

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: December 12, 1990

TO: NANCY BISHOP
Department of Human Services

FROM: CHARLENE HATCHER ch
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to County Assistance; Mentally Ill Persons Released from State Hospitals

The above-referenced rule has been approved as to its legality by the Attorney General on December 11, 1990.

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 tne 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.

CH:sc
Enclosures
cc: William Brown, Chief Judge
MaryAnn Hruby
Deborah Huskins

CH

RULE REVIEW CHECKLIST

File No. 1763
DATE RECEIVED 11-30-90
REVIEW DATE ~~12-9-90~~ 12-10-90
DUE DATE 12-14-90
(DIS)APPROVED 12-11-90
WITHDRAWN _____

Docket No. 15.0039.0873
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 12-5-90
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE 12-11-90
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

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
no authority Statutory Authority
_____ Small Business Statement
_____ Expenditure of public money statement
4-17-90 Signature

✓ Statement of Need and Reasonableness (if applicable)
NA Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
May 2, 1990 Dated (30)/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
May 7, 1990 Date (30)/25 days before adoption

✓ 180-day deadline from:
NA Effective date of law requiring rule (14.12) (both rules) amendments don't apply
_____ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

repeal

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
November 28, 1990 Date

✓ Written Requests, Submissions or Comments

_____ Declaration of Attorney
Deborah Huskins Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

Department of Human Services

Adopted Permanent Rules Relating to County Assistance; Mentally Ill Persons Released from State Hospitals

Rules as Adopted

REPEALER. Minnesota Rules, parts 9520.0300, 9520.0310, and 9520.0320 are repealed.

APPROVED AS TO LEGALITY

December 11, 19 90

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene H. Hatcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 11 1990 am

Joan Anderson Growe
Secretary of State

4:20

No stat Authord to promugate rules stated in Notice of Intent

See 14.22 para 1

June 6, 1990 stated as end of comment period in Notice of Intent - May 9 - June 6 = 30

Statutory Authority is stated in SOLAR

253B.20 subd 2
.... The commissioner shall establish procedures by rule to help the patient receive all public assistance benefits provided by state of federal law to which the patient is entitled by residence and circumstances.

180 day

14.26
end of comment period
June 6 — 11-30 = 177 days
O.K.
Just made it

We had made prople start over when they put the wrong authority - this doesn't have any authority.

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULE OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING THE COUNTY WELFARE BOARD AND ITS ASSISTANCE TO PATIENTS RELEASED FROM STATE HOSPITALS FOR THE MENTALLY ILL, MINNESOTA RULES, PARTS 9520.0300 TO 9520.0320

NOTICE OF INTENT TO REPEAL A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the State Department of Human Services intends to repeal 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.

(2) All persons have 30 days or until 4:30 p.m. on June 6, 1990, in which to submit comment in support of or in opposition to the repeal of the rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the 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. (4) 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. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

(8) The rule may be modified if the modifications are supported by data and views submitted to the agency.

(11) The Rule parts 9520.0300 to 9520.0320, proposed to be repealed, provided methods and procedures for county welfare boards to follow in their assistance to patients released from state hospitals for the mentally ill.

The rule also described the procedures of the release plan for patients with and without relatives. These procedures include: construction of sound release plans by the patient's hospital; financial assistance to discharged patients; collaboration between hospitals and county welfare boards to assist patients in finding suitable employment and shelter; and maintenance of records by county welfare boards.

This rule has no affect on counties or patients since it is obsolete.

Current provisions and duties related to county responsibilites for services to persons being discharged from regional treatment centers are included in Minnesota Rules, parts 9550.0010 to 9550.0092 (Rule 160), Minnesota Rules, parts 9525.0015 to 9525.0165 (Rule 185), the Comprehensive Adult Mental Health Act, Minnesota Statutes, sections 245.461 to 245.486, and the Comprehensive Children's Mental Health Act, Minnesota Statutes, sections 245.487 to 245.4887.

(11) A free copy of the rule to be repealed is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling 296-7454. 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.

(12) A Statement of Need and Reasonableness that describes the need and reasonableness of repeal of the rule and identifies the data and information relied upon to support the proposed rule repeal has been prepared and is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

(13) Repeal 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 repeal under the requirements of Minnesota Statutes, section 14.11.

(9) If no hearing is required, upon adoption of the repeal 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 repealed rule, must submit the written request to Sylvia L. Strobel, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Date: 4-17-90

ANN WYNIA
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF REPEALING ADOPTED RULES OF THE DEPARTMENT OF HUMAN SERVICES GOVERNING THE COUNTY WELFARE BOARD AND ITS ASSISTANCE TO PATIENTS RELEASED FROM STATE HOSPITALS FOR THE MENTALLY ILL, MINNESOTA RULES, PARTS 9520.0300 TO 9520.0320

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The adopted rule parts 9520.0300 to 9520.0320 had provided methods and procedures for county welfare boards to follow in their assistance to patients released from state hospitals for the mentally ill. The authority for the establishment of this rule is Minnesota Statutes, section 253B.20, subd. 2.

Rule parts 9520.0310 to 9520.0320 also described the procedures of the release plan for patients with and without relatives. These procedures include: 1) construction of sound release plans by the patient's hospital 2) financial assistance to discharged patients 3) collaboration between hospitals and county welfare boards to assist patients in finding suitable employment and shelter, and 4) maintenance of records by county welfare boards.

The above entitled rule repeal is necessary since rule parts 9520.0300 to 9520.0320 have been incorporated into Minnesota Rules, parts 9550.0010 to 9550.0092 (Rule 160), Minnesota Rules, parts 9525.0015 to 9525.0165 (Rule 185), the Comprehensive Adult Mental Health Act, Minnesota Statutes, sections 245.461 to 245.486, and the Comprehensive Children's Mental Health Act, Minnesota Statutes, sections 245.487 to 245.4887.

RULE PROVISIONS

The above entitled rules are affirmatively presented by the department in the following narrative in accordance with the provisions of the Minnesota Administrative Procedure Act, Minnesota Statutes, chapter 14, and the rules of the Attorney General's Office.

The repeal of rule parts 9520.0300 to 9520.0320 is necessary and reasonable since the rule parts are incorporated into Minnesota Rules, parts 9550.0010 to 9550.0092 (Rule 160), Minnesota Rules, parts 9525.0015 to 9525.0165 (Rule 185), the Comprehensive Adult Mental Health Act, Minnesota Statutes, sections 245.461 to 245.486, and the Comprehensive Children's Mental Health Act, Minnesota Statutes, sections 245.487 to 245.4887. The authority for

establishment of rule parts 9550.0010 to 9550.0092 is Minnesota Statutes, Chapter 256E and the authority for establishment of rule parts 9525.0015 to 9525.0165 is Minnesota Statutes, Chapter 256B. Additionally, recent amendments to the mental health acts per Minnesota Laws 1989, chapter 282, article 4, sections 19, 21, and 49, further clarify the provisions of discharge from regional treatment centers to the community.

EXPERT WITNESSES

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

SMALL BUSINESS

The proposed rule amendments do not affect small businesses as defined in Minnesota Statutes, section 14.115.

1-17-90
Date

ANN WYNIA
Commissioner

All persons have 30 days or until 4:30 p.m. on June 6, 1990, in which to submit comment in support of or in opposition to the proposed rule repeal or any part or subpart of the rule repeal. Comment is encouraged. Each comment should identify the portion of the proposed rule repeal 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 repeal 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: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, or by calling (612) 296-7454.

The proposed rule repeal 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 repeal as noticed.

Minnesota Rules, parts 9580.0100 to 9580.0600 were authorized by *Minnesota Statutes*, section 256D.22 and had provided property tax relief as a result of state financial aid for certain welfare administrative costs. The adopted rule parts had also provided a method to calculate state reimbursement for county welfare administrative costs. Rule parts 9580.0100 to 9580.0600 affected county agencies.

The repeal of rule parts 9580.0100 to 9580.0600 is authorized by Laws of Minnesota 1988, chapter 719, article 8, section 33, which repealed *Minnesota Statutes*, section 256D.22.

The repeal of *Minnesota Statutes*, section 256D.22, was done in conjunction with the State takeover of certain Income Maintenance program costs. Legislative intent was that the county increase in administrative costs would be more than offset by the county reduction in responsibility for Income Maintenance program costs.

A free copy of the rule is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, or by calling (612) 296-7454. 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 an is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-381, or by calling (612) 296-7454.

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

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, or by calling (612) 296-7454.

Ann Wynia
Commissioner

Rules as Proposed (all new material)

REPEALER. *Minnesota Rules*, parts 9580.0100, 9580.0200, 9580.0300, 9580.0400, 9580.0500, and 9580.0600 are repealed.

Department of Human Services

Proposed Permanent Rules Relating to County Assistance; Mentally Ill Persons Released from State Hospitals

Notice of Intent to Repeal a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to repeal 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.

All persons have 30 days or until 4:30 p.m. on June 6, 1990, in which to submit comment in support of or in opposition to the repeal of the rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the 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 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: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

The rule may be modified if the modifications are supported by data and views submitted to the agency.

The Rule parts 9520.0300 to 9520.0320, proposed to be repealed, provided methods and procedures for county welfare boards to follow in their assistance to patients released from state hospitals for the mentally ill.

The rule also described the procedures of the release plan for patients with and without relatives. These procedures include: construction of sound release plans by the patient's hospital; financial assistance to discharged patients; collaboration between hospitals and county welfare boards to assist patients in finding suitable employment and shelter; and maintenance of records by county welfare boards.

This rule has no affect on counties or patients since it is obsolete.

Current provisions and duties related to county responsibilities for services to persons being discharged from regional treatment centers are included in *Minnesota Rules*, parts 9550.0010 to 9550.0092 (Rule 160), *Minnesota Rules*, parts 9525.0015 to 9525.0165 (Rule 185), the Comprehensive Adult Mental Health Act, *Minnesota Statutes*, sections 245.461 to 245.486, and the Comprehensive Children's Mental Health Act, *Minnesota Statutes*, sections 245.487 to 245.4887.

A free copy of the rule to be repealed is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling 296-7454. 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 and reasonableness of repeal of the rule and identifies the data and information relied upon to support the proposed rule repeal has been prepared and is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

Repeal 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 repeal under the requirements of *Minnesota Statutes*, section 14.11.

If no hearing is required, upon adoption of the repeal 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 repealed rule, must submit the written request to Sylvia L. Strobel, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Ann Wynia
Commissioner

Rules as Proposed (all new material)

REPEALER. *Minnesota Rules*, parts 9520.0300, 9520.0310, and 9520.0320 are repealed.

Nursing Home Administration Licensure Board

Proposed Permanent Rules Relating to Examination Scores

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Examiners for Nursing Home Administrators (hereinafter "Board"), 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* §§ 14.22 to 14.28 (1988). The statutory authority to adopt the rules is *Minnesota Statutes* § 144A.24 (1988).

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.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38____

TO: Patricia Nolte, Legal Assistant
Public Finance Division
525 Park Street, Suite 500

FROM: Bob Hamper, Director BH
Rules and Bulletins Division
Department of Human Services

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Proposed Repeal of Rule Governing the County Welfare Board and Its Assistance to Patients Released from State Hospitals for the Mentally Ill

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

Official documents in this submitted material include:

1. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the State Register.

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

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

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

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

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

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

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

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

9. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness.

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.

Please note that a Notice of Solicitation of Outside Opinion was not published for this proposed rule repeal, and also there were no requests for notification of submittal of this rule to the Attorney General.

If you have any questions on this submitted material, please call me at 296-2794.

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Repeal of the Rule of the State Department of Human Services Governing the County Welfare Board and its Assistance to Patients Released from State Hospitals for the Mentally Ill, Minnesota Rules, Parts 9520.0300 to 9520.0320

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

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on May 7, 1990 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 May 2, 1990. (2) 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.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) The agency received one request for a public hearing, of which none were subsequently withdrawn. Therefore the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn. (7) No requests for notice of submission to the attorney general were received for the agency.

(6) Based on the comments and evidence in the record before the agency, I find the following:

The Department received comments from Kathy Kosnoff, Supervising Attorney, Minnesota Mental Health Law Project. Listed below are Ms. Kosnoff's comments and the Department's response to each:

Comment #1. Despite legislation requiring provision of case management services to chronic and persistently mentally ill individuals, the reality is that many counties do not provide adequate case management services and, those that do, frequently refuse to provide case management at all until after the individual has been released from the state hospital. The result is often that discharge is held up for a significant period of time for lack of those services in the community and/or there is a significant gap between discharge and the provision of services after the individual returns to the community. Many individuals "fall through the cracks" and often fail in the community simply because adequate follow-up care, shelter and public benefits have not been put in place prior to their discharge. The repeal of Minn. R. 9520.0320 would leave no provision for what happens and who is responsible to coordinate and establish pre-discharge services when no case manager has been assigned.

Department response:

All persons with serious and persistent mental illness discharged from regional treatment centers are eligible for case management services from counties under parts 9505.0476 to 9505.0491 (Rule 74), either because of their diagnoses or because of the duration or frequency of their need for inpatient or psychiatric hospitalization. Rule 74 (9505.0481) provides that those eligible be informed of the availability of case management services within five days of admission to a regional treatment center. Rule 74 clearly states that the time requirements for offering case management services apply to those admitted to regional treatment centers. If clients are not receiving services in a timely fashion, then the client would appear to have a cause of action against the county. Parts 9520.0300 to 9520.0320 (Rule 26) do not provide any additional safeguards. In either case, clients have the right to accept or deny these services.

Comments #2 and #3. Repeal of Minn. R. 9520.0320 would leave no provision for general relief (financial assistance) immediately upon release, if the individual is in need of immediate benefits.

Repeal of Minn. R. 9520.0320 would eliminate the duty of the RTC to make sound release plans early and to request services on behalf of the individual whether or not the county was willing or able to provide a case manager. Current statute and rule leaves no provision for <u>early application</u> for public assistance <u>prior</u> to release.

Department response:

Although Rule 74 does not directly address provisions of financial or shelter assistance, 9505.0477 defines case management services to include assisting persons "gain access to needed medical, social, educational, <u>financial</u>, and <u>other</u> services necessary to meet their mental health needs...." It is our experience that counties have used case management services under Rule 74 to assist those needing financial aid or shelter. In addition, counties can and often do sign clients up directly for financial assistance upon discharge.

Repeal of Rule 26 would not negate county responsibility under the Commitment Act for discharge planning and case disposition. Minnesota Statutes (1990), section 253B.20, subd. 4 [AFTERCARE SERVICES] require:

> Prior to the date of discharge, provisional discharge or partial institutionalization of any committed person, the designated agency of the county of the patient's residence, in cooperation with the head of the treatment facility, and the patients physician...shall establish a continuing plan of aftercare services for the patient including a plan for medical and psychiatric treatment, nursing care, vocational assistance, and other assistance the patient needs. The designated agency shall provide case management services, supervise and assist the patient in finding employment,

suitable shelter, and adequate medical and psychiatric treatment, and aid in the patient's readjustment to the community.

(Our most recent data, from June, 1989 indicates that approximately 71% of all adults with mental illness in Regional Treatment Centers are committed.)

Comment #4. Where counties have failed or refused to have put case management services in place prior to discharge, as is often the case, repeal of Minn. R. 9520.0320 would leave no requirement that county boards supervise and assist in finding shelter for the individual. Similarly, hospitals would be relieved of the requirement that they collaborate with counties in this effort in advance of release.

Department response:

Minnesota Statutes (1990), section 245.474, subdivision 3, clearly address the role of regional treatment centers, in coordination with the client's case manager, in planning for and assisting clients to make the transition to living in the community. In particular, the subdivision states,

> Before a client is discharged, the regional treatment center must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.

We agree that a number of counties do not yet have optimum levels of case management services available for all persons with serious and persistent mental illness. The Department has been working with counties to expand the number of case managers and the quality of services available.

Based on the above rationale the Department declines to withdraw the proposed repeal of these rules.

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

The above-captioned rule is needed and reasonable. (8)

NOW, THEREFORE, IT IS ORDERED that the rule identified as County Welfare Board and its Assistance to Patients Released from State Hospitals for the Mentally Ill are repealed this 28th day of November, 19 , pursuant to authority vested in me by Minnesota Statutes, section 256.01, subdivision 2 (1), and because the rules provisions have been (9)

superseded by Minnesota Rules, parts 9550.0010 to 9550.0092, parts 9525.0015 to 9525.0165 and Minnesota Statutes, sections 245.461 to 245.486 and 245.487 to 245.4887.

ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Repeal of the Rule of the State Department of Human Services Governing the County Welfare Board and its Assistance to Patients Released from State Hospitals for the Mentally Ill, Minnesota Rules, parts 9520.0300 to 9520.0320

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Nancy Bishop, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list which is accurate, complete, and current as of this 2nd day of May, 1990.

That on the 2nd day of May, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Repeal a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Nancy L. Bishop

Subscribed and sworn to before me
this 2 day of May, 1990.

Claudia A. Eliason

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULE OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING THE COUNTY WELFARE BOARD AND ITS ASSISTANCE TO PATIENTS RELEASED FROM STATE HOSPITALS FOR THE MENTALLY ILL, MINNESOTA RULES, PARTS 9520.0300 TO 9520.0320

NOTICE OF INTENT TO REPEAL A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to repeal 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.

All persons have 30 days or until 4:30 p.m. on June 6, 1990, in which to submit comment in support of or in opposition to the repeal of the rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the 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 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: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

The rule may be modified if the modifications are supported by data and views submitted to the agency.

The Rule parts 9520.0300 to 9520.0320, proposed to be repealed, provided methods and procedures for county welfare boards to follow in their assistance to patients released from state hospitals for the mentally ill.

The rule also described the procedures of the release plan for patients with and without relatives. These procedures include: construction of sound release plans by the patient's hospital; financial assistance to discharged patients; collaboration between hospitals and county welfare boards to assist patients in finding suitable employment and shelter; and maintenance of records by county welfare boards.

This rule has no affect on counties or patients since it is obsolete.

Current provisions and duties related to county responsibilites for services to persons being discharged from regional treatment centers are included in Minnesota Rules, parts 9550.0010 to 9550.0092 (Rule 160), Minnesota Rules, parts 9525.0015 to 9525.0165 (Rule 185), the Comprehensive Adult Mental Health Act, Minnesota Statutes, sections 245.461 to 245.486, and the Comprehensive Children's Mental Health Act, Minnesota Statutes, sections 245.487 to 245.4887.

A free copy of the rule to be repealed is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling 296-7454. 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 and reasonableness of repeal of the rule and identifies the data and information relied upon to support the proposed rule repeal has been prepared and is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

Repeal 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 repeal under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required, upon adoption of the repeal 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 repealed rule, must submit the written request to Sylvia L. Strobel, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Date: 4-17-90

ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Repeal of the Rule of the State Department of Human Services Governing the County Welfare Board and its Assistance to Patients Released from State Hospitals for the Mentally Ill, Minnesota Rules, parts 9520.0300 to 9520.0320

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 2nd day of May, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice 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

- The 10 Regional Treatment Centers

Nancy L. Bishop

Subscribed and sworn to before me
this 2 day of May, 1990
Claudia A. Eliason

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 15, 1990

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULE OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING THE COUNTY WELFARE BOARD AND ITS ASSISTANCE TO PATIENTS RELEASED FROM STATE HOSPITALS FOR THE MENTALLY ILL, MINNESOTA RULES, PARTS 9520.0300 TO 9520.0320

NOTICE OF INTENT TO REPEAL A RULE WITHOUT A PUBLIC HEARING

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All persons have 30 days or until 4:30 p.m. on June 6, 1990, in which to submit comment in support of or in opposition to the repeal of the rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the rule addressed, the reason for the comment, and any change proposed.

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Repeal 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 repeal under the requirements of Minnesota Statutes, section 14.11.

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Date: 4-17-90

ANN WYNIA
Commissioner

EXECUTIVE DIRECTOR
Jeremy Lane

MINNESOTA MENTAL HEALTH LAW PROJECT

DEPUTY DIRECTOR
Stephen E. Scott

MINNESOTA DISABILITY LAW CENTER

222 GRAIN EXCHANGE BUILDING
323 FOURTH AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55415
(612) 332-1441 • TDD (612) 332-4668
Toll Free 1-800-292-4150



June 6, 1990

Ms. Nancy Bishop
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Re: Notice of Intent to Repeal Minnesota Rules, Parts 9520.0300 to 9520.0320 without a Public Hearing

Dear Ms. Bishop:

As I explained to you in our telephone conversation today, the Mental Health Law Project has reviewed the above rules and compared them to recently promulgated rules and statutes. Based on our analysis, it does not appear that current provisions and duties related to county responsibilities for services for persons being discharged from regional treatment centers would include all of the entitlements and services covered by those rules the Department proposes to repeal. In brief, the existence of case management legislation and rules does not assure the same level of support, services and benefits for individuals approaching discharge from an RTC that MINN. R. 9520.0300-.0320 currently provide. Repeal of these rules and reliance on case management legislation would equal a significant loss for our clients, and we must therefore object to repeal of these rules and request a public hearing on the matter.

We would be happy to meet with you or to submit a more detailed analysis of our concerns in the near future. However, in order to meet the deadline for submission of comments our concerns are briefly summarized as follows:

1. Despite legislation requiring provision of case management services to chronic and persistently mentally ill individuals, the reality is that many counties do not provide adequate case management services and, those that do, frequently refuse to provide case management at all until <u>after</u> the individual has been released from the state hospital. The result is often that discharge is held up for a significant period of time for lack of those services in the community and/or there is a significant gap between discharge and the provision of services after the individual returns to the community. Many individuals "fall through the cracks" and often fail in the community simply because adequate follow-up care, shelter and public benefits have not been put in place prior to their discharge. The repeal of MINN. R. 9520.0320 would leave no provision for what happens and who is responsible to coordinate and establish pre-discharge services when no case manager has been assigned.

2. Repeal of MINN. R. 9520.0320 would leave no provision for general relief (financial assistance) immediately upon release, if the individual is in need of immediate benefits.

3. Repeal of MINN. R. 9520.0320 would eliminate the duty of the RTC to make sound release plans early and to request services on behalf of the individual whether or not the county was willing or able to provide a case manager. Current statute in rule leaves no provision for early application for public assistance prior to release.

4. Where counties have failed or refused to have put case management services in place prior to discharge, as is often the case, repeal of MINN. R. 9520.0320 would leave no requirement that county boards supervise and assist in finding shelter for the individual. Similarly, hospitals would be relieved of the requirement that they collaborate with counties in this effort in advance of release.

I hope that the above comments are useful to you. Either JoAnne Yanish of our office or I would be happy to meet with you and discuss the particulars of our concerns at your convenience. Thank you for your consideration of this matter.

Sincerely,

MINNESOTA MENTAL HEALTH LAW PROJECT

Kathy Kosnoff/MEP

Kathy Kosnoff
Supervising Attorney

KK:mef

cc: Bob Hamper

In the Matter of the Proposed Repeal of the Rule of the State Department of Human Services Governing the County Welfare Board and its Assistance to Patients Released from State Hospitals for the Mentally Ill, Minnesota Rules, Parts 9520.0300 to 9520.0320

DECLARATION OF COUNSEL

I, Deborah Huskins, 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 98 .0001 0873

Deborah L. Huskins

Special Assistant
Attorney General

Dated: November 26, 1990

Department of Human Services

Proposed Permanent Rules Relating to County Assistance; Mentally Ill Persons Released from State Hospitals

Rules as Proposed (all new material)

REPEALER. Minnesota Rules, parts 9520.0300, 9520.0310, and 9520.0320 are repealed.

Approved by Revisor KTH

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to County Assistance; Mentally Ill Persons Released from State Hospitals

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9520

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor