

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ATTORNEY GENERAL

December 2, 1988

Jim Schmidt, Rules & Bulletins
Department of Human Services
444 Lafayette Rd., St. Paul 55155

MARTHA J. CASSERLY
Special Assistant Attorney General
515 Transportation Building

6-6839

In the Matter of the Adopted Rule Relating to
Revisor Instructions on the Human Services
Licensing Act

The above-referenced rule has been approved as to its legality by the Attorney General on November 30, 1988.

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

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:bbl
Enclosure

mjc

File No. 1937 Docket No. 05.0209.0884

DATE RECEIVED 11/16/88 ADOPTED W/O HEARING X

REVIEW DATE 11/29/88 EMERGENCY RULE _____

DUE DATE 11/30/88 REVISOR APPROVED X

APPROVED 11.30.88 mjc REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE 12-2-88

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~

_____ ~~Date published in State Register~~

_____ ~~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

245A.09
14.07 Statutory Authority
NO Small Business Statement
Yes Expenditure of public money statement
Yes Signature

✓ Statement of Need and Reasonableness (if applicable)

NO Small Business Statement
N/A Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

10/5/88 Date (30)/25 days before adoption
Yes Notice attached
_____ ~~Copy of rule or summary attached~~

_____ Publication in State Register

10/10/88 Date (30)/25 days before adoption

_____ 180-day deadline from:

11/5/88 end of comment period (§ 14.26) (rules without hearing)

_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

11/10/88 Date

_____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney

Mary Stanislav Name of SAAG representing agency

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

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

Department of Human Services

Adopted Permanent Rules Relating to Revisor Instructions on the Human Services Licensing Act

REVISOR INSTRUCTIONS

The revisor of statutes is instructed to change in Minnesota Rules the following terms and statutory references to the Public Welfare Licensing Act, Minnesota Statutes, sections 245.781 to 245.812, which was repealed in Laws of Minnesota 1987, chapter 333. The revisor shall replace the following terms and statutory references with terms and statutory references that conform to the Human Services Licensing Act, Minnesota Statutes, sections 245A.01 to 245A.16.

Wherever the term "day care facility" or "residential facility" appears in Minnesota Rules, the revisor shall replace the term with "nonresidential program" or "residential program" or similar terms, where appropriate.

Wherever a term is used in Minnesota Rules to refer to "day care facility" or "residential facility," the revisor shall replace the term with "nonresidential program" or "residential program" or similar terms, where appropriate.

Wherever the term "day care and residential facilities," or "day care or residential facilities" is used in Minnesota Rules, the revisor shall replace the term with "residential and nonresidential programs" or "residential or nonresidential program" or similar terms, where appropriate.

Wherever the term "facility" or "facilities" is used in Minnesota Rules to refer to residential or nonresidential programs, the revisor shall replace the term with "residential and nonresidential programs" or "residential or nonresidential program," or similar terms, where appropriate.

The revisor shall replace references to repealed Minnesota Statutes, sections 245.781 to 245.812, with references to the proper sections in Minnesota Statutes, sections 245A.01 to 245A.16, or, where appropriate, with "chapter 245A."

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 2 1988

Joan Anderson Growe

Secretary of State

3:12 PM

APPROVED AS TO FORM AND LEGALITY

November 30 19 88

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassidy

SPECIAL ASSISTANT ATTORNEY GENERAL

1537
mgc

Rec'd 11/16/88
OK RMD

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3816

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

FROM: Jim Schmidt, Rules & Bulletins
Dept. of Human Services

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Relating to Revisor Instructions on the Human Services Licensing Act

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0300 for your review of a rule adopted without a public hearing for the above entitled matter.

Official documents in this submitted material include:

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

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

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

4. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavits state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a is accurate, complete, and current and that the notice of intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list.

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

6. Four copies of the rule as adopted. Any modification made to the proposed rule is reflected on the rule as adopted and is approved as to form by the revisor of statutes.

7. The findings of fact, conclusions, and order adopting the rule.

8. No written requests, submissions, or comments on the rule were received by the agency with the exception of five (5) requests for copies of the rule or of the statement of need and reasonableness.

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

10. The agency did not receive any requests from persons who wished to be notified of the submittal of the rule to the Attorney General.

11. No notice of solicitation of outside information or opinions was published in the State Register.

If you have any questions on this submitted material, please call me at 296-7815.

Department of Human Services

Proposed Permanent Rules Relating to Revisor Instructions on the Human Services Licensing Act

REVISOR INSTRUCTIONS

The revisor of statutes is instructed to change in Minnesota Rules the following terms and statutory references to the Public Welfare Licensing Act, Minnesota Statutes, sections 245.781 to 245.812, which was repealed in Laws of Minnesota 1987, chapter 333. The revisor shall replace the following terms and statutory references with terms and statutory references that conform to the Human Services Licensing Act, Minnesota Statutes, sections 245A.01 to 245A.16.

Wherever the term "day care facility" or "residential facility" appears in Minnesota Rules, the revisor shall replace the term with "nonresidential program" or "residential program" or similar terms, where appropriate.

Wherever a term is used in Minnesota Rules to refer to "day care facility" or "residential facility," the revisor shall replace the term with "nonresidential program" or "residential program" or similar terms, where appropriate.

Wherever the term "day care and residential facilities," or "day care or residential facilities" is used in Minnesota Rules, the revisor shall replace the term with "residential and nonresidential programs" or "residential or nonresidential program" or similar terms, where appropriate.

Wherever the term "facility" or "facilities" is used in Minnesota Rules to refer to residential or nonresidential programs, the revisor shall replace the term with "residential and nonresidential programs" or "residential or nonresidential program," or similar terms, where appropriate.

The revisor shall replace references to repealed Minnesota Statutes, sections 245.781 to 245.812, with references to the proper sections in Minnesota Statutes, sections 245A.01 to 245A.16, or, where appropriate, with "chapter 245A."

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Revisor Instructions on the Human Services Licensing Act

AGENCY: Department of Human Services

The attached rules are approved for publication in the State Register

Kathleen M. Traxler
Assistant Revisor

Department of Human Services

In the Matter of the Proposed Adoption of Amendments to clean up rules to conform to the Human Services Licensing Act of 1987

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 14.07, subdivision 7 and section 245A.09.

All persons have 30 days or until 4:30 p.m. on November 9, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Jim Schmidt
Rules and Bulletins Division
444 Lafayette Road
St. Paul, Minnesota 55155-3816
(612) 296-7815.

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

The proposed rule is necessary to instruct the Revisor of Statutes to amend certain terms and statutory references in rules adopted under the former "Public Welfare Licensing Act" in order to conform to terms and statutory references under the "Human Services Licensing Act of 1987," Laws of Minnesota 1987, chapter 333. For example, references to the term "residential facility" will be changed to "residential program" when appropriate to conform with the Human Services Licensing Act. The proposed rule will not affect the operation of any licensed program, nor will it affect services provided.

A free copy of the rule is available upon request from Jim Schmidt. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

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

Adoption of these rules will not result in additional spending by local public bodies.

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

Date: 9/23/86

SANDRA S. GARDEBRING
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO CLEAN-UP RULES TO CONFORM TO THE HUMAN SERVICES LICENSING ACT OF 1987

AFFIDAVIT OF MAILING

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

That on the 5th day of October, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without A Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who have requested that their names be placed on file with the Department of Human Services for the purpose of receiving notice of hearing by this Department.

Nancy Storelee

Subscribed and sworn to before me

this 5th day of October, 1988

Louise J. Breidel

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

Department of Human Services

In the Matter of the Proposed Adoption of Amendments to clean up rules to conform to the Human Services Licensing Act of 1987

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 14.07, subdivision 7 and section 245A.09.

All persons have 30 days or until 4:30 p.m. on November 9, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Jim Schmidt
Rules and Bulletins Division
444 Lafayette Road
St. Paul, Minnesota 55155-3816
(612) 296-7815.

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

The proposed rule is necessary to instruct the Revisor of Statutes to amend certain terms and statutory references in rules adopted under the former "Public Welfare Licensing Act" in order to conform to terms and statutory references under the "Human Services Licensing Act of 1987," Laws of Minnesota 1987, chapter 333. For example, references to the term "residential facility" will be changed to "residential program" when appropriate to conform with the Human Services Licensing Act. The proposed rule will not affect the operation of any licensed program, nor will it affect services provided.

A free copy of the rule is available upon request from Jim Schmidt. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

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

Adoption of these rules will not result in additional spending by local public bodies.

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

Date: 9/23/86

SANDRA S. GARDEBRING
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO CLEAN-UP RULES TO CONFORM TO THE HUMAN SERVICES LICENSING ACT OF 1987

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 5th day of October, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without A Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following parties:

-The 87 Minnesota County Human Services Agencies

Nancy Storelee

Subscribed and sworn to before me

this 5th day of October, 1988

Louise J. Breidel

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

Department of Human Services

In the Matter of the Proposed Adoption of Amendments to clean up rules to conform to the Human Services Licensing Act of 1987

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 14.07, subdivision 7 and section 245A.09.

All persons have 30 days or until 4:30 p.m. on November 9, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Jim Schmidt
Rules and Bulletins Division
444 Lafayette Road
St. Paul, Minnesota 55155-3816
(612) 296-7815.

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

The proposed rule is necessary to instruct the Revisor of Statutes to amend certain terms and statutory references in rules adopted under the former "Public Welfare Licensing Act" in order to conform to terms and statutory references under the "Human Services Licensing Act of 1987," Laws of Minnesota 1987, chapter 333. For example, references to the term "residential facility" will be changed to "residential program" when appropriate to conform with the Human Services Licensing Act. The proposed rule will not affect the operation of any licensed program, nor will it affect services provided.

A free copy of the rule is available upon request from Jim Schmidt. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

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

Adoption of these rules will not result in additional spending by local public bodies.

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

Date: 9/23/86

SANDRA S. GARDEBRING
Commissioner

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register.* The notice must advise the public:

1. **that they have 30 days in which to submit comment on the proposed rules;**
2. **that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;**
3. **of the manner in which persons shall request a hearing on the proposed rules; and**
4. **that the rule may be modified if the modifications are supported by the data and views submitted.**

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Human Services

Proposed Permanent Rules Relating to Revisor Instructions on the Human Services Licensing Act

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes,* section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes,* section 14.07, subdivision 7 and section 245A.09.

All persons have 30 days or until 4:30 p.m. on November 9, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes,* sections 14.131 to 14.20.

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

Jim Schmidt
Rules and Bulletins Division
444 Lafayette Road
St. Paul, Minnesota 55155-3816
(612) 296-7815.

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

The proposed rule is necessary to instruct the Revisor of Statutes to amend certain terms and statutory references in rules adopted under the former "Public Welfare Licensing Act" in order to conform to terms and statutory references under the "Human Services Licensing Act of 1987," *Laws of Minnesota 1987,* chapter 333. For example, references to the term "residential facility" will be changed to "residential program" when appropriate to conform with the Human Services Licensing Act. The proposed rule will not affect the operation of any licensed program, nor will it affect services provided.

A free copy of this rule is available upon request from Jim Schmidt. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

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.

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

Adoption of these rules will not result in additional spending by local public bodies.

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

Sandra S. Gardebring
Commissioner

REVISOR INSTRUCTIONS

The revisor of statutes is instructed to change in *Minnesota Rules* the following terms and statutory references to the Public Welfare Licensing Act, *Minnesota Statutes,* sections 245.781 to 245.812, which was repealed in Laws of Minnesota 1987, chapter 333. The revisor shall replace the following terms and statutory references with terms and statutory references that conform to the Human Services Licensing Act, *Minnesota Statutes,* sections 245A.01 to 245A.16.

Wherever the term "day care facility" or "residential facility" appears in *Minnesota Rules,* the revisor shall replace the term with "nonresidential program" or "residential program" or similar terms, where appropriate.

Wherever a term is used in *Minnesota Rules* to refer to "day care facility" or "residential facility," the revisor shall replace the term with "nonresidential program" or "residential program" or similar terms, where appropriate.

Wherever the term "day care and residential facilities," or "day care or residential facilities" is used in *Minnesota Rules,* the revisor shall replace the term with "residential and nonresidential programs" or "residential or nonresidential program" or similar terms, where appropriate.

Wherever the term "facility" or "facilities" is used in *Minnesota Rules* to refer to residential or nonresidential programs, the revisor shall replace the term with "residential and nonresidential programs" or "residential or nonresidential program," or similar terms, where appropriate.

The revisor shall replace references to repealed *Minnesota Statutes,* sections 245.781 to 245.812, with references to the proper sections in *Minnesota Statutes,* sections 245A.01 to 245A.16, or, where appropriate, with "chapter 245A."

Department of Labor and Industry

Proposed Permanent Rules Relating to Boilers and Power Boats

Notice of Intent to Adopt Amendments to Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry, Code Enforcement Boiler Inspection Division, intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes,* sections 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* § 183.44, subd. 2 (1986), *Minnesota Statutes* § 183.465 (1986) and *Minnesota Statutes* § 183.466 (1986).

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes,* sections 14.131 to 14.20.

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

Charles Curren, Assistant Commissioner
Department of Labor and Industry
4th Floor—443 Lafayette Road
St. Paul, Minnesota 55101
Phone: (612) 296-6529

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Relating to Revisor Instructions on the Human Services Licensing Act

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

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on October 10, 1988 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on October 5, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency. Therefore the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn. No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Revisor Instructions on the Human Services Licensing Act is adopted this 10 day of November, 1988 pursuant to authority vested in me by Minnesota Statutes, section 245A.09.

SANDRA S. GARDEBRING
Commissioner

In the Matter of the Adoption
of the Rule of the State Department
of Human Services Relating to Revisor
Instructions on the Human Services
Licensing Act

DECLARATION OF
COUNSEL

I, Mary Stanislav, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0884.

Mary L. Stanislav
Special Assistant
Attorney General

Dated: 11-13-88

RECEIVED

NOV 16. 88

ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO CLEAN-UP RULES TO CONFORM TO THE HUMAN SERVICES LICENSING ACT OF 1987

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 5th day of October, 1988.

Nancy Storlie

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed
Adoption of Amendments to
clean up rules to conform to
the Human Services Licensing
Act of 1987

STATEMENT OF NEED
AND REASONABLENESS

Introduction

The "Human Services Licensing Act of 1987," Minnesota Statutes chapter 245A, replaced the former "Public Welfare Licensing Act," Minnesota Statutes, sections 245.781 to 245.812. Although the legislation directed the Revisor's Office to change certain statutory references in Minnesota Statutes, the legislation through an error of omission did not direct the Revisor to make similar changes in Minnesota Rules. The purpose of the proposed rule is to "clean up" Minnesota Rules by directing the Revisor's Office to replace obsolete terminology and statutory references adopted under the former "Public Welfare Licensing Act" with the terminology and statutory references of the "Human Services Licensing Act of 1987".

The proposed rule directs the Revisor's Office to replace obsolete terms and references under the "Public Welfare Licensing Act" with those terms and references that conform to the statutory language of the Human Services Licensing Act of 1987. The statutory authority for the establishment of this rule is Minnesota Statutes, section 14.07, subdivision 7 and section 245A.09.

Human Services Licensing Act

The "Human Services Licensing Act of 1987", Minnesota Statutes, chapter 245A superseded the "Public Welfare Licensing Act" adopted in 1976. Under the former public welfare licensing act the Department of Human Services adopted a number of rules that used terms and statutory references specific to the public welfare licensing act. Under the former act the Department of Human Services licensed a "facility" whereas, under the revised terminology of the Human Services Licensing Act of 1987, a "program" is now licensed by the Department. In addition, in a number of instances the rules cite the statutory authority under sections 245.781 to 245.812 which were repealed and replaced with chapter 245A. Therefore, minor editorial or clean up amendments are necessary in order to be consistent with the Human Services Licensing Act of 1987. Moreover, the Revisor's Office will be printing a new edition of Minnesota Rules and has requested that any technical amendments to Minnesota Rules be completed as soon as possible so that when the rules are republished they will be up-to-date.

STATEMENT OF NEED AND REASONABLENESS
HUMAN SERVICES LICENSING ACT
CLEAN UP AMENDMENTS

Terminology changes

The former public welfare licensing act defined the term "day care facility" as "any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers, and day services".

The 1987 Human Services Licensing Act did not redefine "day care facility" rather, it used a comparable term "nonresidential program". Minnesota Statutes, section 245A.02, subdivision 10, defines "nonresidential program" to mean "care, supervision, rehabilitation, training, or habilitation of a person provided outside the person's own home and provided for fewer than 24 hours a day, including adult day care programs; a nursing home that receives public funds to provide services for five or more persons whose primary diagnosis is mental retardation or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a nursing home or hospital and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Nonresidential programs include home and community-based services and semiindependent living services for persons with mental retardation that are provided in or outside of a person's own home".

Whenever the term "day care facility" is used in the department's rules as a generic term for a nonresidential program, the Revisor will replace "day care facility" with the term "nonresidential program".

The former public welfare licensing act defined the term "residential facility" as "any facility, public or private, which for gain or otherwise regularly provides one or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to: state institutions under the control of the commissioner of human services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults, or schools for handicapped children".

The 1987 Human Services Licensing Act did not redefine "residential facility" rather, it used a comparable term "residential program". Minnesota Statutes, section 245A.02, subdivision 14, defines "residential program" to mean "a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner, to provide services for five or more

persons whose primary diagnosis is mental retardation or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Residential programs include home and community-based services and semiindependent living services for persons with mental retardation that are provided in or outside of a person's own home".

Whenever the term "residential facility" is used in the department's rules as a generic term for a residential program, the Revisor will replace "residential facility" with the term "residential program".

In many instances the term "facility" is used in Minnesota Rules which under the "Human Services Licensing Act" refers to a "residential program" or "nonresidential program". The Revisor will replace the term "facility" with the proper term "residential program" or "nonresidential program". The substitution of the proper phrase will depend on the particular rule being amended.

In many instances the term "facilities" is used in Minnesota Rules which under the "Human Services Licensing Act" should be referred to as "residential and nonresidential programs" or "residential or nonresidential programs". The Revisor will replace the term "facilities" with the proper term "residential and nonresidential programs" or "residential or nonresidential programs" depending on how the term is used in the rule.

Changes in Statutory Citations

The "Human Services Licensing Act of 1987" retained much of the former "Public Welfare Licensing Act" but was recodified under a new chapter of Minnesota Statutes, chapter 245A. The Revisor's Office is instructed to replace the obsolete reference to Minnesota Statutes, sections 245.781 to 245.812 with the proper statutory reference in Minnesota Statutes, sections 245A.01 to 245A.16. Examples of statutory citations which need to be changed and the corresponding change in chapter 245A are:

1. References to Minnesota Statutes, "sections 245.781 to 245.812" will be changed by the Revisor's Office to "sections 245A.01 to 245A.16";
2. References to Minnesota Statutes, "section 245.791" will be changed by the Revisor's Office to "section 245A.03, subdivision 2";
3. References to Minnesota Statutes, "section 245.801" will be changed by the Revisor's Office to "section 245A.05";
4. etc.

The clean up amendments are necessary to ensure that terms used in rules adopted prior to the passage of the "Human Service Licensing Act" are consistent with statutory terms and definitions. The amendments are reasonable because the terms are consistent with Minnesota Statutes.

Expert Witnesses

If this rule should go to public hearing, the Department does not plan to have outside expert witnesses testify on its behalf.

DATE: 9/23/88

SANDRA S. GARDEBRING
Commissioner

FISCAL NOTE

AMENDMENTS TO CONFORM TO THE HUMAN SERVICES LICENSING ACT

The proposed rule will have no fiscal impact on the counties or residential and nonresidential program license holders.

The proposed rule will not affect the operation of any licensed program, nor will it affect services provided.

DATE: 9/23/86

SANDRA S. GARDEBRING
Commissioner

Authority

14.07

245A.09 gk

Rule

See AG Copy of Rule for Comments.