

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: August 12, 1991

TO: SANDRA ABRAMS
Minnesota Dept. of Health

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Penalties for Patient Rights Violations

The above-referenced rule has been approved as to its legality by the Attorney General on August 9, 1991.

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:sc

cc: Mary Stanislav
William Brown, Chief Judge
MaryAnn Hruby

Department of Health

Adopted Permanent Rules Relating to Penalties for Patient Rights Violations

Rules as Adopted

4655.9340 DEPARTMENT OF HEALTH STATUTES; FINES.

Penalty assessments for violations of Minnesota Statutes, section 144.651 are as follows:

[For text of items A to O, see M.R.]

P. Minnesota Statutes, section 144.651, subdivision 18, $250.

[For text of item Q, see M.R.]

R. Minnesota Statutes, section 144.651, subdivision 20, $250.

[For text of item S, see M.R.]

T. A $250 penalty assessment shall be issued for a violation of the portions of Minnesota Statutes, section 144.651, subdivision 21, which state: "Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage.... There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls."

U. Minnesota Statutes, section 144.651, subdivision 22, $250.

[For text of items V to Y, see M.R.]

Z. Minnesota Statutes, section 144.651, subdivision 27, $250.

[For text of items AA and BB, see M.R.]

CC. Minnesota Statutes, section 144.651, subdivision 30, $250.

DD. Minnesota Statutes, section 144.652, subdivision 1, $100.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

AUG 12 1991

Joan Anderson Growe
Secretary of State

4:02

APPROVED AS TO FORM AND LEGALITY
August 9 1991
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

8/5 MJC

RULE REVIEW CHECKLIST

File No. 1843
DATE RECEIVED 7-31-91
REVIEW DATE 8-9-91
DUE DATE 8-14-91
(DIS)APPROVED 8-9-91 mg
WITHDRAWN

Docket No. 05.0009.1300
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 8-5-91
REVISOR (DIS)APPROVED 8-6-91
FILED W/SEC. OF STATE 8-12-91
RETURNED TO AGENCY 8-13-91

✓ 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
- 144A.10 and 62 Statutory Authority b
- no statement Small Business Statement
- ✓ Expenditure of public money statement
- Signature didn't sign it

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- June 6, 1991 Dated (30)/25 days before adoption
- ✓ Notice attached / indicates it is attached
- Copy of rule or summary attached

✓ Publication in State Register
- June 10, 1991 Date (30)/25 days before adoption

✓ 180-day deadline from:
- ✓ 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)

Resolution Adopting
- Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- July 19, 1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
- Mary Honsolar Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

Rec 8-7-31-91

State of Minnesota
Department of Health

MEMORANDUM

DATE: July 19, 1991

TO: Patti Nolte
Office of the Attorney General
Public Finance Division
525 Park Street

FROM: Sandy Abrams Sandy Abrams
Rule Writer
Health Resources Division

PHONE: 643-2157 **FAX:** 643-2593

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Penalties for Patient Rights Violations, Minnesota Rules, part 4655.9340

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. Call me if you have any questions.

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. 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.

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

PN

8-6-91

Sandy Abrams - they (the commissioners) did not sign the Notice of Intent - oversight on their part

- must increase fees pursuant to the Statute - were mandated

Department of Health

Proposed Permanent Rules Relating to Penalties for Patient Rights Violations

Rules as Proposed

4655.9340 DEPARTMENT OF HEALTH STATUTES; FINES.

Penalty assessments for violations of Minnesota Statutes, section 144.651 are as follows:

[For text of items A to O, see M.R.]

P. Minnesota Statutes, section 144.651, subdivision 18, ~~$100~~ $250.

[For text of item Q, see M.R.]

R. Minnesota Statutes, section 144.651, subdivision 20, ~~$100~~ $250.

[For text of item S, see M.R.]

T. A ~~$100~~ $250 penalty assessment shall be issued for a violation of the portions of Minnesota Statutes, section 144.651, subdivision 21, which state: "Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage.... There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls."

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Z. Minnesota Statutes, section 144.651, subdivision 27, ~~$100~~ $250.

[For text of items AA and BB, see M.R.]

CC. Minnesota Statutes, section 144.651, subdivision 30, $250.

DD. Minnesota Statutes, section 144.652, subdivision 1, $100.

Approved by Revisor KTH/

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Penalties for Patient Rights Violations

AGENCY: Department of Health

MINNESOTA RULES: Chapter 4655

The attached rules are approved for publication in the State Register

KTH

Kathleen T. Harrington
Assistant Revisor

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Amendment of Rules of the Department of Health Concerning Fines for Certain Violations of the Resident's Bill of Rights by Nursing Homes, Minnesota Rules, part 4655.9340

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The Department of Health is required to establish a schedule of fines for violations of the nursing home licensure rules and the statutes relating to the operation of nursing homes. A schedule of fines for violations of these provisions by nursing homes is found in Minnesota Rules 4655.9300 et seq. The schedule of fines does address violations of the Resident's Bill of Rights contained in Minnesota Statutes 144.651.

In 1989, the Minnesota Legislature amended Minnesota Statutes, section 144A.10, which directed that the Department amend certain provisions of the schedule of fines to increase the fine amounts for specific provisions in the Bill of Rights. The proposed rule amends the schedule of fines to comply with this legislative mandate. It is necessary and reasonable for the Department to incorporate these legislatively mandated amendments. The specificity of the legislation does not provide the Department any discretion in altering the revised fine amounts.

LEGAL AUTHORITY

Minnesota Statutes, section 144A.10, subdivision 6d, paragraph (b), requires the Commissioner to amend the rules that establish fines for violations of certain residents' rights contained in Minnesota Statutes, section 144.651, subdivisions 18, 20, 21, 22, 27, and 30, to increase the fines to $250.

RULEMAKING PROCESS

Because the statute does not give the Commissioner any discretion in amending the rule, no comments were solicited from the public before publishing the Notice of Intent to Adopt a Rule.

SMALL BUSINESS CONSIDERATIONS

Rules that regulate nursing homes are exempt from the requirements concerning small business considerations, under section 14.115, subdivision 7, clause (3).

EXPERT WITNESSES

If a public hearing is held on this rule, the Department does not plan to solicit outside expert witnesses to testify for the Department. The Department intends to have the following employees testify or be available at the hearing: H. Michael Tripple, Assistant Director of the Division of Health Resources, and Sandra Abrams, Division of Health Resources. Other Department staff may substitute for the above named individuals.

May 10, 1991

Mary Jo O'Brien
Acting Commissioner

State of Minnesota
Department of Health
Health Resources Division

MEMORANDUM

7/18/91

DATE: July 12, 1991

TO: Marlene Marschall
Commissioner

FROM: Linda Sutherland
Director

SUBJECT: Amendment of the Rule Concerning Fines for Violations of the Resident's Bill of Rights by Nursing Homes

In 1989 the Minnesota Legislature amended M.S. 144A.10, which directed that the Department amend certain provisions of the schedule of fines to increase the fine amounts for specific provisions in the Bill of Rights. We began the noncontroversial rulemaking process for this amendment in May.

We only received two comments on the rule, both expressing full support. One comment was from the Minnesota Alliance for Health Care Consumers and the other from the Office of Ombudsman for Older Minnesotans.

Attached are the rule that amends the schedule of fines to comply with this legislative mandate and the Findings of Fact, Conclusions, and Order Adopting Rule Without Public Hearing.

Please sign the Findings of Fact so that we may send the rule to the Attorney General's Office for final approval.

LS:SA:ep
Enc.

STATE OF MINNESOTA
DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of the Rule of the Minnesota Department of Health Establishing Penalties for Patient Rights Violations, Minnesota Rules, part 4655.9340

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 June 10, 1991, 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 June 6, 1991. (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 before it was published in the *State Register*. The statement of need and reasonableness 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) No requests for a public hearing on the rule were received by the agency. (7) 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 following:

1. There were no comments that suggested changes to the proposed rule.

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

NOW, THEREFORE, IT IS ORDERED that the rule identified as Penalties for Patient Rights Violations, is adopted this 19 day of July, 1991, pursuant to authority vested in me by Minnesota Statutes, section 144A.10, subdivision 6d, paragraph (b).

(9)

Marlene E. Marschall
Commissioner

Stat. Authority 144A.10 subd 6d (b)

The schedule of fines for noncompliance with correction orders issued to nursing homes that was adopted under the provisions of section 144A.10 subdivision 6, and in effect on May 1, 1989, is effective until repealed, modified or superseded by rule.

(b) By September 1, 1990, the commissioner shall amend the schedule of fines to increase to $250 the fines for violations of sections 144.561, subdivisions 18, 20, 21, 22 27 and 30, and for repeated violations.

subd (wasn't cited but this is what gives them authority to do rules this is right after (b) and I think it is obvious so I don't think they should be rejected because they didn't cite (c)

subd (c) The commissioner shall adopt rules establishing the schedule of fines for deficiences in the requirements of section 1919(b), (c) and (d) of the Social Security Act or regulations adopted under that section of the Social Security Act

Nothing rec'd signed

$ These are fees mandated by statute so 16A.128 would not apply

8-5-91 Left a message for Sandra

In the Matter of the Adoption
of the Rule of the Minnesota
Department of Health Establishing
Penalties for Patient Rights
Violations, Minnesota Rules,
part 4655.9340

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 52.0001.130.0

Mary L. Stanislav
Mary Stanislav
Special Assistant Attorney General

Dated: 7/31/91

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of the Proposed Amendment of Rules of the Department of Health Concerning Fines for Certain Violations of the Residents' Bill of Rights by Nursing Homes, Minnesota Rules, part 4655.9340

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Department of Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 144A.10, subdivision 6d, paragraph (b).

(2) All persons have 30 days or until 4:30 p.m. on July 10, 1991, in which to submit comment in support of or against the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) 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. (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 requests 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 proposed 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:

Sandra Abrams
Minnesota Department of Health
393 N. Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900

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

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

(12) 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 upon request from:

Elise Paulsen
Minnesota Department of Health
393 N. Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900

(13) 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.

(9) 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 a request to:

Elise Paulsen
Minnesota Department of Health
393 N. Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900

Marlene E. Marschall
Commissioner

Department of Health

Adopted Permanent Rules Relating to Penalties for Patient Rights Violations

Rules as Adopted

4655.9340 DEPARTMENT OF HEALTH STATUTES; FINES.

Penalty assessments for violations of Minnesota Statutes, section 144.651 are as follows:

[For text of items A to O, see M.R.]

P. Minnesota Statutes, section 144.651, subdivision 18, $250.

[For text of item Q, see M.R.]

R. Minnesota Statutes, section 144.651, subdivision 20, $250.

[For text of item S, see M.R.]

T. A $250 penalty assessment shall be issued for a violation of the portions of Minnesota Statutes, section 144.651, subdivision 21, which state: "Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage.... There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls."

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[For text of items V to Y, see M.R.]

Z. Minnesota Statutes, section 144.651, subdivision 27, $250.

[For text of items AA and BB, see M.R.]

CC. Minnesota Statutes, section 144.651, subdivision 30, $250.

DD. Minnesota Statutes, section 144.652, subdivision 1, $100.

In the Matter of the Proposed Adoption of the Rule of the State Department of Health Establishing Penalties for Patient Rights Violations, Minnesota Rules, part 4655.9340

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)

P. Elise Paulsen, being sworn, states:

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 Health rulemaking mailing list is accurate, complete, and current as of this 6th day of June, 1991.

That on the 6th day of June, 1991, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed a copy of the attached Notice of Intent to Adopt A Rule Without a Public Hearing in the State of Minnesota Central Mail System for United States mailing, with postage prepaid; to all persons and associations on the aforementioned mailing list.

P. Elise Paulsen
(Name)

Secretary
(Title)

Subscribed and sworn to before me
this 10th day of July, 1991.

David L. Siegel

DAVID L. SIEGEL
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires APR 28 1997

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 Health

Proposed Permanent Rules Relating to Penalties for Patient Rights Violations

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 144A.10, subdivision 6d, paragraph (b).

All persons have 30 days or until 4:30 p.m. on July 10, 1991, in which to submit comment in support of or against 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 requests 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:

Sandra Abrams
Minnesota Department of Health
393 N. Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900

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

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

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 upon request from:

Elise Paulsen
Minnesota Department of Health
393 N. Dunlap Street
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St. Paul, MN 55164-0900

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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 a request to:

Elise Paulsen
Minnesota Department of Health
393 N. Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900

Marlene E. Marschall
Commissioner

Rules as Proposed

4655.9340 DEPARTMENT OF HEALTH STATUTES; FINES.

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Z. Minnesota Statutes, section 144.651, subdivision 27, ~~$100~~ $250.

[For text of items AA and BB, see M.R.]

CC. Minnesota Statutes, section 144.651, subdivision 30, $250.

DD. Minnesota Statutes, section 144.652, subdivision 1, $100.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

State Board of Chiropractic Examiners

Adopted Permanent Rules Relating to the Practice of Chiropractic

The rules proposed and published at *State Register*, Volume 15, Number 29, pages 1561-1565, January 14, 1991 (15 SR 1561) and Volume 15, Number 31, page 1700, January 28, 1991 (15 SR 1700) are adopted with the following modifications:

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.

Office of Ombudsman for Older Minnesotans

444 Lafayette Rd., St. Paul, MN 55155 - 3843 • (612)296-0382
1 (800) 657-3591

June 20, 1991

RECEIVED
JUN 26 1991
Health Resources
Division Management

Sandra Abrams
Minnesota Department of Health
393 North Dunlap Street
P.O. Box 64900
St. Paul, Minnesota 55164-0900

Dear Ms. Abrams:

The Office of Ombudsman for Older Minnesotans strongly supports the amendments to Minnesota Rules part 4655.9340 as proposed. We see no need for a public hearing on these rules.

The Office of Ombudsman for Older Minnesotans provides advocacy and complaint resolution services for nursing home residents throughout Minnesota. Our emphasis is on assisting residents in exercising their rights under the law.

Resident rights to responsive service, to file grievances, communicate privately with others, retain personal property, and to have access to protection and advocacy services are essential for providing quality care and quality of life for nursing home residents. Repeated violations of these rights occur far too often. The increase in penalty assessments for repeated violations of these rights will send a clear message to providers about the importance of all residents rights. This is consistent with the greater emphasis on resident rights in the federal certification requirements for nursing homes.

The Office of Ombudsman for Older Minnesotans supports the proposed rules without further amendment. Thank you for your consideration of these comments.

Sincerely,

James G. Varpness

James G. Varpness
Director

leb

Minnesota Alliance for Health Care Consumers

5609 Lyndale Avenue South, Minneapolis, MN 55419-1721

Consumer Council Education & Membership
(612) 866-4373

Metro Area Nursing Home Ombudsman
(612) 866-4660

RECEIVED

JUN 11 1991

Health Resources
Division Management

June 10, 1991

Sandra Abrams
Minnesota Department of Health
393 N. Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900

Dear Ms. Abrams:

This letter comes in full support of the proposed amendment of rules concerning fines for certain violations of the Residents' Bill of Rights by nursing homes, Minnesota Rules part 4655.9340. We are writing only to document our position for the record and see no need for a public hearing.

The 1989 legislation that directed these amendments was enacted with the full backing and testimony of the Minnesota Alliance for Health Care Consumers. Our organization is a statewide membership of nursing home resident and family councils, whose professional staff serve in multiple educational and advocacy roles, including that of designated Ombudsman for Older Minnesotans in the seven-county Twin Cities metropolitan area.

Testimony in legislative committees prior to enactment identified the following bases for an increased level of fine for uncorrected rights violations: (1) Compliance with these substantive rights significantly fosters quality resident care. Compliance promotes both a subjective feeling and objective experience of security; (2) Violations of the specific sections have been identified by consumers as areas where facilities and the regulatory system have trivialized both the occurrence and the urgency of correction; (3) Changes in federal regulation since the 1983 construction of the Minnesota licensure schedule of fines promote an elevated status for residents' rights-quality of life requirements; and (4) So long as the penalty for uncorrected violations for these rights remains in a low ($100) category, the likelihood of significant adverse action against a facility that repeatedly violates these rights is low. Repeated violations have considerably more regulatory weight in the four highest categories.

Finally, we would note that these fines are triggered only by uncorrected violations and that nursing homes have ample notice, time frame, and suggested methods for correcting an infraction before resurvey could result in a fine being levied. The system thereby provides fairness for consumer and provider.

We urge that the proposed permanent rules be adopted without further amendment.

Sincerely,

Iris C. Freeman

Iris C. Freeman
Executive Director

ICF:ccb

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Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103