

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

submitted new Notice Disregard PN 12-30-21

Marty said she would not approve it.

~~Marty~~ Christie

The MW Veterns Home submitted this Notice of Hearing instead of a Notice of Intent they are missing the following 2010.0300
(1) cite to 14.22 to 1428
(2) (3) (5) (6) (7) (8) (9)

I told Bob Klukas who wrote the rules I thought we would bounce it. We haven't recieved their adopted rules so it isn't officially logged in yet. He wants to republish it and get the request to the State Reg.

I think they need to renotice / these doesn't make sense did they have the hearing.

I think we would reject it - the title doesn't even say Notice of Intent. Menwin Peterson said this Notice would be O.K. What do you think.

Thanks
Patty

I said I would try to let him know today but I know you have alot and these aren't even logged in yet.

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: January 10, 1992

TO: ROBERT KLUKAS
Minnesota Veterans Homes Board
Veterans Service Building
20 West 12th Street, Room 122
St. Paul

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Resident Care

The above-referenced rule has been approved as to its legality by the Attorney General on January 10, 1992.

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:jj

cc: Merwin Peterson
William Brown, Chief Judge
MaryAnn Hruby

STATE OF MINNESOTA
VETERANS HOMES BOARD

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE

In the Matter of the Proposed Amendments to the Rules Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900

The above-entitled matter came on for decision before the Minnesota Veterans Homes Board (Board) on the 10th day of October, 1991. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. Notice of the Board's intent to adopt the above-entitled rule without a public hearing if fewer than 25 persons requested a hearing was published in the State Register on September 3, 1991, and was sent by mail to all persons on the list maintained by the Board pursuant to Minnesota Statutes, section 14.14, subd. 1a and 14.22 on September 3, 1991.

2. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing if fewer than twenty five persons request a hearing was mailed to all persons on the rulemaking list and published in the State Register and was available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. the 30-day comment period, as set out in the notice, expired on October 4, 1991.

4. No requests for a public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Board.

6. During the comment period the Board caused its employees to conduct several public information meetings at its Minneapolis and Hastings Veterans Homes to promote a better understanding and acceptance of the proposed rule amendments by the Home's residents and their families and others affected by the rules. On September 19, 1991 a meeting was held with the Minneapolis Veterans Homes

Resident Rules Committee and a general information meeting was held for all residents of the Home. On October 2, 1991 meetings were held with the Hastings Veterans Homes Resident Council and with the Hastings Veterans Homes Family Council.

7. During the comment period the Board received no written comments. (7)

8. The Board finds that the dearth of comments justifies no modifications of the proposed rules during these proceedings.

9. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Board hereby incorporates the Statement of Need and Reasonableness into these findings.

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

CONCLUSIONS

1. The Minnesota Veterans Homes Board duly acquired and has jurisdiction over this proceeding.

2. The Board published and served due, timely and adequate notice of the intent to adopt the rules without a public hearing if fewer than twenty five persons requested a hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. No modifications were made to the rule.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Minnesota amendments to Rules parts 9050.0010 to 9050.0900 governing admissions, discharge, transfer, utilization review, cost of care calculations, and maintenance charges, is hereby adopted pursuant to the authority vested in the Minnesota veterans Homes Board by Minnesota Statutes, section 198.003 as amended by Laws of Minnesota 1991, Chapter 24. (9)

MINNESOTA VETERANS HOMES BOARD

James G. Sieben
Chairman of the Board of Directors

MJC
1/6/92

6
5254

RULE REVIEW CHECKLIST

File No. 1885 Docket No. 05.0009.0740

DATE RECEIVED ~~12-30-91~~ 12-30-91 ADOPTED W/O HEARING _____

REVIEW DATE 1-8-92 EMERGENCY RULE _____

DUE DATE 1-13-92 TO REVISOR ON 1/6/92

(DIS)APPROVED 1-10-92 mjc REVISOR (DIS)APPROVED _____

WITHDRAWN _____ FILED W/SEC. OF STATE 1-10-92

RETURNED TO AGENCY 1-10-92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
Dec 31, 1990 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
August 11, 1991 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate Disregard sent in another one -12-30-91

✓ Notice of Intent to Adopt Rule Missing most requirements of Chapter 24
~~[illegible]~~ 198.003 Laws of MN 1991 Statutory Authority
NO Small Business Statement
NO Expenditure of public money statement
~~[illegible]~~ 10-22-91 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
~~September 6, 1991~~ Dated 30/25 days before adoption Oct 30, 1991
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
Nov 4, 1991 [illegible] 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
~~October 10, 1991~~ Date adopted Dec 12, 1991

✓ Findings of Fact, Conclusions & Order Adopting
~~October 10, 1991~~ Date Dec 12, 1991

NA Written Requests, Submissions or Comments

✓ Declaration of Attorney
Marvin Peterson Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

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

Veterans Homes Board

Adopted Permanent Rules Relating to Resident Care

Rules as Adopted

9050.0020 APPLICABILITY.

Chapter 9050 governs the operation of the Minnesota veterans homes and establishes the standards used to determine:

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

Chapter 9050 must be interpreted to give effect to Minnesota Statutes, chapters 196, 197, and 198.

9050.0040 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to chapter 9050.

[For text of subps 2 to 19, see M.R.]

Subp. 20. **Campus.** "Campus" means the property owned or controlled by the state of Minnesota on which a Minnesota veterans home facility is located, except the part of the property leased by the state of Minnesota to any party.

Subp. 21. **Care plan review.** "Care plan review" means an assessment of a resident's physical and mental condition and treatment needs by the care plan team. Care plan review includes:

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

[For text of subps 22 to 40, see M.R.]

Subp. 40a. **Equivalent chemical dependency program.** "Equivalent chemical dependency program" means an unlicensed chemical dependency program that meets the program design requirements of parts 9530.4100 to 9530.4450 and 9530.6620 to 9530.6650.

[For text of subps 41 to 120, see M.R.]

9050.0070 TYPES OF ADMISSIONS.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Criteria for admission to and continued stay in a**

boarding care facility. The decision about admission to or continued stay in a board-operated facility licensed to provide boarding care must be based on the facility's ability to meet the care needs of the applicant or resident. A person whose care needs can be met by the board-operated facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines the person meets the criteria in items A to N. A person whose care needs cannot be met must be denied admission or continued stay if the admissions committee determines the person does not meet the criteria in items A to N.

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

F. The person has the right to participate in establishing the person's individual care plan. Residents must be advised that exercising their right to refuse care may lead to their discharge if the facility is unable to care for them under part 4655.1500, subpart 2. Continuing cooperation must be measured as specified in the care plan review process in part 9050.0300.

G. A person must be physically and mentally capable of providing personal care and hygiene including dressing, grooming, eating, toileting, and washing other than bathing. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist.

[For text of items H and I, see M.R.]

J. A staff psychiatrist or psychologist must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist which suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

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

L. A person with a diagnosis of chemical abuse within the past six months or a diagnosis of chemical dependency, excluding a chemical dependency diagnosis of "in remission," must have successfully completed a chemical dependency treatment

program as prescribed in parts 9050.0040, subparts 25 and 99, and 9530.6620 to 9530.6650, or an equivalent chemical dependency program, or must be chemically free. For the purposes of this item, a person is chemically free if the person has three months of nonuse or use with no symptoms of dependency prior to admission and demonstrates no symptoms of abuse or dependency during residence. The current list of accepted equivalent chemical dependency programs as defined in part 9050.0040, subpart 40, item A, must be kept at the board office.

M. The person must be able to comply with Minnesota veterans homes rules in chapter 9050. Ability to comply may be demonstrated by a documented history of compliance in a prior placement, if any, or other relevant evidence that demonstrates ability to comply. Continuing compliance must be measured as specified in the care plan process in part 9050.0300.

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

Subp. 4. **Criteria for admission to and continued stay in a nursing home facility.** The decision about admission or continued stay in a board-operated facility licensed as a nursing home must be based on the facility's ability to meet the care needs of the person. A person whose care needs can be met by the facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines that the person meets all of the criteria in items A to G. A person whose care needs cannot be met must not be admitted or retained as a resident if the admissions committee determines the person fails to meet all of the criteria in items A to G.

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

D. The person must demonstrate a history of cooperation with an individual treatment or care plan or with the medical treatment plan prescribed by the attending physician. Cooperation may be demonstrated by a documented history of cooperation in a prior placement, if any, or other relevant evidence which demonstrates cooperation. Continuing cooperation must be measured as specified in the care plan review process in part 9050.0300.

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

F. A staff psychiatrist or psychologist must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist that suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

G. A person with a diagnosis of chemical abuse within the past six months or a diagnosis of chemical dependency, excluding a chemical dependency diagnosis of "in remission," must have successfully completed a chemical dependency treatment program as described in parts 9050.0040, subparts 25 and 99, and 9530.6620 to 9530.6650, or an equivalent chemical dependency program, or must be chemically free. For the purpose of this item, a person is chemically free if the person has three months of nonuse or use with no symptoms of dependency before admission and demonstrates no symptoms of abuse or dependency during residence. The current list of accepted equivalent chemical dependency programs as defined in part 9050.0040, subpart 40, item A, shall be kept at the board office. Persons whose long-term medical condition is assessed as precluding continued chemical abuse may be accepted for nursing care.

9050.0080 ADMISSION DECISION; NOTICE AND REVIEW.

[For text of subpart 1, see M.R.]

Subp. 2. **Review.** An applicant or the applicant's legal representative may request a review of a decision of the admissions committee to deny the applicant's admission. The applicant or applicant's legal representative desiring the review shall forward the request, in writing, to the administrator of the facility within 30 days of the applicant's receipt of a notice of denial. The review must be completed within 30 days of receipt of the request. The administrator may request that the admissions committee reconsider its decision or the administrator may review the existing minutes to determine the basis for a negative decision. If a reconsideration is

requested, it must be conducted at the next scheduled admissions committee meeting. The decision resulting from the reconsideration and the reasons for the decision must be forwarded to the administrator in writing. The administrator shall conduct a final review of the admissions committee's decision, based on the admissions criteria in part 9050.0070, subpart 3 or 4, and shall issue a final decision. The decision of the administrator shall constitute final agency action.

9050.0100 TRANSFER.

Subpart 1. **Generally.** A resident may be transferred from a board-operated facility to another health care facility or rehabilitation program or detoxification program if:

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

A resident may be transferred only with the resident's consent or the consent of the legal representative, if any, except in an emergency when obtaining consent before transfer is not possible. A resident who refuses consent for transfer to another health care facility or rehabilitation program or detoxification program on recommendation of the attending physician or the utilization review committee, or both, may be subject to discharge for noncompliance with the resident's individual care plan. The utilization review committee's decision to recommend discharge of a resident for refusing consent for transfer is limited by the Patient's Bill of Rights established in Minnesota Statutes, section 144.651, and must be based on the facility's ability to meet the person's care needs as determined by the criteria in part 9050.0070, subparts 3 and 4. A resident transferred from another facility back to the board-operated facility does not need to reapply for admission.

Subp. 2. **Notice.** Unless a situation occurs that is outside the board-operated facility's control, such as a utilization review, the accommodation of newly admitted residents, a change in the resident's medical or treatment program, or the resident's own or another resident's welfare, a resident for whom the utilization review committee or the

attending physician recommends a transfer must be notified of the recommendation at least:

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

[For text of subps 3 to 5, see M.R.]

9050.0150 BED HOLD.

[For text of subps 1 to 6, see M.R.]

Subp. 7. **Monitoring of bed hold status.** The appropriateness of continued bed hold must be reviewed by the utilization review committee of the board-operated facility at least once every 30 days during the resident's ongoing absence. A decision about approval of continued bed hold must be based on the resident's satisfactory progress toward recovery from the condition for which the resident was hospitalized or completion of the treatment program or rehabilitation program, and the existence of a reasonable expectation that the facility will be able to care for the resident upon return to the board-operated facility and the resident's compliance with subpart 5 if applicable. Continued bed hold or continued residency with personal absences exceeding 36 cumulative days per year must be reviewed by the utilization review committee. Continued bed hold or continued residency with personal absences that are contraindicated in the resident's care plan may, upon the recommendation of the direct care staff, be reviewed by the utilization review committee. The decision about continued residence must be based on the resident's continuing need for care as determined by the utilization review committee. The determination must be according to the criteria in part 9050.0070, subparts 3 and 4.

9050.0200 DISCHARGE.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Exceptions.** A resident's discharge under subpart 3, item D, is subject to reconsideration if the resident reports his or her whereabouts to the administrator of the facility and requests reconsideration within 30 days from the resident's departure from the facility without notice. A notice of

involuntary discharge must be sent to the resident's address, if it is known, or to the resident's last known address, and to the address of a person listed by the resident as the person to be contacted during an emergency. The notice of discharge must be signed by the administrator and sent by certified mail within a reasonable amount of time, following the determination that the resident is absent without notice.

9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **Generally, recommendations.** Involuntary discharge for a reason specified in part 9050.0200, subpart 3, item C, must be based on the recommendation of the utilization review committee. Involuntary discharge under part 9050.0200, subpart 3, item A, D, or E, must be based on the recommendation of the facility financial staff or social services staff.

[For text of subps 2 to 5, see M.R.]

Subp. 6. **Appeals process.** An applicant or resident, or legal representative, may appeal a discharge or transfer order. Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, Minnesota Statutes, section 14.48 et. seq., until rules are adopted under Minnesota Statutes, section 144A.135, by the commissioner of health. Once the rules adopted under Minnesota Statutes, section 144A.135, have taken effect, all appeals must be in accordance with those rules. The administrator shall inform the resident or applicant of the rules that govern the appeal in the notice provided under part 9050.0100, subpart 2, or 9050.0200, subpart 4. A final discharge order issued by the administrator following the Office of Administrative Hearings' review remains in effect pending any appeal. Notwithstanding this provision, the administrator may, for good cause shown, waive imposition of the discharge order until all appeals have been concluded.

Nothing in this part may be construed to limit, change, or restrict other appeal or review procedures available to a resident under law.

9050.0300 CARE PLANNING.

Subpart 1. **Generally.** A board-operated facility must have and implement a care planning procedure. Under the procedure, a resident's care plan is initiated and reviewed by the care plan team to ensure that the resident's needs are addressed and the facility has the ability to competently and safely care for the resident according to the criteria in part 9050.0070, subparts 3 and 4. The care plan team is comprised of the facility staff members who are directly involved with the resident's care, including a physician, licensed nurse, social worker, and other staff as indicated by the patient's condition.

Subp. 2. **Requirements of procedure.** A care planning procedure must provide for:

A. the resident's right to participation by the resident, a resident's advocates, legal representatives, and, with the resident's consent, the resident's family members, in the care plan review;

B. notice to the resident that a care plan review is scheduled;

C. discussion with the resident regarding methods to assist the resident to attain the care plan goals;

D. differentiated reviews and actions consistent with the frequency and seriousness of the resident's medical, psychiatric, or behavioral status to ensure that the resident's care needs are met according to part 9050.0070, subpart 3 or 4;

E. an accelerated review procedure to be used when the seriousness of the resident's behavior endangers the health and safety of the resident, other residents, or staff members of the board-operated facility;

F. consideration of the resident's ability to comprehend and cooperate with chapter 9050 and with the goals contained in the resident's individual care plan; and

G. notice to the resident that a recommendation for discharge may occur if the board-operated facility is unable to meet the care needs of the resident according to part 9050.0070, subparts 3 and 4.

Subp. 3. **Responsibilities of the care plan team.** Care

plan review must be conducted by the care plan team. Recommendations as to restrictions or discharges must be made to the utilization review committee. Decisions must be based on the facility's ability to care for the resident according to part 9050.0070, subpart 3 or 4.

9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Billing.** Billing for maintenance charges must be as specified in items A to F.

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

D. A billing for one month's service must be issued no later than the tenth of the month following the month in which the service was provided, except for billings occasioned by a maintenance recalculation based on retroactive income received according to part 9050.0550, subpart 4.

[For text of items E and F, see M.R.]

9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Chargeable income.** The applicant's or resident's chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 and after deductions from net income have been made according to part 9050.0755. The applicant's or resident's entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the board-operated facility as representative payee has been executed in favor of the board-operated facility. Residents not paying the maximum maintenance fee who receive retroactive increases in income must have their maintenance fee recalculated and the part of the increase owed to the home must be paid. The maintenance fee must be recalculated for the period of the resident's stay that coincides with the period for retroactive

payment of income to the resident.

[For text of subp 5, see M.R.]

9050.0700 INCOME.

Subpart 1. **Evaluation of income.** The facility financial staff shall evaluate only income received by or on behalf of an applicant or resident when determining the maintenance charge payable by or on behalf of an applicant or resident. All payments, unless specifically excluded in subpart 3, must be counted as income. All income must be counted in the calendar month received, except for lump sum retroactive benefit payments calculated according to part 9050.0550, subpart 4. Income becomes property if retained after the month in which it is received, unless this part specifically states otherwise.

[For text of subps 2 and 3, see M.R.]

APPROVED AS TO FORM AND LEGALITY

January 10 1992

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JAN 10 1992

Joan Anderson Growe
Secretary of State

11:10 AM

PRB

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Resident Care

AGENCY: Veterans Homes Board

MINNESOTA RULES: Chapter 9050

The attached rules are approved for
publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Veterans Homes Board

Proposed Permanent Rules Relating to Resident Care

Rules as Proposed

9050.0020 APPLICABILITY.

~~Parts 9050.0010 to 9050.0900 govern~~ Chapter 9050 governs the operation of the Minnesota veterans homes and ~~establish~~ establishes the standards used to determine:

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

~~Parts 9050.0010 to 9050.0900~~ Chapter 9050 must be interpreted to give effect to Minnesota Statutes, chapters 196, 197, and 198.

9050.0040 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to ~~parts 9050.0010 to 9050.0900~~ chapter 9050.

[For text of subps 2 to 19, see M.R.]

Subp. 20. **Campus.** "Campus" means the property owned or controlled by the state of Minnesota on which a Minnesota veterans home facility is located, except the part of the property leased by the state of Minnesota to any party.

Subp. 21. **Care plan review.** "Care plan review" means an assessment of a resident's physical and mental condition and treatment needs by the care plan team. Care plan review includes:

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

[For text of subps 22 to 40, see M.R.]

Subp. 40a. **Equivalent chemical dependency program.** "Equivalent chemical dependency program" means an unlicensed chemical dependency program that meets the program design requirements of parts 9530.4100 to 9530.4450 and 9530.6620 to 9530.6650.

[For text of subps 41 to 120, see M.R.]

9050.0070 TYPES OF ADMISSIONS.

Approved by Revisor

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Criteria for admission to and continued stay in a boarding care facility.** The decision about admission to or continued stay in a board-operated facility licensed to provide boarding care must be based on the facility's ability to meet the care needs of the applicant or resident. A person whose care needs can be met by the board-operated facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines the person meets the criteria in items A to N. A person whose care needs cannot be met must be denied admission or continued stay if the admissions committee determines the person does not meet the criteria in items A to N.

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

F. The person has the right to participate in establishing the person's individual care plan. ~~A resident must comply with the elements of the individual care plan that are not medical in nature.~~ Residents must be advised ~~of their rights~~ that exercising their right to refuse care may lead to their discharge if the facility is unable to care for them under part 4655.1500, subpart 2. Continuing ~~compliance~~ cooperation must be measured as specified in the ~~compliance~~ care plan review process in part 9050.0300.

G. A person must be physically and mentally capable of providing personal care and hygiene including dressing, grooming, ~~washing other than bathing,~~ eating, ~~and~~ toileting, and washing other than bathing. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist.

[For text of items H and I, see M.R.]

J. A staff psychiatrist or psychologist must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist which suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

Approved by Revisor _____

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

L. A person with a diagnosis of chemical abuse within the past six months or a diagnosis of chemical dependency, excluding a chemical dependency diagnosis of "in remission," must have successfully completed a chemical dependency treatment program as prescribed in parts 9050.0040, subparts 25 and 99, and 9530.6620 to 9530.6650, or an equivalent chemical dependency program, or must be chemically free. For the purposes of this item, a person is chemically free if the person has ~~six~~ three months of nonuse or use with no symptoms of dependency prior to admission and demonstrates no symptoms of abuse or dependency during residence. The current list of accepted equivalent chemical dependency programs as defined in part 9050.0040, subpart 40, item A, must be kept at the board office.

M. The person must be able to comply with Minnesota veterans homes rules in ~~parts 9050.0010 to 9050.0900~~ chapter 9050. Ability to comply may be demonstrated by a documented history of compliance in a prior placement, if any, or other relevant evidence that demonstrates ability to comply. Continuing compliance must be measured as specified in the ~~compliance review~~ care plan process in part 9050.0300.

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

Subp. 4. **Criteria for admission to and continued stay in a nursing home facility.** The decision about admission or continued stay in a board-operated facility licensed as a nursing home must be based on the facility's ability to meet the care needs of the person. A person whose care needs can be met by the facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines that the person meets all of the criteria in items A to ~~F~~ G. A person whose care needs cannot be met must not be admitted or retained as a resident if the admissions committee determines the person fails to meet all of the criteria in items A to ~~F~~ G.

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

D. The person must demonstrate a history of ~~compliance~~ cooperation with an individual treatment or care plan

Approved by Revisor _____

or with the medical treatment plan prescribed by the attending physician. ~~Ability to comply~~ Cooperation may be demonstrated by a documented history of ~~compliance~~ cooperation in a prior placement, if any, or other relevant evidence which demonstrates ~~ability to comply~~ cooperation. ~~The person with a history of noncompliance must be assessed by a staff registered nurse as to the facility's ability to meet the person's care needs.~~ Continuing cooperation must be measured as specified in the care plan review process in part 9050.0300.

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

F. A staff psychiatrist or psychologist must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist that suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

G. A person with a diagnosis of chemical abuse within the past six months or a diagnosis of chemical dependency, excluding a chemical dependency diagnosis of "in remission," must have successfully completed a chemical dependency treatment program as described in parts 9050.0040, subparts 25 and 99, and 9530.6620 to 9530.6650, or an equivalent chemical dependency program, or must be chemically free. For the purpose of this item, a person is chemically free if the person has three months of nonuse or use with no symptoms of dependency before admission and demonstrates no symptoms of abuse or dependency during residence. The current list of accepted equivalent chemical dependency programs as defined in part 9050.0040, subpart 40, item A, shall be kept at the board office. Persons whose long-term medical condition is assessed as precluding continued chemical abuse may be accepted for nursing care.

9050.0080 ADMISSION DECISION; NOTICE AND REVIEW.

[For text of subpart 1, see M.R.]

Subp. 2. **Review.** An applicant or the applicant's legal representative may request a review of a decision of the

Approved by Revisor _____

admissions committee to deny the applicant's admission. The applicant or applicant's legal representative desiring the review shall forward the request, in writing, to the administrator of the facility within 30 days of the applicant's receipt of a notice of denial. The review must be completed within 30 days of receipt of the request. The administrator may request that the admissions committee reconsider its decision or the administrator may review the existing minutes to determine the basis for a negative decision. If a reconsideration is requested, it must be conducted at the next scheduled admissions committee meeting. The decision resulting from the reconsideration and the reasons for the decision must be forwarded to the administrator in writing. The administrator shall conduct a final review of the admissions committee's decision, based on the admissions criteria in part 9050.0070, subpart 3 or 4, and shall issue a final decision. The decision of the administrator shall constitute final agency action.

9050.0100 TRANSFER.

Subpart 1. **Generally.** A resident may be transferred from a board-operated facility to another health care facility or rehabilitation program or detoxification program if:

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

A resident may be transferred only with the resident's consent or the consent of the legal representative, if any, except in an emergency when obtaining consent before transfer is not possible. A resident who refuses consent for transfer to another health care facility or rehabilitation program or detoxification program on recommendation of the attending physician or the utilization review committee, or both, may be subject to discharge for noncompliance with the resident's individual care plan. The utilization review committee's decision to recommend discharge of a resident for refusing consent for transfer is limited by the Patient's Bill of Rights established in Minnesota Statutes, section 144.651, and must be based on the facility's ability to meet the person's care needs

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as determined by the criteria in part ~~9050.0700~~ 9050.0070, subparts 3 and 4. A resident transferred from another facility back to the board-operated facility does not need to reapply for admission.

Subp. 2. **Notice.** Unless a situation occurs that is outside the board-operated facility's control, such as a utilization review, the accommodation of newly admitted residents, a change in the resident's medical or treatment program, or the resident's own or another resident's welfare, ~~or nonpayment-of-stay,~~ a resident for whom the utilization review committee or the attending physician recommends a transfer must be notified of the recommendation at least:

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

[For text of subps 3 to 5, see M.R.]

9050.0150 BED HOLD.

[For text of subps 1 to 6, see M.R.]

Subp. 7. **Monitoring of bed hold status.** The appropriateness of continued bed hold must be reviewed by the utilization review committee of the board-operated facility at least once every 30 days during the resident's ongoing absence. A decision about approval of continued bed hold must be based on the resident's satisfactory progress toward recovery from the condition for which the resident was hospitalized or completion of the treatment program or rehabilitation program, and the existence of a reasonable expectation that the facility will be able to care for the resident upon return to the board-operated facility and the resident's compliance with subpart 5 if applicable. Continued bed hold or continued residency with personal absences exceeding ~~96-hours-or-more-than-five-personal absences-per-year-that-are-less-than-96-hours~~ 36 cumulative days per year must be reviewed by the utilization review committee. Continued bed hold or continued residency with personal absences that are contraindicated in the resident's care plan may, upon the recommendation of the direct care staff, be reviewed by the utilization review committee. The decision

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about continued residence must be based on the resident's continuing need for care as determined by the utilization review committee. The determination must be according to the criteria in part 9050.0070, subparts 3 and 4.

9050.0200 DISCHARGE.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Exceptions.** A resident's discharge under subpart 3, item D, is subject to reconsideration if the resident reports his or her whereabouts to the administrator of the facility and requests reconsideration within 30 days from the resident's departure from the facility without notice. A notice of involuntary discharge must be sent to the resident's address, if it is known, or to the resident's last known address, and to the address of a person listed by the resident as the person to be contacted during an emergency. The notice of discharge must be signed by the administrator and sent by certified mail within a reasonable amount of time, following the determination that the resident is absent without notice.

9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **Generally, recommendations.** Involuntary discharge for a reason specified in part 9050.0200, subpart 3, item C ~~or B~~, must be based on the recommendation of the utilization review committee. Involuntary discharge under part 9050.0200, subpart 3, item A, D, or E, must be based on the recommendation of the facility financial staff or social services staff.

[For text of subps 2 to 5, see M.R.]

Subp. 6. **Appeals process.** An applicant or resident, or legal representative, may appeal a discharge or transfer order. Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, Minnesota Statutes, ~~sections~~ section 14.48 ~~to 14.56~~ et. seq., until rules are adopted under Minnesota Statutes, section 144A.135, by the commissioner of health. Once the rules adopted under Minnesota Statutes, section 144A.135, have taken effect, all appeals must

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be in accordance with those rules. The administrator shall inform the resident or applicant of the rules that govern the appeal in the notice provided under part 9050.0100, subpart 2, or 9050.0200, subpart 4. A final discharge order issued by the administrator following the Office of Administrative Hearings' review remains in effect pending any appeal. Notwithstanding this provision, the administrator may, for good cause shown, waive imposition of the discharge order until all appeals have been concluded.

Nothing in this part may be construed to limit, change, or restrict other appeal or review procedures available to a resident under law.

9050.0300 ~~COMPLIANCE REVIEW~~ CARE PLANNING.

Subpart 1. **Generally.** A board-operated facility must have and implement a **~~compliance review~~** care planning procedure ~~to review~~. Under the procedure, a resident's ~~compliance with an individual care plan and facility rules as specified in chapter 9050. The review must determine what action, if any, is to be taken to ensure the resident's compliance and whether the board operated facility is able to~~ care plan is initiated and reviewed by the care plan team to ensure that the resident's needs are addressed and the facility has the ability to competently and safely care for the resident according to the criteria in part 9050.0070, subparts 3 and 4. The care plan team is comprised of the facility staff members who are directly involved with the resident's care, including a physician, licensed nurse, social worker, and other staff as indicated by the patient's condition.

Subp. 2. **Requirements of procedure.** A **~~compliance review~~** care planning procedure must provide for:

A. the resident's right to participation ~~of a~~ by the resident **~~advocate~~**, a resident's advocates, legal representatives, and, with the resident's consent, the resident's family members, in the **~~compliance~~** care plan review;

B. notice to the resident ~~of each problem or~~

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~~infraction~~ that a care plan review is scheduled;

C. ~~instruction for~~ discussion with the resident regarding ~~procedures or options for compliance~~ methods to assist the resident to attain the care plan goals;

D. ~~opportunity for participation of the resident or the resident's legal representative, social workers, and, with the resident's consent, the resident's family members;~~

~~E.~~ differentiated reviews and actions consistent with the frequency and ~~severity~~ seriousness of the resident's ~~compliance problem;~~

~~F. notice to the resident that repeated noncompliance may result in imposition of disciplinary options or restrictions that the utilization review committee finds necessary~~ medical, psychiatric, or behavioral status to ~~provide for~~ ensure that the resident's care needs are met according to part 9050.0070, subpart 3 or 4~~, and the resident's individual care plan~~;

~~G.~~ E. an accelerated review procedure to be used when the ~~severity~~ seriousness of the resident's ~~noncompliance~~ behavior endangers the health and safety of the resident, other residents, or staff members of the board-operated facility;

~~H.~~ F. consideration of the resident's ability to comprehend and cooperate with ~~parts 9050.0010 to 9050.0900 or~~ chapter 9050 and with the goals contained in the resident's individual care plan ~~provisions~~; and

~~I.~~ G. notice to the resident that ~~the ultimate consequence of noncompliance is~~ a recommendation for discharge, may occur if ~~the noncompliance results in~~ the board-operated ~~facility's inability~~ facility is unable to meet the care needs of the resident according to part 9050.0070, subparts 3 and 4.

Subp. 3. ~~Conduct of review;~~ Responsibilities of the care plan team. ~~Compliance~~ Care plan review must be conducted by the ~~utilization review committee or subcommittee~~ care plan team. ~~Decisions~~ Recommendations as to ~~the use of the review procedure, disciplinary options,~~ restrictions or ~~recommendations for discharge~~ discharges must be ~~by majority vote~~ made to the utilization review committee. Decisions ~~of the committee or~~

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~~subcommittee at each level or occasion of review~~ must be based on the facility's ability to care for the resident according to part 9050.0070, subpart 3 or 4.

9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Billing.** Billing for maintenance charges must be as specified in items A to F.

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

D. A billing for one month's service must be issued no later than the tenth of the month following the month in which the service was provided, except for billings occasioned by a maintenance recalculation based on retroactive income received according to part 9050.0550, subpart 4.

[For text of items E and F, see M.R.]

9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Chargeable income.** The applicant's or resident's chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 and after deductions from net income have been made according to part 9050.0755. The applicant's or resident's entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the board-operated facility as representative payee has been executed in favor of the board-operated facility. Residents not paying the maximum maintenance fee who receive retroactive increases in income must have their maintenance fee recalculated and the part of the increase owed to the home must be paid. The maintenance fee must be recalculated for the period of the resident's stay that coincides with the period for retroactive payment of income to the resident.

[For text of subp 5, see M.R.]

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9050.0700 INCOME.

Subpart 1. **Evaluation of income.** The facility financial staff shall evaluate only income received by or on behalf of an applicant or resident when determining the maintenance charge payable by or on behalf of an applicant or resident. All payments, unless specifically excluded in subpart 3, must be counted as income. All income must be counted in the calendar month received, except for lump sum retroactive benefit payments calculated according to part 9050.0550, subpart 4. Income becomes property if retained after the month in which it is received, unless this part specifically states otherwise.

[For text of subps 2 and 3, see M.R.]

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STATE OF MINNESOTA
MINNESOTA VETERANS HOMES BOARD

STATEMENT OF NEED FOR AND REASONABLENESS OF AMENDMENTS TO MINNESOTA RULES PARTS 9050.0010 TO 9050.0900. RELATING TO ADMISSION AND DISCHARGE FROM THE MINNESOTA VETERANS HOMES; CALCULATION OF COST OF CARE AND MAINTENANCE CHARGES AND BILLING FOR SERVICES PROVIDED IN THE MINNESOTA VETERANS HOMES.

PART I. INTRODUCTION

The Minnesota Veterans Homes Board (Board) has been operating under Minnesota Rules, Chapter 9050 since April of 1990. During this period residents, interested members of the public, facility staff, and members of the Board have made suggestions for rule amendments to make the rules more clear, more consistent with current practices and more fair.

The amendments proposed for adoption are the result of an extensive process which involved seeking input from the general public, facility residents, their elected representatives at each facility, interested family and friends of the residents, veterans service groups, county veterans service officers, facility administrators and staff, and the Board. In addition to the notice and mailing required under Minnesota Statutes, section 14.10 meetings were held with the following groups regarding amendments to agency rules: county veterans service officers, state commander's task force, the American Legion Department of Minnesota, Minneapolis Veterans Home Family Council, Minneapolis Veterans Home Resident Council, Minneapolis Veterans Home Resident Rules Committee, Minneapolis Veterans Home Utilization Management Committee, Hastings Veterans Home Family Council, Hastings Veterans Home Resident Council, Minneapolis Legal Aid Society, Southern Minnesota Legal Services, and various facility staff committees. The result of the extensive public contact during the development of the rule amendments is a strengthening of the agency's rules from the standpoints of fairness, workability, and clarity.

The rules as enacted along with the proposed rule amendments will provide the agency with a strong framework to long term health care services the public within its fiscal and statutory limits.

PART II. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to adopt and to amend Minnesota Rules, Chapter 9050 and is set out in Minnesota Statutes, section 198.003, (a) (1) which provides that the Board may "subject to Chapter 14, adopt, amend, and repeal rules for the governance of the homes". Under this statute the Board has the necessary authority to amend Minnesota Rules, Ch. 9050.

PART III. STATEMENT OF NEED

Minnesota Statutes, Chapter 14 requires the Board to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the Board must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness means that the solution proposed by the Board is appropriate. The need for the rule amendments is discussed below.

The Board has operated in accordance with Chapter 9050 for over one year. During the period since the April 1990 enactment of the rules suggestions for improvement of the agency's rules have been made. After duly considering the proposed rule amendments the Board has proposed several rule amendments for adoption because they are needed to improve the fairness, clarity, and workability of the rule. Overall the rules as amended are needed to provide Minnesota veterans with the maximum quality of life in a structured long term health care facility, so the resident can function at the highest social, mental and physical level.

PART IV. STATEMENT OF REASONABLENESS

A. Reasonableness of the rule as a whole.

Where possible the proposed rules require decisions based on identified, objective criteria with decisions, assessments, and recommendations made by health care professionals specifically licensed for such assessments. Adherence to identifiable criteria is required to eliminate arbitrary decision making and abuse of discretion; as is the requirement that decisions be made by a committee process where appropriate.

Also whenever possible, these rule amendments follow definitions contained in statutes or regularly used by other state agencies, such as the Health Department and the Department of Human Services in their rule text and utilize, either wholly or as a basis from which modifications necessary to fit the Minnesota Veterans Homes were made, rule provisions previously implemented by other agencies.

B. Reasonableness of the rule by section.

9050.0020, Applicability.

The amendment of this rule part is necessary to accommodate an anticipated expansion of the agency's rules beyond part 9050.0900. All agency rules are expected to be within Chapter 9050. This is a technical amendment and does not change the substance of the present rule.

9050.0040, subp. 1. Scope.

The amendment of this rule part is necessary to accommodate an

anticipated expansion of the agency's rules beyond part 9050.0900. All agency rules are expected to be within Chapter 9050. This is a technical amendment and does not change the substance of the present rule.

9050.0040, subp. 20. Campus.

The amendment of the definition of "campus" as it is used in this rule is needed to clearly define the physical area referred to by the word "campus" in various parts of the rule. Parts of each facility campus are leased by the state of Minnesota to local governments and used for park and recreation purposes or leased to other private corporate entities not under control of the Board. Persons had questioned whether the Board's rules governed members of the general public using Veterans Homes Board land leased by the state for park purposes. The Board did not intend to attempt to govern the activities of other units of government or corporations leasing the land originally deeded to Home. The proposed rule amendment would limit the applicability of the agency's rules to the geographic areas which are maintained by the Board for its use as veterans homes.

9050.0040, subp. 21. Care plan review.

The amendment of the definition of "care plan review" clearly assigns responsibility for care plan reviews to the care plan team. The amendment is necessary to clarify the role of the care plan team in the care planning process in part .0300. The amendment complies with Minnesota Statutes, sec. 144.651, subd. 6 , and Minnesota Rules, part 4655.6000.

9050.0040, subp. 40. A. Equivalent chemical dependency program.

This amendment to the agency rules is needed to define the term "equivalent chemical dependency program" as it is used in parts .0070, subp. 3. L. and 4. G. Chemical dependency programs whether licensed or unlicensed which meet the program design requirements of licensure are adequate to provide the needed treatment for an actively chemically dependent person.

9050.0070, subp. 3. Criteria for admission to and continued stay in a boarding care facility.

Item F.

This rule amendment is related to an amendment to part 9050.0300 which substitutes the care planning process for the compliance review process. The admission and continued stay criteria is proposed for amendment to more clearly state that there are behavioral goals which residents must cooperate with to ensure that the facility can meet their care needs. The amendment's emphasis on "cooperation" recognizes that certain boarding care residents may have a psychological condition which diminishes their capacity for attaining the behavioral goals contained in their care plan. Boarding care facilities do not have sufficient staff or the needed physical plant to care for persons who do not cooperate

with their care plans and facility rules. The amendment to the rule requiring staff to advise residents who refuse care that their medical condition if unaddressed, may exceed the ability of the Home to care for them is in keeping with Minnesota Statutes. sec. 144.651, subd. 12.

Item G.

This is a technical amendment and does not change the substance of the present rule. Staff and residents have expressed consternation about the syntax of the present rule and commented on the need for clarification. The rule amendment makes it clear that "other than" refers only to "bathing".

Item J.

This amendment is needed to clarify the purpose of this admissions and continued stay criteria. The domiciliary facility does not have the staff and physical plant to safely and properly care for patients with current significant behavioral risk factors which pose a threat of harm to self or others.

Item L.

The amendments to this subpart make the rule less restrictive yet maintain an admission and continued stay criteria which will allow Board-operated domiciliary facilities to properly function at current staffing levels. The Board does not have the resources to operate a primary chemical dependency treatment facility, thus it is necessary to admit patients who are not actively chemically dependent. Board-operated facilities can properly care for patients who have been through a chemical dependency program at a facility which meets the program design requirements of Parts 9530.4100 to 9530.4450 and 9530.6620 to 9530.6650. Patients who have not been through a treatment program, yet have maintained three months of sobriety have demonstrated their ability to live a chemically free lifestyle and have reached a hallmark in their recovery from chemical dependency which is recognized by Alcoholics Anonymous.

Item M.

The amendments to this subpart are in keeping with the amendments re-naming part 0300, and support a technical amendment to the rule changing all references to the entire rule to "Chapter 9050". The amendments do not change the requirements for a patient's conduct.

9050.0070, subp. 4. Criteria for admission to and continued stay in a nursing home facility.

Item D.

The amendments to this subpart are in keeping with the amendments to part 0300 which change the focus of the care planning process from "compliance" to "cooperation". Residents of the homes had commented that "compliance" was a needlessly negative term used

to describe the process of an individual resident following the health care plan they had helped devise. The word "cooperation" is a much better term to describe the residents participation in their own health care. The amendment also clearly requires cooperation in this admission and continued stay criteria to be measured according to part 0300.

Item F.

The amendments to this subpart are needed to clarify the purpose of this admissions and continued stay criteria. The facility does not have the staff and physical plant resources to safely and properly care for patients with current significant behavioral risk factors which pose a threat of harm to self or others.

Item G.

This subpart is needed to establish a chemical dependency criteria for admission and continued stay in a board operated nursing care facility. In the eighteen months since the enactment of the agency rules it has become increasingly apparent that some nursing facility residents have continued their chemical dependency patterns after admission to the home, with deleterious medical effects to the resident and caused disruptions at the home.
The rule is similar to the chemical dependency criteria contained in part 9050.0070, subpart 3. L., except that it allows an incapacitated nursing home resident whose long term medical condition precludes further chemical abuse to be admitted to the home without chemical dependency treatment or demonstrating that they are chemically free.

9050.0080, subp. 2.

This rule amendment sets a time limit of thirty days for persons wishing to file an appeal of a decision of the admissions committee. Persons denied admission to the home had filed stale appeals as much as five months after being denied admission. Laws of Minnesota 1991, chapter 24, section 198.003 (a) (1) provides that the Board may, "create by rule reasonable time periods within which a resident must appeal an administrative determination to the next administrative level." A thirty day period provides applicants for admission a reasonable amount of time in which to file an appeal of a decision to deny the applicant admission to a Board-operated home. A person who wanted to be admitted to a Board-operated home after the 30 day appeal period had expired could re-apply for admission to the home at any time.

9050.0100, subp. 1.

This is a technical amendment and is not intended to change the substance of the present rule. The adopted rule should have referred to part .0070. The reference in the adopted rule to part .0700 is a typographical error. This subpart of the transfer rule is setting forth the requirement for the home to evaluate the patient's medical condition to determine the appropriateness of the

patient's continued stay in part .0070 if the patient were to refuse a recommended transfer, rather than to evaluate the patient's income if they refuse to transfer according to part .0700.

9050.0100, subp. 2.

This amendment is needed to remove "nonpayment of stay" as a grounds for altering the notice requirements of the transfer part of the rule. Nonpayment of stay is not a reason for transferring a patient nor for altering the notice requirements of a patient's transfer. Nonpayment of stay is a grounds for discharge from the home according to part .0200, subpart 3. A. If a patient being discharged from the home for nonpayment of stay, developed a medical condition necessitating a transfer, the patient would retain the right to timely notification of the transfer as stated in this rule part. This subpart complies with Minnesota Statutes, sec. 144.651, subd. 29.

9050.0150, subp. 7.

This rule amendment limits the role of the utilization management committee in reviewing residents' personal absences and makes the standards for review of personal absences less restrictive. This amendment was needed to relieve the burden upon the utilization management committee created by the existing rule requirement of reviewing all resident's personal absences of more than 96 hours and more than five personal absences per year. The rule is proposed for amendment to more closely parallel the reasonable standards contained in Minnesota Rules, part 9505.0415, subpart 6, that outline the medical assistance personal leave standards. Thirty six days of personal leave is adequate for the vast majority of residents in a Board-operated facility. Personal leaves which exceed thirty six days or which are contraindicated in the resident's care plan, should trigger a review of the resident's need for continued stay in a Board-operated facility.

The Minneapolis Veterans Home currently has a waiting list exceeding one hundred applicants for admission. It would be unreasonable to retain a resident on "bed hold" status who takes extensive personal leaves and does not need long term care, thus depriving persons needing care who are on the waiting list of the opportunity to be admitted.

9050.0200, subp. 6.

This amendment has been added to the discharge rules to provide a clearly stated notice procedure for persons who are absent without notice for more than 96 hours. This rule part is needed because facility staff requested a clearly stated standard for notification of residents being discharged for unexcused absences of more than 96 hours. Many of the residents who leave the facility without notice have no intention of returning and do not bother to go through the voluntary discharge procedure. In addition these residents often do not leave a forwarding address and thus are difficult to effectively advise of their impending

discharge. The rule amendment provides a thorough and fair notice requirement for facility staff to follow.

9050.0220, subp. 1.

This amendment transfers the obligation of making a discharge recommendation to the facility administrator for the grounds provided in part 0200, subpart 3. D. from the utilization management committee to the social services staff. This amendment is needed because it does not require the utilization management committee to meet to determine that a resident has been gone for more than 96 hours or has not returned after a deadline contained in personal leave pass. The resident's social worker would be the staff person assigned to determine the reason for the absence and would try to locate the resident or alert the local adult protection unit. It is reasonable to assign the duty of recommending discharge to the staff member most familiar with the resident's medical and social condition.

9050.0220, subp. 6.

This amendment is needed to correct an erroneous statutory reference in the existing rule regarding Minnesota Statutes, Chapter 14 appeals. This amendment is a technical amendment and does not change the substance of the rule.

9050.0300, CARE PLANNING.

In the period since Chapter 9050 was enacted in April 1990, many residents have commented that several words, such as "compliance", "infraction", and " disciplinary option" were used in the rule part which were perceived to have negative connotations. It was also noted that the process was supposed to be a comprehensive health care planning rather than just a behavior review process. The amendment of this rule part removes the words with negative connotations and makes the rule part clearly applicable to both mental and physical health care planning and reviews.

Subpart 1. This rule amendment requires each facility to have a care planning procedure. An individual resident must have a care plan developed in cooperation with the resident or persons acting on the resident's behalf and the facility's professional staff who are involved in the resident's care. This rule part also includes procedures to be followed when the resident has difficulty following their individual care plan.

Subpart 2. This rule part sets forth the procedures used to conform to Minnesota Statutes, section 144.651, subd. 10 regarding patient or resident participation in care planning. This part focuses on behavior management problems and the method used to assist the resident in resolving conflicts, disagreements and other behavior issues. The care plan process described in the rule provides a needed structure for dealing with a variety of related behavior and health care issues.

Subpart 3. This rule part describes the responsibilities of the care plan team and the process for the involvement of the utilization management committee in the care planning process. This rule part is needed to insure that there is a uniform fair process followed at each Board-operated facility for bringing an individual resident's care plan issues forward through a process which could, if the issues are not resolved, end with an involuntary discharge. The process laid out in 0300 is orderly and fair, and is in keeping with the Resident and Patient Bill of Rights

9050.0500, subp. 6. D.

This rule amendment makes it clear that the home may issue a billing for a months maintenance charge later than the tenth of the month following the month in which the service was received, if there is a retroactive maintenance recalculation, based upon a resident's receipt of a retroactive benefit. This rule part refers to part 0550 for a full statement of the Board's policy on retroactive lump sum payments of benefits and their effect on the calculation of a resident's maintenance. Every resident of a Board-operated home has signed an admission agreement which includes a requirement to make retroactive maintenance payments out of retroactive benefit payments.

9050.0550, subp. 4.

This rule amendment is needed to clarify the resident's obligation to pay increased maintenance to the state of Minnesota for the months in which the resident resided in the Home, if the resident receives a subsequent retroactive increase in benefit payments. The rule part is in keeping with one of the conditions of the resident's admission agreement. The United States Department of Veterans Affairs also looks back over a benefit payment period to examine the relationship of the retroactive income increase to determine past and present benefit eligibility, including a determination of whether their agency is entitled to a past repayment or a future reduction in benefit payments.

9050.0700, subp. 1.

This rule amendment makes it clear that income from lump sum retroactive benefit payments may be attributed to the period for which the benefits are paid rather than just for the month in which income from the lump sum payment was received. This rule part refers to part 0550 for a full statement of the Board's policy on retroactive lump sum payments of benefits and their effect on the calculation of a resident's maintenance. This part is in keeping with one of the conditions of the resident's admission agreement.

PART V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

It has been determined that there will be no impact on small business as a result of the adoption of this rule. The rule does not establish any reporting, compliance, deadline requirements or standards as contained in Minn. Stat. sec.14.115 for small businesses.

PART VI. WITNESSES

In support of the need and reasonableness of the proposed rules, the following witnesses will testify at the rulemaking hearing.

Stephen O"Connor
Chairman, Rules Committee
Minnesota Veterans Homes Board of Directors

Susan Kiley
Administrator, Hastings Veterans Home

David Carroll
Director, Psychological Services
Minneapolis Veterans Home

Carlene Hoeschen
Quality Assurance Coordinator
Minneapolis Veterans Home

PART VII. CONCLUSION

Based on the foregoing, the proposed amendments to Minnesota Rules, parts 9050.0010 to 9050.0900 are both needed and reasonable.

Dated: August 12, 1991

by _____
General James Sieben
Chairman, Board of Directors
Minnesota Veterans Homes

Stat Authority 198.003
(9) It is the duty of the board and the board has the power to:
(1) determine policy and subject to chapter 14, adopt, amend, and repeal rules for the governance of the homes, and to adopt emergency rules necessary to implement this chapter.

MN Laws 1991 Chapter 24
... With respect to residents' administrative appeal time periods that are not established by statute, the board may create by rule reasonable time periods within which a resident must appeal an administrative determination to the next administrative level. If the determination is not appealed within the time set by rule, the determination becomes final.

end of comment period Dec 6, 1991

Subp. 6. **Length of supervisor certification.** Supervisor certificates expire ~~two~~ four years after the applicant successfully completes the final training course examination.

Subp. 7. **Reciprocity.** The commissioner shall approve a tank installer certification course sponsored by a state or organization other than an approved training provider if the commissioner determines that the course is comparable to the program outlined in parts 7105.0080 and 7105.0090. Persons seeking reciprocity under this subpart shall be required by the commissioner to pass an examination to verify their familiarity with Minnesota's laws pertaining to underground storage tank systems if the commissioner finds that their courses did not adequately address Minnesota's statutes and rules. This examination may be taken any time after the completion of the approved training course and before applying for certification. However, the certificate expires ~~two~~ four years after the final day of the approved training course.

7105.0090 EXAMINATIONS AND DIPLOMAS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Diplomas.** The training provider shall issue a numbered diploma to each student who completes the training course and successfully passes the examination. The following information must be included on the diploma:

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

E. an expiration date for accreditation that is ~~two~~ four years after the date on which the student passed the examination; and

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

If the person administering the examination is not the same person administering the course, both persons shall sign the diploma.

Veterans Homes Board

Proposed Permanent Rules Relating to Resident Care

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Veterans Homes Board (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. The Board's authority to adopt the rule is set forth in *Minnesota Statutes*, section 198.003, as amended by *Laws of Minnesota 1991*, Chapter 24.

These rules were originally published in the September 3, 1991 *State Register*, Volume 16, Number 10, pages 478 through 484. All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. All comments must be submitted by the ending date and time of December 6, 1991 at 4:30 p.m. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20.

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

Robert Klukas
or
Eileen Hanlon
Minnesota Veterans Homes Board
Veterans Service Building
20 West 12th Street, Room 122
St. Paul, Minnesota 55155
(612) 296-2073

The proposed rule may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule as noticed. A copy of the proposed rule is attached to this mailed notice and has been published in the September 3, 1991 *State Register* on pages 478 through 484.

The proposed amendments to *Minnesota Rules*, Parts 9050.0010 to 9050.0900 govern the operation of the Minnesota Veterans Homes and establish the standards used to determine:

A. an applicant's eligibility and suitability for admission to a board-operated facility;

B. appropriateness of a resident's continued care in a board-operated facility;

C. services to be provided in connection with residence in a board-operated facility;

D. procedures to be used in effecting admissions and discharges;

E. standards of resident care and conduct; and

F. charges to be paid by or on behalf of a resident for care in the home.

A free copy of the rule is available from Mr. Klukas or Ms. Hanlon at the address and telephone number stated above.

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Board office at the address and telephone number stated above upon request.

You are hereby advised, pursuant to *Minnesota Statutes*, section 14.115, "Small business considerations in rulemaking," that the proposed rules will have no effect on small businesses. Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first 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 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 rule, must submit the written request to Mr. Klukas or Ms. Hanlon at the address stated above.

Dated: 22 October 1991

James G. Sieben
Chairman, Board of Directors
Minnesota Veterans Homes

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.

Department of Agriculture

Adopted Permanent Rules Relating to Dairy Plant Monthly Reports

The rules proposed and published at *State Register*, Volume 16, Number 7, pages 241-242, August 12, 1991 (16 SR 241), are adopted as proposed.

Board of Dentistry

Adopted Permanent Rules Relating to License Fees

The rules proposed and published at *State Register*, Volume 16, Number 2, pages 56-57, July 8, 1991 (16 SR 56), are adopted as proposed.

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
VETERANS HOMES BOARD

VETERANS SERVICE BUILDING
20 WEST 12TH STREET, ROOM 206A
ST. PAUL, MINNESOTA 55155
(612) 296-2073

Maj. Gen. James G. Sieben (Ret.)
Chairman
Hastings

Michas Ohnstad
Vice Chairman
North Branch

Robert E. Hansen
Secretary
Mendota Hts.

Dr. Harvey Aaron
St. Paul

Pamela K. Barrows
Marshall

Daniel Bolhouse
New Brighton

Stephen J. O'Connor
Spring Valley

Dr. Robert W. Reif
White Bear Lake

Emily P. Spensieri
Hibbing

October 20, 1991

Ms. Patricia Nolte
Assistant Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Re: In the Matter of Proposed Rule Amendments Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.

Dear Ms. Nolte:

This is to advise you that the above-captioned rule submitted to you on October 16, 1991 is hereby withdrawn as of today according to Minnesota Rules ~~2010~~.1200.
1100

Sincerely,

James Sieben
Chairman, Minnesota Veterans Homes
Board of Directors

STATE OF MINNESOTA
MINNESOTA VETERANS HOMES BOARD

CERTIFICATE OF AUTHORIZING RESOLUTION

I, James G. Sieben, do hereby certify that I am the Chairman of the Minnesota Veterans Homes Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Board duly and properly called and held on the 11th day of July 1991, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

RESOLVED, That James G. Sieben, Chairman of the Minnesota Veterans Homes Board is hereby granted the authority and directed to sign and to give the Notices of the Board's Intent to Adopt Rules and Amendments to Rules Relating to Admissions, Discharge, Transfer, Utilization and Compliance Review, Cost of Care Calculations, Maintenance Charges, and Facility Services, Resident Rights and Responsibilities, Minnesota Rules, Chapter 9050 to all persons who have registered their names with the Board for that purpose and publish the Notice and the Rule in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 11th day of August 1991.

CHAIRMAN OF THE BOARD
Minnesota Veterans Homes Board

ATTESTED TO

STATE OF MINNESOTA
MINNESOTA VETERANS HOMES BOARD

RESOLVED, That James G. Sieben, Chairman of the Minnesota Veterans Homes Board is hereby granted the authority and directed to sign and to give the Notices of the Board's Intent to Adopt Rules and Amendments to Rules Relating to Admissions, Discharge, Transfer, Utilization and Compliance Review, Cost of Care Calculations, Maintenance Charges, and Facility Services, Resident Rights and Responsibilities, Minnesota Rules, Chapter 9050 to all persons who have registered their names with the Board for that purpose and publish the Notice and the Rule in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF,I have hereunto subscribed my name this 11th day of July 1991.

James G. Sieben
Chairman of the Board
Minnesota Veterans Homes Board

chemicals believed to cause cancer and tend to accumulate in the tissues of fish and other animals. A major source of TCDD is as an unwanted by-product of the use of chlorine in the pulp bleaching process in bleached kraft paper mills. The agency wants the information to assist it in establishing a statewide numerical water quality standard for TCDD. The standard would apply to surface waters in Minnesota. It would be used to help define which lakes, streams or rivers are polluted with TCDD. Also, the standard could be used as the basis for effluent limitations in discharge permits to limit the amount of TCDD allowed into Minnesota's surface waters.

The agency also is seeking opinions and suggestions on the concept of pollution prevention as it relates to the control of TCDD or other persistent and bioaccumulative toxic materials. Pollution prevention, as defined in the recently passed Minnesota Toxic Pollution Prevention Act (*Minnesota Statutes* Chapter 115D, 1990), means eliminating at the source the use, generation or release of toxic or hazardous substances. The agency is interested in ideas regarding the reduction or elimination of toxics in discharges, especially persistent and bioaccumulative substances, independent of their water quality standards or "allowable amounts".

Oral or written comments on these two issues will be taken at a public meeting to be held on Monday, March 4, 1991, beginning at 9:00 a.m. in the agency board room located at the address listed below.

Any person, whether he or she attends the public meeting or not, may submit information or opinions on these topics. Comments may be written or oral. The agency will consider whatever is submitted as it prepares the proposed amendments to Chapter 7050. Any written material received in response to this notice will become part of any rulemaking record generated in this matter.

Written statements may be sent to Mr. David E. Maschwitz at the address listed below:

Minnesota Pollution Control Agency
Division of Water Quality
520 Lafayette Road
St. Paul, MN 55155

Oral comments and inquiries may be directed to Mr. Maschwitz during normal business hours at the agency or by phone at (612) 296-7255.

Written and oral comments will be accepted until April 26, 1991.

Gerald L. Willet
Commissioner

Department of Veterans Affairs

Veterans Homes Board

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules for Governance of the Minnesota Veterans Homes

NOTICE IS HEREBY GIVEN that the Veterans Homes Board of the Minnesota Department of Veterans Affairs is seeking information or opinions from sources outside the agency in preparing amendments to its rules Chapter 9050 governing veterans homes admissions, discharges, cost of care calculations and maintenance charges. The adoption of the rule is authorized by *Minnesota Statutes*, section 198.003, which permits the Veterans Homes Board to adopt, amend and repeal rules for the governance of the homes.

The Minnesota Veterans Homes Board requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Robert Klukas
Minnesota Veterans Homes
Building 6, Room 105
5101 Minnehaha Avenue South
Minneapolis, Minnesota 55417

Oral statements will be received during regular business hours over the telephone at (612) 721-0602 and in person at the above address.

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In the Matter of the Adoption of the Rule of the Veterans Homes Board

DECLARATION OF COUNSEL

I, Merwin Peterson, 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, of which there are none, are listed below. For Attorney General billing purposes, the four-digit docket client code is 0740.

MERWIN PETERSON
Assistant Attorney General

Dated: October 16, 1991

rec'd 10/16/91

STATE OF MINNESOTA
VETERANS HOMES BOARD

VETERANS SERVICE BUILDING
20 WEST 12TH STREET, ROOM 206A
ST. PAUL, MINNESOTA 55155
(612) 296-2073

Maj. Gen. James G. Sieben (Ret.)
Chairman
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Michas Ohnstad
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Robert E. Hansen
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Dr. Harvey Aaron
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New Brighton

Stephen J. O'Connor
Spring Valley

Dr. Robert W. Reif
White Bear Lake

Emily P. Spensieri
Hibbing

October 16, 1991

Ms. Patricia Nolte
Assistant Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Re: In the Matter of Proposed Rule Amendments Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.

Dear Ms. Nolte:

On October 10, 1991 the Minnesota Veterans Homes Board of Directors (Board) adopted the above-captioned rule amendments. The rule adoption process proceeded according to the "dual notice" procedures, thus the filings with the Office of Administrative Hearings are included as a part of the rule making record for your review, even though the non-controversial nature of the rule obviated the need for a hearing. Enclosed for your review are the following documents:

1. A copy of the Declaration of Counsel affirming the the rulemaking record and finding no exceptions to Minnesota Rules, Chapter 2010.

2. A copy of the Findings of Fact, Conclusions, and Order Adopting the Rule duly adopted by the Board. There were no written requests for a hearing, nor were there any written comments, nor were there any requests to be notified of the rule's submission to the Department of Administration Attorney General from any person during the thirty day notice period.

3. A copy of the Notice of Solicitation of Outside Opinion as published in the State Register.

4. A copy of the Certificate of Authorizing Resolution.

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

6. A copy of the Notice of Hearing and Notice of

Intent to Cancel a Hearing if Fewer Than Twenty Five Persons Request a Hearing in Response to a Notice of Intent to Adopt Rules Without a Public Hearing as mailed to persons requesting notice of this agency's rulemaking activities. No hearing requests or comments were received during the thirty day period.

7. A copy of the Statement of Need and Reasonableness in support of the proposed rule.

8. A copy of the Affidavit of Mailing of the Notice of Hearing and Notice of Intent to Cancel a Hearing if Fewer than Twenty Five Persons Request a Hearing in Response to a Notice of Intent to Adopt Rules Without a Public Hearing, including the Certificate of Mailing.

9. A copy of the Affidavit of Additional Notice.

10. A copy of the Notice of Hearing and Notice of Intent to Cancel a Hearing if Fewer than Twenty Five Persons Request a Hearing in Response to a Notice of Intent to Adopt Rules Without a Public Hearing as published in the State Register on September 3, 1991. No one requested a hearing during the thirty day notice and comment period.

11. Four copies of the rule as duly adopted by the Board. There were no modifications to the rule that was published in the State Register on September 3, 1991.

12. A copy of the filings with the Office of Administrative Hearings regarding the rule hearing.

13. A copy of the Certificate of the Resolution Adopting the Rule.

The originals of these documents are available for your inspection, if you would like. If you have any questions concerning the above listed documents, please call me immediately at (612) 296-2073. If you have no questions, I look forward to hearing from you sometime in the next two weeks.

Sincerely,

Robert Klukas
Rules Writer

Stat Authority 198.003 as amended MN Laws 1991 Chapter 24

Notice of Intent - they are missing the following pr 2010.0300 E
(1) cite to 14.22 to 14.28
(2) (3) (5) (6) (7) (8) (9)
they call it Notice of Hearing

Findings of Fact
had meetings on October 2, 1991 about the rules

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

NOTICE OF HEARING AND
NOTICE OF INTENT TO CANCEL A HEARING
IF FEWER THAN TWENTY FIVE PERSONS
REQUEST A HEARING IN RESPONSE TO
NOTICE OF INTENT TO ADOPT RULES
WITHOUT A PUBLIC HEARING

In the Matter of the Proposed Adoption
of Amendments to Rules of the Minnesota
Veterans Homes Board of Directors
Regarding Admissions, Discharge, Transfer,
Utilization Review, Cost of Care Calculations,
and Maintenance Charges, Minnesota Rules,
Parts 9050.0010 to 9050.0900.

Notice is hereby given that a public hearing concerning the proposed rules captioned above will be held at the Office of Administrative Hearings, Suite 500, Flour Exchange Building, 310 4th Avenue South, Minneapolis, Minnesota, on Tuesday October 15th, 1991 commencing at 9:30 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF

(4)

FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE VETERANS HOMES BOARD. To verify whether a hearing will be held please call the Veterans Homes Board offices between October 4 and October 11, 1991 at (612) 296-2073.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Judge Howard L. Kaibel, Office of Administrative Hearings, Suite 500 flour Exchange Building, 310 4th Avenue South, Minneapolis, Minnesota, 55415; telephone (612) 341-7608, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the

three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

(11) The proposed amendments to Minnesota Rules, Parts 9050.0010 to 9050.0900 govern the operation of the Minnesota veterans homes and establish the standards used to determine:

A. an applicant's eligibility and suitability for admission to a board-operated facility;

B. appropriateness of a resident's continued care in a board-operated facility;

C. services to be provided in connection with residence in a board-operated facility;

D. procedures to be used in effecting admissions and discharges;

E. standards of resident care and conduct; and

F. charges to be paid by or on behalf of a resident for care in the home.

(1) The Minnesota Veterans Homes Board of Directors' authority to adopt the proposed rule amendments is contained in Minnesota Statutes, section 198.003, as amended by Laws of Minnesota 1991, Chapter 24.

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.

(11) Copies of the proposed rule amendments are now available and at least one free copy may be obtained by writing to :

Robert Klukas

Minnesota Veterans Homes Board

Suite 122, Veterans Service Building

20 West 12th Street

St. Paul, Minnesota, 55155

Additional copies will be available at the hearing. If you have questions on the content of the rule contact Robert Klukas at (612)296-2073.

NOTICE

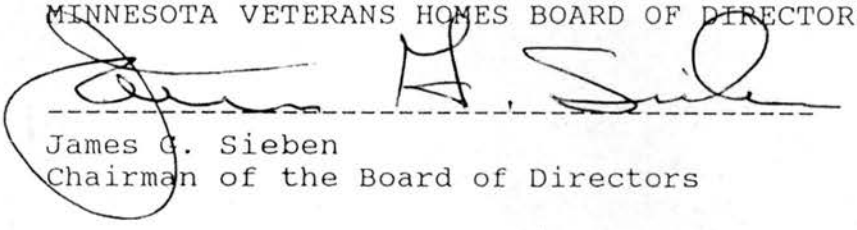
Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

(12) NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency

and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS



James G. Sieben
Chairman of the Board of Directors

Veterans Homes Board

Proposed Permanent Rules Relating to Resident Care

Notice of Hearing and Notice of Intent to Cancel a Hearing if Fewer than Twenty Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing concerning the proposed rules captioned above will be held at the Office of Administrative Hearings, Suite 500, Flour Exchange Building, 310 4th Avenue South, Minneapolis, Minnesota, on Tuesday October 15th, 1991 commencing at 9:30 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE VETERANS HOMES BOARD. To verify whether a hearing will be held please call the Veterans Homes Board offices between October 4 and October 11, 1991 at (612) 296-2073.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Judge Howard L. Kaibel, Office of Administrative Hearings, Suite 500 Flour Exchange Building, 310 4th Avenue South, Minneapolis, Minnesota, 55415; telephone (612) 341-7608, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed amendments to *Minnesota Rules*, Parts 9050.0010 to 9050.0900 govern the operation of the Minnesota veterans homes and establish the standards used to determine:

A. an applicant's eligibility and suitability for admission to a board-operated facility;

B. appropriateness of a resident's continued care in a board-operated facility;

C. services to be provided in connection with residence in a board-operated facility;

D. procedures to be used in effecting admissions and discharges;

E. standards of resident care and conduct; and

F. charges to be paid by or on behalf of a resident for care in the home.

The Minnesota Veterans Homes Board of Directors' authority to adopt the proposed rule amendments is contained in *Minnesota Statutes*, section 198.003, as amended by *Laws of Minnesota 1991*, Chapter 24.

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.

Copies of the proposed rule amendments are now available and at least one free copy may be obtained by writing to:

Robert Klukas
Minnesota Veterans Homes Board
Suite 122, Veterans Service Building
20 West 12th Street
St. Paul, Minnesota 55155

Additional copies will be available at the hearing. If you have questions on the content of the rule contact Robert Klukas at (612) 296-2073.

NOTICE

Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

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.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS
James G. Sieben
Chairman of the Board of Directors

Rules as Proposed

9050.0020 APPLICABILITY.

~~Parts 9050.0010 to 9050.0900 govern~~ Chapter 9050 governs the operation of the Minnesota veterans homes and ~~establish~~ establishes the standards used to determine:

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

~~Parts 9050.0010 to 9050.0900~~ Chapter 9050 must be interpreted to give effect to *Minnesota Statutes*, chapters 196, 197, and 198.

9050.0040 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to ~~parts 9050.0010 to 9050.0900~~ chapter 9050.

[For text of subps 2 to 19, see M.R.]

Subp. 20. **Campus.** "Campus" means the property owned or controlled by the state of Minnesota on which a Minnesota veterans home facility is located, except the part of the property leased by the state of Minnesota to any party.

Subp. 21. **Care plan review.** "Care plan review" means an assessment of a resident's physical and mental condition and treatment needs by the care plan team. Care plan review includes:

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

[For text of subps 22 to 40, see M.R.]

Subp. 40a. **Equivalent chemical dependency program.** "Equivalent chemical dependency program" means an unlicensed chemical dependency program that meets the program design requirements of parts 9530.4100 to 9530.4450 and 9530.6620 to 9530.6650.

[For text of subps 41 to 120, see M.R.]

9050.0070 TYPES OF ADMISSIONS.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Criteria for admission to and continued stay in a boarding care facility.** The decision about admission to or continued stay in a board-operated facility licensed to provide boarding care must be based on the facility's ability to meet the care needs of the applicant or resident. A person whose care needs can be met by the board-operated facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines the person meets the criteria in items A to N. A person whose care needs cannot be met must be denied admission or continued stay if the admissions committee determines the person does not meet the criteria in items A to N.

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

F. The person has the right to participate in establishing the person's individual care plan. ~~A resident must comply with the elements of the individual care plan that are not medical in nature.~~ Residents must be advised ~~of their rights~~ that exercising their right to refuse care may lead to their discharge if the facility is unable to care for them under part 4655.1500, subpart 2. Continuing ~~compliance~~ cooperation must be measured as specified in the ~~compliance~~ care plan review process in part 9050.0300.

G. A person must be physically and mentally capable of providing personal care and hygiene including dressing, grooming, ~~washing other than bathing,~~ eating, ~~and~~ toileting, and washing other than bathing. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist.

[For text of items H and I, see M.R.]

J. A staff psychiatrist or psychologist must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist which suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

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

L. A person with a diagnosis of chemical abuse within the past six months or a diagnosis of chemical dependency, excluding a chemical dependency diagnosis of "in remission," must have successfully completed a chemical dependency treatment program as prescribed in parts 9050.0040, subparts 25 and 99, and 9530.6620 to 9530.6650, or an equivalent chemical dependency program, or must be chemically free. For the purposes of this item, a person is chemically free if the person has ~~six~~ three months of nonuse or use with no symptoms of dependency prior to admission and demonstrates no symptoms of abuse or dependency during residence. The current list of accepted equivalent chemical dependency programs as defined in part 9050.0040, subpart 40, item A, must be kept at the board office.

M. The person must be able to comply with Minnesota veterans homes rules in ~~parts 9050.0010 to 9050.0900~~ chapter 9050. Ability to comply may be demonstrated by a documented history of compliance in a prior placement, if any, or other relevant evidence that demonstrates ability to comply. Continuing compliance must be measured as specified in the ~~compliance review~~ care plan process in part 9050.0300.

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

Subp. 4. **Criteria for admission to and continued stay in a nursing home facility.** The decision about admission or continued stay in a board-operated facility licensed as a nursing home must be based on the facility's ability to meet the care needs of the person. A person whose care needs can be met by the facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines that the person meets all of the criteria in items A to ~~F~~ G. A person whose care needs cannot be met must not be admitted or retained as a resident if the admissions committee determines the person fails to meet all of the criteria in items A to ~~F~~ G.

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

D. The person must demonstrate a history of ~~compliance~~ cooperation with an individual treatment or care plan or with the medical treatment plan prescribed by the attending physician. ~~Ability to comply~~ Cooperation may be demonstrated by a documented history of ~~compliance~~ cooperation in a prior placement, if any, or other relevant evidence which demonstrates ~~ability to comply~~ cooperation. ~~The person with a history of noncompliance must be assessed by a staff registered nurse as to the facility's ability to meet the person's care needs.~~ Continuing cooperation must be measured as specified in the care plan review process in part 9050.0300.

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

F. A staff psychiatrist or psychologist must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist that suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

G. A person with a diagnosis of chemical abuse within the past six months or a diagnosis of chemical dependency, excluding a chemical dependency diagnosis of "in remission," must have successfully completed a chemical dependency treatment program as described in parts 9050.0040, subparts 25 and 99, and 9530.6620 to 9530.6650, or an equivalent chemical dependency program, or must be chemically free. For the purpose of this item, a person is chemically free if the person has three months of nonuse or use with no symptoms of dependency before admission and demonstrates no symptoms of abuse or dependency during residence. The current list of accepted equivalent chemical dependency programs as defined in part 9050.0040, subpart 40, item A, shall be kept at the board office. Persons whose long-term medical condition is assessed as precluding continued chemical abuse may be accepted for nursing care.

9050.0080 ADMISSION DECISION; NOTICE AND REVIEW.

[For text of subpart 1, see M.R.]

Subp. 2. **Review.** An applicant or the applicant's legal representative may request a review of a decision of the admissions committee to deny the applicant's admission. The applicant or applicant's legal representative desiring the review shall forward the request, in writing, to the administrator of the facility within 30 days of the applicant's receipt of a notice of denial. The review must be completed within 30 days of receipt of the request. The administrator may request that the admissions committee reconsider its decision or the administrator may review the existing minutes to determine the basis for a negative decision. If a reconsideration is requested, it must be conducted at the next scheduled admissions committee meeting. The decision resulting from the reconsideration and the reasons for the decision must be forwarded to the administrator in writing. The administrator shall conduct a final review of the admissions committee's decision, based on the admissions criteria in part 9050.0070, subpart 3 or 4, and shall issue a final decision. The decision of the administrator shall constitute final agency action.

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.

9050.0100 TRANSFER.

Subpart 1. **Generally.** A resident may be transferred from a board-operated facility to another health care facility or rehabilitation program or detoxification program if:

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

A resident may be transferred only with the resident's consent or the consent of the legal representative, if any, except in an emergency when obtaining consent before transfer is not possible. A resident who refuses consent for transfer to another health care facility or rehabilitation program or detoxification program on recommendation of the attending physician or the utilization review committee, or both, may be subject to discharge for noncompliance with the resident's individual care plan. The utilization review committee's decision to recommend discharge of a resident for refusing consent for transfer is limited by the Patient's Bill of Rights established in *Minnesota Statutes*, section 144.651, and must be based on the facility's ability to meet the person's care needs as determined by the criteria in part ~~9050.0700~~ 9050.0070, subparts 3 and 4. A resident transferred from another facility back to the board-operated facility does not need to reapply for admission.

Subp. 2. **Notice.** Unless a situation occurs that is outside the board-operated facility's control, such as a utilization review, the accommodation of newly admitted residents, a change in the resident's medical or treatment program, or the resident's own or another resident's welfare, ~~or nonpayment of stay.~~ a resident for whom the utilization review committee or the attending physician recommends a transfer must be notified of the recommendation at least:

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

[For text of subps 3 to 5, see M.R.]

9050.0150 BED HOLD.

[For text of subps 1 to 6, see M.R.]

Subp. 7. **Monitoring of bed hold status.** The appropriateness of continued bed hold must be reviewed by the utilization review committee of the board-operated facility at least once every 30 days during the resident's ongoing absence. A decision about approval of continued bed hold must be based on the resident's satisfactory progress toward recovery from the condition for which the resident was hospitalized or completion of the treatment program or rehabilitation program, and the existence of a reasonable expectation that the facility will be able to care for the resident upon return to the board-operated facility and the resident's compliance with subpart 5 if applicable. Continued bed hold or continued residency with personal absences exceeding ~~96 hours or more than five personal absences per year that are less than 96 hours~~ 36 cumulative days per year must be reviewed by the utilization review committee. Continued bed hold or continued residency with personal absences that are contraindicated in the resident's care plan may, upon the recommendation of the direct care staff, be reviewed by the utilization review committee. The decision about continued residence must be based on the resident's continuing need for care as determined by the utilization review committee. The determination must be according to the criteria in part 9050.0070, subparts 3 and 4.

9050.0200 DISCHARGE.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Exceptions.** A resident's discharge under subpart 3, item D, is subject to reconsideration if the resident reports his or her whereabouts to the administrator of the facility and requests reconsideration within 30 days from the resident's departure from the facility without notice. A notice of involuntary discharge must be sent to the resident's address, if it is known, or to the resident's last known address, and to the address of a person listed by the resident as the person to be contacted during an emergency. The notice of discharge must be signed by the administrator and sent by certified mail within a reasonable amount of time, following the determination that the resident is absent without notice.

9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **Generally, recommendations.** Involuntary discharge for a reason specified in part 9050.0200, subpart 3, item C ~~or D~~, must be based on the recommendation of the utilization review committee. Involuntary discharge under part 9050.0200, subpart 3, item A, D, or E, must be based on the recommendation of the facility financial staff or social services staff.

[For text of subps 2 to 5, see M.R.]

Subp. 6. **Appeals process.** An applicant or resident, or legal representative, may appeal a discharge or transfer order. Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, *Minnesota Statutes*, ~~sections~~ section 14.48 ~~to 14.56~~ et. seq., until rules are adopted under *Minnesota Statutes*, section 144A.135, by the commissioner of health. Once the rules adopted under *Minnesota Statutes*, section 144A.135, have taken effect, all appeals must be in accordance with those rules. The administrator shall inform the resident or applicant of the rules that govern the appeal in the notice provided under part 9050.0100, subpart 2, or 9050.0200, subpart 4. A final discharge order issued by the administrator following the Office of Administrative Hearings' review remains in effect pending any appeal. Notwithstanding this provision, the administrator may, for good cause shown, waive imposition of the discharge order until all appeals have been concluded.

Nothing in this part may be construed to limit, change, or restrict other appeal or review procedures available to a resident under law.

9050.0300 ~~COMPLIANCE REVIEW~~ CARE PLANNING.

Subpart 1. **Generally.** A board-operated facility must have and implement a ~~compliance review~~ care planning procedure ~~to review~~. Under the procedure, a resident's ~~compliance with an individual care plan and facility rules as specified in chapter 9050. The review must determine what action, if any, is to be taken to ensure the resident's compliance and whether the board-operated facility is able to~~ care plan is initiated and reviewed by the care plan team to ensure that the resident's needs are addressed and the facility has the ability to competently and safely care for the resident according to the criteria in part 9050.0070, subparts 3 and 4. The care plan team is comprised of the facility staff members who are directly involved with the resident's care, including a physician, licensed nurse, social worker, and other staff as indicated by the patient's condition.

Subp. 2. **Requirements of procedure.** A ~~compliance review~~ care planning procedure must provide for:

A. the resident's right to participation ~~of a~~ by the resident ~~advocate~~, a resident's advocates, legal representatives, and, with the resident's consent, the resident's family members, in the ~~compliance~~ care plan review;

B. notice to the resident ~~of each problem or infraction~~ that a care plan review is scheduled;

C. ~~instruction for~~ discussion with the resident regarding ~~procedures or options for compliance~~ methods to assist the resident to attain the care plan goals;

D. ~~opportunity for participation of the resident or the resident's legal representative, social workers, and, with the resident's consent, the resident's family members;~~

~~E.~~ differentiated reviews and actions consistent with the frequency and ~~severity~~ seriousness of the resident's ~~compliance problem;~~

~~F. notice to the resident that repeated noncompliance may result in imposition of disciplinary options or restrictions that the utilization review committee finds necessary~~ medical, psychiatric, or behavioral status to ~~provide for~~ ensure that the resident's care needs are met according to part 9050.0070, subpart 3 or 4~~, and the resident's individual care plan~~;

~~G.~~ E. an accelerated review procedure to be used when the ~~severity~~ seriousness of the resident's ~~noncompliance~~ behavior endangers the health and safety of the resident, other residents, or staff members of the board-operated facility;

~~H.~~ F. consideration of the resident's ability to comprehend and cooperate with ~~parts 9050.0010 to 9050.0900 or~~ chapter 9050 and with the goals contained in the resident's individual care plan ~~provisions~~; and

~~I.~~ G. notice to the resident that ~~the ultimate consequence of noncompliance is~~ a recommendation for discharge~~,~~ may occur if ~~the noncompliance results in~~ the board-operated ~~facility's inability~~ facility is unable to meet the care needs of the resident according to part 9050.0070, subparts 3 and 4.

Subp. 3. ~~**Conduct of review;**~~ **Responsibilities of the care plan team.** ~~Compliance~~ Care plan review must be conducted by the ~~utilization review committee or subcommittee~~ care plan team. ~~Decisions~~ Recommendations as to ~~the use of the review procedure, disciplinary options,~~ restrictions or ~~recommendations for discharge~~ discharges must be ~~by majority vote~~ made to the utilization review committee. Decisions ~~of the committee or subcommittee at each level or occasion of review~~ must be based on the facility's ability to care for the resident according to part 9050.0070, subpart 3 or 4.

9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Billing.** Billing for maintenance charges must be as specified in items A to F.

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

D. A billing for one month's service must be issued no later than the tenth of the month following the month in which the service was provided, except for billings occasioned by a maintenance recalculation based on retroactive income received according to part 9050.0550, subpart 4.

[For text of items E and F, see M.R.]

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.

9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Chargeable income.** The applicant's or resident's chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 and after deductions from net income have been made according to part 9050.0755. The applicant's or resident's entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the board-operated facility as representative payee has been executed in favor of the board-operated facility. Residents not paying the maximum maintenance fee who receive retroactive increases in income must have their maintenance fee recalculated and the part of the increase owed to the home must be paid. The maintenance fee must be recalculated for the period of the resident's stay that coincides with the period for retroactive payment of income to the resident.

[For text of subp 5, see M.R.]

9050.0700 INCOME.

Subpart 1. **Evaluation of income.** The facility financial staff shall evaluate only income received by or on behalf of an applicant or resident when determining the maintenance charge payable by or on behalf of an applicant or resident. All payments, unless specifically excluded in subpart 3, must be counted as income. All income must be counted in the calendar month received, except for lump sum retroactive benefit payments calculated according to part 9050.0550, subpart 4. Income becomes property if retained after the month in which it is received, unless this part specifically states otherwise.

[For text of subps 2 and 3, see M.R.]

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.

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS
20 W. 12th Street, Room 122
St. Paul, MN 55155
(612) 296-2073
FAX (612) 296-6177

TO: PATRICIA NOLTE
297-2576

FROM: BOB KLUKAS
296-2073

NUMBER OF PAGES (including this page): 2

****

IF THERE ARE PROBLEMS RECEIVING THIS TRANSMISSION

PLEASE CALL: CARRIE

AT: 296-2073

DATE: 10-21-91

a signed original will be delivered tomorrow

STATE OF MINNESOTA
VETERANS HOMES BOARD

VETERANS SERVICE BUILDING
20 WEST 12TH STREET, ROOM 206A
ST. PAUL, MINNESOTA 55155
(612) 296-2073

Maj. Gen. James G. Sieben (Ret.)
Chairman
Hastings

Michas Ohnstad
Vice Chairman
North Branch

Robert E. Hansen
Secretary
Mendota Hts.

Dr. Harvey Aaron
St. Paul

Pamela K. Barrows
Marshall

Daniel Bolhouse
New Brighton

Stephen J. O'Connor
Spring Valley

Dr. Robert W. Reif
White Bear Lake

Emily P. Spensieri
Hibbing

October 20, 1991

Ms. Patricia Nolte
Assistant Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Re: In the Matter of Proposed Rule Amendments Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.

Dear Ms. Nolte:

This is to advise you that the above-captioned rule submitted to you on October 16, 1991 is hereby withdrawn as of today according to Minnesota Rules 2010.1200.

Sincerely,

James Sieben
Chairman, Minnesota Veterans Homes
Board of Directors

STATE OF MINNESOTA
MINNESOTA VETERANS HOMES BOARD

AFFIDAVIT OF MAILING

In the Matter of the Proposed Rules Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

Robert Klukas, being duly sworn, deposes and says:

That on the 3rd day of September, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System or in the United States Mail for first class mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Veterans Homes Board (Board) for the purpose of receiving notice of the proposed adoption of rules by the Board.

Robert Klukas
Rules Writer

Subscribed and sworn to before me
this 6th day of September, 1991.

Notary Public

TERRENCE A. LOGAN
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES FEBRUARY 20, 1993

STATE OF MINNESOTA
MINNESOTA VETERANS HOMES BOARD

In the Matter of the Proposed Rules Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules parts 9050.0010 to 9050.0900.

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. sec. 14.14 (1990) that their names be placed on file with the Minnesota Veterans Homes Board of Directors (Board) for the purpose of receiving notice of the proposed adoption of rules by the Board is accurate and complete as of this 4:00 p.m., this 3rd day of September, 1991.

Robert Klukas
Rules Writer

Iris Freeman
Minn. Alliance Health
5609 Lyndale Ave. South
Mpls., Mn. 55419

Lois Meuleners
7309 Knox Ave. So.
Richfield, Mn.
55423

Roy C. Travers
5101 Minnehaha Ave.
Mpls., Mn.
55417

Harlan Jarvis
Hastings Veterans Home
1200 E. 18th Street
Hastings, Mn. 55033

Niles Smith
5101 Minnehaha Ave. So.
Mpls., Mn.
55417

Betty Christensen
1181 Edgecumbe Rd.,
Apt. 1415
St. Paul, Mn. 55105

Mrs. Jean T. Janes
4300 River Pkwy.,Unit 108
Mpls., Mn.
55406

Bill Daniels, Atty.
Legal Soc. Aid of Mpls.
323 Fourth Ave. So.
Mpls., Mn. 55415

Mearl Nelson
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Richard J. Carroll
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St. Paul, Mn.
55106

Carroll L. Flo
Hastings Veterans Home
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Hastings, Mn. 55033

Lois Marrinan
2181 Carter Ave.
St. Paul, Mn.
55108

Mrs. Morris N. Sorenson
813 Pillsbury Ave.
Albert Lea, Mn.
56007

Mrs. Dolores M. Norgren
4533 44th Ave. South
Mpls., Mn.
55406

James A. Lee, Jr., Atty.
Southern Mn. Legal Serv.
300 Minnesota Building
St. Paul, Mn. 55101-0013

Mr. Lyle Foltz
Room 182A, Whipple Bldg.
Fort Snelling
St. Paul, Mn. 55111

Micheal Labovitch
Veterans Service Office
P.O. Box 18145
West St. Paul, Mn. 55118-3470

Gretchen Musicant
Minn. Nurses Assoc.
1295 Bandana Blvd., #140
St. Paul, Mn. 55108-5115

M. Francesca Chervenak
Legal Aid Soc. of Mpls.
323 4th Ave. So. Room222
Mpls., Mn. 55415

Don Lowry
586 Hazel
St. Paul, Mn.
55119

Dan Smestad
Duluth Veterans Center
405 E. Superior St.
Duluth, Mn. 55802

John M. Hennessey
Hastings Veterans Home
1200 East 18th Street
Hastings, Mn. 55033

STATE OF MINNESOTA
MINNESOTA VETERANS HOMES BOARD

AFFIDAVIT OF ADDITIONAL NOTICE

In the Matter of the Proposed Rules Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

Robert Klukas, being duly sworn, deposes and says:

That on the 6th day of September, 1991, at the City of Hastings, County of Dakota and Minneapolis, County of Hennepin State of Minnesota, he posted the attached Notice of Hearing by placing the notice on bulletin boards provided for posting official notices at the Minneapolis and Hastings Veterans Homes.

Robert Klukas
Rules Writer

Subscribed and sworn to before me
this 6th day of September, 1991.

Notary Public

TERRENCE A. LOGAN
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES FEBRUARY 20, 1993

STATE OF MINNESOTA
VETERANS HOME BOARD
MINNEAPOLIS VETERANS HOME
5101 MINNEHAHA AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55417
(612) 721-0600

Honorable Howard L. Kaibel
Administrative Law Judge
Office of Administrative Hearings
500 Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415

August 12, 1991

Re: Proposed Rules Governing Minnesota Veterans Homes Admissions, Discharge Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.

Dear Judge Kaibel:

Enclosed in accordance with Minn. Rules, part 1400.0300, subp. 1a are the following documents in connection with the above-entitled matter. Please review these documents this week, because I must file the Notice of Hearing and the proposed rules no later than this coming Monday, August 19th for timely publication in the State Register. Thank you in advance for your prompt attention to this matter.

1. A copy of the proposed rules, with a certification of approval as to form by the Revisor of Statutes.
2. A copy of the Certificate of Authorizing Resolution.
3. A proposed Order for Hearing.
4. A proposed Notice of Hearing.
5. A copy of the Statement of Need and Reasonableness.

The Board expects that approximately 20 persons will attend the hearing and that one day will be necessary for the hearing.

The Board staff will mail this notice to all persons who have

asked to be notified of this rulemaking for the Minnesota Veterans Homes and will post this notice at the Minneapolis and Hastings Veterans Homes. Evidence of this notice will be provided at the hearing.

If you need any additional information, please do not hesitate to contact me at (612) 721-0602.

Very truly yours,

Robert Klukas

Robert Klukas
Rules Writer
Minnesota Veterans Homes Board

STATE OF MINNESOTA
MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

ORDER FOR HEARING

In the Matter of the Proposed
Adoption of Amendments to Rules of the
Minnesota Veterans Homes Board of Directors
Regarding Admissions, Discharge, Transfer,
Utilization Review, Cost of Care Calculations,
and Maintenance Charges, Minnesota Rules,
Parts 9050.0010 to 9050.0900.

IT IS HEREBY ORDERED this 8th day of August, 1991, that a public hearing on the proposed rules captioned above to be held at the Office of Administrative Hearings, Suite 500, Flour Exchange Building, 310 4th Avenue South, Minneapolis Minnesota, On Tuesday October 15th, 1991 commencing at 9:30 a.m. and continuing until all representatives of associations or other interested groups or persons have an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all persons who have registered their names with the Minnesota Veterans Homes Board of Directors for that purpose and be published in the State Register.

Minnesota Veterans Homes Board of Directors

James G. Sieben
Chairman of the Board of Directors

STATE OF MINNESOTA
VETERANS HOMES BOARD
VETERANS SERVICE BUILDING
20 WEST 12TH STREET, ROOM 206A
ST. PAUL, MINNESOTA 55155
(612) 296-2073

September 6, 1991

Maj. Gen. James G. Sieben (Ret.)
Chairman
Hastings

Michas Ohnstad
Vice Chairman
North Branch

Robert E. Hansen
Secretary
Mendota Hts.

Dr. Harvey Aaron
St. Paul

Pamela K. Barrows
Marshall

James Main
Chaska

Stephen J. O'Connor
Spring Valley

Dr. Robert W. Reif
White Bear Lake

Emily P. Spensieri
Hibbing

Honorable Howard L. Kaibel
Administrative Law Judge
Office of Administrative Hearings
500 Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415

Re: Proposed Rules Governing Admissions, discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules Parts 9050.0010 to 9050.0900.

Dear Judge Kaibel:

Enclosed in accordance with Minn. Rules pt. 1400.0600 are the following documents in connection with the above-entitled matter:

1. The Notice of Hearing , as mailed.

2. A photocopy of the pages of the State Register on which the Notice of Hearing and the proposed rules were published.

3. The Minnesota Veterans Homes Board certification that the mailing list required by Minn. Stat. sec. 14.14, subd. 1a (1990) which was used for the mailing of notice was accurate and complete.

4. The Affidavit of Mailing of the notice to all persons on the Board mailing list.

5. The Affidavit of additional discretionary notice given pursuant to Minn. Stat. sec. 14.14, subd. 1a (1990).

6. All materials received pursuant to the Notice of Intent to Solicit Outside Opinion, together with a photocopy of the pages of the State Register on which the notice was published.

Stephen O'Connor, Chairman of the Rules Committee of the Minnesota Veterans Homes Board of Directors will

appear at the hearing. In addition the following staff will be present to provide testimony on behalf of the Board;

Susan Kiley,
Administrator, Hastings Veterans Home

David Carroll,
Director, Psychological Services
Minneapolis Veterans Home

Carlene Hoeschen
Quality Assurance Coordinator
Minneapolis Veterans Home

Robert Klukas
Rules Writer
Minnesota Veterans Homes Board

If you need additional information prior to the hearing, please do not hesitate to contact me.

Very truly yours,

Robert Klukas
Rules Writer

STATE OF MINNESOTA
VETERANS HOMES BOARD
VETERANS SERVICE BUILDING
20 WEST 12TH STREET, ROOM 206A
ST. PAUL, MINNESOTA 55155
(612) 296-2073

October 9, 1991

Maj. Gen. James G. Sieben (Ret.)
Chairman
Hastings

Michas Ohnstad
Vice Chairman
North Branch

Robert E. Hansen
Secretary
Mendota Hts.

Dr. Harvey Aaron
St. Paul

Pamela K. Barrows
Marshall

James Main
Chaska

Stephen J. O'Connor
Spring Valley

Dr. Robert W. Reif
White Bear Lake

Emily P. Spensieri
Hibbing

Honorable Howard L. Kaibel
Administrative Law Judge
Office of Administrative Hearings
500 Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415

Re: Proposed Rules Governing Admissions, discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules Parts 9050.0010 to 9050.0900.

Dear Judge Kaibel:

As I mentioned to you in our phone conversation of October 7, 1991 the Rules Committee of the Veterans Homes Board would meet today to decide whether to go ahead with the scheduled October 15, 1991 hearing at the Office of Administrative Hearings or whether to adopt the rules amendments without a hearing and approve a Findings of Fact, Conclusion, and Order I had drafted (copy attached). The Rules Committee voted to recommend that the rule amendments be adopted by the Board without a public hearing.

This letter serves as a request to cancel the hearing scheduled before you for 9:30 a.m., on October 15, 1991 at the Office of Administrative Hearings, because no one requested a hearing in response to the "Notice of Hearing and Notice of Intent to cancel a Hearing if Fewer than Twenty Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing", published in the State Register on September 3, 1991.

Please accept my sincere thanks for your gracious assistance in reviewing the Notice of Hearing and other documents, and for your good advice.

Sincerely,

Robert Klukas
Rules Writer

STATE OF MINNESOTA
VETERANS HOMES BOARD

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE

In the Matter of the Proposed Amendments to the Rules Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900

The above-entitled matter came on for decision before the Minnesota Veterans Homes Board (Board) on the 10th day of October, 1991. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. Notice of the Board's intent to adopt the above-entitled rule without a public hearing if fewer than 25 persons requested a hearing was published in the State Register on September 3, 1991, and was sent by mail to all persons on the list maintained by the Board pursuant to Minnesota Statutes, section 14.14, subd. 1a and 14.22 on September 3, 1991.

2. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing if fewer than twenty five persons request a hearing was mailed to all persons on the rulemaking list and published in the State Register and was available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. the 30-day comment period, as set out in the notice, expired on October 4, 1991.

4. No requests for a public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Board.

6. During the comment period the Board caused its employees to conduct several public information meetings at its Minneapolis and Hastings Veterans Homes to promote a better understanding and acceptance of the proposed rule amendments by the Home's residents and their families and others affected by the rules. On September 19, 1991 a meeting was held with the Minneapolis Veterans Homes

Resident Rules Committee and a general information meeting was held for all residents of the Home. On October 2, 1991 meetings were held with the Hastings Veterans Homes Resident Council and with the Hastings Veterans Homes Family Council.

7. During the comment period the Board received no written comments.

8. The Board finds that the dearth of comments justifies no modifications of the proposed rules during these proceedings.

9. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Board hereby incorporates the Statement of Need and Reasonableness into these findings.

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

CONCLUSIONS

1. The Minnesota Veterans Homes Board duly acquired and has jurisdiction over this proceeding.

2. The Board published and served due, timely and adequate notice of the intent to adopt the rules without a public hearing if fewer than twenty five persons requested a hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. No modifications were made to the rule.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Minnesota amendments to Rules parts 9050.0010 to 9050.0900 governing admissions, discharge, transfer, utilization review, cost of care calculations, and maintenance charges, is hereby adopted pursuant to the authority vested in the Minnesota veterans Homes Board by Minnesota Statutes, section 198.003 as amended by Laws of Minnesota 1991, Chapter 24.

MINNESOTA VETERANS HOMES BOARD

_____

James G. Sieben
Chairman of the Board of Directors

CERTIFICATE OF THE

RESOLUTION ADOPTING THE RULE

I, James Sieben, do hereby certify that I am the Chairman of the Minnesota Veterans Homes Board of Directors, a board duly authorized under the laws of the State of Minnesota, and the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Executive Committee of the Board, duly and properly called and held on the 10th day of October, 1991, that a quorum was present and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that the rule relating to Veterans Homes Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900 is approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes section 198.003, as amended by Laws of Minnesota 1991, Chapter 24, the Chairman of the Board, is authorized to sign the findings of fact, conclusions and order adopting the rule and perform any and all acts incidental thereto to obtain the approval of the rule by the attorney general and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 10th day of October, 1991.

James G. Sieben
Chairman of the Board of Directors

Attested to by Stephen O'Connor
Member of the Board of Directors

STATE OF MINNESOTA
VETERANS HOMES BOARD

VETERANS SERVICE BUILDING
20 WEST 12TH STREET, ROOM 206A
ST. PAUL, MINNESOTA 55155
(612) 296-2073

ATTY GENERAL
90 DEC 31 1:23

Maj. Gen. James G. Sieben (Ret.)
Chairman
Hastings

Michas Ohnstad
Vice Chairman
North Branch

Robert E. Hansen
Secretary
Mendota Hts.

Dr. Harvey Aaron
St. Paul

Pamela K. Barrows
Marshall

James Main
Chaska

Stephen J. O'Connor
Spring Valley

Dr. Robert W. Reif
White Bear Lake

Emily P. Spensieri
Hibbing

December 26, 1991

Patricia Nolte
Office of the Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Re: In the Matter of the Proposed Adoption of the Rule of the Minnesota Veterans Homes Board of Directors Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Part 9050.0010 to 9050.0900.

Dear Patty:

I have been asked by the Board to finish the work on the above-entitled rule and am sending you the resubmission papers that we had talked about on the phone earlier this month.

On November 4, 1991, a notice of intent to adopt rules without a public hearing was published in the State Register. The comment period ended on December 6, 1991, with no comments from any person or association. There were no modifications to the rule and no requests for notice of submission to the Attorney General's office.

Enclosed for your review are the following resubmission documents:

1. A copy of the Notice of Intent to Adopt a Rule Without a Public Hearing.

2. Affidavit of mailing the notice of intent to adopt a rule without a public hearing and certificate of mailing list.

3. A copy of the letter sent to the Legislative Commission to Review Administrative Rules.

4. Declaration of Counsel signed by Assistant Attorney General Merwin Peterson.

5. Supplemental Certificate of the Resolution Adopting the Rule.

6. Supplemental Findings of Fact, Conclusions, and Order Adopting Rule Without Public Hearing.

I remember that you mentioned that you still have these documents on file:

Notice of Solicitation of Outside Opinion
Certificate of Authorizing Resolution
Proposed rule approved by the Revisor of Statutes
Statement of Need and Reasonableness

If you have any questions, please call me at 297-5254. Thank you.

Sincerely,

Eileen Hanlon

Eileen Hanlon
Rules Writer
Minnesota Veterans Homes Board of Directors

STATE OF MINNESOTA
VETERANS HOMES BOARD

NOTICE OF INTENT TO ADOPT RULES
WITHOUT A PUBLIC HEARING

In the Matter of the Proposed Adoption
of Amendments to Rules of the Minnesota
Veterans Homes Board of Directors
Regarding Admissions, Discharge, Transfer,
Utilization Review, Cost of Care Calculations,
and Maintenance Charges, Minnesota Rules,
Parts 9050.0010 to 9050.0900, which was Published
in the September 3, 1991 State Register
on Pages 478 through 484.

(1) Notice is hereby given that the Minnesota Veterans Homes Board (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, section 14.22 to 14.28. The Board's authority to adopt the rule is set forth in Minnesota Statutes, section 198.003, as amended by Laws of Minnesota 1991, Chapter 24.

(2) All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. All comments must be submitted by the ending date and time of December 6, 1991 at 4:30 p.m. Comment is encouraged. (3) Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 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 rules addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the Board will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20.

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

Robert Klukas

or

Eileen Hanlon

Minnesota Veterans Homes Board

Veterans Service Building

20 West 12th Street, Room 122

St. Paul, Minnesota 55155

(612) 296-2073

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the Board 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 and has been published in the September 3, 1991 State Register on pages 478 through 484.

(11) The proposed amendments to Minnesota Rules, Parts 9050.0010 to 9050.0900 govern the operation of the Minnesota Veterans Homes and establish the standards used to determine:

A. an applicant's eligibility and suitability for admission to a board-operated facility;

B. appropriateness of a resident's continued care in a board-operated facility;

C. services to be provided in connection with residence in a board-operated facility;

D. procedures to be used in effecting admissions and discharges;

E. standards of resident care and conduct; and

F. charges to paid by or on behalf of a resident for care in the home.

A free copy of the rule is available from Mr. Klukas or Ms. Hanlon at the address and telephone number stated above.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Board office at the address and telephone number stated above upon request.

(14) You are hereby advised, pursuant to Minnesota Statutes, section 14.115, "Small business considerations in rulemaking," that the proposed rules will have no effect on small businesses. Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first

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 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 rule, must submit the written request to Mr. Klukas or Ms. Hanlon at the address stated above.

Dated 10/22/91

James G. Sieben
Chairman, Board of Directors
Minnesota Veterans Homes

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

In the Matter of the Proposed Adoption of the Rule of the Minnesota Veterans Homes Board of Directors Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.	**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)

Cirrie Kirchner, 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 file with the Minnesota Veterans Homes Board of Directors rulemaking list is accurate, complete, and current as of this 29th day of October, 1991.

That on the 30th day of October, 1991, 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 United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Cirrie A. Kirchner

Cirrie Kirchner
Clerk/Typist
Minnesota Veterans Homes Board of Directors

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

Terrence A. Logan

Notary Public

TERRENCE A. LOGAN
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES FEBRUARY 20, 1993

STATE OF MINNESOTA
VETERANS HOMES BOARD

VETERANS SERVICE BUILDING
20 WEST 12TH STREET, ROOM 206A
ST. PAUL, MINNESOTA 55155
(612) 296-2073

September 5, 1991

Maj. Gen. James G. Sieben (Ret.)
Chairman
Hastings

Michas Ohnstad
Vice Chairman
North Branch

Robert E. Hansen
Secretary
Mendota Hts.

Dr. Harvey Aaron
St. Paul

Pamela K. Barrows
Marshall

James Main
Chaska

Stephen J. O'Connor
Spring Valley

Dr. Robert W. Reil
White Bear Lake

Emily P. Spensieri
Hibbing

Maryannne Hruby
Executive Director
Legislative Commission to Review Administrative Rules
Room 155
State Office Building
100 Constitution Avenue
St. Paul, Minnesota, 55155

Dear Ms. Hruby:

Enclosed please find a copy of the statement of needs and reasonableness for the rules proposed for adoption by the Veterans Homes Board of Directors. These rules were published on September 3, 1991 in the State Register.

If you have any questions about this matter, or if I can be of further assistance to you please do not hesitate to call me

Yours truly,

Robert Klukas

Robert Klukas
Rules Writer

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

In the Matter of the Adoption of the Rule of the State of Minnesota Veterans Homes Board Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.

DECLARATION OF COUNSEL

I, Merwin Peterson, 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 0740.

Merwin Peterson

MERWIN PETERSON
Assistant Attorney General

Dated: Dec 19, 1991

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

SUPPLEMENTAL
CERTIFICATE OF THE
RESOLUTION ADOPTING THE RULE

I, James G. Sieben, do hereby certify that I am the Chair of the Minnesota Veterans Homes Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Board duly and properly called and held on the 12th day of December, 1991, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that the rule relating to Minnesota Veterans Homes Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900 is approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes, section 198.003, as amended by Laws of Minnesota 1991, Chapter 24, the Chair of the Board, is authorized to sign the supplemental findings of fact, conclusions and order adopting the rule and perform any and all acts incidental thereto to obtain the approval of the rule by the attorney general and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12th day of December, 1991.

James G. Sieben
Chair, Minnesota Veterans Homes Board
of Directors

Attested to by _____
Stephen J. O'Connor
Chair, Rules Committee, Veterans Home Board of Directors

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

In the Matter of the Proposed Adoption of the Rule of the Minnesota Veterans Homes Board of Directors Governing Admissions, Discharge, Transfer, Utilization Review, Cost of Care Calculations, and Maintenance Charges, Minnesota Rules, Parts 9050.0010 to 9050.0900.	**SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING**

The above-entitled matter came on for decision before the Minnesota Veterans Homes Board (Board) on the 12th day of December, 1991. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

(1) Notice of the Minnesota Veterans Homes Board of Directors intent to adopt the above-entitled rule was published in the State Register on November 4, 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 October 30, 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 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.

(3) The agency received no requests for a public hearing. Therefore, the agency did not receive request 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.

(7) No requests for notice of submission to the attorney general were received by the agency.

The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Board hereby incorporates the Statement of Need and Reasonableness into these findings.

CONCLUSIONS

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

The Minnesota Veterans Homes Board duly acquired and has jurisdiction over this proceeding.

The Board published and served due, timely and adequate notice of the intent to adopt the rules without a public hearing.

All relevant legal and procedural requirements of statute and rule have been complied with.

No modifications were made to the rule.

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

NOW, THEREFORE, IT IS ORDERED that the rule identified as Minnesota Rules, Parts 9050.0010 to 9050.0900 is adopted this 12th day of December, 1991, pursuant to authority vested in the Minnesota Veterans Homes Board of Directors by Minnesota Statutes, section 198.003 as amended by Laws of Minnesota 1991, Chapter 24.

(9)

James G. Sieben
Chair, Minnesota Veterans Homes Board
of Directors