9549.0010 to 9549.0080 for a period of five years.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Rules Relating to Procedures for Exceptions to Moratoriums

AGENCY: Department of Health

MINNESOTA RULES: Chapter 4655

INCORPORATIONS BY REFERENCE:

Rule Number and Material Incorporated:

4655.1072: Annual Statistical Report to the Commissioner of Health, 1988; Nursing Home, Boarding Care Home, Supervised Living Report.

The attached rules are approved for publication in the State Register

Kathleen M. Traxler
Assistant Revisor

3.

Department of Health

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Health Governing Procedures for Exceptions to Moratorium, Minnesota Rules, parts 4655.1070 to 4655.1100.

NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

Notice is hereby given that the State Department of Health intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Laws of Minnesota, 1988, chapter 689, article 2, section 39. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

PLEASE NOTE: This notice supersedes the notice of proposed adoption of emergency rules that was published in the State Register on Monday, July 18, 1988, pages 130 through 131 (13 S.R. 130).

All persons have until 25 days after publication of this notice or until 4:30 p.m., Friday, August 26, 1988, 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:

Mike Dean
393 N Dunlap
P.O. Box 64900
St. Paul, MN 55164 - 0900
(612) 643 - 2156

Proposed emergency rule parts 4655.1070 to 4655.1100 relate to the process for the review of proposals for exceptions to the nursing home and boarding care bed moratorium contained in Minnesota Statutes, section 144A.071. The exceptions that must be approved under the emergency rules, which are stated under Minnesota Statutes section 144A.073, are renovation, replacement, conversion, and upgrading.

The emergency rules establish rules regarding the formation and functions of an advisory review panel; the publication of requests for exception proposals; the format and contents of a proposal; submission of a proposal; intial screening of proposals by the Interagency Board for Quality Assurance (IBQA); the collection of data related to a proposal; formation of advisory review panel recommendations to the IBQA; public hearing; evaluation, comparison, and ranking of proposals; development of IBQA recommendations to the Commissioner of Health; the Commissioner's approval or disapproval of a proposal; documentation; and penalties for cost overruns.

A free copy of the proposed emergency rule is available by contacting Mike Dean at the above-mentioned address or phone number.

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

Upon 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 reviews as to legality and form to the extent 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 Mike Dean at the above-mentioned address.

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

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.

Date: 7/25/88

S. Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

5.

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES RELATING TO PROCEDURES FOR APPROVING EXCEPTIONS TO NURSING HOME AND BOARDING CARE HOME BED MORATORIUM.

AFFIDAVIT OF MAILING

I, Michael G. Dean, being first duly sworn, depose and say:

that on the 27th, day of July 1988, at the city of St. Paul, county of Ramsey, state of Minnesota, I mailed the attached Memorandum, Notice of Intent to Adopt an Emergency Rule, and RULE by depositing in the State of Minnesota central mailing system for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to all persons on the attached list.

Michael G. Dean

Inscribed and sworn to before me this 5, day of October, 1988

Louise Kaniuk

LOUISE KANIUK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES FEBRUARY 22, 1991

minnesota department of health
health resources division (612) 643-2100
393 north dunlap street p.o. box 64900 st. paul 55164-0900

MEMORANDUM

DATE: 7/26/88

TO: Nursing Home and Boarding Care Home Administrators

SUBJECT: Rulemaking notice

FROM: Mike Tripple, Director
Health Resources Division

Enclosed for your review, are materials relating to proposed emergency rules for the commissioner's approval of exceptions to the moratorium on nursing home and boarding care home beds. Exceptions that are subject to the proposed emergency rules are conversion, replacement, renovation, and upgrading.

Persons affected by the proposed emergency rules include nursing home and boarding care home administrators and owners, and residents of nursing homes and boarding care homes.

Materials that are enclosed are as follows:

1. A copy of the notice of intent to adopt an emergency rule that will be published in the State Register on Monday, August 1, 1988. The notice includes a description of the proposed emergency rules.
PLEASE NOTE: The August 1st publication of the notice supersedes the notice that was published Monday, July 18, 1988, pages 130 through 131 (13 S.R. 130).

2. A copy of the proposed emergency rules as certified by the revisor of statutes and as will be published in the State Register on Monday, August 1st, 1988.

Feel free to call Mike Dean at (612) 643 - 2156 with any questions regarding this memorandum or the enclosures.

an equal opportunity employer

Department of Health

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Health Governing Procedures for Exceptions to Moratorium, Minnesota Rules, parts 4655.1070 to 4655.1100.

NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

Notice is hereby given that the State Department of Health intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Laws of Minnesota, 1988, chapter 689, article 2, section 39. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

PLEASE NOTE: This notice supersedes the notice of proposed adoption of emergency rules that was published in the State Register on Monday, July 18, 1988, pages 130 through 131 (13 S.R. 130).

All persons have until 25 days after publication of this notice or until 4:30 p.m., Friday, August 26, 1988, 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:

Mike Dean
393 N Dunlap
P.O. Box 64900
St. Paul, MN 55164 - 0900
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The emergency rules establish rules regarding the formation and functions of an advisory review panel; the publication of requests for exception proposals; the format and contents of a proposal; submission of a proposal; intial screening of proposals by the Interagency Board for Quality Assurance (IBQA); the collection of data related to a proposal; formation of advisory review panel recommendations to the IBQA; public hearing; evaluation, comparison, and ranking of proposals; development of IBQA recommendations to the Commissioner of Health; the Commissioner's approval or disapproval of a proposal; documentation; and penalties for cost overruns.

A free copy of the proposed emergency rule is available by contacting Mike Dean at the above-mentioned address or phone number.

The proposed emergency rule may be modified 4 if the modifications are supported by data and views submitted to the agency and does not result in a substantial change in the proposed emergency rule as noticed.

Upon 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 reviews as to legality and form to the extent 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 Mike Dean at the above-mentioned address.

The emergency rule will take effect five working days after approval by the Attorney General 7 and will be effective for 180 days. The emergency rule will continue in effect for an additional 180 days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35. 8

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 9 of Minnesota Statutes, section 14.11.

Date: 7/25/88

Sr. Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

Department of Health

Proposed Emergency Rules Relating to Procedures for Exceptions to Moratoriums

Rules as Proposed (all new material)

PROCEDURES FOR EXCEPTIONS TO NURSING HOME BED MORATORIUM

4655.1070 [EMERGENCY] DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4655.1070 to 4655.1100 [Emergency], the following terms have the meanings given them in this part.

Subp. 2. **Advisory review panel.** "Advisory review panel" means the group of individuals that must form recommendations according to part 4655.1086 [Emergency] and that is appointed by the Interagency Board for Quality Assurance under Minnesota Statutes, section 144A.073, subdivision 3, and part 4655.1074 [Emergency].

Subp. 3. **Allowable costs.** "Allowable costs" means costs allowable according to part 9549.0035, subpart 1.

Subp. 4. **Alternative care grant.** "Alternative care grant" has the meaning given in part 9505.2395, subpart 4.

Subp. 5. **Alternative care grant use.** "Alternative care grant use" means the information determined under part 4655.1084 [Emergency], subpart 9.

Subp. 6. **Annual statistical report.** "Annual statistical report" means the report incorporated by reference under part 4655.1072 [Emergency].

Subp. 7. **Appraised value.** "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used for resident care as determined under part 9549.0060.

Subp. 8. **Attached fixture.** "Attached fixture" has the meaning given in part 9549.0020, subpart 6.

Subp. 9. Attached hospital. "Attached hospital" means a

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hospital that is under common ownership and operation with a nursing home and shares with that nursing home the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services.

Subp. 10. **Buildings.** "Buildings" has the meaning given in part 9549.0020, subpart 7.

Subp. 11. **Certified boarding care home.** "Certified boarding care home" means a facility licensed under parts 4655.0090 to 4655.1060 and 4655.1200 to 4655.9900, and certified to participate in medical assistance under United States Code, title 42, sections 1396 to 1396p as amended through July 18, 1984.

Subp. 12. **Commenced construction.** "Commenced construction" has the meaning given it under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (b).

Subp. 13. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or the commissioner's representative.

Subp. 14. **Conversion.** "Conversion" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (a).

Subp. 15. **Cost report.** "Cost report" means the document and supporting material specified by the commissioner of the Department of Human Services and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate determiniation.

Subp. 16. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 17. **Environmental conditions.** "Environmental conditions" means the conditions reviewed under part 4655.1084 [Emergency], subpart 10.

Subp. 18. **Estimated operating costs.** "Estimated operating costs" means a facility's estimated operating costs during the first two years after completion of the project.

Subp. 19. **Facility.** "Facility" means the attached

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hospital, nursing home, or certified boarding care home named on a proposal.

Subp. 20. **Financing costs.** "Financing costs" means the estimated long-term financing costs that, according to part 4655.1078 [Emergency], item H, must be provided with a proposal.

Subp. 21. **Hospital.** "Hospital" means an acute care institution as defined in Minnesota Statutes, section 144.696, subdivision 3, and maintained primarily to treat and care for persons with disorders other than tuberculosis or mental diseases.

Subp. 22. **Interagency board for quality assurance or IBQA.** "Interagency Board for Quality Assurance" or "IBQA" means the board established under Minnesota Statutes, section 144A.31, subdivision 1.

Subp. 23. **Land improvement.** "Land improvement" has the meaning given in part 9549.0020, subpart 28.

Subp. 24. **Medical assistance.** "Medical assistance" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 25. **Medical assistance cost.** "Medical assistance cost" means the biennial amount by which medical assistance payments will change if a proposal is implemented. Medical assistance costs are determined according to part 4655.1084 [Emergency], subpart 2.

Subp. 26. **Nursing home.** "Nursing home" means a facility licensed according to Minnesota Statutes, chapter 144A.

Subp. 27. **Operating costs.** "Operating costs" has the meaning given in part 9549.0020, subpart 32.

Subp. 28. **Proposal.** "Proposal" means a detailed written plan for a conversion, renovation, replacement, or upgrading.

Subp. 29. **Proposer.** "Proposer" means the organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the IBQA.

Subp. 30. **Renovation.** "Renovation" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (b).

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Subp. 31. **Replacement.** "Replacement" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (c).

Subp. 32. **Soft costs.** "Soft costs" means costs relating to implementation of the proposal, including:

A. sales taxes on materials;

B. contractor's overhead and profit;

C. architect and engineering fees;

D. construction period interest;

E. permits, zoning, and construction financing;

F. feasibility, economic, and demographic studies;

G. legal, accounting, and consulting fees relating to creation of the development; and

H. cost of designing the improvements.

Subp. 33. **Statutory restriction.** "Statutory restriction" means a replacement restriction, conversion restriction, or upgrading restriction as described under Minnesota Statutes, section 144A.073, subdivisions 5 to 7.

Subp. 34. **Submission deadline.** "Submission deadline" means the date that is established according to part 4655.1080 [Emergency], subpart 3.

Subp. 35. **Upgrading.** "Upgrading" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (d).

Subp. 36. **Working day.** "Working day" means Monday to Friday, excluding legal holidays recognized by the state of Minnesota.

4655.1072 [EMERGENCY] INCORPORATION BY REFERENCE OF ANNUAL STATISTICAL REPORT.

The "Annual Statistical Report to the Commissioner of Health, 1988; Nursing Home, Boarding Care Home, Supervised Living Report" is incorporated by reference and is available through the Minitex interlibrary loan system. The report is subject to frequent change.

4655.1074 [EMERGENCY] APPOINTMENT OF ADVISORY REVIEW PANEL.

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Subpart 1. **Procedures.** The IBQA shall appoint an advisory review panel according to subparts 2 to 5.

Subp. 2. **Membership.** The advisory review panel must consist of two representatives from organizations that represent consumers of nursing home services, two representatives from organizations representing providers of nursing home services, and one who has a background in long-term care and either accounting, engineering, or building construction. The executive director of the IBQA shall chair and convene the advisory review panel.

Subp. 3. **Nominations.** A member of the advisory review panel must be nominated. Anyone can nominate an advisory review panel member.

The IBQA shall publish in the State Register a request for nominations to the advisory review panel no later than 30 days after the effective date of parts 4655.1070 to 4655.1100 [Emergency] and at least 30 days before the expiration date of the term of an advisory review panel member. A nomination must be written, must state the name and address of the nominee, and must state the positions indicated under subpart 2 for which the person is being nominated.

Subp. 4. **Appointments.** A nominee shall be appointed by a majority vote of the IBQA.

Subp. 5. **Length of term.** A term on the advisory review panel begins the first working day after the vote of the IBQA appointing a person to the panel. An advisory review panel member representing consumers and one representing providers shall serve two years on the panel. The remaining consumer and provider members shall serve three-year terms. The member with the background in long-term care and either accounting, engineering, or building construction shall serve a three-year term. An advisory review panel member may serve an unlimited number of consecutive terms.

4655.1076 [EMERGENCY] IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Subpart 1. **When.** The IBQA shall publish in the State

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Register a request for proposals on the first Monday of each state fiscal biennium.

Subp. 2. **Contents of a request for proposals.** The request for proposals must state:

A. a proposal submission deadline date consistent with part 4655.1080 [Emergency], subpart 3;

B. the amount of the legislative appropriation available for medical assistance costs or state that proposals will not be requested because no appropriations were made;

C. other relevant information regarding current state long-term care policy goals; and

D. that the information under part 4655.1078 [Emergency] must be included in a proposal.

4655.1078 [EMERGENCY] FORMAT AND CONTENTS OF A PROPOSAL.

A proposal must be on a form approved by the commissioner and must:

A. include the name, telephone number, and address of the proposer or other authorized person who can be contacted by the commissioner or the IBQA with questions regarding the proposal;

B. include the name and address of the nursing home or boarding care home for which the project is being proposed;

C. be signed by a qualified representative of the entity submitting the proposal;

D. state whether the proposal is for renovation, replacement, conversion, or upgrading;

E. describe the problem the proposal will address;

F. include schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation;

G. include a cost estimate, prepared by a contractor and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by item F, including costs of buildings, attached fixtures, land improvements, construction site

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preparation, and related soft costs;

H. provide current estimated long-term financing costs of the proposal, including amount and sources of money, annual payments scheduled, interest rates, length of term, closing costs and fees, insurance costs, and other information on loans for building, attached fixtures, lands, land improvements, and building site preparation;

I. state the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented;

J. state the current annual care-related and other operating costs and also an estimation of these costs if the proposal were implemented;

K. describe the environmental conditions in the facility and any proposed changes in those conditions;

L. for proposals involving replacement of all or part of a facility, provide the property identification number and a general description of the proposed location of a replacement facility;

M. provide an estimate of the costs and benefits of renovation as an alternative to replacement or of replacement as an alternative to renovation; and

N. include the estimated beginning date of construction for renovation and replacements and the proposed timetable for completion of construction.

4655.1080 [EMERGENCY] SUBMISSION OF PROPOSAL.

Subpart 1. **Who may submit a proposal.** A proposal must be submitted by a proposer.

Subp. 2. **Where to submit a proposal.** A proposal must be submitted to the IBQA.

Subp. 3. **Submission deadline.** A proposal must be received by the IBQA no later than 90 days after the date a request for proposals is published in the State Register.

4655.1082 [EMERGENCY] INITIAL SCREENING OF PROPOSALS BY IBQA.

The IBQA shall process a proposal according to items A to L.

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A. The IBQA shall determine whether a proposal was submitted according to the submission deadline under part 4655.1080 [Emergency], subpart 3.

B. If a proposal was not submitted according to the deadline indicated under part 4655.1080 [Emergency], subpart 3, the IBQA shall return the proposal to the proposer with a written notice that the proposal will not receive further consideration because the proposal was received after the submission deadline.

C. If a proposal is received according to the deadline, the IBQA shall determine whether the proposal meets the definition of conversion, renovation, replacement, or upgrading as those terms are defined under part 4655.1070 [Emergency]. A proposal that does not meet any of those definitions must be returned to the proposer without further consideration.

D. If the proposal is for an exception that meets the definition of upgrading, renovation, replacement, or conversion as those terms are defined under part 4655.1070 [Emergency], the IBQA shall determine whether the proposal is substantially complete and consistent with part 4655.1078 [Emergency]. A proposal is substantially complete and consistent if it contains the information specified in part 4655.1078 [Emergency], items B, D to K, and M.

E. If an item required for a substantially complete proposal under item D is missing from a proposal that is submitted to the IBQA, the proposal shall be returned to the proposer with a written notice that the proposal will not receive further consideration because of the missing item.

F. If a proposal is substantially complete and consistent according to item D, staff shall, if needed, ask for additional information in writing within ten days after the submission deadline. Additional information shall be requested only if, in the judgment of the IBQA, the additional information is needed to clarify or support previously submitted information.

G. Additional information requested under item F must

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be submitted within 17 days after the submission deadline.

H. If requested additional information is not received within 14 days after the submission deadline, the proposal shall be returned to the proposer with a notice that the proposal is not approved because the additional information was not submitted according to the deadline.

I. A proposal that is not completed by the submission of additional information requested under item F shall be returned to the proposer with a notice that the proposal will not receive further consideration because the requested additional information submitted was insufficient.

J. If the format and contents of a proposal submitted to the commissioner are substantially complete and consistent with part 4655.1078 [Emergency], the IBQA shall determine whether the proposal satisfies the statutory restrictions.

K. If a proposal fails to satisfy a statutory restriction, the IBQA shall return the proposal to the proposer with a written notice stating that the proposal will not receive further consideration because it does not satisfy a restriction.

L. If a proposal satisfies all restrictions, data regarding the proposal shall be collected according to part 4655.1084 [Emergency]. The IBQA shall submit the findings and other information from the review conducted under part 4655.1084 [Emergency] to the advisor review panel to review and form recommendations on the proposal according to part 4655.1086 [Emergency].

4655.1084 [EMERGENCY] DATA COLLECTION.

Subpart 1. **Staff.** The IBQA and the commissioners of agencies represented on the IBQA shall assign staff to collect the data under subparts 2 to 14. The IBQA shall use the data collected under this part to develop recommendations to the commissioner under part 4655.1094 [Emergency] on a proposal screened under part 4655.1082 [Emergency].

Subp. 2. **Medical assistance cost of a proposal.** The medical assistance costs of a proposal shall be determined by:

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A. reviewing the accuracy of operating costs provided according to part 4655.1078 [Emergency], item J;

B. determining the accuracy of the real estate taxes and special assessments provided under part 4655.1078 [Emergency], item I;

C. determining the increase in allowable appraised value according to part 9549.0060, subpart 4; staff shall assume that the costs provided under part 4655.1078 [Emergency], item G, are equal to the total increase in appraised value;

D. determining the increase in the allowable annual costs of the elements identified in part 4655.1078 [Emergency], item H, according to part 9549.0060, subparts 5, 6, and 7;

E. determining an estimate of the total allowable annual costs for the cost categories reviewed in items B to D;

F. determining an estimate of the number of medical assistance resident days and of the proportion of medical assistance resident days to total resident days using information from the most recent cost report of the facility;

G. multiplying the proportion of resident days developed in item F by the estimated annual costs developed in item E;

H. determining the annual medical assistance costs of the proposal by multiplying the amount found in item G by the most recent proportion of medical assistance paid by the state of Minnesota; and

I. multiplying the amount found in item H by two to yield the biennial medical assistance cost of the proposal.

Subp. 3. **Cost information.** The current and projected costs of the proposal shall be calculated according to cost per licensed bed, percent change in cost per licensed bed, and total biennial state and medical assistance costs.

Subp. 4. **Age-related data.** The percentage of individuals in the county of the facility and of counties contiguous to that county who are 65 to 74 years of age, 75 to 84 years of age, and who are 85 or more years of age shall be calculated using either census data or projections of the state demographer based on

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census data, whichever provides the more recent estimate.

Subp. 5. **Facility occupancy.** The average occupancy rate of the facility's existing beds shall be obtained from the most recent Annual Statistical Report.

Subp. 6. **County-region occupancy.** The average percentage occupancy of the existing licensed beds of all the facilities in the county of the facility and of all facilities in counties contiguous to that county according to the most recent Annual Statistical Report, shall be calculated.

Subp. 7. **Number of licensed beds.** The number of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 8. **Number of occupied licensed beds.** The number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 9. **Alternative care grant use.** Alternative care grant use is the dollar amount and percentage of alternative care grant allocations used by the county in which the facility is located in the most recent year for which data is available. Alternative care grant use shall be obtained for each proposal that is acceptable according to part 4655.1082 [Emergency]. The amount of alternative care grant per person 65 years of age or older spent in the county in which the facility is located, in counties contiguous to the county of the facility, and in the state shall be calculated.

Subp. 10. **Environmental conditions.** Information shall be developed that describes the differences between existing environmental conditions and current state licensing standards for new construction and between the proposed changes in environmental conditions and current state licensing standards

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for new construction.

The development of information under this subpart does not supersede licensing and certification procedures. The environmental conditions and standards are listed in items A to L.

A. The width of corridors shall be compared with the standards in part 4660.1500, subpart 2.

B. The width of door frames shall be compared with the standards in part 4660.1460, subpart 2.

C. Fire exit enclosures shall be compared with the standards in part 4660.0300.

D. The method and materials of construction of the building shall be compared with the standards for Group D occupancy in the State Building Code. "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration according to Minnesota Statutes, section 16B.59, and contained in chapter 1300.

E. The number of beds per resident room and the floor area per bed shall be compared to standards in parts 4660.1400 and 4660.1430, subpart 3.

F. The amount of artificial light in resident rooms and major activity areas shall be compared to standards in parts 4660.9900 and 4660.9910.

G. The amount of natural light in resident rooms shall be compared with the standard in part 4660.1450.

H. The number of bathing or toileting facilities adjacent to bedrooms shall be compared to the standards in parts 4660.2400, subpart 2, and 4660.2500.

I. Ventilation arrangements shall be compared to the standards in part 4660.8300.

J. Dining room space shall be compared to the standard in part 4660.4830.

K. Day room space shall be compared to the standard in part 4660.4820.

L. Heating and cooling arrangements shall be compared to the standards in part 4660.8200.

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Subp. 11. **History of state licensing correction orders federal certification deficiencies.** For each proposal that is acceptable according to part 4655.1082 [Emergency], the accumulated number and content of licensing correction orders and federal certification deficiencies for the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

Subp. 12. **History of licensing and certification waivers.** The number and purpose of waivers for the two most recently completed federal certification periods before the submission deadline for a proposal shall be collected.

Subp. 13. **History of complaints.** The number and content of complaints about a facility received during the two most recently completed federal certification periods before the deadline for submission of a proposal shall be collected. If ownership of a facility has changed in the two years before the submission deadline, a history of complaints shall be collected only for the tenure of the current owner.

Subp. 14. **History of sanctions.** The number and content of sanctions relating to licensure and certification that have been levied against a facility during the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

4655.1086 [EMERGENCY] FORMATION OF ADVISORY REVIEW PANEL RECOMMENDATIONS TO IBQA.

Subpart 1. **Review of proposals.** A proposal submitted according to the deadline for submission, that satisfies the requirements of part 4655.1082 [Emergency] shall be reviewed, evaluated, and ranked by the advisory review panel.

Subp. 2. **Method of evaluation.** The advisory review panel shall evaluate proposals using the information submitted according to parts 4655.1078 [Emergency] and 4655.1080 [Emergency] and the data collected by staff under part 4655.1084 [Emergency].

Subp. 3. **Ranking of proposals.** The advisory review panel

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shall rank proposals to indicate which proposals should be approved in order of priority based on the criteria in parts 4655.1084 [Emergency] and 4655.1090 [Emergency], items A to H.

Subp. 4. **Formation of recommendations to the IBQA.** Based on the ranking of proposals, the advisory review panel shall recommend that the IBQA recommend approval or disapproval of a proposal. The advisory review panel shall provide written justifications for its recommendations to the IBQA.

Subp. 5. **Deadline for submission of recommendations.** The advisory review panel must submit its recommendations to the IBQA no later than ten days after receipt of the staff review information.

4655.1088 [EMERGENCY] PUBLIC HEARING.

The IBQA shall hold one public hearing on all proposals submitted in response to a request for proposals. The public hearing shall be held after the submission deadline under part 4655.1080 [Emergency], subpart 3, but before the IBQA submits recommendations to the commissioner. The IBQA shall publish a notice of the public hearing in the State Register that states the time, date, place, and subject of the hearing.

4655.1090 [EMERGENCY] EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

The IBQA shall use the findings of the staff data collection process, the advisory review panel, and the public hearing to evaluate, compare, and rank the proposals according to the long-term care needs they address. An evaluation, comparison, or ranking must be based on the criteria under the following items:

A. Occupancy that is determined according to:

(1) the extent to which the average occupancy rate of the facility supports the need for the proposed project in comparison with the average occupancy rate of all facilities in the county of the facility, of the contiguous counties, and with the statewide occupancy rate;

(2) the extent to which the number and proportion

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of individuals in the county of the facility and of contiguous counties in the age groups 65 to 74, 75 to 84, and 85 and over support the need for the proposal as determined through comparison with other counties and the state;

(3) the extent to which the current supply of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties, regions, and the state; and

(4) the extent to which the number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties and the state.

B. The extent to which the proposal enhances the availability and use of alternative care services.

C. The extent to which the proposal reduces the number of long-term care resident rooms with more than two beds.

D. The extent to which a proposal is cost effective in terms of its use of state money, medical assistance cost, cost per licensed bed, change in cost per licensed bed, and, for renovation and replacement proposals, in terms of the costs of renovation in lieu of a proposed replacement or of replacement in lieu of a proposed renovation.

E. The proposal's compliance with licensing regulations as specified in parts 4660.0300 and 4655.1000.

F. The extent to which a proposal improves the conditions that affect health, safety, or comfort of the residents of a facility, including environmental conditions described in part 4655.1084 [Emergency], subpart 10.

G. The extent to which the design of a proposal will improve the quality of life of the residents.

H. The extent to which the proposed changes are necessary to meet medical assistance certification and licensing requirements for that facility.

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4655.1092 [EMERGENCY] REIMBURSEMENT LIMITS.

Subpart 1. **Cost reimbursement.** The acceptance or determination of costs under parts 4655.1070 to 4655.1100 [Emergency] is not binding for reimbursement. Actual reimbursement of costs is determined according to parts 9549.0010 to 9549.0080.

Subp. 2. **Medical assistance costs.** The sum of the estimated medical assistance costs of all recommended proposals during the first two years of operation must not exceed the amount provided by the legislature as noted in the request for proposals according to part 4655.1076 [Emergency], subpart 2, item B.

4655.1094 IBQA [EMERGENCY] RECOMMENDATIONS TO COMMISSIONER.

The IBQA shall recommend that the commissioner approve or disapprove a proposal. A recommendation under this part must be based on the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency]. A written report of the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency], and the recommendations formed under this part must be submitted to the commissioner not more than 21 days after receipt of the recommendations of the advisory review panel.

4655.1096 [EMERGENCY] COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

Subpart 1. **Approval or disapproval of a proposal.** The commissioner shall approve or disapprove a proposal within 30 days after receiving the IBQA recommendations.

Subp. 2. **Notice of approval or disapproval.** No later than ten days after the commissioner's approval or disapproval of a proposal the commissioner shall send a written notice of approval or disapproval to the proposer. The notice must state the reasons for the approval or disapproval.

Subp. 3. **Expiration of commissioner's approval.** The commissioner's approval of a proposal expires 12 months after the date of the commissioner's signature on the notice of approval unless the facility has commenced construction.

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4655.1098 [EMERGENCY] DOCUMENTATION.

Subpart 1. **Preliminary plans.** The proposer of a renovation, replacement, or upgrading that is approved by the commissioner shall submit preliminary plans as defined in part 4660.0600 before drawing final plans.

Subp. 2. **Final working drawings.** The proposer of an accepted proposal for renovation or replacement shall submit final architectural, mechanical, and electrical drawings as defined in parts 4660.0700 and 4660.0800 to the Minnesota Department of Health for review and approval before implementation of the project.

Subp. 3. **Changes in approved projects.** Changes in approved projects for renovation, replacement, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according to part 4660.0900.

Subp. 4. **Change orders.** If the commissioner approves the reported changes in a project, a change order permitting the changes shall be issued. The issuance of a change order does not alter the allowable costs as determined in part 4655.1084 [Emergency], subpart 2.

Subp. 5. **Cost overruns.** The proposer shall immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.

Subp. 6. **Final statement of costs.** On completion of the proposed project, the proposer shall submit to the Department of Human Services, a final statement of costs that includes a sworn statement of actual costs of items for which costs were estimated according to part 4655.1078 [Emergency], item G, and that compares the actual costs to the estimates.

4655.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS.

Any cost overrun that is 110 percent or more greater than the costs estimated in part 4655.1078 [Emergency], item G, shall be penalized. The amount of money over 110 percent of the costs

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estimated in part 4655.1078 [Emergency], item G, shall be subtracted from the facility's appraisal conducted under parts 9549.0010 to 9549.0080 for a period of five years.

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by Revisor _____

AICOTA NURSING HOME
850 SECOND ST NW
AITKIN MN 56431
0848
01

AITKIN COMMUNITY HOSPITAL
301 MINNESOTA AVE SO
AITKIN MN 56431
0002
01

ANOKA MAPLE MANOR CARE CENTER
1040 MADISON STREET
ANOKA MN 55303
0893
02

TWIN RIVERS CARE CENTER
305 FREMONT STREET
ANOKA MN 55303
0866
02

CREST VIEW LUTHERAN HOME
4444 RESERVOIR BLVD NE
COLUMBIA HEIGHTS MN 55421
0005
02

CAMILIA ROSE CONV CENTER
11800 XEON BLVD NW
COON RAPIDS MN 55433
0757
02

PARK RIVER ESTATES CARE CENTER
9899 AVOCET STREET NORTHWEST
COON RAPIDS MN 55433
0010
02

FRIDLEY CONVALESCENT HOME
7590 LYRIC LANE
FRIDLEY MN 55432
0801
02

LYNWOOD HEALTHCARE CENTER
5700 E RIVER ROAD
FRIDLEY MN 55432
0935
02

EMMANUEL NURSING HOME
MADISON AVENUE
OIT LAKES MN 56501
0013
03

ST MARYS NURSING CENTER
1014 LINCOLN AVENUE
DETROIT LAKES MN 56501
0907
03

FRAZEE RETIREMENT CENTER
2ND STREET SW BOX 96
FRAZEE MN 56544
0730
03

SUNNYSIDE NURSING HOME
ROUTE 2
LAKE PARK MN 56554
0016
03

BELTRAMI NURSING HOME
1633 DELTON AVE
BEMIDJI MN 56601
0017
04

NORTH COUNTRY NSG + REHAB
109 EAST 8TH STREET
BEMIDJI MN 56601
0823
04

NORTHERN PINES GOOD SAM CTR
RT 1, BOX 190
BLACKDUCK MN 56630
0021
04

GOOD SAMARITAN CENTER
PO BOX 189 MAIN STREET
KELLIHER MN 56650
0020
04

FOLEY NURSING CENTER
ROUTE 2, BOX 260
FOLEY MN 56329
0629
05

COUNTRY MANOR NURSING HOME
520 FIRST ST NE
SARTELL MN 56377
0627
05

GOOD SHEPHERD LUTHERAN HOME
1115 4TH AVE NORTH
SAUK RAPIDS MN 56379
0023
05

CLINTON GOOD SAM CENTER
PO BOX 379 HWY 75 CO RD 6
CLINTON MN 56225
0026
06

E HOME
W SECOND STREET
GRACEVILLE MN 56240
0762
06

NORTHRIDGE RESIDENCE
1075 ROY STREET
ORTONVILLE MN 56278
0771
06

LAKE CRYSTAL HEALTHCARE CTR
202 LACLAIRE
LAKE CRYSTAL MN 56055
0034
07

HILLCREST HEALTH CARE CNTR
ROUTE 9 BOX 3
MANKATO MN 56001
0031
07

MANKATO HOUSE HEALTH CARE CNT
700 JAMES AVENUE
MANKATO MN 56001
0035
07

MANKATO LUTHERAN HOME
718 MOUND AVE
MANKATO MN 56001
0036
07

OAKLAWN HEALTH CARE CENTER
1112 MULBERRY
MANKATO MN 56001
0038
07

MAPLETON COMMUNITY HOME
301 TROENDLE ST
MAPLETON MN 56065
0037
07

HIGHLAND MANOR
405 NO HIGHLAND AVE
NEW ULM MN 56073
0041
08

DIVINE PROVIDENCE COMM HOME
700 THIRD AVE NW
SLEEPY EYE MN 56085
0040
08

SLEEPY EYE CARE CENTER
1105 3RD AVE SW
SLEEPY EYE MN 56085
0776
08

ST JOHN LUTHERAN HOME
P O BOX 167
SPRINGFIELD MN 56087
0045
08

CARLTON NURSING HOME
810 3RD STREET
CARLTON MN 55718
0047
09

COMMUNITY MEM HOSP
SKYLINE BLVD
CLOQUET MN 55720
0048
09

VILLA VISTA INC
PO BOX 98 NO HWY 73
CROMWELL MN 55726
0832
09

MERCY HOSPITAL + C+NC
P. O. BOX 469
MOOSE LAKE MN 55767
0049
09

LAKE AUBURN HOME FOR AGED
7555 VICTORIA DRIVE
EXCELSIOR MN 55331
0052
10

NIGHTINGALE NURSING HOME
232 SOUTH ELM ST
WACONIA MN 55387
0053
10

WACONIA HEALTHCARE CENTER
333 WEST 5TH STREET
WACONIA MN 55387
0924
10

ELIM HOME
409 JEFFERSON AVE S W BOX 638
WATERTOWN MN 55388
0051
10

AH GWAH CHING NURSING HOME
AH GWAH CHING MN 56430
0057
11

GOOD SAMARITAN CENTER
29
: RIVER MN 56474
0058
11

WOODREST NURSING HOME
BOX J
WALKER MN 56484
0995
11

CLARA CITY COMMUNITY NH
1012 DIVISION ST NO
CLARA CITY MN 56222
0061
12

LUTHER HAVEN NURSING HOME
1109 EAST HIGHWAY 7
MONTEVIDEO MN 56265
0062
12

HAZELDEN FOUNDATION
BOX 11 PLEASANT VALLEY RD
CENTER CITY MN 55012
0067
13

CHISAGO LAKES HOSP
11685 LAKE BLVD NORTH
CHISAGO CITY MN 55013
0064
13

THE MARGARET S PARMLY RES
28210 OLD TOWNE ROAD
CHISAGO CITY MN 55013
0065
13

GREEN ACRES NURSING HOME
NORTH BRANCH MN 55056
0066
13

HILLCREST HEALTH CARE CENTER
650 BREMER AVE SO
RUSH CITY MN 55069
0994
13

BARNESVILLE CARE CENTER
600 FIFTH STREET SE BOX 129
BARNESVILLE MN 56514
0968
14

EVENTIDE LUTHERAN HOME
1405 SOUTH 7TH ST
MOORHEAD MN 56560
0072
14

MOORHEAD HEALTHCARE CENTER
2810 NORTH 2ND AVE
MOORHEAD MN 56560
0938
14

ING MANOR NURSING HOME
ULEN MN 56585
0075
14

GREENSVIEW NURSING HOME
ROUTE 1
BAGLEY MN 56621
0974
15

GOOD SAMARITAN CENTER
PO BOX 47
CLEARBROOK MN 56634
0078
15

COOK CO NORTHSHORE HOSPITAL
GUNFLINT TRAIL
GRAND MARAIS MN 55604
0080
16

EVENTIDE HOME
810 THIRD AVENUE
MOUNTAIN LAKE MN 56159
0728
17

GOOD SAMARITAN VILLAGE
745 BASINGER MEM DR
MOUNTAIN LAKE MN 56159
0755
17

WESTBROOK GOOD SAM CENTER
149 1ST AVE BOX 218
WESTBROOK MN 56183
0082
17

SOGGE GOOD SAMARITAN CTR
705 SIXTH STREET
WINDOM MN 56101
0085
17

BETHANY GOOD SAMARITAN CENTER
804 WRIGHT STREET
BRAINERD MN 56401
0087
18

KINGWOOD COURT GOOD SAM. CTR.
803 KINGWOOD STREET
BRAINERD MN 56401
0092
18

WOODLAND ACRES HCC
100 BUFFALO HILLS LANE
BRAINERD MN 56401
0956
18

CUYUNA RANGE DIST HOSPITAL
CROSBY MN 56441
0091
18

APPLE VALLEY HEALTH CENTER 14650 GARRETT AVENUE APPLE VALLEY MN 55124	0979 19	EBENEZER RIDGES 13820 COMMUNITY DR BURNSVILLE MN 55337	0756 19	SANFORD MEM HOSPITAL 913 MAIN STREET FARMINGTON MN 55024	0101 19
HAVEN HOMES 930 W 16TH STREET HASTINGS MN 55033	0877 19	MINNESOTA VETERANS HOME 1200 EAST 18TH ST HASTINGS MN 55033	0788 19	REGINA MEMORIAL HOSPITAL NININGER ROAD HASTINGS MN 55033	0100 19
INVER GROVE CARE CENTER 4700 SO ROBERT TRAIL INVER GROVE HEIGHTS MN 55075	0022 19	WEDGEWOOD HEALTH CARE CENTER 2060 UPPER 55TH ST EAST INVER GROVE HEIGHTS MN 55075	0829 19	GOLDEN OAKS NURSING HOME 1025 9TH AVE SO SO ST PAUL MN 55075	0925 19
SOUTHVIEW ACRES HLTH CARE CTR 0 OAKDALE AVENUE T ST PAUL MN 55118	0102 19	FAIRVIEW NURSING HOME RT 1 BOX 334 DODGE CENTER MN 55927	0103 20	FIELD CREST NURSING HOME RT 2 BOX 6A HAYFIELD MN 55940	0104 20
BETHANY HOME 1020 LARK ST ALEXANDRIA MN 56308	0108 21	KNUTE NELSON MEMORIAL HOME 420 12TH AVE E ALEXANDRIA MN 56308	0113 21	CRESTVIEW MANOR INC 649 STATE STREET EVANSVILLE MN 56326	0110 21
COMMUNITY MEMORIAL HOME 410 MAIN ST SW OSAKIS MN 56360	0109 21	SAINT LUKES LUTHERAN HOME 1219 SO RAMSEY BLUE EARTH MN 56013	0116 22	NAEVE PARKVIEW NURSING HOME 55 10TH ST SE WELLS MN 56097	0784 22
WINNEBAGO BAPTIST HOME 211 6TH STREET NW WINNEBAGO MN 56098	0120 22	CHOSEN VALLEY CARE CENTER 1102 LIBERTY ST SE CHATFIELD MN 55923	0750 23	HARMONY COMMUNITY HOSPITAL 815 MAIN AVE. S, RR#1, BOX 173 HARMONY MN 55939	0125 23
N LEA MANOR 306 MABEL MN 55954	0124 23	OSTRANDER NURSING HOME BOX 36, ELM STREET OSTRANDER MN 55961	0922 23	PRESTON CARE CENTER 608 WINONA STREET PRESTON MN 55965	0959 23
GOOD SHEPHERD LUTHERAN HOME 800 HOME BOX 747 RUSHFORD MN 55971	0123 23	COMMUNITY MEM HOSP + C+NC 800 MEMORIAL DRIVE SPRING VALLEY MN 55975	0121 23	ALBERT LEA BDG CARE CENTER 315 PARK AVE ALBERT LEA MN 56007	0130 24
ALBERT LEA GOOD SAMARITAN CTR. ROUTE 2 BOX 217 ALBERT LEA MN 56007	0131 24	BROADWAY CARE HOME 512 SOUTH BROADWAY ALBERT LEA MN 56007	0132 24	GOLDEN AGE GUEST HOME 601 EAST 5TH ST ALBERT LEA MN 56007	0137 24
SAINT JOHNS LUTHERAN HOME 901 LUTHER PLACE ALBERT LEA MN 56007	0138 24	THORNE CREST RET CENTER 1201 GARFIELD AVE ALBERT LEA MN 56007	0833 24	THORNE-CREST SOUTH 617 10TH STREET ALBERT LEA MN 56007	0134 24

CANNON FALLS MANOR NSG HOME 300 NO DOW STREET CANNON FALLS MN 55009	0758 25	KENYON SUNSET HOME 127 GUNDERSON BLVD KENYON MN 55946	0145 25	LAKE CITY NURSING HOME 405 WEST GRANT ST LAKE CITY MN 55041	0770 25
PINE HAVEN CARE CENTER, INC. 210 NW 3RD STREET PINE ISLAND MN 55963	0148 25	HAVEN HEALTH CENTER 213 PIONEER ROAD RED WING MN 55066	0787 25	RED WING HEALTH CENTER 1400 WEST 4TH STREET RED WING MN 55066	0149 25
SEMINARY MEMORIAL HOME 906 COLLEGE AVE RED WING MN 55066	0150 25	ZUMBROTA NURSING HOME 433 MILL STREET ZUMBROTA MN 55992	0917 25	PELICAN LAKE HEALTH CARE CTR. 305 MELBY BOX 227 ASHBY MN 56309	0156 26
BARRETT CARE CENTER INC HWAY 55 AND 59 SOUTH RETT MN 56311	0153 26	HOFFMAN CARE CENTER 104 SO 6TH STREET HOFFMAN MN 56339	0014 26	BLOOMINGTON MAPLE MANOR 8916 LYNDALE AVE SO BLOOMINGTON MN 55420	0895 27
BLOOMINGTON NURSING HOME 9200 NICOLLET AVE SOUTH BLOOMINGTON MN 55420	0169 27	EAGLE NURSING HOME 401 WEST 95TH ST BLOOMINGTON MN 55420	0189 27	FRIENDSHIP VILLAGE 8100 HIGHWOOD DRIVE BLOOMINGTON MN 55438	0806 27
MARTIN LUTHER MANOR 1401 E 100TH STREET BLOOMINGTON MN 55420	0227 27	MINNESOTA MASONIC HOME CARE CT 11400 NORMANDALE BLVD BLOOMINGTON MN 55437	0232 27	MARANATHA BAPTIST CARE CENTER 5401 69TH AVE NO BROOKLYN CENTER MN 55429	0226 27
CRYSTAL CARE CENTER 3245 VERA CRUZ AVE N CRYSTAL MN 55422	0255 27	CASTLE RIDGE CARE CENTER 625 PRAIRIE CENTER DRIVE EDEN PRAIRIE MN 55344	0973 27	EDINA CARE CENTER 6200 XERXES AVE SO EDINA MN 55423	0740 27
ITAGE OF EDINA 3420 HERITAGE DRIVE EDINA MN 55435	0212 27	EXCELSIOR NURSING HOME 515 DIVISION STREET EXCELSIOR MN 55331	0988 27	MINNETONKA HLTH CARE CTR INC 20395 SUMMERVILLE RD EXCELSIOR MN 55331	0234 27
COLONIAL ACRES HEALTH CARE CTR 5825 ST CROIX AVE GOLDEN VALLEY MN 55422	0183 27	COURAGE RESIDENCE 3915 GOLDEN VALLEY RD GOLDEN VALLEY MN 55422	0751 27	TREVILLA OF GOLDEN VALLEY 7505 COUNTRY CLUB RD GOLDEN VALLEY MN 55427	0112 27
WELDWOOD HEALTH CARE CENTER 5411 CIRCLE DOWNS GOLDEN VALLEY MN 55416	0896 27	CHAPEL VIEW INC 615 MINNETONKA MILLS RD HOPKINS MN 55343	0727 27	HOPKINS NURSING CENTER 725 SECOND AVENUE SOUTH HOPKINS MN 55343	0872 27
LONG LAKE NURSING HOME 345 BROWN RD SOUTH LONG LAKE MN 55356	0992 27	HAVEN HOMES OF MAPLE PLAIN 1520 WYMAN AVE MAPLE PLAIN MN 55359	0950 27	ABBOTT NORTHWESTERN HOSPITAL 800 E 28TH ST AT CHICAGO AV MINNEAPOLIS MN 55422	0242 27

ALDRICH BOARD AND CARE 3101 ALDRICH AVE SO MINNEAPOLIS MN 55408	0159 27	ANDREW CARE HOME 1215 SOUTH 9TH STREET MINNEAPOLIS MN 55404	0993 27	ANGELUS CONVALESCENT HOME 4544 4TH AVE SO MINNEAPOLIS MN 55409	0185 27
AUGUSTANA HOME OF MPLS 1007 EAST 14TH ST MINNEAPOLIS MN 55404	0164 27	BANNOCHIE NURSING HOME 3515 2ND AVE S MINNEAPOLIS MN 55408	0165 27	BAPTIST RESIDENCE 512 49TH AVENUE N MINNEAPOLIS MN 55430	0166 27
BETHANY COVENANT HOME 2309 HAYES ST NE MINNEAPOLIS MN 55418	0167 27	BIRCHWOOD CARE HOME 715 W 31ST STREET MINNEAPOLIS MN 55408	0168 27	BRYN MAWR NURSING HOME 275 PENN AVE N MINNEAPOLIS MN 55405	0175 27
[illegible]OD EAST HEALTH CARE CENTRAL AVE NE [illegible]EAPOLIS MN 55418	0176 27	CAMDEN CARE CENTER 4659 LYNDALE AVE NORTH MINNEAPOLIS MN 55412	0254 27	CAREVIEW HOME INC 5517 LYNDALE AVE SO MINNEAPOLIS MN 55419	0178 27
CEDAR PINES NURSING HOME 2739 CEDAR AVE MINNEAPOLIS MN 55407	0179 27	CENTRAL CARE CENTER 1828 CENTRAL AVE NE MINNEAPOLIS MN 55418	0867 27	CHATEAU HEALTHCARE CENTER 2106 SECOND AVE SO MINNEAPOLIS MN 55404	0937 27
CHRISTIAN UNION HOME 1507 LOWRY AVE NE MINNEAPOLIS MN 55418	0272 27	CLIFTON HOUSE 301 CLIFTON AVE MINNEAPOLIS MN 55403	0746 27	DAVID HERMAN HEALTH CARE CTR 2401 CHICAGO AVE SO MINNEAPOLIS MN 55404	0186 27
EBENEZER CAROLINE 110 EAST 18TH STREET MINNEAPOLIS MN 55403	0960 27	EBENEZER HALL 2545 PORTLAND AVE SO MINNEAPOLIS MN 55404	0191 27	EBENEZER SOC LUTHER & FIELD 2636 PARK AVE MINNEAPOLIS MN 55407	0192 27
[illegible]IOT AVENUE BCH 1500 ELLIOT AVENUE SOUTH MINNEAPOLIS MN 55404	95 27	EMERSON BOARDING CARE HOME 2708 EMERSON AVE SO MINNEAPOLIS MN 55408	0892 27	EMERSON PLACE NORTH 2304 EMERSON AVE N MINNEAPOLIS MN 55411	0215 27
FIRST CHRISTIAN CHURCH RES 2300 STEVENS AVE SO MINNEAPOLIS MN 55404	0202 27	FOUR SEASONS CARE CENTER-METRO 321 E 25TH STREET MINNEAPOLIS MN 55404	0198 27	FRANKLIN PLACE EAST 2100 FIRST AVE SO MINNEAPOLIS MN 55404	0172 27
GRAND AVE REST HOME 3956 GRAND AVE SO MINNEAPOLIS MN 55409	0208 27	HORIZON WEST HEALTH CARE 1620 OAK PARK AVE NO MINNEAPOLIS MN 55411	0816 27	JONES-HARRISON RESIDENCE 3700 CEDAR LAKE AVE MINNEAPOLIS MN 55416	0216 27
LASALLE CONVALESCENT HOME 1920 LASALLE AVENUE SOUTH MINNEAPOLIS MN 55403	0187 27	METRO CARE CENTER 1300 OLSON MEMORIAL HWY MINNEAPOLIS MN 55411	0188 27	MINNESOTA VETERANS HOME 51 ST AT MINNEHAHA MINNEAPOLIS MN 55417	0233 27

MOUNT OLIVET HOMES INC 5517 LYNDALE AVE S MINNEAPOLIS MN 55419	0236 27	NICOLLET HEALTH CARE CENTER 4429 NICOLLET AVE SO MINNEAPOLIS MN 55409	0897 27	NILE HEALTH CARE CENTER 3720 23RD AVENUE SOUTH MINNEAPOLIS MN 55407	0096 27
OAK GROVE RES TREATMENT CTR 131 OAK GROVE MINNEAPOLIS MN 55403	0880 27	PILLSBURY BOARD & CARE HOME 2500 PILLSBURY AVE SO MINNEAPOLIS MN 55404	0173 27	QUEEN NURSING HOME 300 QUEEN AVE NO MINNEAPOLIS MN 55405	0250 27
REDEEMER RESIDENCE 3111 LYNDALE AVE SO MINNEAPOLIS MN 55408	0160 27	SOUTHSIDE CARE CENTER 2644 ALDRICH AVE SO MINNEAPOLIS MN 55408	0780 27	ST ANTHONY ELDER CTR ON MAIN 817 MAIN STREET NORTHEAST MINNEAPOLIS MN 55413	0984 27
ST ANTHONY HEALTH CENTER FOSS ROAD NE EAPOLIS MN 55421	0522 27	ST MARY'S REHAB CENTER 2512 SOUTH 7TH STREET MINNEAPOLIS MN 55454	0259 27	ST OLAF RESIDENCE 2912 FREMONT AVE N MINNEAPOLIS MN 55411	0260 27
STEVENS SQUARE 101 EAST 32ND STREET MINNEAPOLIS MN 55408	0263 27	TEACHERS HOMES CARE CENTER 2625 PARK AVENUE SOUTH MINNEAPOLIS MN 55407	0264 27	UNIVERSITY HEALTH CARE CENTER 22 27TH AVENUE SE MINNEAPOLIS MN 55414	0890 27
WALKER METHODIST HEALTH CTR 3737 BRYANT AVENUE SOUTH MINNEAPOLIS MN 55409	0276 27	WILLOWS CONV CENTER CENTRAL 625 EAST 16TH STREET MINNEAPOLIS MN 55404	0874 27	WILLOWS CONV CENTER SOUTH 6130 LYNDALE AVE SO MINNEAPOLIS MN 55419	0855 27
WILLOWS EAST HEALTH CARE CTR 719 E 16TH ST MINNEAPOLIS MN 55404	0275 27	YORKSHIRE MANOR 2200 PARK AVE SO MINNEAPOLIS MN 55404	0841 27	OAK TERRACE NURSING HOME 14500 COUNTY ROAD 67 MINNETONKA MN 55345	0206 27
SSADOR HEALTH CARE CENTER 8100 MEDICINE LAKE ROAD NEW HOPE MN 55427	0898 27	NORTH RIDGE CARE CENTER 5430 BOONE AVE NO NEW HOPE MN 55428	0238 27	SAINT THERESE HOME 8000 BASS LAKE RD NEW HOPE MN 55428	0261 27
BERKSHIRE RESIDENCE 501 SECOND ST SE OSSEO MN 55369	0733 27	OSSEO HEALTH CARE CENTER 525 2ND STREET SE OSSEO MN 55369	0868 27	MISSION FARMS NURSING HOME 3401 MEDICINE LK BLVD PLYMOUTH MN 55441	0235 27
FOUR SEASONS CARE CT-RICHFIELD 7727 PORTLAND AVENUE SOUTH RICHFIELD MN 55423	0253 27	CRYSTAL LAKE HEALTH CARE CTR 3815 WEST BROADWAY ROBBINSDALE MN 55422	0899 27	TREVILLA OF ROBBINSDALE 3130 GRIMES AVE NO ROBBINSDALE MN 55422	0122 27
TWIN BIRCH HEALTH CARE CENTER 4527 SHORELINE DRIVE SPRING PARK MN 55384	0271 27	GREENWOOD RESIDENCE WEST 6019 W 39TH STREET ST LOUIS PARK MN 55416	0999 27	METHODIST HOSPITAL 6500 EXCELSIOR BLVD PO BOX 650 ST LOUIS PARK MN 55426	0230 27

PARK NURSING & CONV CENTER 0129
4415 W 36 1/2 STREET 27
ST LOUIS PARK MN 55416

PARK PLAZA HEALTHCARE CENTER 0943
3201 VIRGINIA AVE SO 27
ST LOUIS PARK MN 55426

TEXAS TERRACE CONV CENTER 0144
7900 WEST 28TH STREET 27
ST LOUIS PARK MN 55426

WESTWOOD HEALTH CARE CENTER 0278
7500 W 22ND STREET 27
ST LOUIS PARK MN 55426

HILLCREST HEALTH CARE CTR 0213
15409 WAYZATA BLVD 27
WAYZATA MN 55391

CALEDONIA HEALTH CARE CTR 0073
425 NORTH BADGER 28
CALEDONIA MN 55921

VALLEY VIEW NURSING HOME 0286
510 EAST CEDAR STREET 28
HOUSTON MN 55943

LACRESCENT HEATHCARE CENTER 0936
701 MAIN STREET 28
LACRESCENT MN 55947

TWEETEN/LUTHERAN HEALTH C. C. 0285
125 5TH AVE SE 28
SPRING GROVE MN 55974

SUNSET NURSING HOME 0288
[illegible] 6TH STREET 29
[illegible] RAPIDS MN 56470

CAMBRIDGE HEALTH CARE CTR 0292
548 FIRST AVENUE 30
CAMBRIDGE MN 55008

GRANDVIEW CHRISTIAN HOME 0294
800 NW 2ND AVENUE 30
CAMBRIDGE MN 55008

NORTHERN ITASCA C & NC UNIT 0834
258 PINE TREE DRIVE 31
BIGFORK MN 56628

COMM MEM HOSP & HOMESTEAD NH 0296
1002 COMSTOCK DRIVE 31
DEER RIVER MN 56636

ITASCA MEMORIAL HOSPITAL 0297
126 FIRST AVE SE 31
GRAND RAPIDS MN 55744

ITASCA NURSING HOME 0298
923 CO. HOME ROAD 31
GRAND RAPIDS MN 55744

LEISURE HILLS INC 0299
2801 SOUTH POKEGAMA 31
GRAND RAPIDS MN 55744

HERON LAKE MUN HOSP & C&NC 0304
941 CO RD 9 32
HERON LAKE MN 56137

GOOD SAMARITAN SUNSET HOME 0303
600 WEST JACKSON 32
JACKSON MN 56143

JACKSON MUNICIPAL HOSP 0305
NORTH HIGHWAY 32
JACKSON MN 56143

COLONIAL MANOR NURSING HOME 0302
RR 1, BOX 270 32
LAKEFIELD MN 56150

[illegible]A HEALTH CARE CENTER 0814
BIRCH MOR MEDICAL PARK 33
MORA MN 55051

GLEN OAKS NURSING HOME 0314
207 NORTH MAIN STREET 34
NEW LONDON MN 56273

BETHESDA HERITAGE CENTER 0312
1012 E THIRD ST 34
WILLMAR MN 56201

BETHESDA NH-PLEASANTVIEW 0792
901 EAST WILLMAR AVENUE 34
WILLMAR MN 56201

CHRISTIAN NURSING & LIVING CTR 0313
1801 WILLMAR AVE 34
WILLMAR MN 56201

WILLMAR HEALTH CARE CENTER 0996
500 RUSSELL STREET 34
WILLMAR MN 56201

KITTSON MEMORIAL HOSPITAL 0321
1010 SOUTH BIRCH 35
HALLOCK MN 56728

KARLSTAD MEMORIAL NSG CENTER 0830
THIRD & WASHINGTON 35
KARLSTAD MN 56732

FALLS CARE CENTER 0322
HIGHWAY 11-71 36
INTERNATIONAL FALLS MN 56649

LITTLEFORK MUNICIPAL HOSPITAL 0324
BOX N 36
LITTLEFORK MN 56653

NORTHOME NURSING HOME 0325
BOX 138 36
NORTHOME MN 56661

JOHNSON MEMORIAL HOSP & HOME 0326
WALNUT STREET & MEMORIAL PLACE 37
DAWSON MN 56232

MADISON LUTHERAN HOME 900 SECOND AVE MADISON MN 56256	0329 37	LAKEVIEW MEMORIAL HOSPITAL 11TH AVE & 4TH ST TWO HARBORS MN 55616	0331 38	SUNRISE HOME 13TH AVE AND 4TH STREET TWO HARBORS MN 55616	0844 38
PIONEER NURSING HOME 410 3RD AVE SE BAUDETTE MN 56623	0332 39	CENTRAL HEALTH CARE 444 NORTH CORDOVA LE CENTER MN 56057	0800 40	MINNESOTA VALLEY MEM HOSP 621 SO FOURTH ST LE SUEUR MN 56058	0336 40
SIEMERS BOARD AND CARE 211 SPRUCE AVE MONTGOMERY MN 56069	0972 40	WATERVILLE CARE CENTER 205 1ST ST NORTH WATERVILLE MN 56096	0962 40	HENDRICKS COMM HOSP 503 E LINCOLN STREET HENDRICKS MN 56136	0340 41
DIVINE PROVIDENCE HOSP + HOME EAST GEORGE STREET HOE MN 56142	0339 41	AL VADHEIM MEMORIAL HOSPITAL 240 WILLOW ST TYLER MN 56178	0338 41	COLONIAL MANOR OF BALATON PO BOX 375 HWY 14 EAST BALATON MN 56115	0982 42
WEINER MEM MEDICAL CTR 300 SO BRUCE ST MARSHALL MN 56258	0343 42	MINNEOTA MANOR HCC 700 NORTH MONROE STREET MINNEOTA MN 56264	0887 42	CHRISTIAN MANOR NURSING HOME 502 FIFTH ST E TRACY MN 56175	0342 42
TRACY NURSING HOME 487 SECOND STREET TRACY MN 56175	0345 42	GLENCOE AREA HEALTH CENTER 705 E 18TH STREET GLENCOE MN 55336	0351 43	BURNS MANOR NSG HOME NORTH HIGH DRIVE HUTCHINSON MN 55350	0348 43
ST MARYS HOSPITAL 551 FOURTH ST N WINSTED MN 55395	0352 43	MAHNOMEN CO & VILLAGE HOSP 414 WEST JEFFERSON MAHNOMEN MN 56557	0353 44	GOOD SAMARITAN CENTER 410 SO MCKINLEY ST WARREN MN 56762	0356 45
IDTKE REST HOME CEYLON MN 56121	0884 46	FAIRMONT COMM HOSPITAL 835 JOHNSON STREET FAIRMONT MN 56031	0359 46	LAKEVIEW METHODIST HCC 610 SUMMIT DRIVE FAIRMONT MN 56031	0360 46
TRIMONT NURSING HOME 303 BROADWAY AVE SO TRIMONT MN 56176	0365 46	LUTHERAN RET HOME OF SO MINN 400 NORTH 4TH AVE EAST TRUMAN MN 56088	0361 46	COSMOS HEALTHCARE CENTER NEPTUNE & PEGASUS COSMOS MN 56228	0932 47
DASSEL LAKESIDE COMM HOME 441 WILLIAM AVE DASSEL MN 55325	0773 47	BETHANY HOME 203 NO ARMSTRONG LITCHFIELD MN 55355	0369 47	EMMANUEL HOME 600 SOUTH DAVIS LITCHFIELD MN 55355	0775 47
HILLTOP CARE CENTER RT 1 BOX H WATKINS MN 55389	0798 47	ELIM HOME 730 SECOND ST SE MILACA MN 56353	0376 48	MILLE LACS HOSPITAL & HOME 200 N ELM STREET ONAMIA MN 56359	0374 48

EL IM HOME 101 SO 7TH AVE PRINCETON MN 55371	0375 48	LUTHERAN SENIOR CITIZENS HOME 1200 FIRST AVE NE BOX 248 LITTLE FALLS MN 56345	0382 49	ST OTTOS HOME 920 SE 4TH STREET LITTLE FALLS MN 56345	0817 49
ST MARYS VILLA NH FIRST AVE SO + FAUST STREET PIERZ MN 56364	0384 49	ADAMS HEALTH CARE CENTER RURAL ROUTE 2 BOX 300 ADAMS MN 55909	0754 50	BURR OAK MANOR 400 10TH AVE NW AUSTIN MN 55912	0954 50
COMFORCARE CARE CENTER 205 14TH ST NW AUSTIN MN 55912	0967 50	SACRED HEART HOSPICE 1200 12TH ST SW AUSTIN MN 55912	0393 50	SAINT MARKS LUTHERAN HOME 400 15TH AVE SW AUSTIN MN 55912	0394 50
MEADOW MANOR NURSING HOME E GRAND AVE PO BOX 365 D MEADOW MN 55936	0390 50	MAPLE LAWN NURSING HOME 400 SEVENTH STREET FULDA MN 56131	0396 51	SLAYTON MANOR 2957 REDWOOD AVENUE SOUTH SLAYTON MN 56172	0915 51
LAFAYETTE GOOD SAM CENTER BOX 19 ESTHER AVENUE LAFAYETTE MN 56054	0401 52	COMMUNITY HOSP & HCC 618 W BROADWAY ST PETER MN 56082	0399 52	GRANDVIEW CARE CENTER 830 NORTH SUNRISE DRIVE ST PETER MN 56082	0400 52
ARNOLD MEM HOSPITAL 601 LOUISIANA AVE BOX 279 ADRIAN MN 56110	0405 53	PARKVIEW MANOR NURSING HOME RR 1, BOX 152 ELLSWORTH MN 56129	0406 53	FAUSKEE NURSING HOME INC 965 MCMILLAN ST WORTHINGTON MN 56187	0407 53
LAKE HAVEN NURSING HOME 1307 SOUTH SHORE DRIVE WORTHINGTON MN 56187	0885 53	WORTHINGTON REGIONAL HOSP 1018 6TH AVE WORTHINGTON MN 56187	0412 53	ADA MUNICIPAL HOSPITAL & C&NC 405 EAST 2ND AVE ADA MN 56510	0413 54
TAD LUTHERAN MEM HOME 4TH AVE EAST HALSTAD MN 56548	0764 54	LUTHERAN MEMORIAL NH HIGHWAY 32 NORTH TWIN VALLEY MN 56584	0414 54	LUTHERAN MEMORIAL RET CENTER 205 3RD ST NW TWIN VALLEY MN 56584	0415 54
BETHANY SAMARITAN HEIGHTS 1530 11TH AVE NW, ROCHESTER MN 55901	0883 55	CHARTER HOUSE 211 NORTHWEST SECOND STREET ROCHESTER MN 55901	0193 55	MADONNA TOWERS INC 4001 19TH AVE NW ROCHESTER MN 55901	0419 55
MAPLE MANOR NURSING HOME 1875 19TH STREET NW ROCHESTER MN 55901	0916 55	ROCHESTER HEALTHCARE CENTER 2215 HWY 52 NORTH ROCHESTER MN 55901	0941 55	SAMARITAN BETHANY HOME 24 8TH ST NW PO 5947 ROCHESTER MN 55903	0427 55
TOWN HALL ESTATES 607 EAST CENTER STREET ROCHESTER MN 55901	0425 55	WOODSIDE CONVALESCENT CENTER 501 8TH AVE SE ROCHESTER MN 55904	0953 55	STEWARTVILLE NURSING HOME 120 4TH ST NE STEWARTVILLE MN 55976	0429 55

BATTLE LAKE CARE CENTER
GLENHAVEN DRIVE BOX 68
BATTLE LAKE MN 56515
0146
56

OTTER TAIL NURSING HOME
RT 2 BOX 257
BATTLE LAKE MN 56515
0182
56

BROEN MEMORIAL HOME
824 SOUTH SHERIDAN, BOX 123
FERGUS FALLS MN 56537
0862
56

LAKE REGION HOSPITAL
712 SO CASCADE
FERGUS FALLS MN 56537
0437
56

PIONEER HOME INC
1006 SOUTH SHERIDAN STREET
FERGUS FALLS MN 56537
0443
56

HENNING NURSING HOME
907 MARSHALL AVE
HENNING MN 56551
0799
56

ELDERS HOME
SOUTH TOUSLEY
NEW YORK MILLS MN 56567
0432
56

NEW YORK MILLS COMM N H
SOUTH TOUSLEY AVENUE
NEW YORK MILLS MN 56567
0248
56

SAINT WILLIAMS NURSING HOME
SOO STREET
PARKERS PRAIRIE MN 56361
0444
56

SAMARITAN CENTER
NORTH BROADWAY
CAN RAPIDS MN 56572
0435
56

PELICAN VALLEY HEALTH CENTER
211 EAST MILL ST
PELICAN RAPIDS MN 56572
0442
56

PERHAM MEMORIAL HOSP & HOME
665 THIRD ST SW
PERHAM MN 56573
0438
56

CRESTVIEW HOME
101 SO STATE AVE
THIEF RIVER FALLS MN 56701
0445
57

NORTHWEST MEDICAL CENTER
120 LABREE AVE SO
THIEF RIVER FALLS MN 56701
0448
57

OAKLAND PARK NURSING HOME
123 BAKEN ST
THIEF RIVER FALLS MN 56701
0449
57

VALLEY HOME
HWY 32 SO ARNOLD
THIEF RIVER FALLS MN 56701
0450
57

LAKESIDE MEDICAL CENTER
129 E 6TH AVENUE
PINE CITY MN 55063
0451
58

SANDSTONE AREA NURSING HOME
317 COURT AVENUE
SANDSTONE MN 55072
0452
58

EDGEBROOK REST CENTER INC
505 TROSKY ROAD WEST
EDGERTON MN 56128
0454
59

GOOD SAMARITAN VILLAGE
RT 1 NORTH HIAWATHA
PIPESTONE MN 56164
0455
59

PIPESTONE COUNTY MEDICAL CNT
911 5TH AVE SW
PIPESTONE MN 56164
0456
59

ERVIEW HOSPITAL
323 SO MINNESOTA
CROOKSTON MN 56716
0470
60

VILLA ST VINCENT
516 WALSH
CROOKSTON MN 56716
0815
60

GOOD SAMARITAN CENTER
1414 20TH STREET NW
EAST GRAND FORKS MN 56721
0463
60

JOHNSON REST HOME
VANCE AVE NO
ERSKINE MN 56535
0464
60

PIONEER MEMORIAL CARE CENTER
ROUTE 2, BOX 148
ERSKINE MN 56535
0469
60

FAIR MEADOW NURSING HOME
BOX 8
FERTILE MN 56540
0460
60

FOSSTON MUN HOSPITAL & HOME
900 SOUTH HILLIGOSS BLVD EAST
FOSSTON MN 56542
0461
60

JOHNSON REST HOME
516 2ND ST NE
FOSSTON MN 56542
0466
60

MIDWAY CARE CENTER
114 SECOND STREET NE
FOSSTON MN 56542
0462
60

MCINTOSH NURSING HOME INC
700 NE RIVERSIDE AVENUE
MCINTOSH MN 56556
0467
60

RIVERSIDE BOARD & CARE
240 1ST STREET NE
MCINTOSH MN 56556
0879
60

GLENWOOD RET HOME INC
719 SE 2ND ST
GLENWOOD MN 56334
0474
61

LAKEVIEW CARE CENTER
FRANKLIN AT LAKESHORE DR
GLENWOOD MN 56334
0969
61

MAPLEWOOD MAPLE MANOR CARE CTR
550 EAST ROSELAWN AVE
MAPLEWOOD MN 55117
0900
62

TREVILLA OF NEW BRIGHTON
825 FIRST AVE NW
NEW BRIGHTON MN 55112
0114
62

[illegible]DEN AGE HEALTH CARE CENTER
WEST CO RD B
VILLE MN 55113
0901
62

WHITEHOUSE HEALTH CARE CENTER
563 WEST CO RD B
ROSEVILLE MN 55113
0902
62

BETHESDA LUTHERAN CARE CENTER
558 CAPITOL BLVD
ST PAUL MN 55103
0977
62

EPISCOPAL CHURCH HOME OF MN
1879 FERONIA AVE
ST PAUL MN 55104
0486
62

[illegible]R SEASONS CARE CTR-CENTRAL
[illegible] NO LEXINGTON PKWY
ST PAUL MN 55104
0499
62

HEALTHEAST TRANS.C.C.-MIDWAY
1700 UNIVERSITY AVENUE
ST PAUL MN 55104
0228
62

HOIKKA HOUSE INC
393 CHESTNUT
ST PAUL MN 55102
0495
62

LYNGBLOMSTEN CARE CENTER
1415 ALMOND AVENUE
ST PAUL MN 55108
0501
62

MINNEWASKA LUTHERAN HOME
605 MAIN ST
STARBUCK MN 56381
0477
61

INNSBRUCK HEALTHCARE CENTER
2800 HWY 694
NEW BRIGHTON MN 55112
0940
62

MAPLEWOOD CARE CENTER
1900 SHERREN AVE EAST
NORTH ST PAUL MN 55109
0520
62

LAKE RIDGE HEALTH CARE CENTER
2727 NO VICTORIA
ROSEVILLE MN 55113
0497
62

AMY JOHNSON RESIDENCE
89 VIRGINIA STREET
ST PAUL MN 55102
0777
62

COMMONWEALTH HEALTHCARE CENTER
2237 COMMONWEALTH AVE
ST PAUL MN 55108
0997
62

FAMILYSTYLE HOMES
398 DUKE STREET
ST PAUL MN 55102
0987
62

HARMONY NURSING HOME
135 E GERANIUM AVE
ST PAUL MN 55117
0492
62

HEALTHEAST TRANS.C.C./BETHESDA
559 CAPITOL BOULEVARD
ST PAUL MN 55103
0307
62

LANGTON LAKE PLACE, INC.
1910 WEST COUNTY ROAD D
ST PAUL MN 55112
0284
62

LYNNHURST HEALTHCARE CENTER
471 LYNNHURST AVE W
ST PAUL MN 55104
0945
62

JOHANNA SHORES
3220 LAKE JOHANNA BLVD
ARDEN HILLS MN 55112
0975
62

NEW BRIGHTON CARE CENTER
550 8TH ST NW
NEW BRIGHTON MN 55112
0507
62

NORTH ST PAUL CARE CENTER
2375 SKILLMAN AVE EAST
NORTH ST PAUL MN 55109
0498
62

ROSE OF SHARON MANOR
1000 LOVELL AVENUE
ROSEVILLE MN 55113
0126
62

BETHEL CARE CENTER
420 MARSHALL AVE
ST PAUL MN 55102
0913
62

DAYTON BOARDING CARE HOME
740 DAYTON AVE
ST PAUL MN 55104
0484
62

FOUR SEASONS CARE CTR-CAPITOL
445 GALTIER AVENUE
ST PAUL MN 55103
0480
62

HAYES RESIDENCE
1620 RANDOLPH AVE
ST PAUL MN 55105
0928
62

HIGHLAND CHATEAU HCC
2319 W SEVENTH ST
ST PAUL MN 55116
0494
62

LITTLE SISTERS OF THE POOR
330 SO EXCHANGE ST
ST PAUL MN 55102
0763
62

MOUNDS PARK RESIDENCE
908 MOUND STREET
ST PAUL MN 55106
0998
62

OUR LADY OF GOOD COUNSEL 2076 ST ANTHONY AVE ST PAUL MN 55104	0869 62	PARKWAY MANOR HEALTH CARE CTR. 324 JOHNSON PARKWAY ST PAUL MN 55106	0946 62	PINEVIEW RESIDENCE 69 NORTH MILTON ST PAUL MN 55104	0958 62
PLEASANT HILL CARE CENTER 391 PLEASANT AVE ST PAUL MN 55102	0863 62	QUINLAN HOME 233 WEST FIFTH ST ST PAUL MN 55102	0533 62	RAMSEY NURSING HOME 2000 WHITE BEAR AVE ST PAUL MN 55109	0846 62
SHOLOM HOME 1554 MIDWAY PKWY ST PAUL MN 55108	0496 62	ST MARYS HOME 1925 NORFOLK AVE ST PAUL MN 55116	0782 62	ST PAULS CHURCH HOME 484 ASHLAND AVE ST PAUL MN 55102	0528 62
SUMMIT MANOR HEALTH CARE CTR ESTERN AVE NO AUL MN 55102	0529 62	TWIN CITY LINNEA HOME 2040 WEST COMO AVE ST PAUL MN 55108	0535 62	UNITED HOSPITAL & NH 333 NORTH SMITH ST PAUL MN 55102	0525 62
WILDER HEALTH CARE CENTER 512 HUMBOLDT AVE ST PAUL MN 55107	0538 62	WILDER RESIDENCE EAST 696 DELLWOOD PLACE ST PAUL MN 55106	0514 62	WILDER RESIDENCE WEST 514 HUMBOLDT AVE ST PAUL MN 55107	0891 62
WHITE BEAR LAKE CARE CENTER 1891 FLORENCE STREET WHITE BEAR LAKE MN 55110	0923 62	HILLCREST NURSING HOME 311 BROADWAY RED LAKE FALLS MN 56750	0540 63	PARKVIEW HOME 401 COUNTY STATE AID HWY 9 BELVIEW MN 56214	0543 64
VALLEY VIEW MANOR COUNTY ROAD #15 LAMBERTON MN 56152	0731 64	GIL MOR MANOR RURAL ROUTE #1 MORGAN MN 56266	0542 64	SUNWOOD CARE CENTER 200 SOUTH DEKALB REDWOOD FALLS MN 56283	0063 64
)-DALE HOME INC SUNRISE BLVD REDWOOD FALLS MN 56283	0749 64	REVERE HOME 202 SOUTH MAIN REVERE MN 56166	0824 64	WABASSO HEALTHCARE CENTER MAPLE & MAY WABASSO MN 56293	0949 64
BIRD ISLAND MANOR HCC 421 SOUTH 11TH STREET BIRD ISLAND MN 55310	0931 65	BUFFALO LAKE NURSING HOME 703 W YELLOWSTONE TRAIL BX 368 BUFFALO LAKE MN 55314	0550 65	FAIRFAX COMMUNITY HOME TENTH AVE SE FAIRFAX MN 55332	0847 65
FRANKLIN HEALTHCARE CENTER 900 3RD ST EAST FRANKLIN MN 55333	0934 65	OLIVIA HEALTHCARE CENTER 1003 WEST MAPLE OLIVIA MN 56277	0939 65	REN-VILLA 205 SE ELM STREET RENVILLE MN 56284	0557 65
FARIBAULT MANOR 1738 HULETT AVE FARIBAULT MN 55021	0989 66	FARIBAULT REGIONAL CENTER 802 CIRCLE DRIVE FARIBAULT MN 55021	0562 66	PLEASANT MANOR INC 27 BRAND AVENUE FARIBAULT MN 55021	0568 66

ST LUCAS CONVALESCENT CTR 503 E DIVISION ST FARIBAULT MN 55021 0571 66	MINNESOTA ODD FELLOWS HOME 815 FOREST AVE NORTHFIELD MN 55057 0564 66	NORTHFIELD CITY HOSPITAL 801 WEST FIRST STREET NORTHFIELD MN 55057 0566 66
NORTHFIELD RETIREMENT CENTER 900 CANNON VALLEY DR NORTHFIELD MN 55057 0567 66	TUFF MEMORIAL HOME RURAL ROUTE 1 BOX 10 HILLS MN 56138 0576 67	MARY J BROWN GOOD SAM CTR 110 SO WALNUT AVE LUVERNE MN 56156 0575 67
GREENBUSH COMMUNITY HOSPITAL 152 FIFTH STREET SOUTH GREENBUSH MN 56726 0578 68	EVENTIDE HOME 307 THIRD AVE NW ROSEAU MN 56751 0926 68	ROSEAU AREA HOSPITAL 715 DELMORE DRIVE ROSEAU MN 56751 0579 68
WARROAD CARE CENTER E LAKE STREET OAD MN 56763 0797 68	WHITE COMMUNITY HOSPITAL 320 HWY 110 EAST AURORA MN 55705 0604 69	MESABI HOME 501 JONES AVE PO BOX 703 BUHL MN 55713 0595 69
BUCHANAN NURSING HOME 30 FIRST ST NW PO BOX 549 CHISHOLM MN 55719 0857 69	HERITAGE MANOR HEALTH CARE CTR 321 NE SIXTH STREET CHISHOLM MN 55719 0904 69	COOK COMMUNITY HOSP THIRD AVENUR & CEDAR STREET COOK MN 55723 0586 69
AFTENRO HOME 510 WEST COLLEGE STREET DULUTH MN 55811 0581 69	BENEDICTINE HEALTH CENTER 935 KENWOOD AVENUE DULUTH MN 55811 0861 69	CHRIS JENSEN NURSING HOME 2501 RICE LAKE ROAD DULUTH MN 55811 0598 69
LAKE HAVEN MANOR 7700 GRAND AVE DULUTH MN 55807 0593 69	LAKESHORE LUTHERAN HOME 4002 LONDON RD DULUTH MN 55804 0594 69	PARK POINT MANOR 1601 ST LOUIS AVENUE DULUTH MN 55802 0589 69
& SAND HEALTH CENTER MINNESOTA AVE DULUTH MN 55802 0865 69	VIEWCREST NURSING HOME 3111 CHURCH ST DULUTH MN 55811 0602 69	ELY BLOOMENSON COMM HOSP 328 W CONAN ST ELY MN 55731 0587 69
ARROWHEAD HEALTH CARE CENTER 601 GRANT AVE EVELETH MN 55734 0583 69	EVELETH FITZGERALD COMM HOSP 227 MCKINLEY AVE EVELETH MN 55734 0588 69	GOLDEN CREST NURSING HOME 2413 FIRST AVENUE HIBBING MN 55746 0991 69
LEISURE HILLS HCC 1500 THIRD AVE EAST HIBBING MN 55746 0858 69	NOPEMING NURSING HOME NOPEMING MN 55810 0597 69	ARROWHEAD HEALTH CARE CENTER 1201 8 1/2 STREET SOUTH VIRGINIA MN 55792 0582 69
VIRGINIA REG MED CTR & NH 901 9TH ST NORTH VIRGINIA MN 55792 0603 69	THE LUTHERAN HOME & HOPE RES 611 WEST MAIN ST BELLE PLAINE MN 56011 0605 70	VALLEYVIEW HEALTH CARE CENTER 4061 WEST 173RD STREET JORDAN MN 55352 0971 70

MALA STRANA HEALTH CARE CTR
1001 COLUMBUS AVE NO
NEW PRAGUE MN 56071
0811
70

SHAKOPEE FRIENDSHIP MANOR
1340 THIRD AVENUE WEST
SHAKOPEE MN 55379
0820
70

HIGH POINT LODGE CARE CENTER
ROUTE 1 BOX 346
CLEAR LAKE MN 55319
0147
71

ELK RIVER NURSING HOME
400 EVANS AVE
ELK RIVER MN 55330
0611
71

ST BENEDICTS CENTER
1810 MINNESOTA BLVD SE
ST CLOUD MN 56301
0774
71

ST CLOUD MANOR
1717 MICHIGAN AVE SE
ST CLOUD MN 56301
0614
71

ARLINGTON GOOD SAM CENTER
411 SEVENTH AVE NW BOX 645
ARLINGTON MN 55307
0617
72

GAYLORD COMMUNITY HOSP & NH
640 3RD STREET
GAYLORD MN 55334
0619
72

WINTHROP CARE CENTER
506 HIGH STREET
WINTHROP MN 55396
0961
72

MOTHER OF MERCY NURSING HOME
CHURCH STREET, BOX 676
NY MN 56307
0634
73

BELGRADE NURSING HOME
BOX 340
BELGRADE MN 56312
0626
73

ASSUMPTION HOME
715 NO FIRST STREET
COLD SPRING MN 56320
0624
73

MELROSE HOSP & PINE VILLA
11 NORTH 5TH AVE W
MELROSE MN 56352
0633
73

PAYNESVILLE COMMUNITY HOSP
200 1ST ST W
PAYNESVILLE MN 56362
0636
73

PAYNESVILLE GOOD SAM HOME
311 WASHBURNE AVENUE
PAYNESVILLE MN 56362
0631
73

ST MICHAELS HOSPITAL & NH
425 NORTH ELM ST
SAUK CENTRE MN 56378
0640
73

DANS BOARDING CARE HOME
1101 THIRD ST NORTH
ST CLOUD MN 56303
0628
73

WAITE PARK NURSING HOME INC
142 NW FIRST ST
WAITE PARK MN 56387
0643
73

PRAIRIE MANOR
220 3RD ST NW
BLOOMING PRAIRIE MN 55917
0650
74

CEDARVIEW NURSING HOME
1409 SO CEDAR ST
OWATONNA MN 55060
0644
74

OWATONNA HEALTH CARE CENTER
201 SOUTH WEST 18TH ST
OWATONNA MN 55060
0649
74

[illegible]SIDE BOARDING CARE HOME
ROUTE 1
OWATONNA MN 55060
0645
74

VILLA OF ST FRANCIS NSG HOME
1001 SCOTT AVE
MORRIS MN 56267
0654
75

APPLETON MUNICIPAL HOSPITAL
30 SOUTH BEHL STREET
APPLETON MN 56208
0655
76

MEADOW LANE HEALTH CARE CTR
WEST HIGHWAY 9
BENSON MN 56215
0930
76

LINDBERG REST HOME

KERKHOVEN MN 56252
0657
76

CENTRAL TODD CO CARE CENTER
HWY 71 NEAR OAK ST
CLARISSA MN 56440
0761
77

LONG PRAIRIE MEM HOSP + C+NC
20 NINTH STREET SOUTHEAST
LONG PRAIRIE MN 56347
0778
77

BROWNS VALLEY COMM NSG HOME
340 JEFFERSON STREET
BROWNS VALLEY MN 56219
0668
78

TRAVERSE CO NURSING HOME
303 7TH ST SO
WHEATON MN 56296
0669
78

RIVER OAKS HEALTH CARE CTR
815 NO HIGH STREET
LAKE CITY MN 55041
0970
79

HILLCREST NURSING & RET HOME
800 2ND AVE NW
PLAINVIEW MN 55964
0672
79

RIVER VALLEY HEALTH CARE CNTR.
626 SHIELDS AVENUE
WABASHA MN 55981
0676
79

ST ELIZABETHS HOSPITAL 1200 5TH GRANT BLVD WEST WABASHA MN 55981	0675 79	GREEN PINE ACRES NSG HOME PO BOX 130 MENAHGA MN 56464	0678 80	UNITED DISTRICT HOSP & HOME 401 PRAIRIE AVE NO STAPLES MN 56479	0667 80
SHADY LANE NURSING HOME R RT 2 HWY 110 EAST WADENA MN 56482	0679 80	JANESVILLE NURSING HOME 102 EAST NORTH ST JANESVILLE MN 56048	0681 81	NEW RICHLAND CARE CTR 312 NE 1ST STREET NEW RICHLAND MN 56072	0748 81
LAKESHORE INN NURSING HOME 108 8TH STREET NW WASECA MN 56093	0682 81	CROIXDALE RESIDENCE 334 NO 7TH AVE BAYPORT MN 55003	0686 82	BIRCHWOOD HEALTH CARE CENTER 604 NE 1ST STREET FOREST LAKE MN 55025	0853 82
GREELEY HEALTHCARE CENTER SOUTH GREELEY STREET LWATER MN 55082	0947 82	LINDEN HEALTHCARE CENTER 105 WEST LINDEN STREET STILLWATER MN 55082	0948 82	STILLWATER MAPLE MANOR CARE CT 1119 NO OWENS STREET STILLWATER MN 55082	0903 82
STILLWATER RESIDENCE 220 WEST OLIVE STREET STILLWATER MN 55082	0963 82	WOODBURY HEALTH CARE CENTER 7012 CARVER LAKE RD WOODBURY MN 55125	0803 82	LUTHER MEMORIAL HOME 221 6TH ST SW MADELIA MN 56062	0695 83
PLEASANT VIEW GOOD SAM CENTER 1000 SOUTH 2ND ST ST JAMES MN 56081	0697 83	ST FRANCIS HOME FOR THE AGED 501 OAK STREET BRECKENRIDGE MN 56520	0818 84	LEWISTON VILLA NURSING HOME 505 EAST MAIN STREET LEWISTON MN 55952	0964 85
WHITEWATER HEALTHCARE CENTER 525 BLUFF AVE ST CHARLES MN 55972	0942 85	COMMUNITY MEMORIAL HOSPITAL 855 MANKATO AVE WINONA MN 55987	0701 85	SAINT ANNE HOSPICE 1347 W BROADWAY WINONA MN 55987	0955 85
[illegible]ER MEMORIAL HOME [illegible] SERVICE DRIVE WINONA MN 55987	0705 85	STARZECKI BOARDING CARE HOME 123 EAST 8TH ST WINONA MN 55987	0708 85	THE WATKINS HOME 175 EAST WABASHA WINONA MN 55987	0704 85
ANNANDALE CARE CENTER RR #4, BOX 57, HWY 24 EAST ANNANDALE MN 55302	0951 86	EBENEZER COVENANT HOME 310 LAKE BOULEVARD BUFFALO MN 55313	0714 86	RETIREMENT CENTER OF WRIGHT CO 200 PARK LANE BUFFALO MN 55313	0719 86
COKATO MANOR INC WEST HIGHWAY 12 COKATO MN 55321	0712 86	DELANO HEALTHCARE CENTER 433 COUNTY RD 30 DELANO MN 55328	0933 86	HOWARD LAKE CARE CENTER BOX CC HOWARD LAKE MN 55349	0019 86
MONTICELLO BIG LAKE COMM HOSP 1013 HART BLVD. PO BOX 480 MONTICELLO MN 55362	0718 86	CANBY COMMUNITY HEALTH SERV. 112 ST OLAF AVE SO CANBY MN 56220	0722 87	CLARKFIELD CARE CENTER 805 FIFTH STREET CLARKFIELD MN 56223	0842 87

MUNICIPAL HOSP & GRANITE MANOR 0725
345 TENTH AVE 87
GRANITE FALLS MN 56241

4.

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES RELATING TO PROCEDURES FOR APPROVING EXCEPTIONS TO NURSING HOME AND BOARDING CARE HOME BED MORATORIUM.

AFFIDAVIT OF MAILING

I, Michael G. Dean, being first duly sworn, depose and say :

that on the 27th, day of July, at the city of St. Paul, county of Ramsey, state of Minnesota, I mailed the attached Notice of Intent to Adopt an Emergency Rule and Rule by depositing in the State of Minnesota central mailing system for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who have asked that their names be placed on file with the MDH for the purpose of receiving notice of hearing by this department.

Michael G. Dean

Inscribed and sworn to before me this

27th, day of July 1988

Martin Kvidera

MARTIN KVIDERA
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES DECEMBER 31, 1991

1

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

IN THE MATTER OF THE PROPOSED
ADOPTION OF EMERGENCY RULES
RELATING TO PROCEDURES FOR
EXCEPTIONS TO NURSING HOME
BED MORATORIUM.

CERTIFICATION

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, that their names be placed on the file with, and maintained by, the Minnesota Department of Health for the purpose of receiving notice of rule hearings, is accurate and complete as of 10 : a. m., this 27th day of July, 1988.

Michael G. Dean

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St. Mary's Hospital Pharmacy
1216 Second St. Southwest
Rochester, MN 55902

Karen Lenander
Northern States Power Company
A. S. King Plant
210 North Tenth Avenue
Bayport, MN 55003

David Lurie, Commissioner of Health
City of Minneapolis
250 South Fourth Street
Minneapolis, MN 55415

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North Memorial Medical Center
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Robbinsdale, MN 55422

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St. Paul, MN 55101

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Department of Health

In the Matter of the Proposed Adoption of Emergency Rule of the State Department of Health Governing Procedures for Exceptions to Moratorium, Minnesota Rules, parts 4655.1070 to 4655.1100.

NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

Notice is hereby given that the State Department of Health intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Laws of Minnesota, 1988, chapter 689, article 2, section 39. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

PLEASE NOTE: This notice supersedes the notice of proposed adoption of emergency rules that was published in the State Register on Monday, July 18, 1988, pages 130 through 131 (13 S.R. 130).

All persons have until 25 days after publication of this notice or until 4:30 p.m., Friday, August 26, 1988, 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:

Mike Dean
393 N Dunlap
P.O. Box 64900
St. Paul, MN 55164 - 0900
(612) 643 - 2156

Proposed emergency rule parts 4655.1070 to 4655.1100 relate to the process for the review of proposals for exceptions to the nursing home and boarding care bed moratorium contained in Minnesota Statutes, section 144A.071. The exceptions that must be approved under the emergency rules, which are stated under Minnesota Statutes section 144A.073, are renovation, replacement, conversion, and upgrading.

The emergency rules establish rules regarding the formation and functions of an advisory review panel; the publication of requests for exception proposals; the format and contents of a proposal; submission of a proposal; intial screening of proposals by the Interagency Board for Quality Assurance (IBQA); the collection of data related to a proposal; formation of advisory review panel recommendations to the IBQA; public hearing; evaluation, comparison, and ranking of proposals; development of IBQA recommendations to the Commissioner of Health; the Commissioner's approval or disapproval of a proposal; documentation; and penalties for cost overruns.

A free copy of the proposed emergency rule is available by contacting Mike Dean at the above-mentioned address or phone number.

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

Upon 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 reviews as to legality and form to the extent 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 Mike Dean at the above-mentioned address.

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

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.

Date: 7/25/88

Sr. Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

Department of Health

Proposed Emergency Rules Relating to Procedures for Exceptions to Moratoriums

Rules as Proposed (all new material)

PROCEDURES FOR EXCEPTIONS TO NURSING HOME BED MORATORIUM

4655.1070 [EMERGENCY] DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4655.1070 to 4655.1100 [Emergency], the following terms have the meanings given them in this part.

Subp. 2. **Advisory review panel.** "Advisory review panel" means the group of individuals that must form recommendations according to part 4655.1086 [Emergency] and that is appointed by the Interagency Board for Quality Assurance under Minnesota Statutes, section 144A.073, subdivision 3, and part 4655.1074 [Emergency].

Subp. 3. **Allowable costs.** "Allowable costs" means costs allowable according to part 9549.0035, subpart 1.

Subp. 4. **Alternative care grant.** "Alternative care grant" has the meaning given in part 9505.2395, subpart 4.

Subp. 5. **Alternative care grant use.** "Alternative care grant use" means the information determined under part 4655.1084 [Emergency], subpart 9.

Subp. 6. **Annual statistical report.** "Annual statistical report" means the report incorporated by reference under part 4655.1072 [Emergency].

Subp. 7. **Appraised value.** "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used for resident care as determined under part 9549.0060.

Subp. 8. **Attached fixture.** "Attached fixture" has the meaning given in part 9549.0020, subpart 6.

Subp. 9. Attached hospital. "Attached hospital" means a

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hospital that is under common ownership and operation with a nursing home and shares with that nursing home the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services.

Subp. 10. **Buildings.** "Buildings" has the meaning given in part 9549.0020, subpart 7.

Subp. 11. **Certified boarding care home.** "Certified boarding care home" means a facility licensed under parts 4655.0090 to 4655.1060 and 4655.1200 to 4655.9900, and certified to participate in medical assistance under United States Code, title 42, sections 1396 to 1396p as amended through July 18, 1984.

Subp. 12. **Commenced construction.** "Commenced construction" has the meaning given it under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (b).

Subp. 13. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or the commissioner's representative.

Subp. 14. **Conversion.** "Conversion" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (a).

Subp. 15. **Cost report.** "Cost report" means the document and supporting material specified by the commissioner of the Department of Human Services and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate determiniation.

Subp. 16. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 17. **Environmental conditions.** "Environmental conditions" means the conditions reviewed under part 4655.1084 [Emergency], subpart 10.

Subp. 18. **Estimated operating costs.** "Estimated operating costs" means a facility's estimated operating costs during the first two years after completion of the project.

Subp. 19. **Facility.** "Facility" means the attached

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hospital, nursing home, or certified boarding care home named on a proposal.

Subp. 20. **Financing costs.** "Financing costs" means the estimated long-term financing costs that, according to part 4655.1078 [Emergency], item H, must be provided with a proposal.

Subp. 21. **Hospital.** "Hospital" means an acute care institution as defined in Minnesota Statutes, section 144.696, subdivision 3, and maintained primarily to treat and care for persons with disorders other than tuberculosis or mental diseases.

Subp. 22. **Interagency board for quality assurance or IBQA.** "Interagency Board for Quality Assurance" or "IBQA" means the board established under Minnesota Statutes, section 144A.31, subdivision 1.

Subp. 23. **Land improvement.** "Land improvement" has the meaning given in part 9549.0020, subpart 28.

Subp. 24. **Medical assistance.** "Medical assistance" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 25. **Medical assistance cost.** "Medical assistance cost" means the biennial amount by which medical assistance payments will change if a proposal is implemented. Medical assistance costs are determined according to part 4655.1084 [Emergency], subpart 2.

Subp. 26. **Nursing home.** "Nursing home" means a facility licensed according to Minnesota Statutes, chapter 144A.

Subp. 27. **Operating costs.** "Operating costs" has the meaning given in part 9549.0020, subpart 32.

Subp. 28. **Proposal.** "Proposal" means a detailed written plan for a conversion, renovation, replacement, or upgrading.

Subp. 29. **Proposer.** "Proposer" means the organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the IBQA.

Subp. 30. **Renovation.** "Renovation" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (b).

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Subp. 31. **Replacement.** "Replacement" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (c).

Subp. 32. **Soft costs.** "Soft costs" means costs relating to implementation of the proposal, including:

A. sales taxes on materials;

B. contractor's overhead and profit;

C. architect and engineering fees;

D. construction period interest;

E. permits, zoning, and construction financing;

F. feasibility, economic, and demographic studies;

G. legal, accounting, and consulting fees relating to creation of the development; and

H. cost of designing the improvements.

Subp. 33. **Statutory restriction.** "Statutory restriction" means a replacement restriction, conversion restriction, or upgrading restriction as described under Minnesota Statutes, section 144A.073, subdivisions 5 to 7.

Subp. 34. **Submission deadline.** "Submission deadline" means the date that is established according to part 4655.1080 [Emergency], subpart 3.

Subp. 35. **Upgrading.** "Upgrading" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (d).

Subp. 36. **Working day.** "Working day" means Monday to Friday, excluding legal holidays recognized by the state of Minnesota.

4655.1072 [EMERGENCY] INCORPORATION BY REFERENCE OF ANNUAL STATISTICAL REPORT.

The "Annual Statistical Report to the Commissioner of Health, 1988; Nursing Home, Boarding Care Home, Supervised Living Report" is incorporated by reference and is available through the Minitex interlibrary loan system. The report is subject to frequent change.

4655.1074 [EMERGENCY] APPOINTMENT OF ADVISORY REVIEW PANEL.

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Subpart 1. **Procedures.** The IBQA shall appoint an advisory review panel according to subparts 2 to 5.

Subp. 2. **Membership.** The advisory review panel must consist of two representatives from organizations that represent consumers of nursing home services, two representatives from organizations representing providers of nursing home services, and one who has a background in long-term care and either accounting, engineering, or building construction. The executive director of the IBQA shall chair and convene the advisory review panel.

Subp. 3. **Nominations.** A member of the advisory review panel must be nominated. Anyone can nominate an advisory review panel member.

The IBQA shall publish in the State Register a request for nominations to the advisory review panel no later than 30 days after the effective date of parts 4655.1070 to 4655.1100 [Emergency] and at least 30 days before the expiration date of the term of an advisory review panel member. A nomination must be written, must state the name and address of the nominee, and must state the positions indicated under subpart 2 for which the person is being nominated.

Subp. 4. **Appointments.** A nominee shall be appointed by a majority vote of the IBQA.

Subp. 5. **Length of term.** A term on the advisory review panel begins the first working day after the vote of the IBQA appointing a person to the panel. An advisory review panel member representing consumers and one representing providers shall serve two years on the panel. The remaining consumer and provider members shall serve three-year terms. The member with the background in long-term care and either accounting, engineering, or building construction shall serve a three-year term. An advisory review panel member may serve an unlimited number of consecutive terms.

4655.1076 [EMERGENCY] IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Subpart 1. **When.** The IBQA shall publish in the State

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Register a request for proposals on the first Monday of each state fiscal biennium.

Subp. 2. **Contents of a request for proposals.** The request for proposals must state:

A. a proposal submission deadline date consistent with part 4655.1080 [Emergency], subpart 3;

B. the amount of the legislative appropriation available for medical assistance costs or state that proposals will not be requested because no appropriations were made;

C. other relevant information regarding current state long-term care policy goals; and

D. that the information under part 4655.1078 [Emergency] must be included in a proposal.

4655.1078 [EMERGENCY] FORMAT AND CONTENTS OF A PROPOSAL.

A proposal must be on a form approved by the commissioner and must:

A. include the name, telephone number, and address of the proposer or other authorized person who can be contacted by the commissioner or the IBQA with questions regarding the proposal;

B. include the name and address of the nursing home or boarding care home for which the project is being proposed;

C. be signed by a qualified representative of the entity submitting the proposal;

D. state whether the proposal is for renovation, replacement, conversion, or upgrading;

E. describe the problem the proposal will address;

F. include schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation;

G. include a cost estimate, prepared by a contractor and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by item F, including costs of buildings, attached fixtures, land improvements, construction site

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preparation, and related soft costs;

H. provide current estimated long-term financing costs of the proposal, including amount and sources of money, annual payments scheduled, interest rates, length of term, closing costs and fees, insurance costs, and other information on loans for building, attached fixtures, lands, land improvements, and building site preparation;

I. state the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented;

J. state the current annual care-related and other operating costs and also an estimation of these costs if the proposal were implemented;

K. describe the environmental conditions in the facility and any proposed changes in those conditions;

L. for proposals involving replacement of all or part of a facility, provide the property identification number and a general description of the proposed location of a replacement facility;

M. provide an estimate of the costs and benefits of renovation as an alternative to replacement or of replacement as an alternative to renovation; and

N. include the estimated beginning date of construction for renovation and replacements and the proposed timetable for completion of construction.

4655.1080 [EMERGENCY] SUBMISSION OF PROPOSAL.

Subpart 1. **Who may submit a proposal.** A proposal must be submitted by a proposer.

Subp. 2. **Where to submit a proposal.** A proposal must be submitted to the IBQA.

Subp. 3. **Submission deadline.** A proposal must be received by the IBQA no later than 90 days after the date a request for proposals is published in the State Register.

4655.1082 [EMERGENCY] INITIAL SCREENING OF PROPOSALS BY IBQA.

The IBQA shall process a proposal according to items A to L.

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A. The IBQA shall determine whether a proposal was submitted according to the submission deadline under part 4655.1080 [Emergency], subpart 3.

B. If a proposal was not submitted according to the deadline indicated under part 4655.1080 [Emergency], subpart 3, the IBQA shall return the proposal to the proposer with a written notice that the proposal will not receive further consideration because the proposal was received after the submission deadline.

C. If a proposal is received according to the deadline, the IBQA shall determine whether the proposal meets the definition of conversion, renovation, replacement, or upgrading as those terms are defined under part 4655.1070 [Emergency]. A proposal that does not meet any of those definitions must be returned to the proposer without further consideration.

D. If the proposal is for an exception that meets the definition of upgrading, renovation, replacement, or conversion as those terms are defined under part 4655.1070 [Emergency], the IBQA shall determine whether the proposal is substantially complete and consistent with part 4655.1078 [Emergency]. A proposal is substantially complete and consistent if it contains the information specified in part 4655.1078 [Emergency], items B, D to K, and M.

E. If an item required for a substantially complete proposal under item D is missing from a proposal that is submitted to the IBQA, the proposal shall be returned to the proposer with a written notice that the proposal will not receive further consideration because of the missing item.

F. If a proposal is substantially complete and consistent according to item D, staff shall, if needed, ask for additional information in writing within ten days after the submission deadline. Additional information shall be requested only if, in the judgment of the IBQA, the additional information is needed to clarify or support previously submitted information.

G. Additional information requested under item F must

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be submitted within 17 days after the submission deadline.

H. If requested additional information is not received within 14 days after the submission deadline, the proposal shall be returned to the proposer with a notice that the proposal is not approved because the additional information was not submitted according to the deadline.

I. A proposal that is not completed by the submission of additional information requested under item F shall be returned to the proposer with a notice that the proposal will not receive further consideration because the requested additional information submitted was insufficient.

J. If the format and contents of a proposal submitted to the commissioner are substantially complete and consistent with part 4655.1078 [Emergency], the IBQA shall determine whether the proposal satisfies the statutory restrictions.

K. If a proposal fails to satisfy a statutory restriction, the IBQA shall return the proposal to the proposer with a written notice stating that the proposal will not receive further consideration because it does not satisfy a restriction.

L. If a proposal satisfies all restrictions, data regarding the proposal shall be collected according to part 4655.1084 [Emergency]. The IBQA shall submit the findings and other information from the review conducted under part 4655.1084 [Emergency] to the advisor review panel to review and form recommendations on the proposal according to part 4655.1086 [Emergency].

4655.1084 [EMERGENCY] DATA COLLECTION.

Subpart 1. **Staff.** The IBQA and the commissioners of agencies represented on the IBQA shall assign staff to collect the data under subparts 2 to 14. The IBQA shall use the data collected under this part to develop recommendations to the commissioner under part 4655.1094 [Emergency] on a proposal screened under part 4655.1082 [Emergency].

Subp. 2. **Medical assistance cost of a proposal.** The medical assistance costs of a proposal shall be determined by:

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A. reviewing the accuracy of operating costs provided according to part 4655.1078 [Emergency], item J;

B. determining the accuracy of the real estate taxes and special assessments provided under part 4655.1078 [Emergency], item I;

C. determining the increase in allowable appraised value according to part 9549.0060, subpart 4; staff shall assume that the costs provided under part 4655.1078 [Emergency], item G, are equal to the total increase in appraised value;

D. determining the increase in the allowable annual costs of the elements identified in part 4655.1078 [Emergency], item H, according to part 9549.0060, subparts 5, 6, and 7;

E. determining an estimate of the total allowable annual costs for the cost categories reviewed in items B to D;

F. determining an estimate of the number of medical assistance resident days and of the proportion of medical assistance resident days to total resident days using information from the most recent cost report of the facility;

G. multiplying the proportion of resident days developed in item F by the estimated annual costs developed in item E;

H. determining the annual medical assistance costs of the proposal by multiplying the amount found in item G by the most recent proportion of medical assistance paid by the state of Minnesota; and

I. multiplying the amount found in item H by two to yield the biennial medical assistance cost of the proposal.

Subp. 3. **Cost information.** The current and projected costs of the proposal shall be calculated according to cost per licensed bed, percent change in cost per licensed bed, and total biennial state and medical assistance costs.

Subp. 4. **Age-related data.** The percentage of individuals in the county of the facility and of counties contiguous to that county who are 65 to 74 years of age, 75 to 84 years of age, and who are 85 or more years of age shall be calculated using either census data or projections of the state demographer based on

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census data, whichever provides the more recent estimate.

Subp. 5. **Facility occupancy.** The average occupancy rate of the facility's existing beds shall be obtained from the most recent Annual Statistical Report.

Subp. 6. **County-region occupancy.** The average percentage occupancy of the existing licensed beds of all the facilities in the county of the facility and of all facilities in counties contiguous to that county according to the most recent Annual Statistical Report, shall be calculated.

Subp. 7. **Number of licensed beds.** The number of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 8. **Number of occupied licensed beds.** The number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 9. **Alternative care grant use.** Alternative care grant use is the dollar amount and percentage of alternative care grant allocations used by the county in which the facility is located in the most recent year for which data is available. Alternative care grant use shall be obtained for each proposal that is acceptable according to part 4655.1082 [Emergency]. The amount of alternative care grant per person 65 years of age or older spent in the county in which the facility is located, in counties contiguous to the county of the facility, and in the state shall be calculated.

Subp. 10. **Environmental conditions.** Information shall be developed that describes the differences between existing environmental conditions and current state licensing standards for new construction and between the proposed changes in environmental conditions and current state licensing standards

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for new construction.

The development of information under this subpart does not supersede licensing and certification procedures. The environmental conditions and standards are listed in items A to L.

A. The width of corridors shall be compared with the standards in part 4660.1500, subpart 2.

B. The width of door frames shall be compared with the standards in part 4660.1460, subpart 2.

C. Fire exit enclosures shall be compared with the standards in part 4660.0300.

D. The method and materials of construction of the building shall be compared with the standards for Group D occupancy in the State Building Code. "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration according to Minnesota Statutes, section 16B.59, and contained in chapter 1300.

E. The number of beds per resident room and the floor area per bed shall be compared to standards in parts 4660.1400 and 4660.1430, subpart 3.

F. The amount of artificial light in resident rooms and major activity areas shall be compared to standards in parts 4660.9900 and 4660.9910.

G. The amount of natural light in resident rooms shall be compared with the standard in part 4660.1450.

H. The number of bathing or toileting facilities adjacent to bedrooms shall be compared to the standards in parts 4660.2400, subpart 2, and 4660.2500.

I. Ventilation arrangements shall be compared to the standards in part 4660.8300.

J. Dining room space shall be compared to the standard in part 4660.4830.

K. Day room space shall be compared to the standard in part 4660.4820.

L. Heating and cooling arrangements shall be compared to the standards in part 4660.8200.

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Subp. 11. **History of state licensing correction orders federal certification deficiencies.** For each proposal that is acceptable according to part 4655.1082 [Emergency], the accumulated number and content of licensing correction orders and federal certification deficiencies for the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

Subp. 12. **History of licensing and certification waivers.** The number and purpose of waivers for the two most recently completed federal certification periods before the submission deadline for a proposal shall be collected.

Subp. 13. **History of complaints.** The number and content of complaints about a facility received during the two most recently completed federal certification periods before the deadline for submission of a proposal shall be collected. If ownership of a facility has changed in the two years before the submission deadline, a history of complaints shall be collected only for the tenure of the current owner.

Subp. 14. **History of sanctions.** The number and content of sanctions relating to licensure and certification that have been levied against a facility during the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

4655.1086 [EMERGENCY] FORMATION OF ADVISORY REVIEW PANEL RECOMMENDATIONS TO IBQA.

Subpart 1. **Review of proposals.** A proposal submitted according to the deadline for submission, that satisfies the requirements of part 4655.1082 [Emergency] shall be reviewed, evaluated, and ranked by the advisory review panel.

Subp. 2. **Method of evaluation.** The advisory review panel shall evaluate proposals using the information submitted according to parts 4655.1078 [Emergency] and 4655.1080 [Emergency] and the data collected by staff under part 4655.1084 [Emergency].

Subp. 3. **Ranking of proposals.** The advisory review panel

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shall rank proposals to indicate which proposals should be approved in order of priority based on the criteria in parts 4655.1084 [Emergency] and 4655.1090 [Emergency], items A to H.

Subp. 4. **Formation of recommendations to the IBQA.** Based on the ranking of proposals, the advisory review panel shall recommend that the IBQA recommend approval or disapproval of a proposal. The advisory review panel shall provide written justifications for its recommendations to the IBQA.

Subp. 5. **Deadline for submission of recommendations.** The advisory review panel must submit its recommendations to the IBQA no later than ten days after receipt of the staff review information.

4655.1088 [EMERGENCY] PUBLIC HEARING.

The IBQA shall hold one public hearing on all proposals submitted in response to a request for proposals. The public hearing shall be held after the submission deadline under part 4655.1080 [Emergency], subpart 3, but before the IBQA submits recommendations to the commissioner. The IBQA shall publish a notice of the public hearing in the State Register that states the time, date, place, and subject of the hearing.

4655.1090 [EMERGENCY] EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

The IBQA shall use the findings of the staff data collection process, the advisory review panel, and the public hearing to evaluate, compare, and rank the proposals according to the long-term care needs they address. An evaluation, comparison, or ranking must be based on the criteria under the following items:

A. Occupancy that is determined according to:

(1) the extent to which the average occupancy rate of the facility supports the need for the proposed project in comparison with the average occupancy rate of all facilities in the county of the facility, of the contiguous counties, and with the statewide occupancy rate;

(2) the extent to which the number and proportion

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of individuals in the county of the facility and of contiguous counties in the age groups 65 to 74, 75 to 84, and 85 and over support the need for the proposal as determined through comparison with other counties and the state;

(3) the extent to which the current supply of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties, regions, and the state; and

(4) the extent to which the number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties and the state.

B. The extent to which the proposal enhances the availability and use of alternative care services.

C. The extent to which the proposal reduces the number of long-term care resident rooms with more than two beds.

D. The extent to which a proposal is cost effective in terms of its use of state money, medical assistance cost, cost per licensed bed, change in cost per licensed bed, and, for renovation and replacement proposals, in terms of the costs of renovation in lieu of a proposed replacement or of replacement in lieu of a proposed renovation.

E. The proposal's compliance with licensing regulations as specified in parts 4660.0300 and 4655.1000.

F. The extent to which a proposal improves the conditions that affect health, safety, or comfort of the residents of a facility, including environmental conditions described in part 4655.1084 [Emergency], subpart 10.

G. The extent to which the design of a proposal will improve the quality of life of the residents.

H. The extent to which the proposed changes are necessary to meet medical assistance certification and licensing requirements for that facility.

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4655.1092 [EMERGENCY] REIMBURSEMENT LIMITS.

Subpart 1. **Cost reimbursement.** The acceptance or determination of costs under parts 4655.1070 to 4655.1100 [Emergency] is not binding for reimbursement. Actual reimbursement of costs is determined according to parts 9549.0010 to 9549.0080.

Subp. 2. **Medical assistance costs.** The sum of the estimated medical assistance costs of all recommended proposals during the first two years of operation must not exceed the amount provided by the legislature as noted in the request for proposals according to part 4655.1076 [Emergency], subpart 2, item B.

4655.1094 IBQA [EMERGENCY] RECOMMENDATIONS TO COMMISSIONER.

The IBQA shall recommend that the commissioner approve or disapprove a proposal. A recommendation under this part must be based on the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency]. A written report of the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency], and the recommendations formed under this part must be submitted to the commissioner not more than 21 days after receipt of the recommendations of the advisory review panel.

4655.1096 [EMERGENCY] COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

Subpart 1. **Approval or disapproval of a proposal.** The commissioner shall approve or disapprove a proposal within 30 days after receiving the IBQA recommendations.

Subp. 2. **Notice of approval or disapproval.** No later than ten days after the commissioner's approval or disapproval of a proposal the commissioner shall send a written notice of approval or disapproval to the proposer. The notice must state the reasons for the approval or disapproval.

Subp. 3. **Expiration of commissioner's approval.** The commissioner's approval of a proposal expires 12 months after the date of the commissioner's signature on the notice of approval unless the facility has commenced construction.

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4655.1098 [EMERGENCY] DOCUMENTATION.

Subpart 1. **Preliminary plans.** The proposer of a renovation, replacement, or upgrading that is approved by the commissioner shall submit preliminary plans as defined in part 4660.0600 before drawing final plans.

Subp. 2. **Final working drawings.** The proposer of an accepted proposal for renovation or replacement shall submit final architectural, mechanical, and electrical drawings as defined in parts 4660.0700 and 4660.0800 to the Minnesota Department of Health for review and approval before implementation of the project.

Subp. 3. **Changes in approved projects.** Changes in approved projects for renovation, replacement, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according to part 4660.0900.

Subp. 4. **Change orders.** If the commissioner approves the reported changes in a project, a change order permitting the changes shall be issued. The issuance of a change order does not alter the allowable costs as determined in part 4655.1084 [Emergency], subpart 2.

Subp. 5. **Cost overruns.** The proposer shall immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.

Subp. 6. **Final statement of costs.** On completion of the proposed project, the proposer shall submit to the Department of Human Services, a final statement of costs that includes a sworn statement of actual costs of items for which costs were estimated according to part 4655.1078 [Emergency], item G, and that compares the actual costs to the estimates.

4655.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS.

Any cost overrun that is 110 percent or more greater than the costs estimated in part 4655.1078 [Emergency], item G, shall be penalized. The amount of money over 110 percent of the costs

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estimated in part 4655.1078 [Emergency], item G, shall be subtracted from the facility's appraisal conducted under parts 9549.0010 to 9549.0080 for a period of five years.

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The auditor or clerk must test each prom pack individually and, after testing, seal it with a numbered seal. Each ballot counter must be tested to ensure that the components are operating properly. The election judges shall verify that the ballot counter at the precinct has the correct seal number and certify the seal number on the summary statement.

Before opening the polls, the election judges shall initialize the ballot counter in accordance with the manufacturer's instructions. The judges shall verify that the initial counts for the voting positions are zero, that the public counter is set at zero, and that the ballot positions and other ballot information for each candidate and proposal printed on the initial tape agree with those on the ballot cards.

If the ballot counter is programmed to return to the voter a ballot having defects, the rejected ballot must be treated as a spoiled ballot and a new ballot must be issued to the voter after the spoiled ballot has been deposited in the spoiled ballot container. The election judges shall read the error message to the voter and may explain the conditions that cause a ballot to be rejected, but the judges shall not examine the voted ballot unless the voter requests assistance as provided in *Minnesota Statutes*, section 204C.15.

If the ballot counter is programmed to return to the voter a ballot having defects, no means of overriding the rejection may be used that do not meet the conditions in items A to C.

A. The override must be protected against being inadvertently activated.

B. The override must not allow more than one ballot to be processed each time it is operated.

C. A message, to be initialed by the election judges who activated the override, must be printed on the results tape each time the override is operated.

As soon as voting has ended, the election judges shall process any ballots in the auxiliary ballot box and then secure the ballot counter against receiving any more ballots. The election judges shall produce a printed record of results and sign the certificate that is part of the printed record.

At a general election, after the ballot counter has been secured against receiving additional ballots, the election judges shall open the write-in compartment and count and record on the summary statement the valid write-in votes.

One unbroken tape that includes the initial zero report at the opening of the polls, messages printed during the hours of voting, and the first printout of results must be certified to the county canvassing board. In the event of equipment failure, the election judges and any technicians working on the equipment shall make entries on the tape of initials and time of occurrence to indicate the points at which the equipment failed and was returned to service. If the tape has been broken, the election judges shall seal the parts together and sign over the seal so that it cannot be broken without disturbing the continuity of the signatures. Additional copies of the record of results must be certified as required by the election jurisdiction.

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 Health

Proposed Emergency Rules Relating to Procedures for Exceptions to Moratoriums

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the State Department of Health intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Laws of Minnesota, 1988*, chapter 689, article 2, section 39. The agency, in adopting the rule, is following the procedures set forth in the Administration Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

PLEASE NOTE: This notice supersedes the notice of proposed adoption of emergency rules that was published in the *State Register* on Monday, July 18, 1988, pages 130 through 131 (13 S.R. 130).

All persons have until 25 days after publication of this notice or until 4:30 p.m., Friday, August 26, 1988, 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:

Mike Dean
393 N Dunlap
P.O. Box 64900
St. Paul, MN 55164-0900
(612) 643-2156

Proposed emergency rule parts 4655.1070 to 4655.1100 relate to the process for the review of proposals for exceptions to the nursing home and boarding care bed moratorium contained in *Minnesota Statutes*, section 144A.071. The exceptions that must be approved under the emergency rules, which are stated under *Minnesota Statutes*, section 144A.073, are renovation, replacement, conversion, and upgrading.

The emergency rules establish rules regarding the formation and functions of an advisory review panel; the publication of requests for exception proposals; the format and contents of a proposal; submission of a proposal; initial screening of proposals by the Interagency Board for Quality Assurance (IBQA); the collection of data related to a proposal; formation of advisory review panel recommendations to the IBQA: public hearing; evaluation, comparison, and ranking of proposals; development of IBQA recommendations to the Commissioner of Health; the Commissioner's approval or disapproval of a proposal; documentation; and penalties for cost overruns.

A free copy of the proposed emergency rule is available by contacting Mike Dean at the above-mentioned address or phone number.

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

Upon 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 reviews as to legality and form to the extent 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 Mike Dean at the above-mentioned address.

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

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.

Dated: 25 July 1988

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)

PROCEDURES FOR EXCEPTIONS TO NURSING HOME BED MORATORIUM

4655.1070 [EMERGENCY] DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4655.1070 to 4655.1100 [Emergency], the following terms have the meanings given them in this part.

Subp. 2. **Advisory review panel.** "Advisory review panel" means the group of individuals that must form recommendations according to part 4655.1086 [Emergency] and that is appointed by the Interagency Board for Quality Assurance under *Minnesota Statutes*, section 144A.073, subdivision 3, and part 4655.1074 [Emergency].

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

Subp. 3. **Allowable costs.** "Allowable costs" means costs allowable according to part 9549.0035, subpart 1.

Subp. 4. **Alternative care grant.** "Alternative care grant" has the meaning given in part 9505.2395, subpart 4.

Subp. 5. **Alternative care grant use.** "Alternative care grant use" means the information determined under part 4655.1084 [Emergency], subpart 9.

Subp. 6. **Annual statistical report.** "Annual statistical report" means the report incorporated by reference under part 4655.1072 [Emergency].

Subp. 7. **Appraised value.** "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used for resident care as determined under part 9549.0060.

Subp. 8. **Attached fixture.** "Attached fixture" has the meaning given in part 9549.0020, subpart 6.

Subp. 9. **Attached hospital.** "Attached hospital" means a hospital that is under common ownership and operation with a nursing home and shares with that nursing home the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services.

Subp. 10. **Buildings.** "Buildings" has the meaning given in part 9549.0020, subpart 7.

Subp. 11. **Certified boarding care home.** "Certified boarding care home" means a facility licensed under parts 4655.0090 to 4655.1060 and 4655.1200 to 4655.9900, and certified to participate in medical assistance under United States Code, title 42, sections 1396 to 1396p as amended through July 18, 1984.

Subp. 12. **Commenced construction.** "Commenced construction" has the meaning given it under *Minnesota Statutes*, section 144A.071, subdivision 3, paragraph (b).

Subp. 13. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or the commissioner's representative.

Subp. 14. **Conversion.** "Conversion" has the meaning given in *Minnesota Statutes*, section 144A.073, subdivision 1, paragraph (a).

Subp. 15. **Cost report.** "Cost report" means the document and supporting material specified by the commissioner of the Department of Human Services and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate determiniation.

Subp. 16. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 17. **Environmental conditions.** "Environmental conditions" means the conditions reviewed under part 4655.1084 [Emergency], subpart 10.

Subp. 18. **Estimated operating costs.** "Estimated operating costs" means a facility's estimated operating costs during the first two years after completion of the project.

Subp. 19. **Facility.** "Facility" means the attached hospital, nursing home, or certified boarding care home named on a proposal.

Subp. 20. **Financing costs.** "Financing costs" means the estimated long-term financing costs that, according to part 4655.1078 [Emergency], item H, must be provided with a proposal.

Subp. 21. **Hospital.** "Hospital" means an acute care institution as defined in *Minnesota Statutes*, section 144.696, subdivision 3, and maintained primarily to treat and care for persons with disorders other than tuberculosis or mental diseases.

Subp. 22. **Interagency board for quality assurance or IBQA.** "Interagency Board for Quality Assurance" or "IBQA" means the board established under *Minnesota Statutes*, section 144A.31, subdivision 1.

Subp. 23. **Land improvement.** "Land improvement" has the meaning given in part 9549.0020, subpart 28.

Subp. 24. **Medical assistance.** "Medical assistance" means the program established under title XIX of the Social Security Act and *Minnesota Statutes*, chapter 256B.

Subp. 25. **Medical assistance cost.** "Medical assistance cost" means the biennial amount by which medical assistance payments will change if a proposal is implemented. Medical assistance costs are determined according to part 4655.1084 [Emergency], subpart 2.

Subp. 26. **Nursing home.** "Nursing home" means a facility licensed according to *Minnesota Statutes*, chapter 144A.

Subp. 27. **Operating costs.** "Operating costs" has the meaning given in part 9549.0020, subpart 32.

Subp. 28. **Proposal.** "Proposal" means a detailed written plan for a conversion, renovation, replacement, or upgrading.

Subp. 29. **Proposer.** "Proposer" means the organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the IBQA.

Subp. 30. **Renovation.** "Renovation" has the meaning given in *Minnesota Statutes*, section 144A.073, subdivision 1, paragraph (b).

Subp. 31. **Replacement.** "Replacement" has the meaning given in *Minnesota Statutes*, section 144A.073, subdivision 1, paragraph (c).

Subp. 32. **Soft costs.** "Soft costs" means costs relating to implementation of the proposal, including:

A. sales taxes on materials;

B. contractor's overhead and profit;

C. architect and engineering fees;

D. construction period interest;

E. permits, zoning, and construction financing;

F. feasibility, economic, and demographic studies;

G. legal, accounting, and consulting fees relating to creation of the development; and

H. cost of designing the improvements.

Subp. 33. **Statutory restriction.** "Statutory restriction" means a replacement restriction, conversion restriction, or upgrading restriction as described under *Minnesota Statutes*, section 144A.073, subdivisions 5 to 7.

Subp. 34. **Submission deadline.** "Submission deadline" means the date that is established according to part 4655.1080 [Emergency], subpart 3.

Subp. 35. **Upgrading.** "Upgrading" has the meaning given in *Minnesota Statutes*, section 144A.073, subdivision 1, paragraph (d).

Subp. 36. **Working day.** "Working day" means Monday to Friday, excluding legal holidays recognized by the state of Minnesota.

4655.1072 [EMERGENCY] INCORPORATION BY REFERENCE OF ANNUAL STATISTICAL REPORT.

The "Annual Statistical Report to the Commissioner of Health, 1988; Nursing Home, Boarding Care Home, Supervised Living Report" is incorporated by reference and is available through the Minitex interlibrary loan system. The report is subject to frequent change.

4655.1074 [EMERGENCY] APPOINTMENT OF ADVISORY REVIEW PANEL.

Subpart 1. **Procedures.** The IBQA shall appoint an advisory review panel according to subparts 2 to 5.

Subp. 2. **Membership.** The advisory review panel must consist of two representatives from organizations that represent consumers of nursing home services, two representatives from organizations representing providers of nursing home services, and one who has a background in long-term care and either accounting, engineering, or building construction. The executive director of the IBQA shall chair and convene the advisory review panel.

Subp. 3. **Nominations.** A member of the advisory review panel must be nominated. Anyone can nominate an advisory review panel member.

The IBQA shall publish in the *State Register* a request for nominations to the advisory review panel no later than 30 days after the effective date of parts 4655.1070 to 4655.1100 [Emergency] and at least 30 days before the expiration date of the term of an advisory review panel member. A nomination must be written, must state the name and address of the nominee, and must state the positions indicated under subpart 2 for which the person is being nominated.

Subp. 4. **Appointments.** A nominee shall be appointed by a majority vote of the IBQA.

Subp. 5. **Length of term.** A term on the advisory review panel begins the first working day after the vote of the IBQA appointing a person to the panel. An advisory review panel member representing consumers and one representing providers shall serve two years on the panel. The remaining consumer and provider members shall serve three-year terms. The member with the background in long-term care and either accounting, engineering, or building construction shall serve a three-year term. An advisory review panel member may serve an unlimited number of consecutive terms.

4655.1076 [EMERGENCY] IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Subpart 1. **When.** The IBQA shall publish in the *State Register* a request for proposals on the first Monday of each state fiscal biennium.

Subp. 2. **Contents of a request for proposals.** The request for proposals must state:

A. a proposal submission deadline date consistent with part 4655.1080 [Emergency], subpart 3;

B. the amount of the legislative appropriation available for medical assistance costs or state that proposals will not be requested because no appropriations were made;

C. other relevant information regarding current state long-term care policy goals; and

D. that the information under part 4655.1078 [Emergency] must be included in a proposal.

4655.1078 [EMERGENCY] FORMAT AND CONTENTS OF A PROPOSAL.

A proposal must be on a form approved by the commissioner and must:

A. include the name, telephone number, and address of the proposer or other authorized person who can be contacted by the commissioner or the IBQA with questions regarding the proposal;

B. include the name and address of the nursing home or boarding care home for which the project is being proposed;

C. be signed by a qualified representative of the entity submitting the proposal;

D. state whether the proposal is for renovation, replacement, conversion, or upgrading;

E. describe the problem the proposal will address;

F. include schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation;

G. include a cost estimate, prepared by a contractor and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by item F, including costs of buildings, attached fixtures, land improvements, construction site preparation, and related soft costs;

H. provide current estimated long-term financing costs of the proposal, including amount and sources of money, annual payments scheduled, interest rates, length of term, closing costs and fees, insurance costs, and other information on loans for building, attached fixtures, lands, land improvements, and building site preparation;

I. state the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented;

J. state the current annual care-related and other operating costs and also an estimation of these costs if the proposal were implemented;

K. describe the environmental conditions in the facility and any proposed changes in those conditions;

L. for proposals involving replacement of all or part of a facility, provide the property identification number and a general description of the proposed location of a replacement facility;

M. provide an estimate of the costs and benefits of renovation as an alternative to replacement or of replacement as an alternative to renovation; and

N. include the estimated beginning date of construction for renovation and replacements and the proposed timetable for completion of construction.

4655.1080 [EMERGENCY] SUBMISSION OF PROPOSAL.

Subpart 1. **Who may submit a proposal.** A proposal must be submitted by a proposer.

Subp. 2. **Where to submit a proposal.** A proposal must be submitted to the IBQA.

Subp. 3. **Submission deadline.** A proposal must be received by the IBQA no later than 90 days after the date a request for proposals is published in the *State Register*.

4655.1082 [EMERGENCY] INITIAL SCREENING OF PROPOSALS BY IBQA.

The IBQA shall process a proposal according to items A to L.

A. The IBQA shall determine whether a proposal was submitted according to the submission deadline under part 4655.1080 [Emergency], subpart 3.

B. If a proposal was not submitted according to the deadline indicated under part 4655.1080 [Emergency], subpart 3, the IBQA shall return the proposal to the proposer with a written notice that the proposal will not receive further consideration because the proposal was received after the submission deadline.

C. If a proposal is received according to the deadline, the IBQA shall determine whether the proposal meets the definition of conversion, renovation, replacement, or upgrading as those terms are defined under part 4655.1070 [Emergency]. A proposal that does not meet any of those definitions must be returned to the proposer without further consideration.

D. If the proposal is for an exception that meets the definition of upgrading, renovation, replacement, or conversion as those terms are defined under part 4655.1070 [Emergency], the IBQA shall determine whether the proposal is substantially complete and consistent with part 4655.1078 [Emergency]. A proposal is substantially complete and consistent if it contains the information specified in part 4655.1078 [Emergency], items B, D to K, and M.

E. If an item required for a substantially complete proposal under item D is missing from a proposal that is submitted to the IBQA, the proposal shall be returned to the proposer with a written notice that the proposal will not receive further consideration because of the missing item.

F. If a proposal is substantially complete and consistent according to item D, staff shall, if needed, ask for additional information in writing within ten days after the submission deadline. Additional information shall be requested only if, in the judgment of the IBQA, the additional information is needed to clarify or support previously submitted information.

G. Additional information requested under item F must be submitted within 17 days after the submission deadline.

H. If requested additional information is not received within 14 days after the submission deadline, the proposal shall be returned to the proposer with a notice that the proposal is not approved because the additional information was not submitted according to the deadline.

I. A proposal that is not completed by the submission of additional information requested under item F shall be returned to the proposer with a notice that the proposal will not receive further consideration because the requested additional information submitted was insufficient.

J. If the format and contents of a proposal submitted to the commissioner are substantially complete and consistent with part 4655.1078 [Emergency], the IBQA shall determine whether the proposal satisfies the statutory restrictions.

K. If a proposal fails to satisfy a statutory restriction, the IBQA shall return the proposal to the proposer with a written notice stating that the proposal will not receive further consideration because it does not satisfy a restriction.

L. If a proposal satisfies all restrictions, data regarding the proposal shall be collected according to part 4655.1084 [Emergency]. The IBQA shall submit the findings and other information from the review conducted under part 4655.1084 [Emergency] to the advisor review panel to review and form recommendations on the proposal according to part 4655.1086 [Emergency].

4655.1084 [EMERGENCY] DATA COLLECTION.

Subpart 1. **Staff.** The IBQA and the commissioners of agencies represented on the IBQA shall assign staff to collect the data under subparts 2 to 14. The IBQA shall use the data collected under this part to develop recommendations to the commissioner under part 4655.1094 [Emergency] on a proposal screened under part 4655.1082 [Emergency].

Subp. 2. **Medical assistance cost of a proposal.** The medical assistance costs of a proposal shall be determined by:

A. reviewing the accuracy of operating costs provided according to part 4655.1078 [Emergency], item J;

B. determining the accuracy of the real estate taxes and special assessments provided under part 4655.1078 [Emergency], item I;

C. determining the increase in allowable appraised value according to part 9549.0060, subpart 4; staff shall assume that the costs provided under part 4655.1078 [Emergency], item G, are equal to the total increase in appraised value;

D. determining the increase in the allowable annual costs of the elements identified in part 4655.1078 [Emergency], item H, according to part 9549.0060, subparts 5, 6, and 7;

E. determining an estimate of the total allowable annual costs for the cost categories reviewed in items B to D;

F. determining an estimate of the number of medical assistance resident days and of the proportion of medical assistance resident days to total resident days using information from the most recent cost report of the facility;

G. multiplying the proportion of resident days developed in item F by the estimated annual costs developed in item E;

H. determining the annual medical assistance costs of the proposal by multiplying the amount found in item G by the most recent proportion of medical assistance paid by the state of Minnesota; and

I. multiplying the amount found in item H by two to yield the biennial medical assistance cost of the proposal.

Subp. 3. **Cost information.** The current and projected costs of the proposal shall be calculated according to cost per licensed bed, percent change in cost per licensed bed, and total biennial state and medical assistance costs.

Subp. 4. **Age-related data.** The percentage of individuals in the county of the facility and of counties contiguous to that county who are 65 to 74 years of age, 75 to 84 years of age, and who are 85 or more years of age shall be calculated using either census data or projections of the state demographer based on census data, whichever provides the more recent estimate.

Subp. 5. **Facility occupancy.** The average occupancy rate of the facility's existing beds shall be obtained from the most recent Annual Statistical Report.

Subp. 6. **County-region occupancy.** The average percentage occupancy of the existing licensed beds of all the facilities in the county of the facility and of all facilities in counties contiguous to that county according to the most recent Annual Statistical Report, shall be calculated.

Subp. 7. **Number of licensed beds.** The number of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 8. **Number of occupied licensed beds.** The number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 9. **Alternative care grant use.** Alternative care grant use is the dollar amount and percentage of alternative care grant allocations used by the county in which the facility is located in the most recent year for which data is available. Alternative care grant use shall be obtained for each proposal that is acceptable according to part 4655.1082 [Emergency]. The amount of alternative care grant per person 65 years of age or older spent in the county in which the facility is located, in counties contiguous to the county of the facility, and in the state shall be calculated.

Subp. 10. **Environmental conditions.** Information shall be developed that describes the differences between existing environmental conditions and current state licensing standards for new construction and between the proposed changes in environmental conditions and current state licensing standards for new construction.

The development of information under this subpart does not supersede licensing and certification procedures. The environmental conditions and standards are listed in items A to L.

A. The width of corridors shall be compared with the standards in part 4660.1500, subpart 2.

B. The width of door frames shall be compared with the standards in part 4660.1460, subpart 2.

C. Fire exit enclosures shall be compared with the standards in part 4660.0300.

D. The method and materials of construction of the building shall be compared with the standards for Group D occupancy in the State Building Code. "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration according to *Minnesota Statutes*, section 16B.59, and contained in chapter 1300.

E. The number of beds per resident room and the floor area per bed shall be compared to standards in parts 4660.1400 and 4660.1430, subpart 3.

F. The amount of artificial light in resident rooms and major activity areas shall be compared to standards in parts 4660.9900 and 4660.9910.

G. The amount of natural light in resident rooms shall be compared with the standard in part 4660.1450.

H. The number of bathing or toileting facilities adjacent to bedrooms shall be compared to the standards in parts 4660.2400, subpart 2, and 4660.2500.

I. Ventilation arrangements shall be compared to the standards in part 4660.8300.

J. Dining room space shall be compared to the standard in part 4660.4830.

K. Day room space shall be compared to the standard in part 4660.4820.

L. Heating and cooling arrangements shall be compared to the standards in part 4660.8200.

Subp. 11. **History of state licensing correction orders federal certification deficiencies.** For each proposal that is acceptable according to part 4655.1082 [Emergency], the accumulated number and content of licensing correction orders and federal certification deficiencies for the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

Subp. 12. **History of licensing and certification waivers.** The number and purpose of waivers for the two most recently completed federal certification periods before the submission deadline for a proposal shall be collected.

Subp. 13. **History of complaints.** The number and content of complaints about a facility received during the two most recently completed federal certification periods before the deadline for submission of a proposal shall be collected. If ownership of a facility has changed in the two years before the submission deadline, a history of complaints shall be collected only for the tenure of the current owner.

Subp. 14. **History of sanctions.** The number and content of sanctions relating to licensure and certification that have been levied against a facility during the two most recently completed federal certification periods before the submission deadline for the proposal shall be collected.

4655.1086 [EMERGENCY] FORMATION OF ADVISORY REVIEW PANEL RECOMMENDATIONS TO IBQA.

Subpart 1. **Review of proposals.** A proposal submitted according to the deadline for submission, that satisfies the requirements of part 4655.1082 [Emergency] shall be reviewed, evaluated, and ranked by the advisory review panel.

Subp. 2. **Method of evaluation.** The advisory review panel shall evaluate proposals using the information submitted according to parts 4655.1078 [Emergency] and 4655.1080 [Emergency] and the data collected by staff under part 4655.1084 [Emergency].

Subp. 3. **Ranking of proposals.** The advisory review panel shall rank proposals to indicate which proposals should be approved in order of priority based on the criteria in parts 4655.1084 [Emergency] and 4655.1090 [Emergency], items A to H.

Subp. 4. **Formation of recommendations to the IBQA.** Based on the ranking of proposals, the advisory review panel shall recommend that the IBQA recommend approval or disapproval of a proposal. The advisory review panel shall provide written justifications for its recommendations to the IBQA.

Subp. 5. **Deadline for submission of recommendations.** The advisory review panel must submit its recommendations to the IBQA no later than ten days after receipt of the staff review information.

4655.1088 [EMERGENCY] PUBLIC HEARING.

The IBQA shall hold one public hearing on all proposals submitted in response to a request for proposals. The public hearing shall be held after the submission deadline under part 4655.1080 [Emergency], subpart 3, but before the IBQA submits recommendations to the commissioner. The IBQA shall publish a notice of the public hearing in the *State Register* that states the time, date, place, and subject of the hearing.

4655.1090 [EMERGENCY] EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

The IBQA shall use the findings of the staff data collection process, the advisory review panel, and the public hearing to evaluate, compare, and rank the proposals according to the long-term care needs they address. An evaluation, comparison, or ranking must be based on the criteria under the following items:

A. Occupancy that is determined according to:

(1) the extent to which the average occupancy rate of the facility supports the need for the proposed project in comparison with the average occupancy rate of all facilities in the county of the facility, of the contiguous counties, and with the statewide occupancy rate;

(2) the extent to which the number and proportion of individuals in the county of the facility and of contiguous counties in the age groups 65 to 74, 75 to 84, and 85 and over support the need for the proposal as determined through comparison with other counties and the state;

(3) the extent to which the current supply of licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties, regions, and the state; and

(4) the extent to which the number of occupied licensed long-term care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties and the state.

B. The extent to which the proposal enhances the availability and use of alternative care services.

C. The extent to which the proposal reduces the number of long-term care resident rooms with more than two beds.

D. The extent to which a proposal is cost effective in terms of its use of state money, medical assistance cost, cost per licensed bed, change in cost per licensed bed, and, for renovation and replacement proposals, in terms of the costs of renovation in lieu of a proposed replacement or of replacement in lieu of a proposed renovation.

E. The proposal's compliance with licensing regulations as specified in parts 4660.0300 and 4655.1000.

F. The extent to which a proposal improves the conditions that affect health, safety, or comfort of the residents of a facility, including environmental conditions described in part 4655.1084 [Emergency], subpart 10.

G. The extent to which the design of a proposal will improve the quality of life of the residents.

H. The extent to which the proposed changes are necessary to meet medical assistance certification and licensing requirements for that facility.

4655.1092 [EMERGENCY] REIMBURSEMENT LIMITS.

Subpart 1. **Cost reimbursement.** The acceptance or determination of costs under parts 4655.1070 to 4655.1100 [Emergency] is not binding for reimbursement. Actual reimbursement of costs is determined according to parts 9549.0010 to 9549.0080.

Subp. 2. **Medical assistance costs.** The sum of the estimated medical assistance costs of all recommended proposals during the first two years of operation must not exceed the amount provided by the legislature as noted in the request for proposals according to part 4655.1076 [Emergency], subpart 2, item B.

4655.1094 IBQA [EMERGENCY] RECOMMENDATIONS TO COMMISSIONER.

The IBQA shall recommend that the commissioner approve or disapprove a proposal. A recommendation under this part must be based on the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency]. A written report of the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency], and the recommendations formed under this part must be submitted to the commissioner not more than 21 days after receipt of the recommendations of the advisory review panel.

4655.1096 [EMERGENCY] COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

Subpart 1. **Approval or disapproval of a proposal.** The commissioner shall approve or disapprove a proposal within 30 days after receiving the IBQA recommendations.

Subp. 2. **Notice of approval or disapproval.** No later than ten days after the commissioner's approval or disapproval of a proposal the commissioner shall send a written notice of approval or disapproval to the proposer. The notice must state the reasons for the approval or disapproval.

Subp. 3. **Expiration of commissioner's approval.** The commissioner's approval of a proposal expires 12 months after the date of the commissioner's signature on the notice of approval unless the facility has commenced construction.

4655.1098 [EMERGENCY] DOCUMENTATION.

Subpart 1. **Preliminary plans.** The proposer of a renovation, replacement, or upgrading that is approved by the commissioner shall submit preliminary plans as defined in part 4660.0600 before drawing final plans.

Subp. 2. **Final working drawings.** The proposer of an accepted proposal for renovation or replacement shall submit final architectural, mechanical, and electrical drawings as defined in parts 4660.0700 and 4660.0800 to the Minnesota Department of Health for review and approval before implementation of the project.

Subp. 3. **Changes in approved projects.** Changes in approved projects for renovation, replacement, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according to part 4660.0900.

Subp. 4. **Change orders.** If the commissioner approves the reported changes in a project, a change order permitting the changes shall be issued. The issuance of a change order does not alter the allowable costs as determined in part 4655.1084 [Emergency], subpart 2.

Subp. 5. **Cost overruns.** The proposer shall immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.

Subp. 6. **Final statement of costs.** On completion of the proposed project, the proposer shall submit to the Department of Human Services, a final statement of costs that includes a sworn statement of actual costs of items for which costs were estimated according to part 4655.1078 [Emergency], item G, and that compares the actual costs to the estimates.

4655.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS.

Any cost overrun that is 110 percent or more greater than the costs estimated in part 4655.1078 [Emergency], item G, shall be penalized. The amount of money over 110 percent of the costs estimated in part 4655.1078 [Emergency], item G, shall be subtracted from the facility's appraisal conducted under parts 9549.0010 to 9549.0080 for a period of five years.

Executive Orders

Emergency Executive Order #88-9: Providing Clean Drinking Water to the Residents of Haven Township, Minnesota

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

8.

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of the Emergency Rule of the Minnesota Department of Health Governing Procedures for Exceptions to Moratorium, Proposed Minnesota Rules, parts 4655.1070 to 4655.1100.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULE.

Notice of the Commissioner's intent to adopt the above-entitled emergency rule that was published in the State Register on Monday, August 1st, 1988 and that was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.30 on July 27, 1988.1

All persons were given the opportunity to submit written comment on the rule for at least 25 days2after notice of proposed rulemaking.

Findings of Fact

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

List of commentators.

During the comment period following publication of the rules regarding procedures for exceptions to the nursing home bed moratorium the Minnesota Department of Health (hereinafter referred to as MDH) received comments from United Health, Inc., Minnesota Association of Homes for the Aging, Care Providers of Minnesota (hereinafter referred to as UHI, MAHA, and CPM respectively) and from St. Lucas Convalescent and Geriatric Care.

Format for communicating rule language changes.3

The rule language changes discussed in these findings must be read in conjunction with the changes on the attached copy of the certified rule as published in the State Register on August 1, 1988. As discussed in these findings rule language changes are

organized according to parts, items, subitems, and page and line numbers of the certified rule.

Changes in the number designation of a rule part, subpart, or subitem or in the alphabetical designation of items have been made wherever those changes are required by these findings. The changes in numerical or alphabetical designations are not substantial because they are for organizational and clarification purposes only.

Comments and rule language changes.

4655.1070 [EMERGENCY] DEFINITIONS.

Subp. 5. Alternative care grant use. CPM commented that some definitions under part 4655.1070 are not needed and UHI commented that the definition of "alternative care grant use" needed to be clarified. The term "alternative care grant use" is used only under part 4655.1084 [EMERGENCY], subpart 9. The term is adequately explained under that subpart. It is unnecessary to define the term in the definition part. MDH, therefore, deleted the definition from part 4655.1070 [EMERGENCY].

Subp. 17. Environmental conditions. CPM and UHI general comments regarding definitions apply to this subpart. MDH found that by deleting the definition of environmental conditions and including a reference to part 4655.1084 [EMERGENCY], subpart 10 where the term is used in the rules (page 7, line 14; page 11, lines 32,34, and 36; page 12, line 4; and page 15, line 29), a reader would not need to refer to the definition and then back to the body of the rule to determine the meaning of the term. In this case, eliminating a definition clarifies without adding unnecessary bulk to the body of the rule.

Subp. 18. Estimated operating costs. CPM commented that they did not understand "why the costs are required for the first 2 years after the completion of the project and why this information is necessary to be included in this [moratorium] rule."

The requirement for this information is necessary and reasonable because it is required by Minnesota Statutes, section 144A.073, subdivision 2, paragraph (4).

Subp. 20. Financing costs. The CPM and UHI general comments regarding definitions apply to this subpart. The term "financing costs" was used in the rules only in conjunction with the phrase "estimated long-term financing costs" on page 7, lines 2 and 3. The phrase "estimated long-term financing costs" is explained on page 7. When a word or phrase is not used in a rule it is not necessary to define it, therefore MDH has eliminated the definition of "financing costs".

Subp. 21. Hospital. CPM commented that this definition is not needed in the rules. It is needed, however, because the term is used in the definition of attached hospital

under subpart 9. The MDH reviewed the definition and concluded that the definition as is would not be inconsistent with the purposes of Minnesota Statutes, section 144A.073 but that by making the following changes to subpart 21 on page 3 of the rules it would be more clear that the definition relates to how hospitals are licensed: "Subp. 21. Hospital. 'Hospital' means an acute care institution licensed under ~~as defined in~~ Minnesota Statutes, sections 144.50 to 144.58 ~~144.696, subdivision 3, and maintained primarily to treat and care for persons with disorders other than tuberculosis or mental diseases.~~" The language changes suggested for this subpart are not substantial because they change only how directly the definition refers to the hospital licensing statutes.

Subp. 32. Soft costs. CPM commented that it is not necessary to include a definition of the term "soft costs" in the rules. UHI, however, suggested changing the definition to include the phrase "Soft costs must be capitalized as part of the cost of the project". MDH agrees with UHI and therefore under part 4655.1070, subpart 32, page 4, line 4 MDH has inserted the phrase "capitalized as part of the project" between the terms "costs" and "relating".

It is not necessary to define the term "capitalized" because the term is a "term of art" readily understood by persons in the field of determining construction costs.

Soft costs are part of the appraisal of a building and therefore project appraisals include an estimate of soft costs.

Soft costs can be recovered through medical assistance reimbursement because such costs can be reimbursed through the administrative expense category.

Medical assistance costs are a major consideration in the evaluation of a proposal, therefore it is appropriate to include soft costs as defined.

Subp. 34. Submission deadline. The CPM and UHI general comments regarding definitions apply to this subpart. MDH realizes that this definition is a very important part of the rule and that it needs to be perfectly clear because proposers of exceptions who do not submit proposals by this deadline will not have their proposals considered by the IBQA. Rather than refer to the body of the rule to define "submission deadline", MDH has repeated in the definition, the explanation of the deadline given under part 4655.1080 [EMERGENCY], subpart 3, as follows: "Subp. 34. Submission deadline. 'Submission deadline' means the date by which a proposal must be received by the IBQA, which, ~~that is established~~ according to part 4655.1080 [EMERGENCY], subpart 3, is no later than 90 days after the date a request for proposals is published in the State Register." Now a reader of the rules will know from two sources, exactly what the deadline is for submitting proposals to the IBQA. This redundancy is reasonable and necessary because it will help avoid any confusion about the submission deadline.

CPM commented that referencing parts of "Rule 50" (Minnesota Rules parts 9549.0010 to 9549.0080) could result in an illegal delegation of authority when Rule 50 changed because a change in

rule 50 does not legally necessitate or mandate changes in references to Rule 50 contained in other rules. CPM suggests that the language of the part numbers that are cross referenced be lifted and repeated in the moratorium rule. That suggestion, however, is impractical and unreasonable because:

A. cross referencing to other parts of Minnesota Rules is a common practice used to avoid excessive repetitions of language in Minnesota Rules; and

B. the rules can be amended as needed to update the cross references to Rule 50.

Further, the moratorium rule is different from many rules because it will be administered by a legally mandated board consisting of members from the Department of Health and the Department of Human Services, the Interagency Board for Quality Assurance (IBQA). It is the IBQA's intention that when Rule 50 changes in ways that affect the moratorium rules that the moratorium rules will be changed to reflect the changes in Rule 50.

None of the rule language changes suggested for this part (4655.1070 [EMERGENCY] DEFINITIONS) is a substantial change because all of the changes are for clarification purposes or are technical changes that make the rule consistent with Revisor of Statutes policies regarding writing style, organization, grammar or form.

4655.1072 [EMERGENCY] INCORPORATION BY REFERENCE OF ANNUAL STATISTICAL REPORT.

No comments or changes.

4655.1074 [EMERGENCY] APPOINTMENT OF ADVISORY REVIEW PANEL.

Subp. 2. Membership. CPM commented that the rule language describing the number of members and make-up of the advisory review panel was unclear. MDH agrees that the current rule language does not clearly say how many individuals are on the panel. MDH proposes the following language change to the first sentence of this subpart (on rule page 5): "The advisory review panel must consist of <u>five members:</u> two representatives from organizations . . . or building construction".

To clarify that the executive director of the IBQA is not a member of the advisory review panel the last sentence of this subpart will be separated into a subpart 3 as follows: "<u>Subp. 3. Advisory review panel chairperson.</u> The executive director of the IBQA shall chair and convene the advisory review panel."

The rule language changes suggested by MDH for this subpart are not substantial because they are for clarification purposes only.

UHI commented that it would be helpful to have one additional person on the advisory review panel. MDH disagrees

with this proposal because one additional person would make it possible for the panel to have tie votes on recommendations and having seven people on the panel would be too cumbersome to operate. MDH believes that it is possible to identify a person who has a background in long-term care and either accounting, engineering, or building construction and also believes that person will have adequate knowledge to help form recommendations regarding proposals.

Subp. 3. Nominations. UHI commented that it would be helpful for written nominations for advisory review panel members to include a description of the nominee's qualifications. MDH agrees with this suggestion. On page 5, subpart 3, line 19 insert between "nominee," and "and" the phrase: "must include a description of the nominee's professional experience and training".

The rule language changes suggested for this subpart by MDH are not substantial because it was implied in the original language that the person would have to be qualified for the nominee to be approved. The language change merely ensures that the IBQA has sufficient information with which to appoint a nominee to the advisory review panel.

4655.1076 [EMERGENCY] IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Subpart 1. When. CPM suggested that this subpart title be changed to "Date of proposal publication". The department agrees that the subpart title could be more informative and will change it to "Date of publication of request for proposals". The change in the title of this subpart suggested by MDH is not substantial because a title is for reference purposes only.

CPM also commented on the date for submission of a request for proposals, which according to the proposed rules would be on the first Monday of each state fiscal biennium. MDH concluded from CPM's comments and from MDH's own review that this subpart is unclear in regard to the initial publication of an RFP. It was the department's intention and the understanding of many nursing home representatives that the initial RFP would be published as soon after the effective date of parts 4655.1070 to 4655.1100 as possible. MDH, therefore, has clarified this matter by changing part 4655.1076, subpart 1 to read as follows: "Subpart 1. ~~When~~ Date of publication of request for proposals. The IBQA shall publish in the State Register a request for proposals within 30 days after the effective date of parts 4655.1070 to 4655.1100 and within 30 days ~~on the first Monday~~ of the first day of each state fiscal biennium." These language changes suggested by MDH are not substantial because they are for clarification purposes only.

UHI comments suggested publishing requests for proposals twice each year because needs for nursing home facility changes occur frequently. MDH disagrees that this suggestion should be accepted because the state does not have the resources to process proposals that often and because the legislature provides for a

biennial budget.

4655.1078 [EMERGENCY] FORMAT AND CONTENTS OF A PROPOSAL.

Item G. MDH agrees with the comment by CPM that a proposal could be changed to allow an architect to prepare cost estimates because architects may be able to prepare the estimates at less cost to the proposer. Therefore on page 6, line 31 "or architect" is inserted after the term "contractor." The language suggested by MDH for this item is not a substantial change because architects are closely involved with proposers in developing proposals and because allowing architects to estimate construction costs does not necessarily change how the estimates are made.

Item H. MAHA commented that the phrase "other information on loans" is too vague. MDH agrees with MAHA's comment and therefore amended item H to read as follows: "provide current estimated long-term financing costs of the proposal, including amount and sources of money, annual payments scheduled, interest rates, length of term, closing costs and fees, and insurance costs, that are directly related to the ~~and other information on loans for~~ building, attached fixtures, lands, land improvements, and building site preparation; ". This change to item H suggested by MDH is not substantial because it specifies and clarifies a requirement without substantially changing the requirement.

CPM commented that the term "initial" should replace the term "current" on page 7, line 2. MDH disagrees with this suggestion because the most current estimates are more important than the initial estimate. A current estimate, however, does not preclude submitting the initial estimate if that estimate is the only estimate available at the time the proposal is prepared and submitted.

Item K. This item needs language to clarify that "environmental conditions" refers to the conditions under part 4655.1084 [EMERGENCY], subpart 10. The department will insert on page 7 line 15, between "facility" and "and" the phrase "that are reviewed under part 4655.1084 [EMERGENCY], subpart 10". The language change suggested for this item by MDH is not substantial because it is for clarification purposes only.

CPM commented that this item is unnecessary because the IBQA staff will evaluate and calculate the environmental conditions. The IBQA does not have the resources to collect this information in the short period during which proposals must be processed and the IBQA or its staff may not have the most recent data regarding the environmental conditions relating to the proposals. The IBQA, therefore, needs to obtain descriptions of those conditions from the proposers.

Item M. MAHA commented that the requirement under this item would unnecessarily increase the costs of preparing a proposal. This requirement, however, is consistent with Minnesota

Statutes, section 144A.073, subdivision 2, paragraph (6). To lessen the impact of the requirement MDH will delete the requirement for an estimate of benefits because that estimate is not specifically required by statute. On page 7, line 20 the phrase "and benefits" will be deleted. The language change suggested for this item by MDH is not substantial because it does not change the subject matter of the rule.

MAHA recommended that the requirement be "a brief explanatory statement of why the applicant chose one alternative over the other". Requiring only a brief explanatory statement would be inconsistent with Minnesota Statutes, section 144A.073, subdivision 2, paragraph (6). MDH agrees, however, the aforementioned brief explanatory statement would be helpful for the evaluation process as an addition to the information required under item N. Therefore MDH will insert the following language on page 7, after line 25: "O. a brief explanatory statement of why the proposer chose replacement rather than renovation or renovation rather than replacement." This change is not a substantial change because it is a requirement for supplementing the rules as originally published that regard how the proposer compared alternatives.

CPM commented that an additional item should be added stating that "the above information is an allowable cost under Minnesota Rules part 9549.0010 to 9549.0080". MDH disagrees that this suggestion should be implemented because MDH cannot mandate costs being paid by another department under another rule. The Department of Human Services, however, has informed MDH that the costs of preparing a proposal are allowed under administrative costs up to the limit of those costs as stated in under parts 9549.0010 to 9549.0080.

4655.1080 [EMERGENCY] SUBMISSION OF A PROPOSAL.

Subp. 3. Submission deadline. UHI commented that this subpart "should also include the [mailing] address of the IBQA." A mailing address for the submission of proposals will be published in the State Register. The mailing address is not appropriate to put in rule because minor changes in the address would necessitate costly rule amendments.

4655.1082 [EMERGENCY] INITIAL SCREENING OF PROPOSALS BY IBQA.

Item C. The department has identified a language change that is needed to make this item parallel with the other items under this subpart where a proposal is returned to the proposer with a notice indicating why the proposal is being returned. On page 8, item C, lines 14 through 16 should read as follows: "If ~~A~~ a proposal ~~that~~ does not meet any of those definitions the IBQA shall ~~must be~~ returned that proposal to the proposer with a written notice that the proposal will not receive ~~without~~ further consideration because it does not meet the definition of conversion, renovation, replacement or upgrading."

The language changes suggested by MDH for this item are not

substantial because they are grammatical and explanatory and do not change the subject matter of the rules.

Items G and H. CPM, MAHA, and UHI expressed concern that items G and H are unclear. MDH agrees that the items are unclear. Changes to these two items are needed to clarify the schedule for the initial screening of proposals. Typographical errors and errors in adding days has made the schedule unclear. To clarify the schedule MDH has deleted item G, and changed item H to read as follows: " HG. If requested additional information is not received within ~~14~~17 days after the submission deadline, the proposal shall be returned to the proposer with a notice that the proposal is not approved because the additional information was not ~~submitted according~~ received within the 17 days following the submission deadline."

The language changes suggested for items G and H by MDH are not substantial because they correct technical errors in the drafting of the rule language.

Item I. UHI suggested that a proposer be given an additional 14 days to correct a submission of additional information that was submitted according to a deadline but was still insufficient. MDH disagrees that the additional 14 days would be necessary because item H already grants an extension to the original submission deadline and because there is not time in the review process for an additional 14 days. Additional opportunities and deadline extensions could extend the process for MDH review and approval of proposals beyond the statutory deadline (which is 180 days after publication of the request for proposals, see Minnesota Statutes, section 144A.073, subdivisions 2 and 3) for review and approval of proposals.

In reference to items D through I MAHA commented that MAHA "objects to the distinction between 'substantially complete' and 'incomplete' proposals", and further that they "see no reason not to provide all applicants with a second chance to provide requested information." MDH disagrees with the MAHA suggestion. MDH must review proposals according to strict statutory deadlines. By imposing strict, but clear deadlines and requirements for submitting proposals MDH can encourage proposers to prepare thorough and complete proposals that are submitted in time for the IBQA to review them.

MAHA commented that "the inclusion of cost items that are specific to the [medical assistance] program as required items for all proposals . . . is not consistent with legislative intent of the moratorium exceptions process. The legislature has never restricted the moratorium exceptions process solely to those facilities that participate in the MA program, nor should it do so." The language in the rules regarding the submission of medical assistance cost data does not preclude consideration of or approval of proposals that do not have medical assistance costs. When a proposal does not have medical assistance costs it would simply state "0" costs next to the medical assistance cost items when it submits its proposal. This gives MDH a clear idea of proposals that do and do not have medical assistance costs.

Items K and L. MAHA commented that "the proposed language fails to specify the particular or relevant statutory provisions". MAHA was referring to the phrase "statutory restriction" on page 9, line 15 and the term "restriction" on line 19. The term "restriction" is also used on line 20. In all three places "statutory restriction" is intended because that is the term that is defined under the definition section, part 4655.1070, subpart 33. The "relevant statutory provisions" are specified in the definition. For consistency, however, the department will insert "statutory" before "restriction" on lines 19 and 20.

Under item L on page 9 line 24 "advisor" needs to be changed to "advisory".

The language changes suggested by MDH for items K and L are not substantial because they correct spelling or inadvertent ommissions of words that when added do not change the subject matter or meaning of the rules.

CPM commented that there are no provisions for submitting materials after deadlines for reasons beyond a facility's control. MDH has allowed ample opportunity for proposers to submit proposals according to the statutorily imposed deadlines. All nursing homes have been notified of the moratorium rules. The rules as amended according to these findings will clearly state the schedule for implementing the approval process. Further, it is impossible for a rule to specify or define "extenuating circumstances beyond a facility's control". Deadlines are necessary to keep the process moving and to treat the submission of each proposal in a fair and impartial manner.

St. Lucas Convalescent and Geriatric Care commented that they did not see a "time frame within which the IBQA and its staff must complete initial screenings of proposals and collection of data pertaining to proposals before submitting completed proposals to the Advisory Review Panel." The attached moratorium rule timeline clarifies that there is a timeline for the collection of data and the initial screenings. The timeline is an internal operating schedule, not required to be adopted as a rule. The timeline, however, is dictated by the deadlines contained in Minnesota Statutes, section 144A.073. See also the MDH response under part 4655.1084, subpart 1.

4655.1084 [EMERGENCY] DATA COLLECTION

CPM commented that "many of the subparts in items listed under the Data Collection section have little bearing on the 'need' for a specific project." This comment is not clear or specific enough to respond to systematically. MDH, however, compared each of the items under this part to the requirements of Minnesota Statutes, section 144A.073, subdivision 4 and found each of the items to be consistent with statutes and therefore are needed and reasonable.

CPM also commented that part 4655.1084 does not specifically address the issues of upgrading for the ICF-II facilities in Minnesota. MDH disagrees that there needs to be special language addressing the upgrading for ICF-II facilities because ICF-II upgrades are specifically addressed under Minnesota Statutes,

section 144A.071, subdivision 3, paragraph (p) and because Minnesota Statutes, section 144A.073 was written to encompass all kinds of upgrades, including ICF-II upgrades.

Subpart 1. Staff. MAHA commented that there should be a 45 day deadline for staff to collect information under this Part. Since staff can not predict how long it will take to collect data for each proposal and since the total time for the IBQA to review and form recommendations on a proposal is limited by the deadlines contained under Minnesota Statutes, section 144A.073 deadlines for collection of data under this part are unnecessary. CPM suggested that the data be submitted to the advisory review panel no later than 30 days after the submission deadline. The advisory review panel, however, is given a minimum amount of time that it will have to review proposals. Under part 4655.1086, subpart 5 the advisory review panel will have at least 10 days in which to form and submit its comments the IBQA.

CPM commented that the IBQA staff should be required to share the data collected under this part with each proposer who submitted a proposal according to the submission deadline and to submit the data to the advisory review panel no later than 30 days after the submission deadline. Imposing a deadline for data collection is addressed in the preceding paragraph. It is not clear what is meant by "sharing" the data collected. MDH assumes that "sharing" means a systematic distribution of the data to proposers. Such sharing, which would necessitate detailed procedures governing how the data would be shared, which data could legally be shared, and when the data could be shared, is more than the IBQA can handle with its current resources and responsibilities.

Subp. 2. Medical assistance cost of a proposal. MAHA commented that the following language change should be made on page 9, line 35: "The medical assistance costs of a proposal shall be ~~determined~~ estimated by:". MDH agrees with the suggestion and will make the change in the rule as suggested. The language change is not substantial because it is for clarification purposes only.

UHI commented that item F under this subpart needs to be expanded and clarified. UHI wants item F to explain the methodology for estimating the number of medical assistance resident days and proportion of MA days to total days. MDH disagrees that this subpart is unclear. Medical assistance resident days and total resident days are stated on cost reports submitted by the facility to the Department of Human Services. The information from the cost report will not be changed to determine the proportion (ratio) of medical assistance resident days to total resident days.

Subp. 5. Facility occupancy. MAHA commented that occupancy data should be obtained from medical assistance cost reports, not annual statistical reports. Under this subpart the average occupancy rate is being sought for facilities. The annual statistical report applies to all facilities whereas the cost reports refer only to facilities participating in the medical

assistance program. Using the annual statistical report, therefore, is a more objective and consistent way of determining average occupancy for all facilities than using medical assistance cost reports.

Subp. 6. County-region occupancy;
Subp. 7. Number of licensed beds;
Subp. 8. Number of occupied licensed beds; **and**
Subp. 9. Alternative care grant use. CPM commented that it is premature to require the collection of data required to be collected under subparts 6 through 9 prior to completion of the distribution of beds study which is based on the same type of data. To evaluate a proposal in a manner consistent with Minnesota Statutes, section 144A.073, subdivision 4, however, the data under subparts 6 through 9 must be collected. The collection of the data is not premature because the distribution of beds study will be completed by December 15th, 1988, which is consistent with the time that the IBQA will be publishing its first request for proposals.

CPM also commented that, under subpart 9, at the very least the IBQA staff should collect data that includes an examination of all alternative services in a particular county or area in which a facility is located. MDH can not collect data on all alternative services because no data source on all alternative services for a county exists.

Under subpart 9 UHI reiterated a comment made earlier under the definitions section. That comment has been addressed under part 4655.1070, subpart 4.

MDH proposes the following changes under subpart 9 to be consistent with the changes made in the definitions section in regard to "alternative care grant use". On page 11, line 23 change "is" to "means"; on line 25 put a comma after "available" and insert "and" after the comma; and delete the phrase "alternative care grant use" on line 26. The changes under this subpart are not substantial because they only make changes in format for the purposes of consistency in format.

MDH proposes the following changes under subpart 7, page 11, lines 10 and 11: "The number of nursing home and licensed ~~long-term~~ boarding care home beds per 1,000 individuals . . .". MDH proposes similar changes to subpart 8, page 11, line 17: "occupied nursing home and licensed ~~long-term~~ care home beds per 1,000 individuals aged . . . ". The changes under subparts 7 and 8 are not substantial changes because they clarify that the subparts apply only to the type of long-term care beds regulated by parts 4655.1070 to 4655.1100.

Subp. 10. Environmental conditions. UHI comments indicate that the rule language reads as though the subpart refers to the entire facility for which a proposal is being submitted, not just the part of the facility the proposal is being submitted for. To clarify this matter the following sentence will be inserted on page 12, line 1 after the sentence ending with the word "construction" : This subpart refers only to those parts of the facility affected by the proposal.

The following changes to subpart 10 are suggested by MDH:

Subp. 10. Environmental conditions for evaluation. Information shall be developed that describes the differences between selected existing environmental conditions described under this subpart and the corresponding ~~current~~ state licensing standards for new construction and between the proposed correction changes in these environmental conditions and the ~~current~~ state licensing standards for new construction.

The development of selected information for the purpose of evaluation, comparison and ranking ~~under this subpart~~ does not supersede or limit licensing and certification requirements established in chapters 4660 and 9505 ~~procedures~~. The environmental conditions and standards for physical plant evaluation are listed in items A to L.

A. No changes.
B. " "
C. " "
D. " "
E. " "
F. " "
G. " "
H. The number and type of bathing facilities or toilet~~ing~~ facilities . . .
I. No changes.
J. Dining room space shall be compared to the standards in parts 4660.4830 to 4660.8380.
K. No changes.
L. No changes.

The changes proposed for this subpart are not substantial because they are for clarification or grammatical purposes only.

Subp. 11. History of licensing correction orders and certification deficiencies.

UHI comments: UHI commented that data collected under this subpart reflect historical events and do not necessarily reflect future trends. MDH agrees that a history does not necessarily reflect future trends. The data is needed, however, to make ranking judgments concerning the quality of life criteria contained in Minnesota Statutes, section 144A.073, subdivision 4, paragraph (b).

MAHA comments: MAHA suggests that staff gather data on compliance with licensing correction orders and federal certification deficiencies, which is precisely what subpart 11 requires.

MAHA also said that "there are also a large number of facilities with outstanding citations on items that the Health Department is not currently enforcing while awaiting clarification from HCFA [Health Care Financing Administration] (i.e., the cubicle curtain issue). These deficiency citations should not be included

[in data collected under this subpart]". MDH's response to this comment is that it is true that a large number of homes have outstanding correction orders on the provision of cubicle curtains but not on other issues. Until the cubicle curtain violation is settled MDH is not writing sanctions on the non-compliance. However, that relates only to the provision of the cubicle curtain and does not eliminate the specific orders on patient privacy.

CPM comments: CPM commented that subparts 11, 12, 13 and 14 are not relevant for the purposes of the moratorium rule and that the collection of that kind of data is political and not applicable for the purposes of determining whether or not a facility requires an exception to the moratorium. MDH disagrees with the suggestions and conclusions of CPM regarding subparts 11 through 14. The requirements of subparts 11 through 14 are consistent with the requirements of Minnesota Statutes, section 144A.073, subdivision 4, paragraph (a), subparagraph (5) and paragraph (b).

MDH made the following changes on page 13, lines 5 and 6: "and federal certification deficiencies incurred during the two years ~~most recently completed federal certification periods~~ before the submission . . ." This is not a substantial change because it is for clarity and accuracy only.

Subp. 12. History of licensing and certification waivers. UHI comments: UHI comments and MDH responses to the UHI comments under subpart 11 above also apply to subpart 12.

MDH made the following changes on page 13, lines 9 and 10: "The number and purpose of licensing and federal certification waivers ~~for~~ incurred during the two years ~~most recently completed federal certification periods~~ before the submission deadline for a proposal shall be collected." These changes are not substantial changes because they are for clarity and accuracy only.

Subp. 13. History of complaints. UHI comments: UHI comments and MDH responses under subpart 11 above also apply to subpart 13.

MAHA commented that this subpart should pertain only to substantiated complaints. MDH agrees that unsubstantiated or false complaints should not be included in a history of complaints. It is important, however, to include indeterminable complaints in addition to substantial complaints. Complaints that are listed in the Office of Health Facility Complaints (OHFC) as indeterminable may, in fact, have been valid but couldn't be proved at the time of the visit. Unsubstantiated reports have been investigated and determined to be invalid. It is appropriate, therefore, to include the indeterminable complaints with the substantiated complaints.

MAHA also recommended language that specifically refers to OHFC because this is the state office responsible for investigating complaints in licensed health care facilities. MDH disagrees. The language should not be changed to refer to only OHFC because they are responsible only for state licensing issues while the survey and compliance section of MDH is totally responsible for complaints relating to federal issues. Survey and compliance also helps OHFC conduct licensing investigations regarding complaints.

MDH made the following changes: on page 13, lines 13 and 14: "of licensing and federal certification complaints about a facility received during the two years ~~most recently completed federal~~

~~certification periods~~ before the . . .". and on page 13, line 15 after "collected." insert the sentence "Substantiated and indeterminable complaints must be included in the data collected under this subpart." These changes are not substantial changes because they are for clarity and accuracy.

Subp. 14. History of sanctions. UHI comments: UHI comments and MDH responses to the UHI comments under subpart 11 above also apply to subpart 14.

CPM commented that the history of sanctions should also include the number and content of sanctions that have been appealed to a contested case and are currently outstanding, have been appealed and withdrawn by the commissioner pursuant to a recommendation of the administrative law judge, or have been appealed and not been withdrawn by the commissioner despite the recommendation of the administrative law judge. MDH's response is that the current language is sufficient because all material relating to hearings and the outcome is in the facility file at MDH and therefore is available for the IBQA staff to review.

MDH made the following changes on page 13, lines 21 and 22: "levied against a facility and incurred during the two years ~~most recently completed federal certification periods~~ before the submission deadline for . . .". These changes are not substantial changes because they are for clarity and accuracy only.

4655.1086 [EMERGENCY] FORMATION OF ADVISORY REVIEW PANEL RECOMMENDATIONS IBQA.

Subpart 1. Review of proposals. Lines 26 and 27 on page 13 contain an unnecessary and redundant reference to the "deadline for submission". On lines 26 and 27, therefore, the department deleted "submitted according to the deadline for submission,". This change is not a substantial change because it corrects the grammatical error of redundancy.

4655.1088 [EMERGENCY] PUBLIC HEARING.

MAHA commented with the suggestion that the rule language be changed to specify that the public hearing be held after the advisory review panel reports its recommendations to the IBQA. MAHA's rationale for the suggestion was that the hearing should give applicants a chance to challenge the findings of the advisory review panel. MDH disagrees with the suggestion and the rationale. The exact date of the public hearing needs to remain flexible to accomodate the work schedule for approving proposals. As written the rule allows the hearing to occur sometime in the 60 day period between the submission deadline for proposals and before the IBQA submits its recommendations to the commissioner. The primary purpose of the hearing, therefore, is to serve as a source of information that the IBQA can use to develop its recommendations to the commissioner. By not specifying further the exact time of the hearing the IBQA can schedule the hearing at a time that will maximize the information gathering powers of a hearing. The rule does not prevent a hearing from happening after the advisory review panel has developed its recommendations. If the information

gathering purposes would be better served by having the hearing after the advisory review panel has met and if the work load of the IBQA and its staff would permit it, the the hearing would be held after the advisory review panel had met.

CPM commented that the public hearing should provide an opportunity for reconsideration of proposals that were previously rejected, and should also allow proposers to respond to specific information under the data collection part of the rule (part 4655.1084). It is unclear what CPM meant by "previously rejected". If they meant a proposal that was previously rejected by the IBQA and the commissioner then it would not be appropriate for the public hearing to address that proposal. Proposals previously rejected by the IBQA and commissioner cannot be reconsidered until the proposal is submitted in response to the next publication of a request for proposals. If it meant that a proposal was previously rejected by the initial screening process under part 4655.1082 then it is possible that the hearing could address that rejection if the hearing was held after the initial screening process. But specifying that the hearing occur after the initial screening process would exclude use of the hearing as a means of clarifying information needed to conduct the initial screening. Similar principles apply to holding a hearing only after completion of the data collection process under part 4655.1084. By holding the hearing only after the IBQA is finished collecting the data according to part 4655.1084, it would not be possible to use the hearing as a means of clarifying information being collected during the data collection process.

The timing and scope of the public hearing must also depend on the number and types of proposals received by the IBQA. If the IBQA receives a great many proposals the hearing will have to be held whenever the maximum amount of time is available to consider the proposals and the scope of the hearing will have to be limited to the broader principles affecting the evaluation, comparing, and ranking of proposals.

4655.1090 [EMERGENCY] EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

CPM commented that item A under this part discriminates against older facilities and that this provision fails to take into account facilities that have poor occupancy due to below average or noncompetitive physical plants. MDH disagrees that this item discriminates against older facilities because occupancy will be compared according to the long-term care needs it addresses and such comparison could reveal a need for the project as well as undesirability of a project. The occupancy criteria is also consistent with Minnesota Statutes, section 144A.073, subdivision 4, paragraph (a).

CPM commented that the information required under item B of this part may not be relevant to a proposal, especially in the Metropolitan area, which has a large and well-established alternative care service status. CPM, however, did not suggest that the item be removed or changed. MDH agrees that the information may be less relevant to some proposals than to others. But it is part of the intent of the exception process to encourage

the use of alternative care services where those services are minimally in use now. Under Minnesota Statutes, section 144A.073, subdivision 3, paragraph (a) subparagraph (3) proposals must be compared and evaluated according to the "extent to which the proposal furthers state long-term goals, including the goal of enhancing the availability and use of alternative care services. .

CPM commented that the quality of life criterion under item G should be eliminated because it is a purely subjective criterion. MDH disagrees that this criterion should be eliminated. The quality of life criterion is consistent with Minnesota Statutes, section 144A.073, subdivision 4, paragraph (a), subparagraph (5). MDH, however, has expanded the criterion to make it more specific and objective as follows: "G. The extent to which the physical design identified in ~~of~~ a proposal will improve the quality of life, comfort and convenience of the residents through improvements such as increased privacy, increased opportunities for social interaction, improved temperature control or improved efficiency of care."

MAHA commented that item D under this part be written to specify that it applies only to facilities participating in the MA program. MDH disagrees with MAHA that this item applies only to facilities participating in the Medical Assistance program. Where medical assistance costs are not applicable a proposer would just state that in the proposal.

MAHA also recommend that the language regarding the estimates of costs for alternatives be removed for reasons given under 4655.1078, item M. MDH disagrees with the suggestion that the language be removed. Requiring information about and making judgments about the cost effectiveness of alternatives is consistent with Minnesota Statutes, section 144A.073, subparagraphs (5) and (6).

MDH made the following changes to item A., page 15, line 6,: "nursing home and licensed boarding~~long-term~~ care home beds per 1,000 individuals aged 65 or . . .", on line 11: "nursing home and licensed boarding ~~long-term~~ care home beds per 1,000 individuals aged 65 or . . .", and on line 18: "number of nursing home and ~~long-term~~ licensed boarding care home resident rooms with more than two beds." These MDH changes to item A are not substantial changes because they are for accuracy and clarity only.

MDH made the following changes to item E., page 15, line 25: "E. The extent to which the proposal~~'s~~ is in compliance with licensing . . .". The changes to this item are not substantial because they are for accuracy only.

4655.1092 [EMERGENCY] REIMBURSEMENT LIMITS.

No comments or changes.

4655.1094 [EMERGENCY] IBQA RECOMMENDATIONS TO COMMISSIONER.

No comments or changes.

4655.1096 [EMERGENCY] COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

CPM suggested that the commissioner's approval of a proposal expire 24 months after the date of the commissioner's signature on the notice of approval of a proposal. MDH must allow only 12 months because 12 months is required by Minnesota Statutes, section 144A.073, subdivision 3.

4655.1098 [EMERGENCY] DOCUMENTATION

Subp. 2. Final working drawings. MDH made changes on page 17, lines 6 and 7 as follows: "The proposer of ~~an accepted proposal for~~ renovation or replacement that is approved by the commissioner shall submit . . .". These changes are not substantial changes because they are for clarity only.

Subp. 3. Changes in approved projects. CPM commented that this subpart should specify what a "change" in a project includes. MDH disagrees that what is included in the term "change" is not specified because the reference under this subpart to part 4660.0900 specifies what is included in the term "change". Part 4660.0900 is under Minnesota Rules, Chapter 4660, Department of Health Nursing; Boarding Homes; Physical Plant. Part 4660.0900 says: "Subsequent construction changes which involve these [chapter 4660] rules shall be approved by the department before such changes are made.".

Subp. 4. Change orders. MAHA commented that the term "determined" on page 17, line 21 be replaced with "estimated". MDH agrees with the comment and has made the suggested change. This language change is not a substantial change because it is for clarification purposes only.

Subp. 5. Cost overruns. CPM commented that "this particular provision is a very punitive measure and unnecessary to include in this rule. There are several instances where costs may be incurred which are beyond the control of the facility of the contractor. It is very unfair to impose a blanket penalty for problems beyond the control of the proposer such as weather, soil conditions, concealed problems or damages in an existing facility." MDH disagrees that the this subpart is punitive. This subpart does not impose a penalty, it merely requires the proposer to communicate cost overruns to the commissioner.

4655.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS.

UHI comments: "Since cost overruns may be justifiable, we believe a provision for review of submitted justification should be included here. In that event, if a project exceeded its estimated cost by more than 10% and adequate justification was submitted and accepted, no penalty would be imposed."

CPM comments: "The penalty provision of 110 percent of the estimated costs is an arbitrary figure and there is no basis for the percentage. The cost overrun provision is an inhibiting provision which could unfairly affect a facility's appraised value. A cost overrun should have either no affect or possibly a positive affect on the appraised value of a facility. A more equitable

penalty for cost overrun would be that the particular proposer or facility would be solely responsible for those costs that exceeded the estimated costs, but only for those costs which are under control of the proposer, contractor, or other participants in the development of the proposal."

MAHA comments: "First, the Department of Health has no statutory authority to promulgate any rule that changes the MA reimbursement rates that are promulgated under the authority of the Department of Human Services."

"Second, under federal law and regulations, only the single state medicaid agency (DHS) can establish MA payment rates. Consequently, even if the state legislature gave rulemaking authority on this subject to MDH, any such rules would be rendered invalid under federal law and regulations."

"Third, under the MA reimbursement rule, there are no penalties for cost overruns in construction projects that do not require licensure actions by MDH. We question why any state official would consider them necessary in this instance."

"Fourth, to the extent that cost overruns potentially involve MA expenditures, the MA reimbursement rule already contains provisions that limit the investment per bed, and these limits would apply to completed projects. At the hearing held by the Moratorium Task Force in the Fall of 1986, DHS assistant commissioner Maria Gomez questioned each of our members who wanted to replace their facilities regarding the current construction costs that would be required on a per-bed basis. In response to their testimony, DHS submitted a proposal that was accepted by the legislature in 1988 to increase the investment per bed limits."

MDH has considered each of the comments regarding this part on penalties. MDH has concluded from its considerations and in consultation with its special assistant attorney that there is uncertain legal authority to promulgate the rule. MDH will delete entire part 4617.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS, which begins on page 17 of the proposed rules.

MORATORIUM RULE TIMELINE

CPM provided a schematic timeline and requested feedback from MDH regarding the timeline. MDH analyzed the timeline and found it had minor errors. Those errors are indicated by the hand-written comments on the attached copy of the CPM timeline. The MDH hand-written comments are consistent with the proposed rule as published in the State Register. Another timeline drafted by MDH, which is consistent with the rule as amended by these findings, is also provided.

Conclusions

I hereby conclude that:

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

2. Proper notice of the Department's intent to adopt

the proposed above-captioned rules was given as required by law, and all interested persons were given an opportunity submit data and views on the proposed rules.

3. All modifications made to the proposed rule are not substantial changes.

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

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

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

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

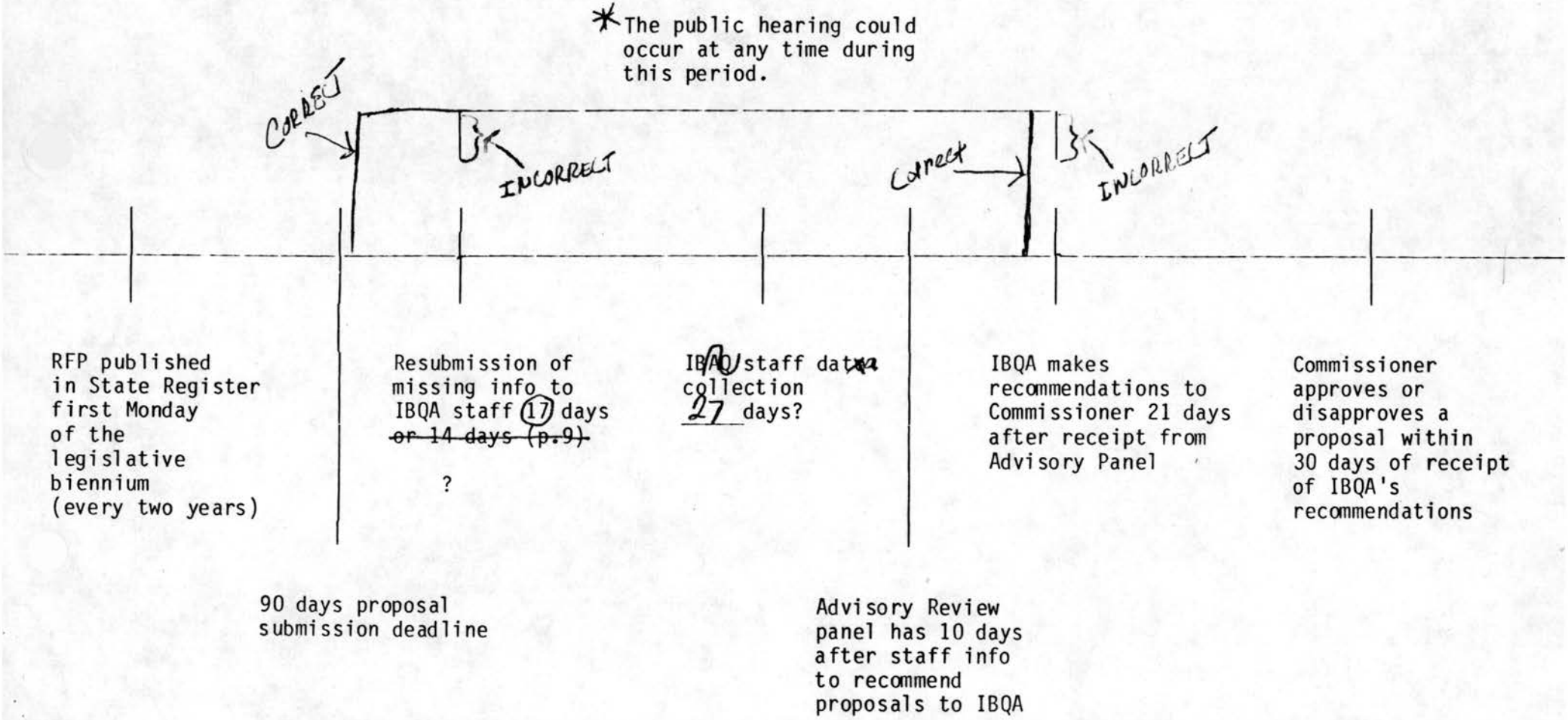
Order Adopting Rules

NOW, THEREFORE, IT IS ORDERED that the rule identified as Proposed Emergency Rules Relating to Procedures for Exceptions to Moratorium, Minnesota Rules parts 4655.1070 to 4655.1100 (as modified) is adopted this 14th day of October, 1988, pursuant to authority vested in me by Laws of Minnesota, 1988, chapter 689, article 2, section 39.

Sr. Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

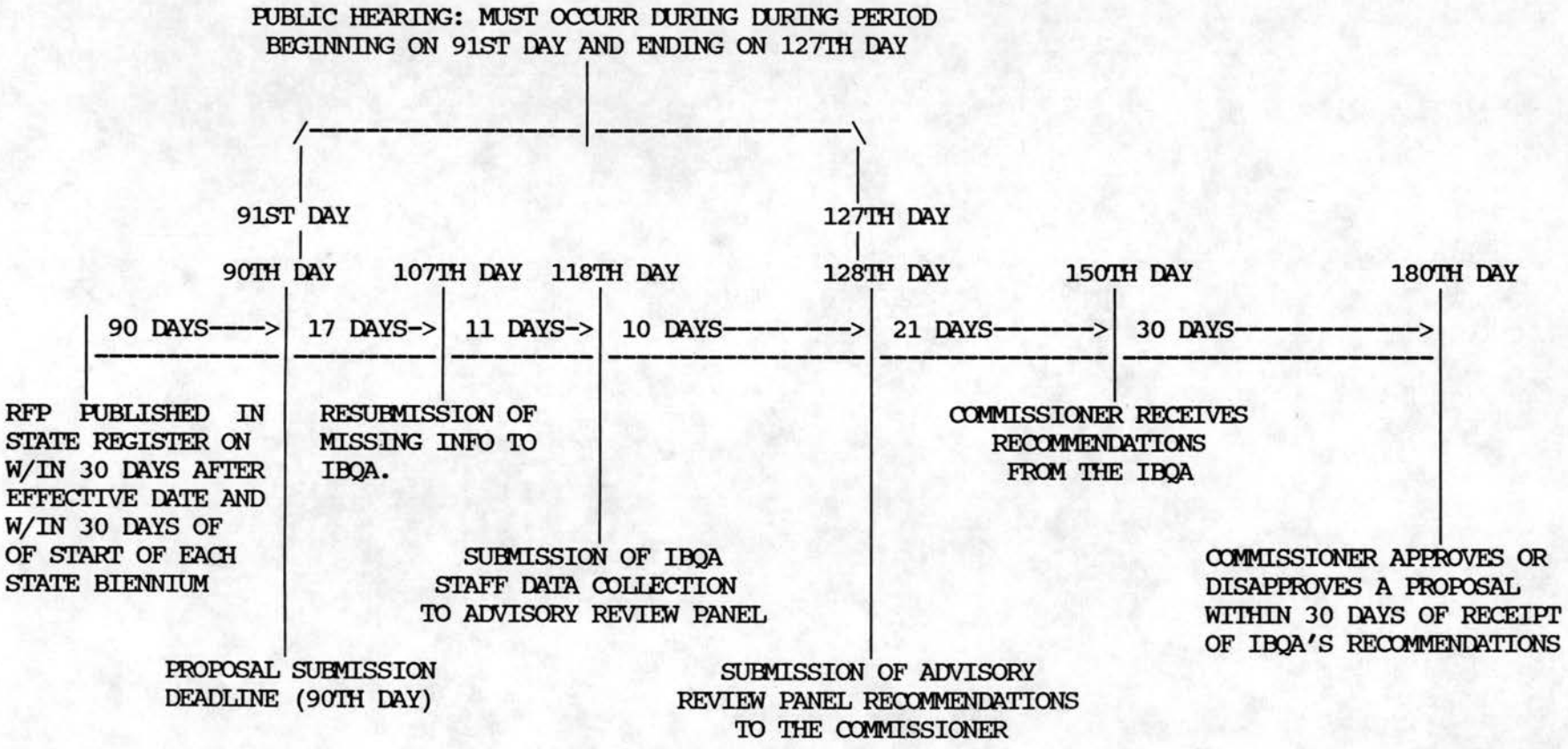
MORATORIUM RULE TIMELINE



Hearing must be held after the submission deadline and before the IBQA makes recommendations to commissioner.

SMV/smn
2-C:1

MORATORIUM RULE TIMELINE



9/29/88

Revisor

7-11-88 [REVISOR] KMT/RD RD1341

Department of Health

Proposed Emergency Rules Relating to Procedures for Exceptions to Moratoriums

Rules as Proposed (all new material)

PROCEDURES FOR EXCEPTIONS TO NURSING HOME BED MORATORIUM

4655.1070 [EMERGENCY] DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4655.1070 to 4655.~~1100~~ 1098 [Emergency], the following terms have the meanings given them in this part.

Subp. 2. **Advisory review panel.** "Advisory review panel" means the group of individuals that must form recommendations according to part 4655.1086 [Emergency] and that is appointed by the Interagency Board for Quality Assurance under Minnesota Statutes, section 144A.073, subdivision 3, and part 4655.1074 [Emergency].

Subp. 3. **Allowable costs.** "Allowable costs" means costs allowable according to part 9549.0035, subpart 1.

Subp. 4. Alternative care grant. "Alternative care grant" has the meaning given in part 9505.2395, subpart 4.

~~Subp. 5. Alternative care grant use. "Alternative care grant use" means the information determined under part 4655.1084 [Emergency], subpart 9.~~

Subp. ~~5~~ 6. **Annual statistical report.** "Annual statistical report" means the report incorporated by reference under part 4655.1072 [Emergency].

Subp. ~~6~~ 7. **Appraised value.** "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used for resident care as determined under part 9549.0060.

Subp. ~~7~~ 8. **Attached fixture.** "Attached fixture" has the meaning given in part 9549.0020, subpart 6.

Subp. ~~8~~ 9. **Attached hospital.** "Attached hospital" means a

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hospital that is under common ownership and operation with a nursing home and shares with that nursing home the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services.

Subp. ~~10~~ 9. **Buildings.** "Buildings" has the meaning given in part 9549.0020, subpart 7.

Subp. ~~11~~ 10. **Certified boarding care home.** "Certified boarding care home" means a facility licensed under parts 4655.0090 to 4655.1060 and 4655.1200 to 4655.9900, and certified to participate in medical assistance under United States Code, title 42, sections 1396 to 1396p as amended through July 18, 1984.

Subp. ~~12~~ 11. **Commenced construction.** "Commenced construction" has the meaning given it under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (b).

Subp. ~~13~~ 12. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or the commissioner's representative.

Subp. ~~14~~ 13. **Conversion.** "Conversion" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (a).

Subp. ~~15~~ 14. **Cost report.** "Cost report" means the document and supporting material specified by the commissioner of the Department of Human Services and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate determiniation.

Subp. ~~16~~ 15. **Department.** "Department" means the Minnesota Department of Human Services.

~~Subp. 17. Environmental conditions. "Environmental conditions" means the conditions reviewed under part 4655.1084 [Emergency], subpart 10.~~

Subp. ~~18~~ 16. **Estimated operating costs.** "Estimated operating costs" means a facility's estimated operating costs during the first two years after completion of the project.

Subp. ~~19~~ 17. **Facility.** "Facility" means the attached

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hospital, nursing home, or certified boarding care home named on a proposal.

~~Subp. 20. Financing costs. "Financing costs" means the estimated long-term financing costs that, according to part 4655.1070 [Emergency], item H, must be provided with a proposal.~~

Subp. ~~21~~ 18. **Hospital.** "Hospital" means an acute care institution licensed under ~~as defined in~~ Minnesota Statutes, section 144.~~696.~~ 50 +0 144.58 ~~subdivision 3, and maintained primarily to treat and care for persons with disorders other than tuberculosis or mental diseases~~.

Subp. ~~22~~ 19. **Interagency board for quality assurance or IBQA.** "Interagency Board for Quality Assurance" or "IBQA" means the board established under Minnesota Statutes, section 144A.31, subdivision 1.

Subp. ~~23~~ 20. **Land improvement.** "Land improvement" has the meaning given in part 9549.0020, subpart 28.

Subp. ~~24~~ 21. **Medical assistance.** "Medical assistance" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. ~~25~~ 22. **Medical assistance cost.** "Medical assistance cost" means the biennial amount by which medical assistance payments will change if a proposal is implemented. Medical assistance costs are determined according to part 4655.1084 [Emergency], subpart 2.

Subp. ~~26~~ 23. **Nursing home.** "Nursing home" means a facility licensed according to Minnesota Statutes, chapter 144A.

Subp. ~~27~~ 24. **Operating costs.** "Operating costs" has the meaning given in part 9549.0020, subpart 32.

Subp. ~~28~~ 25. **Proposal.** "Proposal" means a detailed written plan for a conversion, renovation, replacement, or upgrading.

Subp. ~~29~~ 26. **Proposer.** "Proposer" means the organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the IBQA.

Subp. ~~30~~ 27. **Renovation.** "Renovation" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (b).

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Subp. ~~31~~ 28. **Replacement.** "Replacement" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (c).

Subp. 32. **Soft costs.** "Soft costs" means costs capitalized as part of the project relating to implementation of the proposal, including:

A. sales taxes on materials;

B. contractor's overhead and profit;

C. architect and engineering fees;

D. construction period interest;

E. permits, zoning, and construction financing;

F. feasibility, economic, and demographic studies;

G. legal, accounting, and consulting fees relating to creation of the development; and

H. cost of designing the improvements.

Subp. ~~33~~ 29. **Statutory restriction.** "Statutory restriction" means a replacement restriction, conversion restriction, or upgrading restriction as described under Minnesota Statutes, section 144A.073, subdivisions 5 to 7.

Subp. ~~34~~ 30. **Submission deadline.** "Submission deadline" by which a proposal must be received by the IBAA, which means the date ~~that is established~~ according to part 4655.1080 [Emergency], subpart 3, is no later than 90 days after the date a request for proposals is published in the State Register.

Subp. ~~35~~ 31. **Upgrading.** "Upgrading" has the meaning given in Minnesota Statutes, section 144A.073, subdivision 1, paragraph (d).

Subp. ~~36~~ 32. **Working day.** "Working day" means Monday to Friday, excluding legal holidays recognized by the state of Minnesota.

4655.1072 [EMERGENCY] INCORPORATION BY REFERENCE OF ANNUAL STATISTICAL REPORT.

The "Annual Statistical Report to the Commissioner of Health, 1988; Nursing Home, Boarding Care Home, Supervised Living Report" is incorporated by reference and is available through the Minitex interlibrary loan system. The report is subject to frequent change.

4655.1074 [EMERGENCY] APPOINTMENT OF ADVISORY REVIEW PANEL.

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Subpart 1. **Procedures.** The IBQA shall appoint an advisory review panel according to subparts 2 to 5.

Subp. 2. **Membership.** The advisory review panel must consist of five members: two representatives from organizations that represent consumers of nursing home services, two representatives from organizations representing providers of nursing home services, and one who has a background in long-term care and either accounting, engineering, or building construction.

Subp. 3. Advisory review panel chairperson. The executive director of the IBQA shall chair and convene the advisory review panel.

Subp. 4. **Nominations.** A member of the advisory review panel must be nominated. Anyone can nominate an advisory review panel member.

The IBQA shall publish in the State Register a request for nominations to the advisory review panel no later than 30 days after the effective date of parts 4655.1070 to 4655.1098 ~~1100~~ [Emergency] and at least 30 days before the expiration date of the term of an advisory review panel member. A nomination must be written, must state the name and address of the nominee, must include a description of the nominee's professional experience and training, and must state the positions indicated under subpart 2 for which the person is being nominated.

Subp. 5. **Appointments.** A nominee shall be appointed by a majority vote of the IBQA.

Subp. 6. **Length of term.** A term on the advisory review panel begins the first working day after the vote of the IBQA appointing a person to the panel. An advisory review panel member representing consumers and one representing providers shall serve two years on the panel. The remaining consumer and provider members shall serve three-year terms. The member with the background in long-term care and either accounting, engineering, or building construction shall serve a three-year term. An advisory review panel member may serve an unlimited number of consecutive terms.

4655.1076 [EMERGENCY] IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Subpart 1. Date of publication of request for proposals. ~~When.~~ The IBQA shall publish in the State

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Register a request for proposals within 30 days after the effective date of parts 4655.1070 to 4655.1100 and ~~on the first Monday~~ within 30 days of each the first day of state fiscal biennium.

Subp. 2. **Contents of a request for proposals.** The request for proposals must state:

A. a proposal submission deadline date consistent with part 4655.1080 [Emergency], subpart 3;

B. the amount of the legislative appropriation available for medical assistance costs or state that proposals will not be requested because no appropriations were made;

C. other relevant information regarding current state long-term care policy goals; and

D. that the information under part 4655.1078 [Emergency] must be included in a proposal.

4655.1078 [EMERGENCY] FORMAT AND CONTENTS OF A PROPOSAL.

A proposal must be on a form approved by the commissioner and must:

A. include the name, telephone number, and address of the proposer or other authorized person who can be contacted by the commissioner or the IBQA with questions regarding the proposal;

B. include the name and address of the nursing home or boarding care home for which the project is being proposed;

C. be signed by a qualified representative of the entity submitting the proposal;

D. state whether the proposal is for renovation, replacement, conversion, or upgrading;

E. describe the problem the proposal will address;

F. include schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation;

G. include a cost estimate, prepared by a contractor or architect and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by item F, including costs of buildings, attached fixtures, land improvements, construction site

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preparation, and related soft costs;

H. provide current estimated long-term financing costs of the proposal, including amount and sources of money, annual payments scheduled, interest rates, length of term, closing costs and fees, and insurance costs that are directly related to the and ~~other information on loans for~~ building, attached fixtures, land~~s~~, land improvements, and building site preparation;

I. state the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented;

J. state the current annual care-related and other operating costs and also an estimation of these costs if the proposal were implemented;

K. describe the environmental conditions in the facility that are reviewed under part 4655.1084 [EMERGENCY], subpart 10 and any proposed changes in those conditions;

L. for proposals involving replacement of all or part of a facility, provide the property identification number and a general description of the proposed location of a replacement facility;

M. provide an estimate of the costs ~~and benefits~~ of renovation as an alternative to replacement or of replacement as an alternative to renovation; ~~and~~

N. include the estimated beginning date of construction for renovation and replacements and the proposed timetable for completion of construction; and

O. a brief explanatory statement of why the proposer chose replacement rather than renovation or renovation rather than replacement.

4655.1080 [EMERGENCY] SUBMISSION OF PROPOSAL.

Subpart 1. **Who may submit a proposal.** A proposal must be submitted by a proposer.

Subp. 2. **Where to submit a proposal.** A proposal must be submitted to the IBQA.

Subp. 3. **Submission deadline.** A proposal must be received by the IBQA no later than 90 days after the date a request for proposals is published in the State Register.

4655.1082 [EMERGENCY] INITIAL SCREENING OF PROPOSALS BY IBQA.

The IBQA shall process a proposal according to items A to L.

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A. The IBQA shall determine whether a proposal was submitted according to the submission deadline under part 4655.1080 [Emergency], subpart 3.

B. If a proposal was not submitted according to the deadline indicated under part 4655.1080 [Emergency], subpart 3, the IBQA shall return the proposal to the proposer with a written notice that the proposal will not receive further consideration because the proposal was received after the submission deadline.

C. If a proposal is received according to the deadline, the IBQA shall determine whether the proposal meets the definition of conversion, renovation, replacement, or upgrading as those terms are defined under part 4655.1070 [Emergency]. If a proposal ~~that~~ does not meet any of those definitions the IBQA shall ~~must be~~ returned that proposal with a written notice that the proposal will not receive to the proposer ~~without~~ further consideration because it does not meet the definition of conversion, renovation, replacement, or upgrading.

D. If the proposal is for an exception that meets the definition of upgrading, renovation, replacement, or conversion as those terms are defined under part 4655.1070 [Emergency], the IBQA shall determine whether the proposal is substantially complete and consistent with part 4655.1078 [Emergency]. A proposal is substantially complete and consistent if it contains the information specified in part 4655.1078 [Emergency], items B, D to K, and M.

E. If an item required for a substantially complete proposal under item D is missing from a proposal that is submitted to the IBQA, the proposal shall be returned to the proposer with a written notice that the proposal will not receive further consideration because of the missing item.

F. If a proposal is substantially complete and consistent according to item D, staff shall, if needed, ask for additional information in writing within ten days after the submission deadline. Additional information shall be requested only if, in the judgment of the IBQA, the additional information is needed to clarify or support previously submitted information.

~~G. Additional information requested under item F must~~

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~~be submitted within 17 days after the submission deadline.~~

G. ~~H~~. If requested additional information is not received within 14 7 days after the submission deadline, the proposal shall be returned to the proposer with a notice that the proposal is not approved because the additional information was not ~~submitted according to~~ received within 17 days following submission the deadline.

H. ~~I~~. A proposal that is not completed by the submission of additional information requested under item F shall be returned to the proposer with a notice that the proposal will not receive further consideration because the requested additional information submitted was insufficient.

I. ~~J~~. If the format and contents of a proposal submitted to the commissioner are substantially complete and consistent with part 4655.1078 [Emergency], the IBQA shall determine whether the proposal satisfies the statutory restrictions.

J ~~K~~. If a proposal fails to satisfy a statutory restriction, the IBQA shall return the proposal to the proposer with a written notice stating that the proposal will not receive further consideration because it does not satisfy a statutory restriction.

K ~~L~~. If a proposal satisfies all statutory restrictions, data regarding the proposal shall be collected according to part 4655.1084 [Emergency]. The IBQA shall submit the findings and other information from the review conducted under part 4655.1084 [Emergency] to the advisory review panel to review and form recommendations on the proposal according to part 4655.1086 [Emergency].

4655.1084 [EMERGENCY] DATA COLLECTION.

Subpart 1. **Staff.** The IBQA and the commissioners of agencies represented on the IBQA shall assign staff to collect the data under subparts 2 to 14. The IBQA shall use the data collected under this part to develop recommendations to the commissioner under part 4655.1094 [Emergency] on a proposal screened under part 4655.1082 [Emergency].

Subp. 2. **Medical assistance cost of a proposal.** The medical assistance costs of a proposal shall be estimated ~~determined~~ by:

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A. reviewing the accuracy of operating costs provided according to part 4655.1078 [Emergency], item J;

B. determining the accuracy of the real estate taxes and special assessments provided under part 4655.1078 [Emergency], item I;

C. determining the increase in allowable appraised value according to part 9549.0060, subpart 4; staff shall assume that the costs provided under part 4655.1078 [Emergency], item G, are equal to the total increase in appraised value;

D. determining the increase in the allowable annual costs of the elements identified in part 4655.1078 [Emergency], item H, according to part 9549.0060, subparts 5, 6, and 7;

E. determining an estimate of the total allowable annual costs for the cost categories reviewed in items B to D;

F. determining an estimate of the number of medical assistance resident days and of the proportion of medical assistance resident days to total resident days using information from the most recent cost report of the facility;

G. multiplying the proportion of resident days developed in item F by the estimated annual costs developed in item E;

H. determining the annual medical assistance costs of the proposal by multiplying the amount found in item G by the most recent proportion of medical assistance paid by the state of Minnesota; and

I. multiplying the amount found in item H by two to yield the biennial medical assistance cost of the proposal.

Subp. 3. **Cost information.** The current and projected costs of the proposal shall be calculated according to cost per licensed bed, percent change in cost per licensed bed, and total biennial state and medical assistance costs.

Subp. 4. **Age-related data.** The percentage of individuals in the county of the facility and of counties contiguous to that county who are 65 to 74 years of age, 75 to 84 years of age, and who are 85 or more years of age shall be calculated using either census data or projections of the state demographer based on

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census data, whichever provides the more recent estimate.

Subp. 5. **Facility occupancy.** The average occupancy rate of the facility's existing beds shall be obtained from the most recent Annual Statistical Report.

Subp. 6. **County-region occupancy.** The average percentage occupancy of the existing licensed beds of all the facilities in the county of the facility and of all facilities in counties contiguous to that county according to the most recent Annual Statistical Report, shall be calculated.

Subp. 7. **Number of licensed beds.** The number of nursing home and ~~long-term~~ boarding care home beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 8. **Number of occupied licensed beds.** The number of occupied nursing home and ~~long-term~~ boarding care home beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more, for the county of each facility, for the region composed of the counties contiguous to the county of the facility, and for the state shall be calculated.

Subp. 9. **Alternative care grant use.** Alternative care grant use ~~is~~ means the dollar amount and percentage of alternative care grant allocations used by the county in which the facility is located in the most recent year for which data is available, and ~~Alternative care grant use~~ shall be obtained for each proposal that is acceptable according to part 4655.1082 [Emergency]. The amount of alternative care grant per person 65 years of age or older spent in the county in which the facility is located, in counties contiguous to the county of the facility, and in the state shall be calculated.

Subp. 10. **Environmental conditions.** For evaluation Information shall be developed that describes the differences between selected existing environmental conditions described under this subpart and the corresponding ~~current~~ state licensing standards for new construction and between the proposed correction changes in these environmental conditions and the ~~current~~ state licensing standards

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for new construction. This subpart refers only to those parts of the facility affected by the proposal. The development of selected information for the purpose of evaluation, comparison and ranking ~~under this subpart~~ does not supersede or limit licensing and certification requirements established in chapters 4660 and 9505 ~~procedures~~. The environmental conditions and standards for physical plant evaluation are listed in items A to L.

A. The width of corridors shall be compared with the standards in part 4660.1500, subpart 2.

B. The width of door frames shall be compared with the standards in part 4660.1460, subpart 2.

C. Fire exit enclosures shall be compared with the standards in part 4660.0300.

D. The method and materials of construction of the building shall be compared with the standards for Group D occupancy in the State Building Code. "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration according to Minnesota Statutes, section 16B.59, and contained in chapter 1300.

E. The number of beds per resident room and the floor area per bed shall be compared to standards in parts 4660.1400 and 4660.1430, subpart 3.

F. The amount of artificial light in resident rooms and major activity areas shall be compared to standards in parts 4660.9900 and 4660.9910.

G. The amount of natural light in resident rooms shall be compared with the standard in part 4660.1450.

H. The number and type of bathing or toilet~~ing~~ facilities facilities adjacent to bedrooms shall be compared to the standards in parts 4660.2400, subpart 2, and 4660.2500.

I. Ventilation arrangements shall be compared to the standards in part 4660.8300.

J. Dining room space shall be compared to the standards in part 4660.4830 to 4660.8330.

K. Day room space shall be compared to the standard in part 4660.4820.

L. Heating and cooling arrangements shall be compared to the standards in part 4660.8200.

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Subp. 11. History of state licensing correction orders and federal certification deficiencies. For each proposal that is acceptable according to part 4655.1082 [Emergency], the accumulated number and content of licensing correction orders and federal certification deficiencies incurred during for the two years ~~most recently completed federal certification periods~~ before the submission deadline for the proposal shall be collected.

Subp. 12. History of licensing and certification waivers. The number and purpose of licensing and federal certification waivers incurred during ~~for the~~ two years ~~most recently completed federal certification periods~~ before the submission deadline for a proposal shall be collected.

Subp. 13. History of complaints. The number and content of licensing and federal certification complaints about a facility received during the two years ~~most recently completed federal certification periods~~ before the deadline for submission of a proposal shall be collected. Substantiated and indeterminable complaints ~~shall~~ must be included in the data collected under this subpart. If ownership of a facility has changed in the two years before the submission deadline, a history of complaints shall be collected only for the tenure of the current owner.

Subp. 14. History of sanctions. The number and content of sanctions relating to licensure and certification that have been levied against a facility and incurred during the two years ~~most recently completed federal certification periods~~ before the submission deadline for the proposal shall be collected.

4655.1086 [EMERGENCY] FORMATION OF ADVISORY REVIEW PANEL RECOMMENDATIONS TO IBQA.

Subpart 1. Review of proposals. A proposal ~~submitted according to the deadline for submission,~~ that satisfies the requirements of part 4655.1082 [Emergency] shall be reviewed, evaluated, and ranked by the advisory review panel.

Subp. 2. Method of evaluation. The advisory review panel shall evaluate proposals using the information submitted according to parts 4655.1078 [Emergency] and 4655.1080 [Emergency] and the data collected by staff under part 4655.1084 [Emergency].

Subp. 3. Ranking of proposals. The advisory review panel

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shall rank proposals to indicate which proposals should be approved in order of priority based on the criteria in parts 4655.1084 [Emergency] and 4655.1090 [Emergency], items A to H.

Subp. 4. **Formation of recommendations to the IBQA.** Based on the ranking of proposals, the advisory review panel shall recommend that the IBQA recommend approval or disapproval of a proposal. The advisory review panel shall provide written justifications for its recommendations to the IBQA.

Subp. 5. **Deadline for submission of recommendations.** The advisory review panel must submit its recommendations to the IBQA no later than ten days after receipt of the staff review information.

4655.1088 [EMERGENCY] PUBLIC HEARING.

The IBQA shall hold one public hearing on all proposals submitted in response to a request for proposals. The public hearing shall be held after the submission deadline under part 4655.1080 [Emergency], subpart 3, but before the IBQA submits recommendations to the commissioner. The IBQA shall publish a notice of the public hearing in the State Register that states the time, date, place, and subject of the hearing.

4655.1090 [EMERGENCY] EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

The IBQA shall use the findings of the staff data collection process, the advisory review panel, and the public hearing to evaluate, compare, and rank the proposals according to the long-term care needs they address. An evaluation, comparison, or ranking must be based on the criteria under the following items:

A. Occupancy that is determined according to:

(1) the extent to which the average occupancy rate of the facility supports the need for the proposed project in comparison with the average occupancy rate of all facilities in the county of the facility, of the contiguous counties, and with the statewide occupancy rate;

(2) the extent to which the number and proportion

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of individuals in the county of the facility and of contiguous counties in the age groups 65 to 74, 75 to 84, and 85 and over support the need for the proposal as determined through comparison with other counties and the state;

(3) the extent to which the current supply of nursing home and ~~licensed long-term~~ boarding home care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties, regions, and the state; and

(4) the extent to which the number of occupied nursing home and licensed ~~long-term~~ boarding home care beds per 1,000 individuals aged 65 or more, aged 75 or more, and aged 85 or more in the county of the facility supports the need for the proposal in comparison with other counties and the state.

B. The extent to which the proposal enhances the availability and use of alternative care services.

C. The extent to which the proposal reduces the number of nursing home and ~~long-term~~ boarding home care resident rooms with more than two beds.

D. The extent to which a proposal is cost effective in terms of its use of state money, medical assistance cost, cost per licensed bed, change in cost per licensed bed, and, for renovation and replacement proposals, in terms of the costs of renovation in lieu of a proposed replacement or of replacement in lieu of a proposed renovation.

E. The extent to which the proposal ~~is~~ is in compliance with licensing regulations as specified in parts 4660.0300 and 4655.1000.

F. The extent to which a proposal improves the conditions that affect health, safety, or comfort of the residents of a facility, including environmental conditions described in part 4655.1084 [Emergency], subpart 10.

G. The extent to which the physical design ~~of~~ identified in a proposal will improve the quality of life of the residents through improvements such as increased privacy, comfort, and convenience - increased opportunities for social interaction, improved temperature control or improved efficiency of care.

H. The extent to which the proposed changes are necessary to meet medical assistance certification and licensing requirements for that facility.

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4655.1092 [EMERGENCY] REIMBURSEMENT LIMITS.

Subpart 1. **Cost reimbursement.** The acceptance or determination of costs under parts 4655.1070 to 4655.1100 [Emergency] is not binding for reimbursement. Actual reimbursement of costs is determined according to parts 9549.0010 to 9549.0080.

Subp. 2. **Medical assistance costs.** The sum of the estimated medical assistance costs of all recommended proposals during the first two years of operation must not exceed the amount provided by the legislature as noted in the request for proposals according to part 4655.1076 [Emergency], subpart 2, item B.

4655.1094 IBQA [EMERGENCY] RECOMMENDATIONS TO COMMISSIONER.

The IBQA shall recommend that the commissioner approve or disapprove a proposal. A recommendation under this part must be based on the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency]. A written report of the evaluation, comparison, and ranking completed under part 4655.1090 [Emergency], and the recommendations formed under this part must be submitted to the commissioner not more than 21 days after receipt of the recommendations of the advisory review panel.

4655.1096 [EMERGENCY] COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

Subpart 1. **Approval or disapproval of a proposal.** The commissioner shall approve or disapprove a proposal within 30 days after receiving the IBQA recommendations.

Subp. 2. **Notice of approval or disapproval.** No later than ten days after the commissioner's approval or disapproval of a proposal the commissioner shall send a written notice of approval or disapproval to the proposer. The notice must state the reasons for the approval or disapproval.

Subp. 3. **Expiration of commissioner's approval.** The commissioner's approval of a proposal expires 12 months after the date of the commissioner's signature on the notice of approval unless the facility has commenced construction.

Approved by Revisor _____

4655.1098 [EMERGENCY] DOCUMENTATION.

Subpart 1. Preliminary plans. The proposer of a renovation, replacement, or upgrading that is approved by the commissioner shall submit preliminary plans as defined in part 4660.0600 before drawing final plans.

Subp. 2. Final working drawings. The proposer of ~~an accepted proposal for~~ that is approved by the commissioner renovation or replacement shall submit final architectural, mechanical, and electrical drawings as defined in parts 4660.0700 and 4660.0800 to the Minnesota Department of Health for review and approval before implementation of the project.

Subp. 3. Changes in approved projects. Changes in approved projects for renovation, replacement, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according to part 4660.0900.

Subp. 4. Change orders. If the commissioner approves the reported changes in a project, a change order permitting the changes shall be issued. The issuance of a change order does not alter the allowable costs as ~~determined~~ estimated in part 4655.1084 [Emergency], subpart 2.

Subp. 5. Cost overruns. The proposer shall immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.

Subp. 6. Final statement of costs. On completion of the proposed project, the proposer shall submit to the Department of Human Services, a final statement of costs that includes a sworn statement of actual costs of items for which costs were estimated according to part 4655.1078 [Emergency], item G, and that compares the actual costs to the estimates.

~~4655.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS.~~

~~Any~~ cost overrun that is 110 percent or ~~more greater~~ than the costs estimated ~~in part 4655.1078 [Emergency], item G,~~ shall be penalized. The amount of money over 110 percent of the costs

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estimated in part 4655.1078 [Emergency], item G, shall be subtracted from the facility's appraisal conducted under parts 9549.0010 to 9549.0080 for a period of five years.

Approved
by Revisor _____

9.

WRITTEN REQUESTS, SUBMISSIONS, AND COMMENTS ON THE RULE.

RECEIVED
AUG 26 1988
Health Resources
Division
4:25 pm.
MSH

STATEMENT OF CARE PROVIDERS OF MINNESOTA

Comments on:

Proposed Emergency Rules Relating
to Procedures for Exceptions to
Nursing Home Bed Moratorium

Minnesota Rules as proposed
Parts 4655.1070 to 4655.1100 (EMERGENCY)

For Further Information Contact:

Sue Voigt



Care Providers Of Minnesota

2850 Metro Drive • Suite 200
Bloomington, Minnesota • 55420
1 (612) 854-2844

September 15, 1988

Care Providers of Minnesota is a trade association representing approximately 250 long-term care facilities in the state. Our members are non-profit, proprietary, and governmentally owned nursing homes, boarding care facilities and residences for the mentally and physically handicapped. In addition to providing services to more than 26,000 people in these facilities, our members also provide home health care, adult day care, respite, waivered, and hospice services.

The following comments are formulated as a result of the work of the moratorium committee of the Public Affairs Division of Care Providers of Minnesota.

4655.1070 (EMERGENCY) DEFINITIONS.

Issue 1

Under the definitions section, it appears that there are many unnecessary definitions included. The definitions that refer to another Minnesota rule part are necessary. However, many definitions include cross-references to particular rule provisions within this same rule. Cross-references should be used sparingly: they can make a provision difficult to read and understand. If the definition section repeats words and short phrases instead of referring to another section, it will be easier to read and understand. (See Minnesota Rules Drafting Manual, page 46.)

Issue 2

There are several definitions that cross-reference Minnesota Rule 50. There may be a problem with one agency defining terms for the purposes of another agency's rules because one agency cannot delegate the authority to another agency to change a definition or a particular rule meaning. This means that even if the referenced parts of Rule 50 were to change, those definitions under this moratorium rule may not change. Therefore, it would be better to simply include the full text of the definitions in 4655.1070 (EMERGENCY) rather than referring to another rule promulgated by a different agency.

Issue 3

Subpart 32 of this part defines "soft costs". There is a question as to the necessity to include items A-E and H as "soft costs" of a building project. These costs are a part of the construction costs, and are included as a part of an appraisal and are included as a depreciable asset. An argument can even be made for items F and G to be not included as "soft costs" because they are a required cost of building a project. In many instances these "soft costs" are allowed by the IRS as

"amortized expenses" over a period of 10 to 20 years. Considering where these costs are used in the rules, it is suggested there is no need for this definition or inclusion in the rules.

Issue 4

Subpart 18. Estimated operating costs. The estimated operating costs definition includes operating costs estimated to accrue for a facility during the first 2 years after the completion of the project. It is unclear why the costs are required for the first 2 years after the completion of the project and why this information is necessary to be included in this rule.

Issue 5

Subpart 21. Hospitals. The definition of a hospital should include swing beds and transitional care beds. Hospitals are inappropriately increasing the use of acute care beds as long term care beds. Perhaps this issue could be more fully addressed in this rule. If the definition is not expanded, the definition of hospitals is unnecessary because these moratorium rules relate to nursing and boarding care homes, not hospitals. The definition of hospitals in subpart 21 should be excluded from the rules.

4655.1074 (EMERGENCY) APPOINTMENT OF ADVISORY REVIEW PANEL.

Issue 1

Subpart 2. Membership. The membership criteria language is very confusing. It appears that the panel consists of 6 persons. The confusing language can be clarified in the following manner:

> "The advisory review panel must consist of the following 6 persons: 2 representatives from organizations that represent consumers of nursing homes services, 2 representatives from organizations representing providers of nursing homes services, and 1 person who has a background in long term care and either accounting, engineering, or building construction. The executive director of the IBQA shall chair and convene the advisory review panel."

4655.1076 (EMERGENCY) IBQA PUBLICATION OF REQUEST FOR PROPOSALS.

Issue 1

Subpart 1. When. This subpart should be retitled "Date of Proposal Publication". Also, the date for submission of the request for proposals is on the first Monday of each state fiscal biennium. It appears that this RFP date is intended to affect the upcoming biennial budget. However, it would be untimely to have go through the procedure

for the moratorium execptions during the legislative session. It is also untimely to submit proposals at the beginning of each biennium. It is strongly recommended that the RFP's be published during the interim between legislative sessions. For example, a mid-year publication date would allow for some lead time on a biennial budget request that is necessary in order to finance some of the moratorium exceptions.

4655.1078 (EMERGENCY) FORMAT AND CONTENTS OF A PROPOSAL.

Issue 1

Item G. The cost estimate is required to be prepared by a contractor. The cost estimate could be prepared by an architect or another participant in the development of the proposal, for less cost. Therefore, it is unnecessary to require the cost estimate be prepared by a contractor.

Issue 2

Item H. The estimated long-term financing costs for proposal may not be able to be determined upon submission. Negotiations with a financial institution will not be final at the proposal stage. If there is any type of bond issuance in conjunction with a proposal, the bonding information will be sketchy at best. Some suggested language may be that we "provide initial estimated costs of financing a proposal, including... ". Also it should be made clear that the cost overruns will not be based on subitem H.

Issue 3

Item K. This item requires a description of the environmental conditions in the facility and any proposed changes in those conditions. If the IBQA staff or the Interagency Board will calculate and evaluate these conditions, this is an unnecessary requirement and should be omitted.

Issue 4

An important issue with respect to the submission of the format and contents of the proposal relates to whether or not the costs associated with the submission of a request for moratorium exception are allowable costs under Rule 50. Another subitem "O" should be included that states: "The above information is an allowable cost under Minnesota Rules part 9549.0010 to 9549.0080 as a cost of doing business for an initial proposal submission. If a proposal is resubmitted a number of times and the proposal relates to the same project, the costs of resubmission may be disallowed. However if a single proposer submits multiple proposals relating to different projects, all of the costs of the submission of those proposals shall be allowable.

4655.1082 (EMERGENCY) INITIAL SCREENING OF PROPOSALS BY IBQA.

Issue 1

Submission deadlines for proposals and the procedures require that if a proposal was not submitted according to the deadline, the IBQA shall return the proposal to the proposer with written notice that the proposal will not receive further consideration. There is no provision for a resubmission due to extenuating circumstances. There could be a delay in the submission of a proposal that is beyond a facility's control.

Issue 2

Item F allows a proposer to submit additional information if requested by staff of the IBQA. Items G, H, and I set forth some time frames for the resubmission period. These time frames are very unclear. (Refer to attached timeline.) Items G and H have conflicting time frames set forth for resubmission. The resubmission deadline should be set from the date of receipt of a request for additional information. Care Providers of Minnesota suggests that the language would allow a proposer to submit additional information within 14 days from the receipt of the additional information request. Item L contains a typographical error when referencing the advisory review panel. It says the "advisor".

4655.1084 (EMERGENCY) DATA COLLECTION.

Issue 1

Subpart 1. Staff. Care Providers of Minnesota recommends the following language after the last sentence of this subpart: "The IBQA staff shall share data collected under this part with each proposer who submitted a proposal according to the submission deadlines. The IBQA staff shall forward data collected under this part to the Advisory Review panel no later than 30 days after the submission deadline."

Issue 2

Many of the subparts in items listed under the Data Collection section have little bearing on the "need" for a specific project.

Issue 3

Subpart 6, subpart 7, subpart 8, and subpart 9 under Data Collection relate directly to the distribution of bed studies to be reported in December of 1988. It is premature to require this type of data collection information in the moratorium rule prior to the completion of the distribution of beds study based on the same type of data. Subpart 9, alternative care grant use, for example, is a very narrow way of looking at over- and underutilization of institutional beds in an area.

The inclusion of these subparts under this part of the rule will most certainly illustrate the "usefullness" of the distribution of beds study for the purposes including that information as dated under the moratorium. At the very least, subpart 9 on alternative care grant use must be broadened to recommend that the data collection by staff include an examination of all alternative services in a particular county or area in which a facility is located.

Issue 4

Subpart 11. History of state licensing correction orders and federal certification deficiencies. Subpart 11, subpart 12, subpart 13, and subpart 14 are not relevant for the purposes of the moratorium rule. The data collection efforts should focus on the physical plant rather than the correction orders or deficiencies of a given facility. If there is a problem with quality in a particular facility, there are other regulatory bodies responsible for the correction of these deficiencies. That information and collection of that type of data is political and not applicable for the purposes of determining whether or not a facility requires an exception to the moratorium.

Issue 5

The IBQA staff data collection must take place within a certain time period in order to keep the process moving. Therefore, part 4655.1084, subpart 1, should be futher amended to require that the IBQA staff collect the data under subparts 2 to 14 and within a 60-day period forward that data in a report to the IBQA. No later than 30 days after the submission deadline shall the IBQA staff share the data collection information with the Advisory Review panel.

Issue 6

The data collection and the ranking process that follows does not specifically address the issues of upgrading for the ICF-II facilities in Minnesota. It appears that the moratorium rule itself does not address the ICF-II upgrade issue nor the OBRA'87 mandate to require one level of care called nursing facility "NF". Care Providers of Minnesota recommends that the ICF-II issue be addressed specifically in the rule, and at the very least that the IBQA staff be required to collect data with respect to the ICF level of care in Minnesota and make recommendations on how that particular level can be addressed under the OBRA'87 mandate and the upgrading provisions of the existing moratorium law.

4655.1088 (EMERGENCY) PUBLIC HEARING.

Issue 1

Care Providers of Minnesota recommends that the public hearing be held not only for the proposals that were submitted according to the submission deadlines but also provide the opportunity for reconsideration of proposals which were previously rejected. The public hearing should also allow proposers to respond to specific information under the data collection part of the rule. For example, if there is inaccurate data collection or a proposer takes exception to the IBQA staff method of data collection with respect to their proposal, that proposer should have an opportunity to respond to the data collection information or methods at the time of the public hearing.

4655.1090 (EMERGENCY) EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

Issue 1

Item A. Occupancy. This particular provision discriminates against older facilities. This provision fails to take into account facilities that have poor occupancy due to below average or noncompetitive physical plans. The addition of beds to such a facility along with a major remodeling or upgrade could enhance the operation of that facility in the quality of the life of the residents. The occupancy provision also fails to address the issue of distance to other long-term care services. For example, there are several counties that contain only one nursing home and it is approximately 50 miles from another nursing home. The distance information should also be considered in evaluating, comparing, and ranking proposals. Item B under this part seems to encourage that facilities provide alternative care services. This type of information may not be relevant to a proposal, especially in the Metropolitan area, which has a large and well-established alternative care service status. In order to meet the requirements of this item, some proposers may be forced into providing nonessential services or unprofitable programs soley to satisfy this particular criterion. Item G under this part also addresses quality of life of the residents which is a purely subjective criterion and should be eliminated.

4655.1096 (EMERGENCY) COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A PROPOSAL.

Issue 1

Subpart 3 allows the approval of a proposal to expire 12 months after the date of the commissioner's signature unless the facility has commenced construction. Care Providers of Minnesota suggests increasing the number of months to 24 months. The rationale for this suggestion is to allow facilities sufficient time after approval to secure financing, submit specific plans and specifications, and allow for other unexpected delays.

4655.1098 (EMERGENCY) DOCUMENTATION.

Issue 1

Subpart 3. "Changes" in approved projects should be clarified to describe what a "change" in a project includes. Obviously, a material change in the project that changes scope or intent should be reported. However, if a bid would come back lower than expected, and a facility wanted to upgrade its specifications for such things as insulation, flooring, windows, wall coverings, etc., that facility should not have to seek approval from the commissioner.

Issue 2

Subpart 5. Cost overruns. This particular provision is a very punitive measure and unnecessary to include in this rule. There are several instances where costs may be incurred which are beyond the control of the facility or the contractor. It is very unfair to impose a blanket penalty for problems beyond the control of the proposer such as weather, soil conditions, concealed problems or damages in an existing facility.

4655.1100 (EMERGENCY) PENALTY FOR COST OVERRUNS.

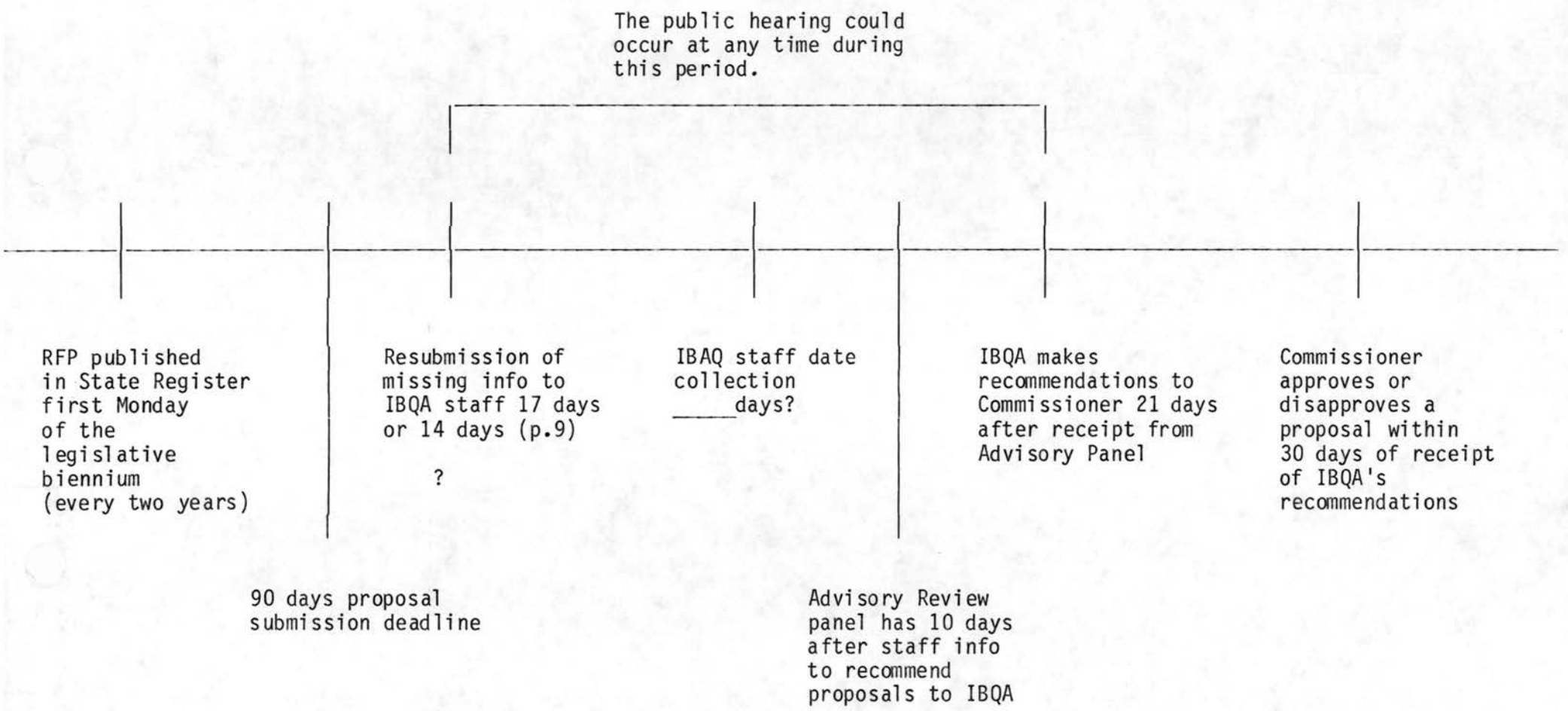
Issue 1

The penalty provision 110 percent of the estimated costs is an arbitrary figure and there is no basis for the percentage. The cost overrun provision is an inhibiting provision which could unfairly affect a facility's appraised value. A cost overrun should have either no affect or possibly a positive affect on the appraised value of a facility. A more equitable penalty for cost overrun would be that the particular proposer or facility would be solely responsible for those costs that exceeded the estimated costs, but only for those costs which are under control of the proposer, contractor, or other participants in the development of the proposal.

Finally, Care Providers of Minnesota would like to comment that we appreciate the fact that some of our initial rule comments submitted in June were taken into consideration in this August 1st version of the moratorium rule. Care Providers of Minnesota has also attached a moratorium rule "timeline" to the comments on the rule and would appreciate any feedback that the Department of Health has with respect to the accuracy of the timeline. Thank you for your consideration in this matter.

SMV/smn
2-C:3/9

MORATORIUM RULE TIMELINE



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2-C:1

Minnesota Association of Homes for the Aging
2221 University Avenue SE Suite 425 • Minneapolis, Minnesota 55414 • 612/331-5571

2. p.m. 7490

RECEIVED
AUG 26 1988
Health Resources Division

August 25, 1988

Mike Dean
Department of Health
393 North Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900

Dear Mr. Dean:

On behalf of the Minnesota Association of Homes for the Aging (MAHA), an association whose members provide nursing home services to more than 20,000 residents and housing, home-based, and community-based services to more than 10,000 individuals every day, we are pleased to submit the following comments on the proposed emergency rule, Procedures for Exceptions to Nursing Home Bed Moratorium. These comments reflect the views of our Quality Assurance committee and numerous members that have demonstrated an interest in the exceptions process during the past two years. Our comments are arranged according to the sequence of the rule.

4655.1078 [EMERGENCY] FORMAT AND CONTENTS OF A PROPOSAL.

H. The proposed language requires the submission of specific financial information, but then it requires the submission of "other information on loans . . .". We recommend that this latter requirement be eliminated.

The specific information includes the data required by DHS for its reimbursement calculations, and requiring "other information" is duplicative. In addition, the lack of specificity regarding the "other information" places applicants in an impossible situation--they have absolutely no idea what information is required, but under 4655.1082, Item E, the proposal could be rejected because of the omission.

M. The proposed language requires an estimate of the costs and benefits of alternatives to renovation and replacement, but we think the language is too vague and imprecise to meet the requirements for rule language. On the one hand, the language could be construed to require a cost estimate on the alternative not submitted by the home that would be as detailed as the estimate for the submitted proposal. At the opposite extreme, the language could be read as requiring only a summary statement. We recommend that the language be revised to require the submission of a brief explanatory statement of why the applicant chose one alternative over the other.

Our members indicate that the costs of preparing applications will be in the $20,000 to $30,000 range. To require an additional detailed analysis of costs and benefits of a proposal not being submitted by the applicant will increase these costs by several thousand dollars without any appreciable benefit to the IBQA or the Advisory Review Panel. This latter entity will have among its membership at least one person with long term care experience plus "accounting, engineering, or building construction." Consequently, the panel should be able to evaluate a brief explanatory statement from the applicant to ensure that the proposal is reasonable in its preference for renovation or replacement.

4655.1082 [EMERGENCY] INITIAL SCREENING OF PROPOSALS BY IBQA.

G. The deadline is proposed as 17 days, but the deadline in the next item is 14 days. We recommend that the deadlines in Item G be 14 days.

G,H In both of these items, the deadline should be calculated in relation to the request from the IBQA, not the submission deadline. Since the IBQA has up to ten days after the submission deadline to make a request, requiring a response within four (or seven) days barely leaves time for return mail, particularly for applicants in the farthest reaches of the state; it clearly leaves them virtually no time in which to gather the requested data.

D-I This series of items distinguishes between proposals that are considered to be "substantially complete" (Item D) and those that are not (Item E). The "substantially complete" proposals are then provided an opportunity to submit additional information as requested by the IBQA staff (Items F and G); proposals for which the IBQA staff do not receive the requested information are rejected (Items H and I, the latter being duplicative of the former). Proposals viewed as "not substantially complete" are irrovocably rejected.

MAHA objects to the distinction between "substantially complete" and "incomplete" proposals. In essence, this distinction is based on the proposition that omission of certain information is so intolerable that the proposal will be automatically rejected, but the omission of other information is sufficiently benign that the applicant will be given a second chance. We see no reason not to provide all applicants with a second chance to provide requested information. Under the proposed language, a perfectly worthwhile proposal would be rejected because the applicant inadvertantly omitted one item that could easily be supplied upon request. The efforts of the IBQA should be directed toward securing the required data, not to punishing

applicants that omit a particular item on their initial proposal.

MAHA recommends that Item E be eliminated for the reasons given above, that Item F be rewritten to direct the IBQA staff to request any missing items as well as additional information, that Items G and H be rewritten so that the deadline is 14 days after the request from the IBQA, and that Item I be omitted as redundant.

MAHA also wishes to point out that the inclusion of cost items that are specific to the MA program as required items for all proposals (with automatic rejection for failure to include them) is not consistent with the legislative intent of the moratorium exceptions process. The legislature has never restricted the moratorium exceptions process solely to those facilities that participate in the MA program, nor should it do so. The licensure moratorium applies to all facilities, not just those in the MA program. All provisions related to costs as categorized, reported, or calculated by the MA program should contain qualifying language that restricts the requirement of such data to those facilities participating in the MA program.

Since the state has no interest in or authority to regulate the costs of facilities not participating in the MA program, there should be no requirement of cost estimates for facilities not participating in the MA program.

J,K The proposed language fails to specify the particular or relevant statutory provisions. We recommend that the statutory citations be included in these items.

4655.1084 [EMERGENCY] DATA COLLECTION.

Subp. 1 In order for the process to proceed in an orderly fashion, MAHA recommends that this subpart contain a deadline for the IBQA staff to gather the information listed in subsequent subparts. Since all the data exists in or can be verified by checking government offices, we think a deadline of 45 days would be appropriate. We think a deadline is necessary in order for the gathering of the data to receive the priority placed upon the exceptions process by the state legislature.

Subp. 2 We recommend that the proposed language be modified to read as follows: "The medical assistance costs of a proposal shall be estimated . . .". Many of the items listed under this subpart specifically mention estimates, and clearly medical assistance costs are determined only retrospectively when DHS performs its

desk audit of cost reports (or even later, during the field audit process).

Subp. 5 MAHA recommends that language be added to refer to the most recent cost report filed with the Commissioner of Human Services, for homes participating in the MA program. The MA costs are estimated based on the occupancy in the most recent cost report, and the occupancy data in the cost reports are subject to field audit by DHS; the Annual Statistical Report is not.

Subp. 11 We recommend that this subpart also require the IBQA staff to gather data on the compliance with the licensing correction orders and federal certification deficiencies. There are also a large number of facilities with outstanding citations on items that the Health Department is not currently enforcing while awaiting clarification from HCFA (i.e., the cubicle curtain issue). These deficiency citations should not be included.

Subp. 13 MAHA strongly recommends that the first sentence be changed to read as follows: "The number and content of substantiated complaints . . .". Unsubstantiated complaints should not be considered for obvious reasons. We also recommend that the language specifically refer to the Office of Health Facility Complaints because this is the state office charged with the responsibility to investigate complaints in licensed health care facilities.

Subp. 14 This subpart clearly attempts to identify providers who do not comply with licensure correction orders or deficiency citations, and we think noncompliance is a serious matter that should be taken into account.

Yet we think this provision needs to be amended to take account of one of the peculiarities of state law--in order to challenge the validity of a correction order, a facility must incur a sanction in order to establish a right to an administrative hearing. Consequently, the proposed language should also include the number and content of sanctions that have been appealed to a contested case and are currently outstanding, have been appealed and withdrawn by the Commissioner pursuant to a recommendation of the administrative law judge, or have been appealed and not been withdrawn by the Commissioner despite the recommendation of the ALJ. Given the purpose of this subpart, the IBQA staff should provide a complete picture of sanctions, not the partial picture contained in the proposed language.

4655.1088 [EMERGENCY] PUBLIC HEARING.

MAHA recommends that the proposed language be amended to specify that the public hearing be held after the advisory review panel reports its recommendations to the IBQA. Our group discussed the issue of when the hearing should be held at some length, and we felt that the hearing should afford an opportunity to applicants to dispute or challenge the findings of the review panel. The IBQA would therefore have an opportunity to hear rebuttal testimony to the review panel's recommendations, and we thought this to be an appropriate function of the public hearing. This recommendation is consistent with the sequence of events that is implied in 4655.1090, but we think the sequence should be made explicit.

4655.1090 [EMERGENCY] EVALUATION, COMPARISON, AND RANKING OF PROPOSALS.

D We recommend that this item be written to specify that it applies only to facilities participating in the MA program. We also recommend that the language regarding the estimates of costs for alternatives be removed for reasons given earlier.

4655.1098 [EMERGENCY] DOCUMENTATION.

Subp. 4 We recommend that this section be amended to read as follows: ". . . as estimated in part 4655.1084 . . .".

4655.1100 [EMERGENCY] PENALTY FOR COST OVERRUNS.

MAHA finds this part to be the most objectionable portion of the proposed rule. The language proposes to penalize construction cost overruns by reducing the facility's appraised value for five years (once again incorrectly assuming, of course, that only MA-certified facilities are eligible for an exception). Our members are particularly concerned about this proposal, and some indicated a reluctance to submit proposals with this risk of penalty included in the rule. The source of their concern was their feeling that the Department of Health has limited understanding of how construction costs can increase significantly because of factors outside the control of the facility.

A replacement project may involve as much as two years of planning, approval under the moratorium exception process, and construction. During this period there can be totally unexpected developments--e.g., rapid increases in the costs of materials, wage hikes pursuant to strikes or collective bargaining agreements--that increase costs that must be

incurred. Yet this provision would penalize the facility.

In support of our members' protests, we would like to offer the following comments. First, the Department of Health has no statutory authority to promulgate any rule that changes the MA reimbursement rates that are promulgated under the authority of the Department of Human Services.

Second, under federal law and regulations, only the single state Medicaid Agency (DHS) can establish MA payment rates. Consequently, even if the state legislature gave rulemaking authority on this subject to MDH, any such rules would be rendered invalid under federal law and regulations.

Third, under the MA reimbursement rule, there are no penalties for cost overruns in construction projects that do not require licensure actions by MDH. We question why any state official would consider them necessary in this instance.

Fourth, to the extent that cost overruns potentially involve MA expenditures, the MA reimbursement rule already contains provisions that limit the "investment per bed," and these limits would apply to completed projects. At the hearing held by the Moratorium Task Force in the fall of 1986, DHS Assistant Commissioner Maria Gomez questioned each of our members who wanted to replace their facilities regarding the current construction costs that would be required on a per-bed basis. In response to their testimony, DHS submitted a proposal that was accepted by the legislature in 1988 to increase the investment per bed limits.

In our discussions, we attempted to ascertain MDH's objective for the provision. The only explanation anyone could offer was a concern that applicants might submit reduced estimates of cost to gain some sort of competitive advantage. But even this explanation, while appearing plausible on the surface, cannot withstand scrutiny. The advisory review panel will include an individual with expertise in financial matters related to nursing homes and boarding care homes, and clearly this individual's considered opinion concerning the "realism" of the cost estimates of a particular proposal will be given weight by the other members of the review panel and the IBQA. The proposed penalty is unnecessary, even given the assumption of this possible explanation.

We request that the Department of Health notify us when the Emergency Rule is submitted to the Attorney General's office for legal review.

Thank you for the opportunity to comment on the proposed rule. We hope our comments will assist the Department in its promulgation of the final Emergency Rule.

Sincerely,

Darrell R. Shreve, Ph.D.
Director of Research
and Regulation

Kevin T. Walli
Director of Goverment Affairs

DRS/KTW/jt



United Health, Inc.

August 25, 1988

Mr. Mike Dean
Interagency Board for Quality Assurance
393 North Dunlap
P.O. Box 64900
St. Paul, MN 55164-0900

Re: Proposed Draft of the Moratorium Rule

Dear Mr. Dean:

Unicare sincerely appreciates the opportunity to comment on the proposed Moratorium Rule. We would like to request that our comments be considered prior to rule finalization. Creating a good moratorium rule is, at best, a difficult process. Often, items which become part of the rule are subject to interpretation -- and misinterpretation. As a result of this concern, we are suggesting the following changes/additions to language currently found in the proposed rule.

4655.1070 (Emergency) Definitions

Several definitions under Rule 4655.1070 refer to other sections of the moratorium rule. We believe that the rule would be easier to understand if the parts referred to in the definitions were inserted in place of the references. For example, in place of the current "alternative care grant use" definition, the definition would state: "'Alternative care grant use' is the dollar amount and percentage of alternative care grant allocations used by the county in which the facility is located in the most recent year for which data is available." Subpart 10 could then include only the calculation methodology.

Definitions for "county-region occupancy," "environmental conditions," financing costs," and "submission deadline" should also be revised in a manner similar to "alternative care grant use" in order to insure clarity.

We believe that the definition for soft costs should include a second sentence as follows: "Soft costs must be capitalized as part of the cost of the project." The term "capitalized should also be defined in the regulation since capitalization of soft

costs would not be covered adequately by reference to "Depreciation Guidelines" found in the AHA's "Estimated Useful Lives of Depreciable Hospital Assets."

4655.1074 (Emergency) Appointment of Advisory Review Panel

The composition of the advisory review panel appears excellent. However, we wonder if it would be possible to include not 1, but 2, people with backgrounds in long term care -- one with an additional accounting background and one with an additional building construction background. Both backgrounds would seem essential for projects of the nature addressed by this rule. Under Subpart 3 of this section, you may want to include a list of the nominee's qualifications to fill the position as part of the written nomination. Perhaps a resume would be helpful?

4655.1076 (Emergency) IBQA Publication of Request for Proposals

Subpart 1, Requests for Proposals, would be improved by an increased frequency in requests for proposals -- perhaps to twice each year. Needs may change enough over a two-year period to justify a project 18 months into the biennium which might not have been feasible initially.

4655.1080 (Emergency) Submission of Proposal

Subpart 3 should also include the address of the IBQA.

4655.1082 (Emergency) Intial Screening of Proposals by IBQA

Paragraph (H), allows only 14 days from the date of submission -- not from the date of notification of additional information needs-- for the proposer to submit the additional documents. We believe that this requirement allows insufficient time for the mail systems and the proposer to provide the extra information. We would suggest that this time frame be changed to read "must be submitted within 14 days from the proposer's receipt of the IBQA's request for additional information."

In addition there is confusion between paragraphs G & H. Paragraph G states that if the IBQA requests additional information of the proposer, the proposer must supply the information within 17 days after the submission deadline. Paragraph H goes on to say the IBQA must receive the additional information within 14 days after the submission deadline. Does the proposer supply (IBQA) the information within 14 or 17 days after the submission deadline?

Paragraph (I) further penalizes the proposer. If the information submitted was "insufficient" but was, nevertheless, submitted timely, we believe the proposer should be given the opportunity to correct his mistake. Perhaps an additional 14 days could be granted?

4655.1084 (Emergency) Data Collection

We fully concur with the indication in Subpart 2, Paragraph C that the increase in allowable appraised values will equal the total cost of building the facility. However, under Paragraph (F), we would like to see the methodology included for estimating the number of Medical Assistance resident days and proportion of MA days to total days. How will this estimate be made? It appears that the fiscal validity of the entire proposal may hinge on this one issue.

Subpart 9, as previously mentioned, contains a sentence which should be part of the alternative care grant use definition under 4655.1070 Subpart 4.

Subpart 10, Environmental Conditions, appears to indicate that, if a new wing is built into a facility to correct for 3 and 4-bed rooms, the entire facility -- not just the new wing -- would be required to meet the most current licensing standards. Such a requirement, if imposed across the board and without exception, could needlessly inflate costs to the State MA program.

Subparts 11 through 14 deal with licensing correction orders, waivers, complaints, and sanctions for facilities that file proposals under the rule. We would like to know how such information will be used by the reviewers and whether it will be incorporated into the proposal rankings. If the information will not be considered for ranking purposes, it would not appear to be necessary to the review process. Since all items listed in Subparts 11-14 reflect historical events and are not necessarily indicative of future trends, we believe that, if these items affect review determinations at all, they should be used only as "tie-breakers" between 2 otherwise equally acceptable proposals.

4655.1100 (Emergency) Penalty for Cost Overruns

This section provides a penalty for cost overruns. Since cost overruns may be justifiable, we believe that a provision for review of submitted justification should be included here. In that event, if a project exceeded its estimated cost by more than 10% and adequate justification was submitted and accepted, no penalty would be imposed.

General Comments

Additional confusion exists in the allotted review days for each panel. There is no mention of how many days the staff has to collect data for the advisory review panel. Once the advisory review panel receives the information, is it possible for five people to process all proposals in ten days?

We appreciate the opportunity to comment on the proposed rules and look forward to any questions you may have regarding these comments. If I can clarify any items addressed, please feel free to call me at (414) 347-4372.

Sincerely,

UNITED HEALTH, INC.

Rebecca Knapp

Rebecca Knapp
Manager
Government Relations-Fiscal

RK/nm

CC: Sebastian Gomez
Jean DasGupta
Karen Bieringer
Donna Nackers
Care Providers of MN/ Patti Cullen

St. Lucas CONVALESCENT AND GERIATRIC CARE
Division of St. Luke's Health and Welfare Association, Inc.
503 EAST DIVISION STREET • FARIBAULT, MINNESOTA 55021
PHONE: 507/334-4314

July 27, 1988

RECEIVED
JUL 28 1988
Health Resources
Division

Mr. Mike Dean
393 N. Dunlap
P. O. Box 64900
St. Paul, MN 55164-0900

Subject: Proposed Emergency Rules Relating to Procedures for Exceptions to Moratoriums

After review of the aforementioned rule, I have one criticism. Nowhere within the proposed rule did I see a time frame within which the IBQA and its staff must complete initial screenings of proposals and collection of data pertaining to proposals before submitting completed proposals to the Advisory Review Panel.

I believe a time constraint for this procedure is necessary to ensure that proposals are not stalled. Every other phase of the procedure is so constrained and I would hate to see completed proposals delayed because no accountability were affixed to one phase.

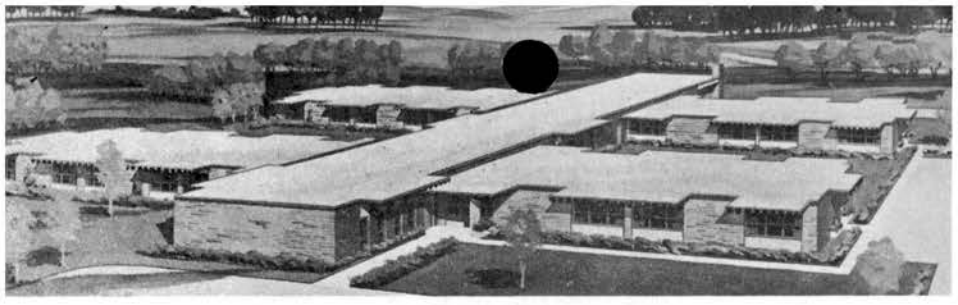
Thank you for relaying my concerns.

Sincerely,

Joseph Stanislav

Joseph Stanislav,
Administrator

JS/cc



P. O. Box 248
Little Falls, Minnesota 56345

LUTHERAN SENIOR CITIZENS' HOME

Phone # 612-632-9211

August 22, 1988

Mike Dean
Moratorium Administrator
Minnesota Department of Health
393 North Dunlap Street
P.O. Box 64900
St. Paul, Mn. 55164

RECEIVED
AUG 23 1988
Health Resources Division

Dear Sir:

I have enclosed a memorandum from Mike Tripple stating that you are the contact person for information on the moratorium. I received-along with the memorandum-a copy of the emergency rule written by Sister Mary Madonna Ashton & and 18 pages of KMT/RD RD1341.

The Lutheran Senior Citizens Home will definitely be applying for an exception to the moratorium as we have an illegal room (no outside view) and we need additional resident dining area plus a number of other modifications.

What I would like at this time is any additional information, forms, etc. If we have received everything that is now available, please let me know.

Our Board of Directors has just formed a building committee, and we should be meeting in the near future to work on our plan. Any information or help you can give me will be greatly appreciated.

Thank you.

Sincerely,

Hub Zyvoloski Administrator

minnesota department of health
health resources division (612) 643-2100
393 north dunlap street p.o. box 64900 st. paul 55164-0900

MEMORANDUM

DATE: 7/26/88

TO: Nursing Home and Boarding Care Home Administrators

SUBJECT: Rulemaking notice

FROM: Mike Tripple, Director
Health Resources Division

Enclosed for your review, are materials relating to proposed emergency rules for the commissioner's approval of exceptions to the moratorium on nursing home and boarding care home beds. Exceptions that are subject to the proposed emergency rules are conversion, replacement, renovation, and upgrading.

Persons affected by the proposed emergency rules include nursing home and boarding care home administrators and owners, and residents of nursing homes and boarding care homes.

Materials that are enclosed are as follows:

1. A copy of the notice of intent to adopt an emergency rule that will be published in the State Register on Monday, August 1, 1988. The notice includes a description of the proposed emergency rules.
PLEASE NOTE: The August 1st publication of the notice supersedes the notice that was published Monday, July 18, 1988, pages 130 through 131 (13 S.R. 130).

2. A copy of the proposed emergency rules as certified by the revisor of statutes and as will be published in the State Register on Monday, August 1st, 1988.

Feel free to call Mike Dean at (612) 643 - 2156 with any questions regarding this memorandum or the enclosures.

an equal opportunity employer

10.

In the Matter of the Adoption of the Rule of the Minnesota Department of Health Governing Procedures for Exceptions to Moratoriums, Minnesota Rules, parts 4655.1070 to 4655.1100 as adopted.

DECLARATION OF COUNSEL

I, John A. Breviu, 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 1320.

John Breviu
Special Assistant
Attorney General

Dated:

11.

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of the Rule of the Minnesota Department of Health Governing Procedures for Exceptions to Moratorium, Proposed Minnesota Rules, parts 4655.1070 to 4655.1100.

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, October 17, 1988, 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 Monday, August 1, 1988, 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, MN 55155
Telephone: (612) 296-1288

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

Mike Dean
Central Medical Building
393 North Dunlap Street
P. O. Box 64900
St. Paul, MN 55164-0900
Telephone: (612) 643 - 2156

Dated: 10/17/88

Michael G. Dean

Michael G. Dean
Rules Development Coordinator
Health Resources Division

12.

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing Hospital Medical Assistance and General Assistance Medical Care Reimbursement, Minnesota Rules, parts 9500.1090 to 9500.1155

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michael G. Dean, being sworn, says:

That on the 17th day of October, 1988, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, 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.

Michael G. Dean
(Name)

Rules Development Coordinator
(Title)
Health Resources Division

Subscribed and sworn to before me this 17th day of October, 1988.

M. Frances Winkel

M. FRANCES WINKEL
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES OCTOBER 31, 1992

11.

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of the Rule of the Minnesota Department of Health Governing Procedures for Exceptions to Moratorium, Proposed Minnesota Rules, parts 4655.1070 to 4655.1100.

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, October 17, 1988, 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 Monday, August 1, 1988, 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, MN 55155
Telephone: (612) 296-1288

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

Mike Dean
Central Medical Building
393 North Dunlap Street
P. O. Box 64900
St. Paul, MN 55164-0900
Telephone: (612) 643 - 2156

Dated: 10/17/88

Michael G. Dean

Michael G. Dean
Rules Development Coordinator
Health Resources Division

Findings

no statement that someone requested to notified of Submission to A-G.

Rule

p12 line 20

"selected" - sub. chng? They changed the words from ~~or~~ including all ~~existing~~ existing enviromental conditions to ~~a~~ selected conditions

p12 line 27+32

~~Proposed Rule~~:

By adding qualifications (for the purpose of evaluation, comparison & ranking) did they sub. chng?

p19 lines 2-8

Removing Penalty: Substantial Change?

Authority

OK

Percentage which eligible applicants share in the cost of treatment	Income Levels by Number of Members in Household				
%	1	2	3	4	5
7	35,104-36,103	35,766-36,765	36,427-37,426	37,089-38,088	37,750-38,749
8	36,104-37,103	36,766-37,765	37,427-38,426	38,089-39,088	38,750-39,749
9	37,104-38,103	37,766-38,765	38,427-39,426	39,089-40,088	39,750-40,749
10	38,104-39,103	38,766-39,765	39,427-40,426	40,089-41,088	40,750-41,749
11	39,104-40,103	39,766-40,765	40,427-41,426	41,089-42,088	41,750-42,749
12	40,104-41,103	40,766-41,765	41,427-42,426	42,089-43,088	42,750-43,749
13	41,104-42,103	41,766-42,765	42,427-43,426	43,089-44,088	43,750-44,749
14	42,104-43,103	42,766-43,765	43,427-44,426	44,089-45,088	44,750-45,749
15	43,104-44,103	43,766-44,765	44,427-45,426	45,089-46,088	45,750-46,749
16	44,104-45,103	44,766-45,765	45,427-46,426	46,089-47,088	46,750-47,749
17	45,104-46,103	45,766-46,765	46,427-47,426	47,089-48,088	47,750-48,749
18	46,104-47,103	46,766-47,765	47,427-48,426	48,089-49,088	48,750-49,749

Minnesota Department of Health

Health Resources Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Emergency Rules Governing Review of Proposals for Exceptions to the Moratorium on the Licensure of Nursing Home Beds and the Medical Assistance Certification of Nursing Home or Licensed Boarding Care Home Beds

Notice is hereby given that the State Department of Health is seeking information or opinions from sources outside the department in preparing to propose the adoption of emergency rules governing review of proposals for exceptions to the nursing home and boarding care bed moratorium contained in *Minnesota Statutes*, section 144A.071. The adoption of the proposed emergency rules is authorized by *Laws of Minnesota, 1988*, chapter 689, article 2, section 39.

The state Department of Health requests information and comments concerning the subject matter of these rules. Interested or affected groups or persons may submit statements of information or opinions orally or in writing to: Michael G. Dean, Health Resources Division, 717 S.E. Delaware Street, P.O. Box 9441, Minneapolis, Minnesota 55440. (612) 623-5424 (May 23rd and after: (612) 624-2156).

This notice extends the previously published December 31, 1987 deadline for accepting information and opinions to June 30, 1988, 4:30 p.m. Written material received by the Department of Health will become part of the rulemaking record to be submitted to the attorney general or administrative law judge if the rules are adopted.

H. Michael Tripple, Director
Health Resources Division

Metropolitan Council of the Twin Cities Area

Notice of Public Hearing on Proposed Revisions to the *Transportation Development Guide/Policy Plan*

The Metropolitan Council will hold a public hearing on Thursday, June 23, 1988 on the proposed revisions to the *Transportation Development Guide/Policy Plan*. The hearing will be held from 2 to 4 p.m. and at 7 p.m. in the Metropolitan Council Chambers, at the Council's office. The purpose of the draft plan is to guide the development of the metropolitan transportation system through 2010. The plan proposes 19 policies addressing a broad range of transit and highway issues to be implemented through a variety of strategies that accompany these policies. It also reflects a new emphasis on providing direction for and monitoring of transit service by implementing agencies including the Regional Transit Board (RTB). In accordance with state law, the comments of the RTB regarding the proposed plan are also to be made available at the public hearing. It should also be noted that changes in the policy plan may affect the standards for determining projects of metropolitan significance in the Council's metropolitan significance rules. All interested persons are encouraged to attend the hearing and offer comments or submit comments in writing. The hearing record will be held open through July 8. People may register to speak in advance by calling Jane Larson at 291-6500. Copies of the proposed plan will be available for public inspection beginning May 16 at designated libraries throughout the region. For information on the location of these libraries or a free copy of the proposed plan and RTB's comments, call 291-6464.

minnesota department of health
health resources division (612) 643-2100
393 north dunlap street p.o. box 64900 st. paul 55164-0900

MEMORANDUM

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

FROM: Michael Dean, Rules Development Coordinator
Health Resources Division

SUBJECT: Attorney General's Review of Emergency Rule; rules pertaining to procedures for exceptions to moratorium.

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0400 for your review of an emergency rule 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 an emergency rule as mailed.

4. The affidavit of mailing the notice of intent to adopt an emergency rule. The affidavits state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.30, is accurate, complete, and current and that the notice of intent to adopt the emergency rule was mailed to all persons and groups whose names appear on the list.

5. Affidavit of additional mailing to persons not on the agency list but who are affected by the rule.

6. A copy or photocopy of the notice of intent to adopt the emergency rule as published in the State Register.

7. Four copies of the emergency 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 emergency rule.

9. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule.

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

11. The notice of submission of the rule to the attorney general, if applicable.

12. The affidavit of mailing notice of submission of the rule to the attorney general, if applicable.

If you have any questions on this submitted material, please call me at 643 - 2156.