

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJC
1/31/92

RULE REVIEW CHECKLIST

File No. 1890
DATE RECEIVED 1-23-92
REVIEW DATE 1-31-92
DUE DATE 2/6/92
(DIS)APPROVED Feb 3-92
WITHDRAWN _____

Docket No. 05 0009 0740
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 1/21/92
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE 2-3-92
RETURNED TO AGENCY 2-3-92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
January 16, 1990 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
Nov 14, 1991 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
198.003 1991 MN Laws Statutory Authority Chapter 24
NO statement Small Business Statement
_____ Expenditure of public money statement
Signed but not dated Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule additional mailing Dec 5, 1991
Nov 27, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
Dec 9, 1991 Date 30/25 days before adoption

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

✓ Resolution Adopting
January 9, 1992 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
January 9, 1992 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Merwin Peterson Name of SAAG representing agency

NA Notice of Submission to Attorney General (if applicable)

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

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: February 3, 1992

TO: EILEEN HANLON
Minnesota Veterans Homes Board
Suite 122, Veterans Service Building
20 West 12th Street
St. Paul

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Facility Services; Resident Rights; Responsibilities

The above-referenced rule has been approved as to its legality by the Attorney General on February 3, 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

Veterans Homes Board

Adopted Permanent Rules Relating to Facility Services; Resident Rights; Responsibilities

Rules as Adopted

9050.0040 DEFINITIONS.

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

[For text of subps 2 to 72, see M.R.]

Subp. 73. **Medical director.** "Medical director" means a physician licensed under Minnesota Statutes, chapter 147, and employed by or under contract to the board who is responsible for overall direction of medical practice in a facility to ensure the appropriateness of the medical services provided to the residents.

[For text of subps 74 to 86, see M.R.]

Subp. 86a. **Ombudsman.** "Ombudsman" has the meaning given it in the Older Americans Act of 1965, United States Code, title 42, section 3027(a)(12), and Minnesota Statutes, section 256.974.

[For text of subps 87 to 120, see M.R.]

9050.1000 RESIDENT CARE PLANNING.

An individual care plan must be developed, implemented, and maintained for each Minnesota veterans homes facility resident according to Department of Health and United States Department of Veterans Affairs nursing and domiciliary care regulatory standards.

The care plan must be consistent with the resident's medical treatment plan, as defined in part 9050.0040, subpart 74. The care plan must be developed by a multidisciplinary care plan team, as defined in part 9050.0040, subparts 58 and 80, based on an assessment of the resident's functioning, attitudes, behavior, and medical condition for use in integrating care and identifying service needs.

Residents may be involved in their individual care plans

according to part 9050.1070, subpart 4.

The resident's care plan must be used by the facility staff involved in the resident's care, and reviewed and updated according to the regulatory standards of nursing and domiciliary care or when there is a significant change in the resident's condition. For the purposes of this part, "significant change in a resident's condition" means a new problem or a measurable improvement or worsening of an existing problem or condition.

9050.1030 RESIDENT CARE SERVICES.

Subpart 1. **General.** Care services provided to residents of Minnesota veterans homes must be consistent with the overall goals and obligations of each facility as expressed in statute, the homes' mission statements, and rules governing the board-operated facilities, and must be consistent with available funding and limited if the service is not reimbursable by public or private resources according to Minnesota Statutes, section 144.651, subdivision 6.

Care services are provided according to Department of Health licensure regulations and the certification requirements of the United States Department of Veterans Affairs. Laws pertaining to resident care services include chapter 4655; Minnesota Statutes, chapters 144 and 144A; and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Resident care services must be authorized by the Minnesota Veterans Homes Board of Directors.

Services that are veteran-exclusive through the United States Department of Veterans Affairs are not available to nonveteran residents according to part 9050.0510, subpart 2.

A resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed in writing by the admission staff of each board-operated facility or the resident's social worker, before or at the time of admission and when changes occur, of services that are included in the facility's basic per diem and of other services that may be available at additional charges.

The facility staff shall assist residents in obtaining information and making application for possible benefits or programs to which the residents are entitled according to parts 9050.0770 and 9050.0800, subpart 2, item G, and Minnesota Statutes, section 144.651, subdivision 17.

Subp. 2. **Nursing services.** Primary care nursing services for each Minnesota veterans home resident are the responsibility of the nursing staff.

Nursing care services provided to residents in nursing care units must be according to part 9050.0040, subpart 83, and United States Department of Veterans Affairs standards.

Domiciliary care services provided to domiciliary residents must be according to parts 4655.0100, subpart 3, and 9050.0040, subpart 16, and United States Department of Veterans Affairs standards.

Subp. 3. **Dietary services.** At each board-operated facility, an adequately equipped kitchen must be maintained and qualified facility staff must be employed to supply the necessary food requirements of the residents. Dietary services provided to residents must be according to parts 4655.8500 to 4655.8800 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

A qualified dietician, as defined in part 9050.0040, subpart 34, or dietary supervisor if qualified, must be employed or contracted with to supervise the food service department of each facility. A qualified dietary supervisor is a person trained or experienced in the planning and preparation of meals as stated in part 4655.8510. The dietary staff shall prepare therapeutic diets as ordered by the resident's attending physician, according to federal and state standards and established recommended daily allowances.

A dietician shall ensure that nutritional care plans are developed according to each resident's nutritional needs and that an individual diet card is maintained for each resident.

Subp. 4. **Recreational therapy.** At each board-operated facility, a recreational therapy program must be provided

according to part 4655.5200 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3. Recreational therapy programs must be appropriate to the needs and interests of residents to maximize individual residents' physical and psychosocial levels.

Adequate equipment, space, and supplies for recreational therapy programs must be provided at each facility.

A resident's recreation plan must be integrated into the resident's care plan and documentation of recreational therapy provided must be maintained in the resident's chart.

A qualified staff member responsible for the recreational therapy program shall meet at least the minimum qualifications in part 4655.5200, subpart 5.

Subp. 5. **Social work services.** On-site social work services must be provided to residents of each board-operated facility by qualified social workers to meet the psychosocial needs of individual residents.

The provision of social services must be documented in the resident's chart. Documentation must include a social services assessment or plan and quarterly progress reports on each resident in the facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 6. **Housekeeping services.** Housekeeping services must be maintained at each board-operated facility to ensure a clean, sanitary, and safe physical environment for residents according to parts 4655.9000 to 4655.9070. The facility must be kept free from offensive odors, dust, rubbish, and safety hazards. An example of a safety hazard would be the accumulation of combustible material or waste in unassigned areas.

Subp. 7. **Medical director.** Each board-operated facility must have a medical director according to part 9050.0040, subpart 73, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 8. **Attending physician.** Each resident must be assigned an attending physician who is responsible for overall

medical care of the resident. A resident may choose a private attending physician at the resident's own expense if the physician agrees to comply with regulatory standards governing the home. Regulatory standards include parts 4655.4600 and 4655.4700 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

The attending physician shall prescribe a planned regimen of resident care based on a medical evaluation of the resident's immediate and long-term needs. The attending physician must be identified on the resident's medical chart.

The attending physician shall make arrangements for the medical care of the resident in the event of an on-site emergency or a planned absence by the attending physician.

Subp. 9. **Chaplain services.** Spiritual care must be provided by a chaplain to residents of each board-operated facility according to part 4655.5300 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Adequate space must be provided for chaplain services and private space provided for a resident to meet with clergy of the resident's choice.

Subp. 10. **Mental health services.** Mental health services must be made available to residents who meet admission and continued stay criteria as specified in part 9050.0070, subparts 3 and 4, at each board-operated facility either on-site or through other means such as contract services, sharing agreements, or other arrangements according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

A resident must be offered mental health services on request by the resident, or as determined by members of the resident's individual care plan team, which may include a staff psychologist, staff psychiatrist, or chemical dependency counselor.

These services must include, but are not limited to, assessment, diagnosis, supportive counseling or self-help groups for residents presenting behavioral problems, psychiatric disorders, and chemical dependency or chemical abuse disorders.

These services must be provided through disciplines such as psychology, psychiatry, and chemical dependency.

Documentation of mental health services provided to a resident must be maintained in the resident's chart.

Subp. 11. **Dental care services.** Dental care must be made available for residents of each board-operated facility according to part 4655.4800 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Each facility must have a written agreement with a licensed dentist or dentists to provide emergency dental care when necessary.

Dental care for residents consists of, but is not limited to, cleaning of teeth by the dentist or dental hygienist, an examination of the resident's teeth and mouth by the dentist, taking of necessary X-rays as determined by the dentist, proper fitting of dentures, repair of dentures, and treatment of abnormalities caused by dentures as determined by the dentist.

Documentation of dental care provided must be maintained in the resident's chart.

Subp. 12. **Podiatric care services.** Podiatric care must be made available at each board-operated facility to residents through a podiatrist or physician, with the approval of the resident's attending physician, according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Documentation of podiatric care provided must be maintained in the resident's chart.

Subp. 13. **Optometric care services.** Optometric care must be made available to residents of each board-operated facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Consultation or treatment with the optometrist must be on written order of the resident's attending physician. For residents needing replacement of refractory lenses, the nursing department may request a resident's appointment with the optometrist.

Documentation of optometric care provided must be

maintained in the resident's chart.

Subp. 14. **Chiropractic care services.** Chiropractic care must be made available to residents of each board-operated facility according to Minnesota Statutes, section 198.065. Treatment by a chiropractor must be on written order of the resident's attending physician.

Documentation of chiropractic care provided must be maintained in the resident's chart.

Subp. 15. **Diagnostic services.** Diagnostic services must be made available to residents of each board-operated facility on written order of the resident's attending physician according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3. Payments for diagnostic services are determined according to part 9050.0510.

Examples of diagnostic services include, but are not limited to, X-rays and laboratory work, such as blood tests.

Documentation of diagnostic care provided must be maintained in the resident's chart.

Subp. 16. **Pharmaceutical services.** Pharmaceutical services must be made available through a licensed pharmacist by each board-operated facility to meet the needs of residents according to parts 4655.7790 to 4655.7860 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3. A licensed pharmacist is defined in part 9050.0040, subpart 92.

Documentation of pharmaceutical services provided must be maintained in the resident's chart.

Subp. 17. **Specialized rehabilitation services.** Specialized rehabilitation services such as physical therapy, occupational therapy, and speech therapy must be provided to residents to improve and maintain maximum functioning according to Minnesota Statutes, section 148.65, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Documentation of specialized rehabilitation services must be maintained in the resident's chart.

Subp. 18. **Maintenance.** Maintenance services must be maintained at each board-operated facility to ensure that the

physical plant is kept in a continuous state of good repair and operation with regard to the health, comfort, safety, and well-being of residents and others according to chapter 4660 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 19. **Transportation.** A means of transportation to and from approved medical providers must be provided by each board-operated facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3, if the providers are located within the areas regularly serviced by the transportation staff of the facility.

An approved medical provider is a medical facility with a written transfer agreement for acute care services or Minnesota veterans homes contract services.

9050.1070 RESIDENT RIGHTS AND RESPONSIBILITIES.

Subpart 1. **Scope.** Residents of each board-operated facility are guaranteed all rights expressed in Minnesota Statutes, section 144.651. Residents also have the right to exercise freedom of expression and assembly as guaranteed by the United States Constitution, Amendment I, the Minnesota Constitution, and Minnesota Statutes, section 198.32.

Residents shall cooperate with facility rules as specified in this chapter.

Subp. 2. **Information about rights.** On admission, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the Patient's and Resident's Bill of Rights expressed in Minnesota Statutes, section 144.651. If changes occur in the Patient's and Resident's Bill of Rights during the resident's stay at the board-operated facility, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the changes.

The Patient's and Resident's Bill of Rights must be posted

in a conspicuous place in each board-operated facility.

Subp. 3. **Resident care.** Residents have the right to appropriate and regular medical and personal care based on individual needs to promote continuity of care by facility staff and other persons providing health care services according to Minnesota Statutes, section 144.651. "Appropriate care" means care designed to enable residents to achieve their highest level of physical and mental functioning. Residents must be treated courteously and with respect.

Competent residents have the right to refuse treatment according to Minnesota Statutes, section 144.651, subdivision 12. Residents who refuse treatment, medication, or dietary restrictions must be informed of the likely medical or major psychological results of the refusal, with documentation in the resident's medical record. If a resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or if legal requirements limit the right to refuse treatment, the conditions and circumstances must be fully documented by the attending physician in the resident's medical record.

A resident whose care needs cannot be met according to part 9050.0070, subparts 3 and 4, must be denied continued stay subject to the appeals procedures in part 9050.0220.

Resident care must meet the standards of the Vulnerable Adults Protection Act found in Minnesota Statutes, section 626.557.

Subp. 4. **Resident care plan participation.** Residents have the right to participate in care planning and implementation of the care plan according to Minnesota Statutes, section 144.651, subdivision 10, unless medically contraindicated. Medical contraindication must be documented by the attending physician in the resident's chart.

Subp. 5. **Resident handbook.** On admission, a resident must be given a resident handbook. The handbook must be reviewed by social services staff or nursing staff with the resident or the resident's representative.

After reviewing the handbook, the resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the handbook and reviewed the handbook. This statement must be kept with the resident's admission agreement.

The resident handbook must contain:

A. general information about the facility and resident care;

B. rules and regulations of the facility;

C. services available at the facility;

D. Patient's and Resident's Bill of Rights found in Minnesota Statutes, section 144.651; and

E. grievance procedures.

If changes occur concerning the information in the resident handbook, a resident must be informed of and given a copy of the changes. The resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the changes.

Subp. 6. **Resident councils.** Residents may organize, maintain, and participate in a resident advisory council with elected officers to express feelings and thoughts about the facility, facility policies, and resident care issues according to Minnesota Statutes, sections 144.651, subdivision 27, and 144A.33, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Space for resident council meetings must be provided at each board-operated facility. Staff or visitors may only attend resident council meetings at the council's invitation.

The administrator shall designate a staff person, with approval of the resident council, to assist the council and respond to written requests that result from council meetings.

Minutes of resident council meetings must be kept and made available to residents and other persons as the resident council determines. Minutes of resident council meetings must also be made available to the Department of Health and the United States Department of Veterans Affairs to show that resident council

meetings are being held at each facility.

The designated staff person or other appropriate staff persons shall inform the resident council of:

A. resident rights and responsibilities;

B. resident council organization and maintenance;

C. laws and rules that apply to the facility and residents;

D. resident care in the facility;

E. human relations; and

F. resident self-help methods to increase quality of care and quality of life at the facility.

Subp. 7. **Family councils.** Each board-operated facility shall have a family council that gives members an opportunity to express feelings and thoughts about the facility and facility conditions, resident care, rules and the effect of rules, policies, and procedures according to Minnesota Statutes, sections 144.651, subdivision 20, and 144A.33.

The facility shall support and encourage development of and participation in family councils and shall provide a private meeting place and necessary administrative support through a staff liaison appointed by the administrator and approved by the council. Attendance at family council meetings of individuals other than family council members must be at council invitation only.

Minutes of family council meetings must be kept and made available to family council members and other persons as the family council determines. Minutes must also be made available to the Department of Health to show that family council meetings are being held at each facility.

Subp. 8. **Legal assistance for residents.** Residents have the right of reasonable access to outside advocacy and legal services according to Minnesota Statutes, section 144.651, subdivision 30. On a resident's request, a designated staff person shall instruct and assist that resident in obtaining advocacy and legal assistance.

The opportunity for private communication between the

resident and the resident's representative must be provided at the board-operated facility.

Subp. 9. **Resident grievances and complaints.** A resident may voice grievances and complaints and recommend changes in rules, policies, and services of the board-operated facility without retaliation according to Minnesota Statutes, sections 198.32, 144.651, subdivision 20, and 144A.13, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

On admission, each resident must be informed in writing of the right to complain. A notice of the right to complain must be posted in a conspicuous place in each board-operated facility.

Residents may complain through the facility grievance and complaint procedures. A resident may also voice grievances to the administrator, the board, the commissioner of veterans affairs, the commissioner of health, facility staff, other residents, the family council, or outside representatives of the resident's choice.

The grievance procedure at each board-operated facility must include the following:

A. a list of internal resources for use by the resident, such as the resident council or a grievance committee, and a list of community resources available to the resident;

B. resident access to use of facility-approved forms for written grievances;

C. the time limits for decisions to be made by the facility;

D. an offer of assistance by social services staff, at the resident's request, in development and process of the grievance;

E. a written response to each resident filing a formal grievance; and

F. a statement that the resident making a complaint or grievance is free from retaliation, including freedom from restraint, interference, coercion, discrimination, and reprisals.

Subp. 10. **Restraints.** A resident has the right to be free from physical and chemical restraints imposed for purposes of

discipline or convenience and not required to treat the resident's medical condition according to part 4655.6600.

Chemical and physical restraints may be imposed on a resident only on written order of a physician that specifies the duration and circumstances under which the restraints are to be used, except in emergency circumstances when administrative nursing staff takes temporary emergency measures until an order can reasonably be obtained. If the resident's behavior poses a significant threat of harm to self or others, the resident may be discharged or transferred to an appropriate care facility.

Locked restraints must not be used on residents. Doors to resident rooms must not be locked in a manner that would prevent immediate opening in case of an emergency.

Use of restraints must be recorded in the resident's record. The record must include a description of the precipitating behavior, the expected behavioral outcome, the actual behavioral outcome, an assessment of the need for continued use of the restraint, and the duration of use of the restraint.

Subp. 11. **Right to associate; visitors.** A resident may meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference, unless the activities infringe on the rights of other residents. This subpart complies with Minnesota Statutes, section 144.651, subdivisions 21 and 26.

Residents may receive visitors during visiting hours and, on request and availability, be provided privacy for visits during visiting hours. Visiting hours must be established by the facility administrator and be posted in plain view. Visitors to each board-operated facility must follow facility rules.

Residents may receive private visits at any time from the resident's personal physician, religious advisor, or attorney. Residents diagnosed as critically ill may have visits from relatives, guardians, conservators, legal representatives, and persons designated by the resident at any time according to part

4655.1910.

Subp. 12. **Identity of physician and outside service providers.** In accordance with Minnesota Statutes, section 144.651, subdivision 7, facility staff shall give a resident, in writing, the name, business address, telephone number, and specialty of the physician responsible for coordination of the resident's care.

Residents receiving services from approved outside providers must be given, on request from the resident or resident's guardian, written information about the identity of the provider, including the name of the outside provider, address, telephone number, specialty of the physician, and a description of the service to be given.

Subp. 13. **Personal and treatment privacy.** A resident has a right to respect for the resident's privacy, individuality, and cultural identity as related to the resident's social, religious, and psychological well-being.

Privacy must be respected by other residents, staff, volunteers, and visitors. Individuals must knock on the door of a resident's room and obtain the resident's consent before entering, except in an emergency or when clearly inadvisable.

A resident has the right to privacy for the resident's medical and personal care program. Privacy must be respected during toileting, bathing, and other personal hygiene activities, except as needed for resident safety or assistance. Documentation of assistance given to or needed by a resident in personal hygiene activities must be maintained in the resident's chart.

Subp. 14. **Married residents.** Married residents have a right to privacy for spousal visits according to Minnesota Statutes, section 144.651, subdivision 28. If both spouses are residents of the facility, the couple must be permitted to share a room unless medically contraindicated and documented by the attending physicians in the medical records.

Subp. 15. **Privacy of resident records.** A resident has a right to confidential treatment of personal and medical records

and may approve or refuse release of the records to any individual outside the board-operated facility.

Medical records must be made available to persons at the board-operated facility who are responsible for the direct care of the resident. All information contained in the resident's records must be handled in a manner consistent with chapter 4655 and the Government Data Practices Act under Minnesota Statutes, chapter 13 and section 144.651, subdivision 16.

Written consent of the resident or the resident's guardian or conservator is required for the release of information concerning the resident to persons not otherwise authorized to receive it. Written consent of the resident must be handled in a manner consistent with Minnesota Statutes, section 13.04, subdivision 2.

Information to be released is limited to the items or information specified in the consent form.

Written consent for release of information need not be given when:

A. consent may be implied from circumstances in which a reasonable person would believe the resident would have consented had the resident been able to consent;

B. information released does not identify the individual resident;

C. information is to be used within the facility for routine or other legitimate purposes such as evaluation, education, research, or financial audits; or

D. release is mandated by statute, regulation, or court order.

Subp. 16. **Resident access to records.** On request, a resident must be given access to personal, financial, and medical records concerning the resident as provided under Minnesota Statutes, sections 13.04 and 144.335, and Code of Federal Regulations, title 42, part 2, section 2.23.

The facility staff shall supply to a resident complete and current information concerning diagnosis and treatment of the resident in terms and language the resident can reasonably be

expected to understand. If it is medically inadvisable that the information be given to the resident, as documented by the attending physician in the resident's medical record, the information may be given to the resident's guardian, representative, or appropriate third party as specified in Minnesota Statutes, section 144.335, subdivision 2. The resident, guardian, or appropriate third party must be shown the data without any charge.

On a resident's written request, facility staff shall furnish to the resident copies of the resident's records within five days, excluding Saturdays, Sundays, and legal holidays. With the consent of the resident, a summary of the record may be furnished instead. A reasonable fee related to the costs of copying may be requested.

If facility staff is unable to comply with a resident's request for information within five days, excluding Saturdays, Sundays, and legal holidays, staff shall inform the resident and may have an additional five days within which to comply with the resident's request, excluding Saturdays, Sundays, and legal holidays. If records are required in fewer than five days, facility staff shall make all reasonable efforts to comply with the request.

Subp. 17. **Mail.** Residents have the right to send and receive mail without interference according to Minnesota Statutes, section 144.651, subdivision 21. A resident with a legal guardian or conservator shall have mail handled according to written instructions from the guardian or conservator according to part 4655.1910, subpart 5. On request by the resident, the resident shall be given a written or oral statement regarding any restrictions on the resident's mail.

Subp. 18. **Telephone access and use.** Residents must have access to a pay telephone, at a convenient location within the board-operated facility, where residents can make and receive calls. There must be at least one non-coin-operated telephone accessible at all times in case of an emergency according to part 4655.1910, subpart 4. "Emergency" has the meaning given in

part 9050.0040, subpart 39.

For residents who need to speak privately, reasonable arrangements must be made by facility staff to accommodate the privacy of the resident's calls.

If restrictions on telephone access are medically advisable, the restrictions must be documented by the attending physician in the resident's medical record according to Minnesota Statutes, section 144.651, subdivision 21.

Subp. 19. **Resident vehicles.** Residents may keep one passenger vehicle, motorcycle, or motorized bicycle on the grounds of the board-operated facility in which the resident resides. "Passenger vehicle" means a passenger automobile as defined in Minnesota Statutes, section 168.011, subdivision 7; a pickup truck as defined in Minnesota Statutes, section 168.011, subdivision 29; or a van as defined in Minnesota Statutes, section 168.011, subdivision 28. "Motorcycle" has the meaning given in Minnesota Statutes, section 168.011, subdivision 26. "Motorized bicycle" has the meaning given in Minnesota Statutes, section 168.011, subdivision 27.

A resident who wants to maintain a vehicle on the grounds of the facility shall register the make, model, color, year, and license number of the vehicle with the transportation service of the facility. The resident shall comply with applicable state statutes, including Minnesota Statutes, chapter 169, regarding payment of taxes, registration of vehicles, and safety standards; Minnesota Statutes, chapter 171, regarding operators' licenses and driving privileges; Minnesota Statutes, chapter 65B, regarding insurance coverage; and relevant rules.

Resident vehicles must be parked in designated parking areas with properly displayed facility identification decals.

A resident vehicle that is an abandoned vehicle as defined in Minnesota Statutes, section 168B.02, subdivision 2, must be handled in a manner consistent with Minnesota Statutes, chapter 168B.

Subp. 20. **Pets.** The administrator at each board-operated facility, after consultation with facility staff and residents,

shall determine whether pets, such as dogs and cats, will be allowed in the facility and whether individual residents will be permitted to keep the pets.

If pets are allowed in the facility, the requirements in items A to C, in accordance with part 4638.0200, must be met.

A. The facility staff, in consultation with a veterinarian and physician, shall develop and implement written policies and procedures describing the types of pets allowed and the procedures for maintaining and monitoring the health and behavior of the pets, and identify areas in the facility where pets are not permitted. Pets are not permitted in kitchen areas, medication storage and administration areas, or clean or sterile supply storage areas. Guide dogs accompanying a blind or deaf individual are permitted at each board-operated facility.

B. A staff person, as designated in writing by the facility administrator, shall be responsible for monitoring or providing for the care, cleanliness, and maintenance of the pets, including fish. Residents or other individuals may also provide pet care.

C. The facility staff shall ensure that pets, including fish, do not jeopardize the health, safety, comfort, treatment, or well-being of residents or others, and shall assume overall responsibility for pets in the facility.

Pets or animals brought to the facility for visits must be preapproved by facility recreation staff and comply with this subpart.

Subp. 21. **Resident work programs.** A resident may take part in a resident work program on approval of the resident's attending physician or as recommended by the resident's attending physician and the resident's care team as part of the individual treatment or care plan.

The labor or services that the resident performs must be for therapeutic purposes and appropriately goal-related in the resident's care plan according to Minnesota Statutes, section 144.651, subdivision 23.

The labor performed by the resident must be other than

labor of a housekeeping nature with respect to the resident's own living area and the resident must be compensated appropriately and in compliance with Minnesota law and the Federal Fair Labor Standards Act.

Earnings derived from participating in a resident work program while the resident is living at the home may not be considered a means of support according to part 9050.0700, subpart 3, item A, and Minnesota Statutes, section 198.03.

Subp. 22. **Resident funds.** Resident funds must be handled according to parts 4655.1910, subpart 6; 4655.4100 to 4655.4170; and Minnesota Statutes, sections 144.651, subdivision 25; and 198.265, and be in compliance with items A to D.

A. A competent resident may manage personal financial affairs, or must be given at least a quarterly accounting of financial transactions on the resident's behalf if the resident delegates the responsibility to the facility for any period of time according to law.

B. Residents may keep money in a personal fund account at the board-operated facility, as defined in part 9050.0040, subpart 90, and according to Minnesota Statutes, section 198.265, or in fund accounts off facility premises.

Resident fund accounts at the facility are solely for the resident's use, and the facility cashier shall retain sufficient liquid funds to satisfy normal demand withdrawal requests of residents and other anticipated needs. Resident fund accounts must not draw interest directly to residents, but the interest must be used by the board only for the direct benefit of the residents of the homes. Before depositing money in a fund account at the facility, a resident must sign an agreement that the resident is willing to have money in an account that does not draw interest directly to the resident.

Restrictions placed on a resident's personal funds by the resident, resident's guardian, or person responsible for the resident's fund account must be documented in the resident's treatment plan.

C. The cashier at the facility shall have regular

posted hours during which residents may deposit or withdraw funds. The cashier shall give a receipt to persons depositing funds and ensure that withdrawal forms are signed when funds are withdrawn.

D. Unclaimed account balances at the facility must be disposed of according to Minnesota Statutes, sections 198.23 and 198.231.

Subp. 23. **Laundry service.** Boarding care residents must have access to laundry facilities in the domiciliary units for the laundering of personal clothing. The administration of each facility may determine and post hours for use of the laundry facilities.

Each resident must be provided clean linens weekly, or as needed, according to parts 4655.8000 and 4655.8300. Boarding care residents may choose to launder their own linens.

Laundry services consisting of laundering of linens and personal clothing must be provided to nursing care residents.

Subp. 24. **Resident clothing.** Each resident must have a supply of personal clothing relative to individual needs. The administrator at each board-operated facility shall determine the standards for marking the resident's clothing for laundering and identification purposes.

A resident or resident's representative is responsible for the condition of the resident's personal clothing and should contact the facility for assistance in maintenance of clothing.

Subp. 25. **Resident hygiene.** Residents shall maintain a reasonable state of body and oral hygiene based on the resident's physical and mental capabilities. Each resident shall receive nursing care or personal and custodial care and supervision based on individual needs according to parts 4655.6400 and 4655.6800.

Subp. 26. **Room cleanliness and conditions.** Residents shall maintain personal rooms and personal items in a manner consistent with the safety, sanitary, and health regulations required by the Department of Health, United States Department of Veterans Affairs, state fire marshal, and other regulatory

agencies.

Candles, oil lamps, or other items identified as flammable or hazardous by the state fire marshal are not allowed in resident rooms.

Floors in resident rooms must be clear of boxes, luggage, debris, and other materials to prevent congestion and health and safety hazards.

Residents may have electrical personal grooming items, clocks, audio and visual equipment, and approved portable fans as space and electrical capacity of the resident's room permits. Other electrical items may be permitted on written approval of administration or on written order of the resident's attending physician, and must be documented in the resident's medical record.

Items such as unapproved extension cords, hot plates, coffee makers, and electrical food appliances are prohibited in resident rooms.

Subp. 27. **Resident facility keys.** Each resident issued a personal room key or a key to locked spaces within the room shall return those keys to the facility on transfer or discharge. The resident may be charged the cost of replacing any lost keys.

Subp. 28. **Resident and facility property.** A resident may not damage another resident's property or the facility's property. A resident may be held financially responsible for property damaged or destroyed by the resident.

Subp. 29. **Resident's personal property.** In accordance with Minnesota Statutes, section 144.651, subdivision 22, a resident may retain personal possessions in the resident's personal living area as space permits, unless to do so would infringe on rights of other residents, or unless contraindicated for documented medical or safety reasons.

Personal property of deceased residents must be handled according to Minnesota Statutes, section 198.23. Personal property of discharged residents must be handled according to Minnesota Statutes, section 198.231.

Subp. 30. **Storage of resident's property.** Storage of a resident's property must be handled in compliance with items A to C.

A. The administration of each board-operated facility may determine an assigned amount of storage space for a resident needing storage space for personal property outside of the resident's personal living area. Particular kinds of personal property may be excluded from the facility for reasons of space limitations or safety.

Facility staff shall maintain an updated, itemized inventory of each resident's property in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

Residents must have access to storage areas during hours that are determined by administration and must be accompanied by the facility staff member who is in charge of storage, or that person's designee. The hours for access to storage areas must be posted in one or more conspicuous places in each of the board-operated facilities.

Cash may not be placed into storage.

Secure and temporary storage of a resident's possessions may be provided during a resident's emergency absence from the facility or on a specific request to the nursing staff from a resident leaving the facility on a personal absence.

The facility shall not accept resident possessions that cannot be accommodated in the facility storage areas.

B. A central, locked depository or locked storage area over which the facility has responsibility, in which residents may store valuables for safekeeping, must be provided at each board-operated facility.

Facility staff shall maintain an updated, itemized inventory of each resident's valuables in storage, including the resident's name and signature, guardian's signature, date of the

inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

C. The facility may provide compensation for or replacement of lost or stolen items according to Minnesota Statutes, section 144.651, subdivision 22, if the loss was caused by the facility's negligence, as required under Minnesota Statutes, section 3.732.

Subp. 31. **Smoking.** The administrator of each board-operated facility shall designate smoking and nonsmoking areas according to chapter 4620 and Minnesota Statutes, sections 144.411 to 144.417. Residents may smoke in designated smoking areas only.

Smoking in resident rooms is prohibited, except that a bedridden resident may smoke with direct assistance from a staff person and only under written orders of the resident's attending physician. The orders must be documented in the resident's care plan.

Subp. 32. **Leaving the facility campus.** Residents shall notify administration or direct care staff before leaving the facility campus. The resident shall indicate to the appropriate staff member when the resident is leaving the facility campus, the expected time of return, and, if possible, the destination and telephone number where the resident can be contacted in case of an emergency. The resident shall notify direct care staff on return to the facility.

If a resident's departure is likely to cause immediate serious physical harm to the resident or others, reasonable efforts may be made to inform the resident of the likely consequences of the resident's actions or departure.

Subp. 33. **Coffee shop and canteen.** Depending on space, resources, and available funds, a coffee shop with posted hours may be provided at each board-operated facility. A canteen with posted hours where persons may purchase personal care items may also be provided.

Where canteens and coffee shops are operated by the facility, profits derived must be used only for the direct benefit of the residents of the homes according to Minnesota Statutes, section 198.261.

Subp. 34. **Alcoholic beverages.** The sale, distribution, consumption, and possession of alcoholic beverages are not allowed on the campuses of the Minnesota veterans homes or during facility-sponsored events according to Minnesota Statutes, section 198.33, except when consumption is prescribed by the resident's attending physician and documented in the resident's chart. An alcoholic beverage is a beverage containing any amount of alcohol.

Subp. 35. **Room inspections.** A resident room is subject to routine inspections by facility staff for compliance with safety, sanitation, health, and facility rules and regulations.

Subp. 36. **Searches of resident rooms.** Residents have the right to a legitimate expectation of privacy in their persons and property against unreasonable searches and seizures. A search of a resident's room or property must be conducted when necessary to protect the residents or others from contraband or other articles that are potentially injurious to residents, staff, volunteers, and visitors. All procedures of the search must be according to Minnesota Statutes, section 198.33, subdivision 1.

Subp. 37. **Contraband.** A resident may not possess contraband items at the facility campus. Contraband includes all illegal articles, firearms, weapons, ammunition, alcoholic beverages, nonprescribed prescription drugs, including narcotics and controlled substances.

Contraband is subject to seizure according to Minnesota Statutes, section 198.33, and must be disposed of according to applicable laws. A receipt must be given to the resident and the information must be documented in the resident's chart.

Subp. 38. **Double beds.** Double beds are not allowed in resident rooms at the Minnesota veterans homes.

Subp. 39. **Photographs, voice recordings, or videotapes.**

Informed written consent is required before a resident may be photographed, voice recorded, or videotaped. Consent is not needed for identification photographs of the resident that are kept in the resident's chart at the board-operated facility.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 3 1992

Joan Anderson Growe
Secretary of State

10:25 AM
PB

APPROVED AS TO FORM AND LEGALITY
February 3 19 92
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

5, 1991

1991, 11:14 a.m.

22—S.F.No. 468

ging the date for submission of recommendations Minnesota Statutes 1990, section 15A.082, subdivi-

TURE OF THE STATE OF MINNESOTA:

1990, section 15A.082, subdivision 3, is

COMMENDATIONS. By ~~April~~ May 1 in sation council shall submit to the speaker president of the senate salary recommen- slators, justices of the supreme court, and court, county court, and county municipal ch office must be a fixed amount per year, January of the next odd-numbered year, take effect on January 1 of the year after legislators, judges, and constitutional offi- noney to pay the recommended salaries is submitted and before their effective date. odified or rejected by a bill enacted into egislators are subject to additional terms on 3.099, subdivisions 1 and 3.

ing final enactment.

1991

1, 11:16 a.m.

—H.F.No. 646

hases; amending the definition of "manufac- ta Statutes 1990, section 16B.101, subdivision

derline, **deletions by ~~strikeout~~.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 16B.101, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in this section, the following terms have the meanings given them: in this subdivision.

(a) "Public agency" includes all state agencies, the University of Minnesota, the state university board, and the state board for community colleges, and any contractor acting ~~pursuant to~~ under a contract with a public agency;.

(b) "Materials" means ~~any~~ goods, supplies, equipment, or ~~any~~ other tangible products or materials, including foods;.

(c) "Manufactured" means mined, grown, produced, manufactured, fabricated, or assembled;.

(d) "Manufactured in the United States" means materials manufactured in whole or in substantial part within the United States or ~~that the~~ a majority of ~~the~~ whose component parts ~~thereof~~ were manufactured in whole or in substantial part in the United States;. Salt mined in Canada is considered to have been manufactured in the United States for purposes of this section.

(e) "Purchase" means acquire by purchase or lease.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor April 9, 1991

Signed by the governor April 11, 1991, 4:30 p.m.

CHAPTER 24—S.F.No. 611

An act relating to veterans; clarifying rulemaking authority of the veterans homes board; changing language concerning payment of arrearages by veterans home residents; correcting certain references; amending Minnesota Statutes 1990, sections 198.003; 198.005; 198.03, subdivision 3; and 198.35.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 198.003, is amended to read:

198.003 **POWERS AND DUTIES.**

(a) 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. 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;

(2) report quarterly to the governor on the management, operations, and quality of care provided at the homes; and

(3) take other action as provided by law.

Emergency rules adopted under this section are not effective after December 31, 1989.

(b) The board ~~may~~ shall appoint ~~a deputy commissioner~~ an executive director who shall serve as secretary of the board.

Sec. 2. Minnesota Statutes 1990, section 198.005, is amended to read:

198.005 **ADMINISTRATORS.**

~~If a deputy commissioner of veteran health care is appointed by the board,~~ The ~~deputy commissioner~~ board shall~~; with the approval of the board,~~ appoint an administrator for each of the veterans homes. The administrators act as the administrative head for their respective veterans homes. The administrators shall have a current Minnesota nursing home administrator's license and shall serve in the unclassified service. The salaries of the administrators are not subject to section 43A.17, subdivision 1. The ~~deputy commissioner may remove an administrator with the approval~~ administrators serve at the pleasure of the board. ~~If a deputy commissioner is not appointed by the board, the board shall appoint the administrators.~~

Sec. 3. Minnesota Statutes 1990, section 198.03, subdivision 3, is amended to read:

Subd. 3. **ARREARAGES.** ~~Nothing in this section forgives a resident from~~ Residents are liable for paying all of their overdue maintenance charges~~; with~~. Overdue maintenance charges incurred after May 1, 1990, may be charged interest ~~as provided in~~ according to section 334.01~~; that accrued prior to May 10, 1989, and residents are liable for these arrearages~~. A resident owing overdue maintenance to the state of Minnesota for charges incurred prior to May 1, 1990, may continue to stay in the home if the resident ~~pays a reasonable monthly amount on the arrearages, as determined by~~ enters into an agreement, including a payment schedule, with the ~~home~~ administrator~~, the resident must not~~ for the payment of the arrearage and abides by the agreement. Residents who do not promptly pay maintenance or who do not abide by their agreements to pay overdue maintenance to the state of Minnesota may be discharged from

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Sec. 4. Minnesota Statutes

198.35 **VETERANS HOM**

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Subd. 2. **OPERATION.**
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Presented to the governor

Signed by the governor Apr

CHAP

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BE IT ENACTED BY THE LEG

Section 1. **[256B.0925] A**
AGEMENT FOR PERSON
RELATED CONDITIONS.

Subdivision 1. **COMMIS**
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STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD

IN THE MATTER OF THE PROPOSED RULE OF THE MINNESOTA VETERANS HOMES BOARD RELATING TO FACILITY SERVICES PROVIDED TO RESIDENTS OF THE MINNESOTA VETERANS HOMES AND RESIDENT RIGHTS AND RESPONSIBILITIES, Parts 9050.0040 and 9050.1000 to 9050.1070.

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION and BACKGROUND.

The nature of the proposed rules contained in Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070 is to continue to provide for an authoritative basis for the internal functioning and operation of the Minnesota Veterans Homes.

The proposed rules comprise the practices that are currently used at the Minnesota Veterans Homes and those that will be implemented upon promulgation of these rules.

The proposed rules are based upon state rules and laws, the licensure requirements of the Minnesota Department of Health, the funding requirements of the United States Department of Veterans Affairs and personal needs and concerns of the Minnesota Veterans Homes' residents.

The rules were developed through analysis of current and past policies and procedures; discussions and meetings with staff; residents; family council members; physicians; Board members; administrators; representatives of state agencies and veterans organizations, including the Minnesota Department of Health, Department of Veterans Affairs, Commanders Task Force, County

Veterans Service Officers, American Legion, Vietnam Veterans of America, Veterans of Foreign Wars, Jewish War Veterans; and attorneys, advocacy and public interest groups, including Minneapolis Legal Aid Society, Southern Minnesota Legal Services, Inc., Minnesota Association of Homes for the Aging, and the Minnesota State Ombudsman Office.

Three separate drafts of these proposed rules were developed:

1. The first draft contained comments and recommendations obtained from meetings with the Resident Rules Committees from both operating facilities, the Hastings Veterans Home and the Minneapolis Veterans Home; meetings with the family councils of both facilities; meetings with the residents at large from both facilities; meetings with the staff from both facilities; meetings with the administrators from the Hastings, Minneapolis and Silver Bay facilities; and meetings with the Board of Directors (Board) of the facilities.

2. The second draft contained comments and recommendations from all of the above persons, plus many comments and recommendations from the Public Advisory Rules Committee which was formed for the express purpose of helping to develop these rules for the Minnesota Veterans Homes. All recommendations from the Public Advisory Committee were approved by the Board.

3. The third draft of the proposed rules contained the comments and suggestions of the Minnesota Veterans Homes Board of Directors, the Attorney General's office, and the Revisor of Statutes, as well as continuing comments from residents, staff,

administrators, Public Advisory Rules Committee, family councils and other interested parties.

The various drafts of the proposed rules were also forwarded to other interested persons and agencies not listed above.

II. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to adopt these rules is set out in Minnesota Statutes, section 198.003, as amended by Laws of Minnesota 1991, Chapter 24, 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 statutory authority to adopt the proposed rules.

III. AVDISORY COMMITTEE

The Board established a Public Advisory Rules Committee to gain input from persons with expertise, experience and interest in the veterans homes. The Committee, consisting of 12 members from the public and one Board member, met for six 3-hour sessions between January and May 1991 at the Minneapolis Veterans Home. The residents, family council members and administrators of the Minneapolis and Hastings Veterans Homes attended the Public Advisory Rules Committee meetings.

From June 1991 to the present, the Board has provided updates on the proposed rule to the Public Advisory Rules Committee through the mail, receiving comments from the members by telephone, individual meetings or written correspondence.

Members of the Committee included Legal Aid attorneys, an Ombudsman, representatives from the veterans organizations and

representatives from the health care profession. All comments received were reviewed, considered and approved by the Board as the proposed rule was drafted.

Members of the Public Advisory Rules Committee are:

Gail Kaba, Attorney
Legal Aid Society of Minneapolis
430 First Ave. North, Suite 300
Minneapolis, MN 55401-1780

Bill Daniels, Attorney
Legal Aid Society of Mpls.
430 First Ave. N.,Suite 300
Minneapolis, MN 55401-1780

James A. Lee, Attorney
Southern MN Legal Services,Inc.
300 Minnesota Building
4th and Cedar Streets
St. Paul, MN 55101

Cynthia McDonald, Attorney
State Office of Ombudsman
for Older Minnesotans
444 Lafayette Road
St. Paul, MN 55155-0382

Darrell Shreve, Director
Regulation and Research
MN Assoc. of Homes for the Aging
2221 University Ave. S.E.
Suite 425
Minneapolis, MN 55414

Lyle Foltz, Director
American Legion Rehab.
MN Dept. Veterans Affairs
Claims Division,Room 182A
Federal Bldg, Fort Snelling
St. Paul, MN 55111

Dennis Forsberg, Director
Veterans Programs
Dept. of Veterans Affairs
20 W. 12 St.
2nd floor
St. Paul, MN 55155

Tom Hanson
Assistant Director
VFW Claims Office
Federal Bldg, Room 184
Fort Snelling
St. Paul, MN 55111

Steve Lindstrom
Ramsey County Veterans
Service Officer
Veterans Service Office
Courthouse, Room 68
St. Paul, MN 55102

Dan Steinhagen
Carver County Veterans
Service Officer
540 E. First St.
Waconia, MN 55387

Dick Bergling
Minnesota State Chairman
Vietnam Veterans of America
P.O. Box 29291
Minneapolis, MN 55429

Melvin Labovitch
Commander's Task Force
1650 Watson
St. Paul, MN 55116

Stephen J. O'Connor
Chair, Rules Committee
MN Veterans Homes Board of Directors
20 W. 12 St.
Room 122
St. Paul, MN 55155

The Committee decision-making method is reasonable as it eliminates the abuse of discretion possible in individual decision-making. Multiple input and authority in decision-making provides checks and balances in the selection process that eliminates bias or favoritism and provides a more thorough, comprehensive review and ultimately a fairer decision. It is a more thorough and equitable process than individual decision-making.

IV. SMALL BUSINESS CONCERNS

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 under Minnesota Statutes, section 14.115 for small businesses.

V. STATEMENT OF NEED AND REASONABLENESS

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 reasons for the proposed rules that are not arbitrary and capricious. Need has come to mean that a problem exists which requires administrative attention and reasonableness means that the solution proposed by the Board is appropriate.

The Board has operated in accordance with Chapter 9050 for over one year regarding admission and discharge; calculation of cost of care and maintenance charges and billing for services provided at the Minnesota Veterans Homes. The proposed rules

contained in parts 9050.0040 and 9050.1000 to 9050.1070 represent the Board's effort to address resident rights and responsibilities and services provided by the facility to residents. The proposed rules are needed to provide Minnesota Veterans Homes residents with the maximum quality of life in a structured long-term health care facility, so that residents may function at their highest social, mental and physical levels.

The Board is required to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. This means that there is a rational basis for the Board's proposed action.

Where possible the proposed rules required 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 and the requirement that decisions be made by a committee process where appropriate are required to eliminate arbitrary decision making and abuse of discretion.

Whenever possible, these proposed rules follow definitions contained in statute or regularly used by other state agencies.

VI. DETAIL OF THE PROPOSED RULES BY SECTIONS

9050.0040 DEFINITIONS.

This part amends subpart 73 regarding the medical director and adds subpart 86a regarding the ombudsman. These definitions are used in Chapter 9050.

Subpart 73. Medical director.

"Medical director" is a term used in these rules. It is necessary to revise the wording of this term so that it fits with the United States Department of Veterans Affairs Code M-1, part 1, chapter 3 definition so that the facilities are in compliance with the meaning of the definition. This revision has been discussed and approved by the Board and Public Advisory Committee and does not change the role of the medical director, but makes the definition more specific.

Subp. 86a. Ombudsman.

"Ombudsman" is a term used in these rules and the addition of this rules definition was requested by the Public Advisory Committee. A definition is necessary to clarify its meaning. The definition is reasonable because it informs residents of the veterans homes and other persons of the federal and state laws pertaining to the ombudsman and the duties and services provided by the ombudsman to the residents.

9050.1000 RESIDENT CARE PLANNING.

This rule part explains that each resident must have an individual care plan consistent with the resident's medical treatment plan, developed by a multidisciplinary team and that residents are encouraged to be involved in their care plans.

It is necessary that each resident have a care plan so that the facilities are in compliance with the Minnesota Department of

Health and the United States Department of Veterans Affairs nursing and domiciliary standards.

When a person seeks and is accepted into a facility that is licensed as a boarding care or nursing home, there is an acknowledgment on their part and the part of staff that they need a certain degree of monitoring to provide for their own health and safety and it is reasonable that this be done through the care planning process. Care planning helps to establish responsibility for the ongoing treatment and discharge planning of residents.

It is necessary that the care plan be developed by a multidisciplinary care plan team as defined in Minnesota Rules, part 9050.0040, subparts 58 and 80. This is reasonable because the persons included in the multidisciplinary team are involved with the resident's care and have the knowledge and expertise to assess and develop the resident's care plan.

It is necessary for residents to know that they can be involved in the care planning process according to Minnesota Rules, 9050.1070, subpart 4.

It is necessary that the care plans be reviewed and updated according to the appropriate regulatory standards and when there is a significant change in the resident's condition. The definition for significant change in this rule part has been approved and discussed at length with staff, administrators, residents, the Board, family councils and the Public Advisory Committee. There was consensus on the definition.

RESIDENT CARE SERVICES.

Subpart 1. General.

This subpart explains that resident care services at the board-operated facilities must be in compliance with Minnesota Rules, Chapter 4655, Minnesota Statutes, Chapters 144 and 144A, and the United States Department of Veterans Affairs; that care services must be approved by the Board and must be consistent with available funding according to Minnesota Statutes, section 144.651, subdivision 6; that some services are veteran-exclusive according to Minnesota Rules, part 9050.0510, subpart 2; and that residents must be informed of services available and of changes that may occur.

It is necessary that some services are veteran-exclusive because the relationship between the United States Department of Veterans Affairs and the state veterans homes is such that some services provided by or through the United States Department of Veterans Affairs are not available to nonveteran residents of the state veterans homes.

It is reasonable that the Board authorize the care services that the homes provide for residents because the Board is directly in charge of the homes and is ultimately responsible for the care services provided to the residents.

It is necessary that the care services provided be consistent with available funding according to Minnesota Statutes, section 144.651, subdivision 6, so that the homes may allocate funds as appropriations are granted.

It is necessary that facility staff should assist residents in obtaining benefits according to Minnesota Rules, parts 9050.0770 and 9050.0800, subpart 2, item G, and Minnesota Statutes, section 144.651, subdivision 17. This is reasonable because residents of the Minnesota Veterans Homes, because of their care status, are frequently eligible for increased or additional benefits, either governmental or private.

Subp. 2. Nursing services.

This subpart explains that primary care nursing services are the responsibility of the nursing service and that the standards for nursing care and domiciliary care services must be met.

This rule part is necessary so that the facilities are in compliance with parts 4655.0100, subpart 3, 9050.0040, subparts 16 and 83, and United States Department of Veterans Affairs standards. It is reasonable that the nursing service is responsible for primary care nursing services because the primary focus of the veterans homes is the provision of health care and the persons admitted to the homes have a need for these services.

Subp. 3. Dietary service.

This subpart generally explains the responsibilities of the dietary services of the board-operated facilities.

This rule part is necessary for the facilities to be in compliance with Minnesota Rules, parts 4655.8500 to 4655.8800 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3. It is reasonable that residents should have nutritional care plans developed for them by qualified persons to ensure that

their nutritional needs are met.

Subp. 4. Recreational therapy.

This subpart explains that each board-operated facility must provide a recreational therapy program for residents. This rule part is necessary for the facilities to comply with Minnesota Rules, part 4655.5200 and United States Department of Veterans Affairs standards.

It is reasonable to provide recreational therapy for residents to enhance their well-being, to promote self-expression and to provide variety and a balance of activities for residents to choose from and participate in.

It is necessary that the staff member responsible for the recreational therapy program meet the minimum qualifications in Minnesota Rules, part 4655.5200, subpart 5.

Subp. 5. Social services.

This subpart explains that social work services must be provided to residents of each board-operated facility by qualified social workers so that the facilities comply with the United States Department of Veterans Affairs standards.

It is reasonable that residents should be provided social work services so that they may feel secure in knowing that their social and emotional needs can be addressed and that they will have a social worker with whom they may have ongoing communication.

Subp. 6. Housekeeping services.

This subpart explains that housekeeping services must be maintained at each board-operated facility. This rule part is

necessary for the facilities to comply with Minnesota Rules, parts 4655.9000 to 4655.9070.

The homes have the responsibility to provide a safe and clean environment for the health of the residents and it is reasonable that the homes are free from offensive odors, dust, rubbish and safety hazards.

Subp. 7. Medical director.

This subpart confirms the standard of the United States Department of Veterans Affairs and as defined in part 9050.0040, subpart 73, making it necessary that a medical director be responsible for medical care in the home to ensure the appropriateness of the medical services provided to residents.

Subp. 8. Attending physician.

This subpart explains the general requirements that the facilities must follow in order to comply with Minnesota Rules, parts 4655.4600 and 4655.4700 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

It is necessary that a resident have an attending physician so that a resident's overall medical care is attended to while living at the homes. This subpart also confirms a resident's right to choose a private attending physician and identifies the conditions to follow if the resident chooses to have a private attending physician.

It is necessary that in case of an emergency or planned absence by the attending physician, that the physician should make arrangements for the medical care of residents.

Subp. 9. Chaplain services.

This subpart is necessary for the board-operated facilities to comply with Minnesota Rules, part 4655.5300 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

It is reasonable and consistent with practices in the long term care community that spiritual care be provided to residents. It is reasonable that the facilities should provide space for chaplain services and private space for residents to meet with clergy of their choice, so that a resident's right to privacy, and religious freedom and the right to receive the spiritual care of their choice is preserved.

Subp. 10. Mental health services.

This subpart establishes the general requirements for mental health services at each board-operated facility. It is necessary that the facilities comply with United States Department of Veterans Affairs Code M-1, part 1, chapter 3 when making mental health services available to residents.

It is reasonable that mental health services are made available to residents to aid in their sense of well-being, social adjustment and to enhance their personal growth.

Subp. 11. Dental care services.

This subpart explains that dental care services must be made available for residents of the board-operated facilities and establishes the general requirements regarding dental care for residents. This rule part is necessary so the facilities comply with Minnesota Rules, part 4655.4800 and United States Department

of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 12. Podiatric care services.

This subpart explains that the facilities must make podiatric care available to residents with the approval of the resident's attending physician. This rule part is necessary so the facilities comply with the United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

It is reasonable that podiatric care is made available to residents because the veterans homes are health care facilities and the resident's attending physician is responsible for the resident's overall medical care.

Subp. 13. Optometric care services.

This subpart explains that optometric care must be made available to residents on written order of the resident's attending physician. This rule part is necessary so the facilities comply with the United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

It is reasonable that optometric care is made available to residents because the veterans homes are health care facilities and the resident's attending physician is responsible for the resident's overall medical care.

It is also reasonable that if a resident should need replacement of refractory lenses, that the resident contact the nursing department to have them request an appointment with the optometrist for the resident because the resident may need the refractory lenses as soon as possible and it is not necessary to

wait for the attending physician to write an order for the resident to consult with the optometrist.

Subp. 14. Chiropractic care services.

This subpart states that chiropractic care must be made available to residents of each board-operated facility on written order of the resident's attending physician. This rule part is necessary in order for the facilities to comply with Minnesota Statutes, section 198.065.

Subp. 15. Diagnostic services.

This subpart states that diagnostic services must be made available to residents of each board-operated facility on written order of the resident's attending physician. This rule part is necessary in order for the facilities to comply with United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

It is necessary that resident payments for diagnostic services be determined according to Minnesota Rules, part 9050.0510, because the United States Department of Veterans Affairs has determined that only veterans qualify for the provisions of free diagnostic services.

Subp. 16. Pharmaceutical services.

This subpart informs residents that pharmaceutical services must be made available through a licensed pharmacist by each board-operated facility. This rule part is necessary so that the facilities comply with Minnesota Rules, parts 4655.7790 to 4655.7860.

It is reasonable that pharmaceutical services be made

available because the veterans homes are health care facilities and the needs of residents who are on medications must be met.

Subp. 17. Specialized rehabilitation services.

This subpart informs residents that specialized rehabilitation services such as physical therapy, occupational therapy and speech therapy must be provided to residents. This rule part is necessary for the facilities to comply with United States Department of Veterans Affairs Code M-1, part 1, chapter 3. It is reasonable that residents are provided specialized rehabilitation services to improve and maintain maximum potential functioning.

Subp. 18. Maintenance.

This subpart informs residents that maintenance services must be maintained at each board-operated facility. This rule part is necessary for the facilities to comply with Minnesota Rules, Chapter 4660 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3. It is reasonable that maintenance services be provided to keep the facilities in a continuous state of good repair to support the health, comfort, safety and well-being of residents.

Subp. 19. Transportation.

This subpart explains that a means of transportation must be provided to and from approved medical providers if the providers are located within the areas regularly serviced by the transportation staff of each board-operated facility. This rule part is necessary for the facilities to comply with United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

It is reasonable that the facilities should provide transportation to and from the approved medical providers that have written transfer agreements for acute care services or veterans homes contract services because the continuous care of the resident's health is the responsibility of the facility staff.

9050.1070 RESIDENT RIGHTS AND RESPONSIBILITIES.

Subpart 1. Scope.

This provision is necessary to establish and clarify the rights available to residents of the board-operated facilities. The provisions of this section are considered reasonable in that they incorporate statutory requirements already in place.

It is reasonable that residents cooperate with facility rules in Chapter 9050 as there are a variety of residents and others in the facility community setting with varying conditions and capabilities, attitudes, beliefs, values, ages and personalities. It is necessary that residents cooperate with these rules so that individual differences are respected and so that the atmosphere of the veterans homes will be comfortable, safe and secure for residents and others.

Subp. 2. Information about rights.

The requirements expressed in this subpart are considered reasonable and necessary because they comply with Minnesota Statutes, section 144.651. It is reasonable that residents should be informed of their rights on admission. It is necessary that if residents are unable to be informed of their rights, that a

guardian, legal representative, family member, conservator or other person designated by them be informed of the rights and given a copy of the rights.

It is also necessary that residents be kept informed and given a copy of any changes in their rights. It is reasonable that residents are informed of their rights so that they know what their limits and those of the facility are.

Subp. 3. Resident care.

The Minnesota veterans homes are health care facilities and central to their mission is the duty to provide appropriate quality care. This subpart complies with Minnesota Statutes, section 144.651 and establishes the general duties or obligations the facility staff has towards the resident. The responsibilities identified in this subpart ensure the resident's safe and continuous care by facility staff to enable residents to achieve and maintain their highest level of physical and mental functioning.

It is necessary, according to Minnesota Statutes, section 144.651, subdivision 12, that residents are informed of their right to refuse treatment and of the likely medical or major psychological results of the refusal. This is reasonable so that residents can make informed decisions regarding their medical conditions and can participate in the decision.

It is necessary that the facility follow Minnesota Rules, part 9050.0070, subparts 3 and 4, that if the facility cannot meet the care needs of the person due to the limitations of the facility,

such as licensure or resources, or due to limitations of the resident, such as a medical condition, inability or unwillingness to cooperate, then the facility must be able to discharge the resident for the protection of the resident and others.

It is necessary that resident care meet the standards of the Vulnerable Adults Protection Act to ensure the health and safety of residents and for the facility to comply with Minnesota Statutes, section 626.557.

Subp. 4. Resident care plan participation.

This subpart explains the rights that residents have to participate in their care planning and implementation of the care plan, unless medically contraindicated and documented by their attending physician in their charts. This subpart is necessary so that the facilities are in compliance with Minnesota Statutes, section 144.651, subdivision 10.

This subpart is reasonable so that residents may have knowledge of the goals related to their personal and medical conditions and be able to participate in achieving the goals established for them. The participation in goals allows residents to know if the goals are workable for them and what to expect from the staff. According to the Resident Rules Committee of Minneapolis, participation in care planning gives residents the opportunity to explain to the care plan team their observations, expectations and their progress toward their care plan goals.

It is reasonable that if the attending physician determines that a resident should not participate in care planning, that this

provision be followed as required by the resident's medical condition.

Subp. 5. Resident handbook.

This rule part explains how and when a resident receives a resident handbook and the contents of the handbook.

It is reasonable and necessary for a resident to obtain a resident handbook at admission in order for a resident to be oriented to the rules, policies and procedures of the facility. The handbook is then readily available to a resident to consult as the occasion arises for information regarding their rights and responsibilities and the services available to them.

It is reasonable to have the social services staff or nursing staff review the resident handbook with a resident because these staff persons work closely with residents and may assist the resident with understanding the information in the handbook and may prevent any misinterpretations of the the handbook's contents by a resident.

It is necessary for a resident to sign a statement indicating that the resident has reviewed the handbook so that it can be shown that all residents were communicated with and given the handbook.

It is also reasonable and necessary that if a change should occur concerning the information in the resident handbook, that residents should be informed of the changes and kept current with the information regarding their stay at the facility. It is necessary for residents to sign a statement indicating that they received the changes so that it can be shown that all residents

were communicated with and all residents are aware of their rights and responsibilities throughout their stay at the facility.

It is reasonable and necessary that if a resident is unable to read or understand the resident handbook, that the resident's representative must sign a statement indicating that the representative has reviewed the resident handbook on the resident's behalf.

Subp. 6. Resident councils.

This rule part contains the elements necessary for a resident council at each facility required by the United States Department of Veterans Affairs Code M-1, part 1, chapter 3 and Minnesota Statutes, section 144.651, subdivision 27 and 144A.33.

It is reasonable that there is a resident council so that residents may discuss concerns that involve them and their stay at the facility and reduce misunderstandings which may occur between administration and the residents. It is reasonable for the self-esteem, security and personal growth of residents that their concerns be heard and that they have a resident council through which to express themselves.

It is reasonable that resident council meetings be for residents of the facility, with other persons attending meetings at the resident council's invitation so that residents can freely express and discuss their concerns with each other.

It is reasonable and necessary that the administrator designate a staff person to assist the council and it is reasonable that the resident council approve this person so that effective

communication and a comfort level is established between them and the communication is kept on an on-going basis.

It is necessary that the resident council keep account of the meetings through council minutes so minutes are available for the Department of Health and the United States Department of Veterans Affairs inspections. It is reasonable that resident council minutes be made available to residents, and to other persons as the resident council determines.

Subp. 7. Family councils.

This rule part makes provisions for a family council at the veterans homes facilities through which family members may voice feelings and thoughts about the facility, according to Minnesota Statutes, section 144.651, subdivision 20 and 144A.33.

It is reasonable to expect family members to have a method through which they can express themselves freely. It is reasonable for the facility to provide a private meeting place and administrative support for the family council meetings. It is reasonable that family council meetings be attended by family council members, with other persons attending at council invitation, so that members can freely express their concerns.

It is reasonable and necessary that the administrator designate a staff person to assist the council and it is reasonable that the family council approve this person so that effective communciation and a comfort level is established between them and the communication is kept on an on-going basis.

It is necessary that the family council keep account of the

meetings through council minutes in order to be in compliance with the Minnesota Department of Health. It is reasonable that family council minutes be made available to family council members and other persons as the family council determines.

Subp. 8. Legal assistance for residents.

This rule part describes a resident's right of reasonable access to legal assistance. The requirements expressed in this subpart are considered reasonable because they comply with Minnesota Statutes, section 144.651, subdivision 30, in that a resident has a right to reasonable access to advocacy and legal services. It is reasonable and necessary that the facility should provide a designated staff person to instruct and assist residents in obtaining legal assistance so that residents may feel secure in knowing that their legal needs are addressed and that residents do not have to attempt to seek legal help on their own with the attending anxiety involved in such a process.

It is reasonable that the facility provide the opportunity for private communication between the resident and the resident's representative so that residents may express their legal concerns freely with their representatives.

Subp. 9. Resident grievances and complaints.

This rule explains the process by which residents of the Minnesota Veterans Homes may voice grievances and complaints and may recommend changes at the facilities, without retaliation. This rule follows the statutory provisions in Minnesota Statutes, section 198.32, forbidding retaliation against a resident who

exercises the right to complain while residing at the home. A list of the Minnesota statutes and United States Department of Veterans Affairs Code are included in this rule part so that residents and resident representatives may refer to these if necessary in order to make intelligent and informed decisions regarding a complaint or recommendation to the facility staff.

It is reasonable that residents be informed of their right to complain on admission. It is necessary for a resident to know that the right to complain is available and workable so that a resident may have a voice in the circumstances surrounding the resident's stay at the home.

It is necessary under Minnesota Statutes, section 144.651, subd. 20, that each Minnesota Veterans Home post in a conspicuous place the notice of a resident's right to complain

It is reasonable that residents have an avenue for complaints that is workable and in place at the facility. Thus, residents may complain through the facility grievance and complaint procedures, while recognizing that there may be occasions when a resident chooses not to do so. This makes it necessary for a resident to choose another avenue of voicing grievances that includes the administrator, Board, commissioners of health and veterans affairs, staff, family councils, other residents or outside representatives of the resident's choosing.

Grievance procedure:

A. In order for a resident to choose the best course in making a complaint or recommendation, it is necessary to provide

the resident with a list of sources, both within and without the facility, to help the resident. It is reasonable for the facility to provide this information to the resident, since residents rely upon facility staff to care for them and supply information when appropriate and necessary, so that residents do not need to add stress to their medical condition by trying to find outside resources to help them in making a complaint.

B. It is reasonable for the facility to have facility-approved written grievances forms available to residents. It is necessary for residents to have access to these forms in order for a resident to develop the best possible written complaint.

C. It is reasonable and necessary for the facility to follow time limits in making decisions regarding a resident's complaint so that residents may know that if they file a complaint or grievance, the facility must follow those time limits and the resident will not have made a futile effort at making a complaint.

D. It is reasonable, that when a resident requests assistance with a complaint or grievance, that facility staff be available to help the resident. It is reasonable to request the social services staff to offer assistance as these staff persons know the resident well and are involved in the resident's care at the home. It is necessary for residents to know that they can approach their social worker if they wish to obtain assistance in making a grievance.

E. It is reasonable for the facility to follow a standard of responding in writing to a formal grievance of a resident because the resident will be assured that the filing of the grievance was

not futile and that the resident's grievance will be given consideration.

F. This item provides for a statement to the resident that the resident making a complaint or grievance is free from retaliation and other restrictions. This is necessary so that a resident will feel confident and assured in voicing a grievance and this is reasonable in that the veterans homes purpose is to provide a comfortable, healthy and safe place for the resident to live.

Subp. 10. Restraints.

This subpart is needed to protect a resident's right to freedom from physical and chemical restraints imposed for the purposes of discipline or convenience and not required to treat the resident's medical condition and to specify requirements of restraint use when the reason for the use of restraints is to protect the resident or others. This subpart is in compliance with part 4655.6600.

It is necessary that restraints be imposed on a resident on the written order of a physician. This is necessary to specify the duration and circumstances under which the restraints are to be used. It is reasonable that in an emergency situation the administrative nursing staff take temporary emergency measures to initiate the use of the restraint to protect the resident or others, thus prohibiting the unauthorized application of restraints by other staff members.

It is reasonable and necessary that a resident who exhibits behavior that poses a significant threat of harm to self or others

may be discharged or transferred to an appropriate care facility so that the proper care may be given to the resident, and also safeguard the safety of the other residents and staff remaining at the home.

It is reasonable that doors to resident rooms must not be locked in a manner that would prevent entry in an emergency by staff or others that need to enter the room.

It is necessary to record the use of restraints in the resident's record so that there is ongoing documentation of the assessment of the need for continued use of the restraint.

Subp. 11. Right to associate; visitors.

This subpart is in compliance with Minnesota Statutes, section 144.651, subdivisions 21 and 26, regarding a resident's right to associate with others. The statute grants a resident the option of association and communication with persons of the resident's choosing as long as the resident's activities do not infringe on the rights of other residents at the facility.

This subpart also sets the standard that visitors to the facility must follow the facility rules which pertain to visitors, such as adherence to the visiting hours schedule. It is reasonable to require visitors to follow facility rules that affect them because the veterans homes are health care facilities and the primary emphasis of the homes are the health, safety and comfort of the residents.

It is reasonable that the facility administrator establish

visiting hours so that all residents and visitors may know what is expected of them and so that there is quiet time during the night. It is reasonable that the facility administrator establish visiting hours allowing domiciliary residents to have different hours for visiting than the nursing care units. This is because domiciliary residents are more independent and are encouraged to be so. It is important that domiciliary visiting hours are flexible enough to respect this, while providing for security and safety of the other residents, staff and visitors themselves.

It is reasonable that a resident who is critically ill may have visits at any time from persons of the resident's choosing. It is also reasonable that a resident be permitted privacy for visits with the resident's personal physician, religious advisor or attorney and that these visits may be at times outside of the regularly scheduled visiting hours.

Subp. 12. Identity of physician and outside service providers.

This subpart requires staff to inform residents that they must be given, in writing, the name, business address, telephone number and specialty of the physician who is responsible for their care, according to Minnesota Statutes, section 144.651. This is reasonable and necessary so that the facilities are in compliance with the Minnesota statute and to keep residents informed so that they have easy access for contacting their physicians.

It is also necessary that residents be given on request by the resident or the resident's guardian, written information about the identity of outside service providers, if the resident receives

these services, so that residents remain informed of the persons who are giving them health care.

Subp. 13. Personal and treatment privacy.

This subpart recognizes a resident's right to respect for personal and treatment privacy. It is reasonable that individuals must knock on a resident's door and seek the resident's consent before entering so that residents may feel assured of their privacy and enjoy freedom from intrusion by other individuals. It is reasonable and necessary, for the residents' protection, that in an emergency situation or when clearly inadvisable, an individual does not have to knock on a resident's door before entering.

It is reasonable that residents are given privacy when toileting, bathing and other personal hygiene activities so that they preserve their sense of dignity and self-respect. Some residents may need assistance with these activities and in that case, it is necessary that assistance be given to the resident while respecting their right of privacy. For residents needing assistance with their personal care program, it is necessary that this information be documented in the resident's chart so that the direct care staff working with the resident is made aware of the resident's limitations and the need for assistance and the resident can be assured that assistance will be given.

Subp. 14. Married residents.

This subpart is in compliance with Minnesota Statutes, section 144.651, subdivision 28, and permits privacy for spousal visits of married residents and permits spouses who are residents of the

facility to share a room if they choose, unless one of the attending physicians determines that sharing a room would be medically contraindicated.

It is reasonable for a married resident to be able to meet privately with the resident's spouse if the resident chooses to do so and it is reasonable to permit a married couple to share a room if the couple chooses, to accomodate a resident's welfare, well-being and quality of life.

It is necessary to give the attending physicians of the married couple the authority to determine whether the couple should be permitted to share a room together depending on the level of care needed or other medical reasons, so that their stay at the facility will be beneficial to them.

Subp. 15. Privacy of resident records.

This subpart explains how information regarding resident records is managed. This rule part is necessary because residents need protection from unauthorized release of their records and need to be aware of private information concerning them that may be released and their right to approve or refuse release of their records to persons outside of the board-operated facility.

It is reasonable to expect the facility staff to comply with Minnesota Rules, Chapter 4655, Minnesota Statutes, Chapter 13, and section 144.651, subdivision 16 when disclosing information.

Sometimes it is necessary for the facility staff to release information about a resident without obtaining resident consent. Items A. through D. have been discussed at length with the Public

Advisory Committee and the consensus of the committee and the Board is that these items are reasonable and necessary.

This subpart has also been discussed at length with the Resident Rules Committee at the Hastings facility and the committee has approved this subpart.

Subp. 16. Resident access to records.

This subpart clarifies that residents may have access to their records at their request. It is necessary that the facility staff comply with Minnesota Statutes, sections 144.335 and 13.04, and the Code of Federal Regulations, title 42, part 2, section 2.23 when providing residents their records. It is reasonable that residents have the right to see the contents of their own records.

It is reasonable that facility staff supply residents with information concerning diagnosis and treatment of the resident in terms and language residents can reasonably be expected to understand. Sometimes it may be necessary that a resident should not view the records, as determined by the resident's attending physician and in that case it may be reasonable to give the information to the resident's guardian, representative or appropriate third party according to Minnesota Statutes, section 144.335, subdivision 2.

It is reasonable that residents should see their records without any charge, but that if residents want copies of their records, that a reasonable charge related to the costs of copying may be requested by the staff.

It is reasonable that facility staff should furnish copies of

resident records upon the resident's written request, within five days, excluding Saturdays, Sundays and legal holidays and if the facility is unable to comply, to inform residents that another five days may be needed to provide copies of their records. This time provision allows for time the facility staff may need to copy the records. If records are required in fewer than five days, such as for legal reasons, it is reasonable that facility staff should make reasonable efforts to comply with the request.

Subp. 17. Mail.

This subpart follows Minnesota Statutes, section 144.651, subdivision 21 that requires that residents must be able to send mail without interference and receive mail unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. It is reasonable to promote the independence of residents and to protect their right to privacy of communications.

It is reasonable that a competent resident should receive mail without interference and it is reasonable and necessary that a resident who is adjudicated incompetent must have a legal guardian or conservator to determine how that resident's mail should be handled.

It is necessary that if there should be any restrictions on a resident's mail that the resident be told orally or in writing of the restriction, depending on each individual circumstance, so that the resident's mail will be handled in a safe and accountable manner.

Subp. 18. Telephone access and use.

This subpart establishes the general requirements for resident access and use of telephones at the board-operated facilities. It is necessary that all residents of the facilities have access to a pay telephone if they choose, and that a pay telephone be available to them in a convenient location, so that ambulatory and nonambulatory residents may have access to the telephone.

This subpart also states that in the case of an emergency, Minnesota Rules, section 4655.1910, subpart 4, must be complied with, which makes it a necessity for the facilities to provide at least one non-coin-operated telephone which is accessible at all times to residents. It is reasonable that the telephone be non-coin operated so it can be activated quickly and repeatedly without concern for the availability of proper change in an emergency.

This subpart makes it necessary for the facility staff to make reasonable arrangements for residents to make private telephone calls if they need to. This is reasonable because a resident may have occasion when the resident has private business which the resident does not want another person to overhear and wishes to conduct personal business in private.

Resident restrictions on telephone access occur infrequently at the facilities, but if an occasion should arise in which the attending physician determines that a restriction is necessary, this subpart makes provisions for this occurrence and is in compliance with Minnesota Statutes, section 144.651, subdivision 21.

Subp. 19. Resident vehicles.

This subpart describes the kinds of vehicles residents may keep on the facility grounds, the condition of the vehicles, the laws that pertain to resident ownership of vehicles and the procedures to follow at the facility if residents have vehicles.

It is reasonable that each resident may keep one passenger vehicle, motorcycle or motorized bicycle on the grounds of the facility because residents are encouraged to be self-reliant and relatively independent, especially residents in the domiciliary units. It is necessary that each resident keep only one vehicle because of the limited parking space at the facilities, the lack of need for more than one vehicle, and the expense of maintaining more than one vehicle. This is reasonable also because it helps to prevent vehicles from being abandoned on the grounds.

It is necessary for residents to register their vehicles with the transportation division of each facility and to display facility identification decals for security reasons and to make vehicles readily identifiable for emergencies such as a fire and for snow removal.

It is necessary that residents who own and drive vehicles follow Minnesota Statutes, Chapters 169, 171, and 65B in order to be in compliance with state laws. This is reasonable because the facility cannot monitor a resident's compliance with these state laws. A resident wishing to own and drive a car must be capable of obtaining insurance and a driver's license on their own.

The section concerning the removal of abandoned vehicles from

facility grounds is necessary so that the facility is in compliance with Minnesota Statutes, chapter 168B. Removal of abandoned vehicles is necessary in order to free up parking spaces, to eliminate breeding grounds for vermin and fire hazards and to maintain the environment.

Subp. 20. Pets.

The requirements in this subpart are considered reasonable because they comply with part 4638.0200 regarding pets at the veterans homes and because each board-operated facility may decide whether to have pets. The decision concerning whether pets are allowed at the facility is made by the administrator of each facility, after consultation with facility staff and residents. It is reasonable to allow pets because the presence of pets in a residential setting may be a source of companionship and therapy for residents. This is also reasonable because not all residents may like or can tolerate pets. Pets may pose a threat to the health and safety of residents, and animals may be aggressive and carry and transmit parasites and disease. It is therefore, necessary, that if a decision is made to allow pets at the facility, that the facility staff consult with a veterinarian and physician to develop and implement written procedures for maintenance of the pets to ensure the safety, health and comfort of the residents.

Items A. through C. describe the requirements each facility must follow if pets are allowed at the facility. These requirements are necessary because they comply with part 4638.0200

and because they ensure the safety, health and well-being of the residents if pets are allowed at the facility.

Subp. 21. Resident work programs.

This subpart explains how residents may take part in a resident work program and what standards and laws the facility must follow in order to maintain a resident work program.

In order for a resident to take part in a resident work program, it is necessary to obtain the approval of the resident's attending physician or be recommended by the resident's attending physician and the resident's care plan team so that appropriate work may be given to the resident. The standards that must be followed are contained in Minnesota Statutes, section 144.651, subdivision 23, which specifies that the work performed by the resident must be for therapeutic purposes and appropriately goal-related. This is reasonable so that residents may help to rehabilitate themselves, increase their self-value and have the opportunity to earn money for themselves.

It is necessary that the compensation given to the resident for the work performed be in compliance with Minnesota law and the Federal Fair Labor Standards Act. It is also necessary that the facility comply with part 9050.0700, subpart 3, item A and Minnesota Statutes, section 198.03 so that the earnings that residents derive from participating in the resident work programs may not be considered a means of support.

Subp. 22. Resident funds.

This subpart provides for resident fund accounts at the

cashier's office at the facilities and expresses the requirements that the facility staff comply with 4655.1910, subpart 6, 4655.4100 to 4655.4170, and Minnesota Statutes, section 144.651, subdivision 25 and section 198.265.

Item A. explains that competent residents may manage their personal financial affairs or if the resident delegates this responsibility to the facility for any period of time that the resident be given at least a quarterly accounting of the financial transactions.

It is reasonable that residents should manage their own financial affairs if they choose and it is reasonable that residents could delegate this responsibility to the facility if, for instance, a resident must enter the hospital and would not want bills to go unpaid, such as maintenance charges in order to reserve the resident's room at the facility while absent. The facility may also make sure that a resident's monthly benefits continue while the resident is gone if the resident delegates this responsibility to the facility.

Item B. provides for personal fund accounts at the facilities if residents choose to keep funds at the facility or in fund accounts off facility premises. The maintaining of personal fund accounts at the facilities is considered necessary and reasonable because it complies with Minnesota Statutes, section 198.265 and gives residents a choice of where to keep their money. This is also necessary because some residents are unable to leave the facility due to their age or medical condition and need a safe and

convenient place in which to keep their money.

This item also explains that residents who keep money in a personal account at the facility do not draw interest directly to their account. The interest on resident accounts is used for the direct benefit of the residents of the homes. This provision is necessary in order for the homes to comply with Minnesota Statutes, section 198.265.

It is necessary to make a provision for restrictions on residents personal funds if the resident, resident's guardian or person responsible for the fund account determines it is necessary so that the resident's wishes and best interests are satisfied.

Item C. states that the cashier shall have regular posted hours. This is necessary so that residents may rely on the cashier's office being open when they need it and gives residents security that they can withdraw or deposit funds at regular hours and can plan daily schedules accordingly. It is also necessary that residents be given receipts when depositing funds and that withdrawal forms are signed when funds are withdrawn so that the transactions are consistent with common practice in the business community and proper accounting of the transactions have taken place.

The requirements expressed in Item D. regarding unclaimed account balances at the facility are necessary so that the facilities are in compliance with Minnesota Statutes, sections 198.23 and 198.231.

Subp. 23. Laundry service.

This subpart provides for resident access to laundry facilities and explains the differences in services for boarding care residents and nursing care residents.

It is necessary that laundry facilities in the domiciliary units be made available to boarding care residents in consideration of their desire for independence and self-respect and the general ability of boarding care residents to launder their own clothing.

At resident request, the necessity of the administration of each facility to determine the hours for use of the laundry facilities was included in this subpart. The determination of hours in which residents can use the laundry facilities will eliminate laundry room noise late at night or off-hours so as not to disturb residents who live a floor above or near the laundry.

It is necessary that clean linens be provided weekly, or as needed, to residents, so that the facilities are in compliance with parts 4655.8000 and 4655.8300. Again recognizing the independence of boarding care residents, it is necessary that these residents have the choice of laundering their own linens.

Because of the higher level of health care necessary for nursing care residents it is necessary that the facility provide laundering of linens and personal clothing for residents in the nursing care units.

Subp. 24. Resident clothing.

This subpart requires each resident to have a supply of personal clothing relative to their needs and that the

administrator of each facility shall determine the standards for marking resident clothing for laundering and identification purposes. It is necessary that the administrator of each facility have the task of determining the standards for marking resident clothing for laundering and identification purposes because each facility has residents with different levels of care and independence. The domiciliary residents launder their own personal clothing and may not have a need for the marking of clothing for identification or laundering purposes, while the nursing care residents may need the marking of their clothing.

It is necessary that residents or their representatives are responsible for the condition of their personal clothing and that if residents need assistance with maintenance of their clothing that they contact the facility staff for assistance. This is not to exclude the nursing staff or others who care for the residents from noticing the condition of the clothing and offering assistance.

Subp. 25. Resident hygiene.

This subpart establishes the requirement that residents maintain a reasonable state of body and oral hygiene based on the resident's physical and mental capabilities. This part is reasonable in that it is healthy to be clean and shows respect for oneself and others. It is reasonable that individual and mental capabilities of residents be considered regarding their body and oral hygiene activities to meet the standards defined in 4655.6400 and 4655.6800.

This subpart is necessary because it requires the facilities to be in compliance with parts 4655.6400 and 4655.6800 that relate to adequate care and patient care and identifies the criteria facility staff must follow in making sure that each resident receives nursing care or personal and custodial care and supervision based on their individual needs.

Subp. 26. Room cleanliness and conditions.

This subpart clarifies personal electrical items that residents may have in their rooms and items that residents are not permitted to keep in their rooms so that the veterans homes comply with the safety, sanitary and health regulations of the regulatory agencies.

It is necessary that candles, oil lamps and other flammable items, as determined by the state fire marshal, are not allowed in resident rooms so that the facilities may comply with state laws. This is reasonable because the health and safety of residents must be considered. The above items may constitute a fire hazard if, for example, a resident lights a candle and then falls asleep while the candle is still burning.

The necessity of keeping the floors clear of boxes, luggage, debris and other materials to prevent congestion and health and safety hazards enables residents and others to enter and exit the room easily, and eliminates perishable items or debris from being stored in boxes in the room. It is necessary that fire fighters, facility staff or others are able to enter the resident's room without hazards in the way. It is reasonable to require residents

to keep floors clear of these items because there are storage areas provided by the facilities in which residents may keep items which do not fit in their rooms because of space.

This rule part describes the personal electrical items that residents may have in their rooms. These items have been discussed at great length with the Resident Rules Committees of the Hastings and Minneapolis campuses, the facility staff at both facilities, administrators and the Public Advisory Committee. If an electrical item is needed by a resident and is not included in the allowable items, this rule part provides for permission for a resident to have the electrical item upon approval of administration or the resident's attending physician.

This rule part is reasonable in that the building electrical systems at the homes are functioning at or very near maximum capacity. The electrical systems meet present codes and are of adequate size for present building loads. Typical resident room circuiting is undersized to feed such things as air conditioners, toasters, coffee makers, microwave ovens, certain types of refrigerators, and any other heavy power consuming appliance.

It is necessary to prohibit certain items such as unapproved extension cords, hot plates, coffee makers and electrical food appliances because of the electrical capacity limitations of the resident rooms and because of the fire and safety hazards of cooking in resident rooms. There is no necessity for cooking in resident rooms because food is provided at the facilities at mealtimes, snacks are available throughout the day, vending

machines are available and the facilities with coffee shops and canteens also have food available for residents. Residents are also free to leave the facility to buy food or go out to eat.

Subp. 27. Resident facility keys.

It is reasonable that a resident who is issued a personal room key or keys to locked spaces within the room should be responsible to return those keys to the facility upon transfer or discharge and for a provision of charging a resident for the replacement of the keys. Assigning financial responsibility to a resident for keys issued to the resident puts emphasis on the resident's accountability for proper care of the assigned keys.

This rule part is necessary in that it maximizes the security of the resident's room or locked spaces by placing an amount of responsibility on the resident to properly care for the keys and not to arbitrarily rely upon the facility to replace keys because of carelessness on the resident's part.

Subp. 28. Resident and facility property.

This subpart establishes the general requirement that residents do not damage other resident property or facility property.

It is necessary to state that residents may be held financially responsible for damage caused by them in order to hold them accountable for the damage done to property and to make a better living environment for all residents. It is necessary to establish a sense of fairness and justice in order for residents to feel secure that an effort will be made to repair or replace the

damage done to property.

Subp. 29. Resident's personal property.

This rule part follows Minnesota Statutes, section 144.651, subd. 22, regarding resident personal possessions in their personal living areas. The statute authorizes residents to retain and use personal possessions as space permits, with provisions for exceptions such as infringement on other resident rights, and medical or safety reasons.

This rule is reasonable in that residents often move into the Minnesota Veterans Homes facilities with or accumulate more personal items than what their rooms or living spaces can accomodate. It is therefore necessary to develop this rule for the facilities to follow with procedures so that resident rooms are not so cluttered that residents cannot in fact enjoy their living space, and to assure that general safety and fire safety standards and regulations are being met.

This rule is also necessary to protect the interest of other residents, who may likely be affected by the volume or type of personal possessions a resident may have. The comfort and security of all residents must be considered when decisions are made as to what residents may bring and be permitted to keep in their rooms.

This rule part also follows the state requirements that the personal property of deceased and discharged residents be handled according to Minnesota Statutes, sections 198.23 and 198.231.

Subp. 30. Storage of resident's property.

This rule part makes provisions for residents to store

personal items or valuables at the board-operated facilities.

A. This section provides assigned amounts of storage space at the facility for residents' personal property that does not fit in their living areas, as well as an inventory process of their possessions.

It is reasonable to expect residents to have a limited amount of personal property items that either do not fit in their personal living area, or that they do not need or want in their living space on a daily basis. It is therefore necessary for the facilities to provide additional storage space for the residents depending on the amount of storage space available at each of the facilities.

It is reasonable for the administration of each facility to determine the amount of storage space that can be made available to residents to meet the overall needs of the residents for storage space provisions and to meet the needs of each facility regarding the amount of storage space that is available to residents.

Because residents may want to store particular kinds of personal property that may be too large or that constitute a safety hazard, it is necessary to provide for the exclusion of these types of personal property for the safety and health of all residents.

It is reasonable for residents to feel assured that their personal possessions in the storage areas are properly accounted for and secured. To do this, it is necessary to maintain a type of itemized inventory of the resident's property, as well as the storage location and the date the items were stored so that the resident can be assured of the resident's ownership of the items

and can have the ability to locate the property when necessary.

It is reasonable and necessary to require the resident, or the resident's guardian, if any, to sign the inventory so that the staff person writing the inventory list and the resident or guardian concur upon the items listed.

It is reasonable for administration to determine the hours during which residents may have access to storage areas, so that residents have the knowledge that their possessions are safe from other residents or staff having access at all hours and so that the facility does not need to have extra staff persons available at odd hours.

At the request of the residents, it is reasonable to provide for a facility staff person to be in charge of the storage areas, and for that person or that person's designee, to accompany residents into the storage area. This will eliminate the concern of theft or damage to other resident stored property.

It is necessary to restrict residents from placing cash in storage areas. This is reasonable because the facilities provide a cashier's office with regularly posted hours in which residents may deposit and withdraw cash, or residents may keep cash in places outside the facility.

B. This section provides for a central locked depository or locked storage areas in which residents may store valuables.

It is reasonable that residents should feel assured that their valuables in storage are properly accounted for and secured. To do this, it is necessary to maintain a type of itemized inventory of

the resident's valuables, as well as the storage location and the date the items were stored so that the resident can be assured of the resident's ownership of the items and can have the ability to locate the property when necessary.

It is reasonable and necessary to require the resident, or the resident's guardian, if any, to sign the inventory so that the staff person writing the inventory list and the resident concur upon the items listed.

C. This part provides for compensation for or replacement of lost or stolen items if the loss was caused by the facility's negligence.

While it is reasonable that a resident be compensated for lost or stolen items, it is necessary that a standard be followed when a resident declares that an item has been lost or stolen. It is reasonable to use the standard of negligence on the facility's part as required in Minnesota Statutes, section 3.732, in order to deter false or unreasonable claims that may occur.

Subp. 31. Smoking.

This subpart establishes the general requirements that each facility administrator must designate smoking and nonsmoking areas and that smoking in resident rooms is prohibited. It is necessary for the facilities to be in compliance with chapter 4620 and Minnesota Statutes, section 144.411 to 144.417.

It is reasonable that each facility have both smoking and nonsmoking areas so that both smokers and nonsmokers are provided for.

It is reasonable and necessary that residents smoke only in designated smoking areas because the health, comfort and safety of every resident needs to be considered. For instance, a resident who is allergic to smoke may avoid smoking areas and if a resident were smoking in a nonsmoking area, this could be offensive and possibly unsafe for the nonsmoking resident.

It is reasonable that smoking in resident rooms be prohibited because there are provisions for designated smoking areas at each facility if a resident chooses to smoke. It is necessary that smoking in resident rooms be prohibited because some residents are on medications, making their judgments impaired at times and could be dangerous if they smoked in their rooms; upon room transfers, it would be difficult and require much work to eliminate the smoke smell from a room if the new resident to the room did not like or tolerate smoking; the veterans homes are health care facilities where residents should be able to retire to their rooms without smoke; the cost of housekeeping would rise for the more frequent cleaning of draperies, washing of walls and shampooing of carpets; residents are unsupervised in their rooms and since a resident's room is a place to relax and sleep, a resident may fall asleep while smoking and cause a hazard to himself and the facility.

Subp. 32. Leaving the facility campus.

This subpart explains the process that residents must follow when leaving the facility campus and represents a reasonable compromise between the resident's freedom to come and go or leave as the resident chooses and the facility's duty to care for the

residents.

It is necessary that residents should notify administration or the direct care staff before leaving the facility so that their leaving is not in conflict with their medical plan of care, such as doctor appointments and treatments or medical prescriptions to be ordered in advance to ensure the continuity of care for residents; to ensure that provisions are made for meals, if necessary; to maintain an accurate census so that during an emergency situation, staff can account for resident safety and the safety of others who may enter a building to look for residents; or so that if a resident has a visitor or family emergency, staff could inform the visitor or family member if the resident is available.

In situations where a resident's departure is likely to cause immediate, serious physical harm to themselves or others, this rule part becomes necessary so that the facility can protect the resident and others from the resident's actions with reasonable efforts to inform the resident of the likely consequences of the resident's actions or departure.

Subp. 33. Coffee shop and canteen.

This subpart makes provisions for coffee shops and canteens at the facilities, depending on space, resources and available funds and explains that the profits derived from the coffee shops and canteens the facilities operate must be used for the direct benefit of the residents of the homes.

This rule part is reasonable because the veterans homes facilities that have the space, resources and available funds may

provide coffee shops and canteens for their residents.

It is reasonable and necessary that the facilities follow Minnesota Statutes, section 198.261, stating that the profits derived from the operation of the canteens or coffee shops must be used only for the direct benefit of the residents of the homes.

Subp. 34. Alcoholic beverages.

This subpart establishes the requirement that alcoholic beverages are not allowed on the veterans homes campuses or during facility-sponsored events as allowed in Minnesota Statutes, section 198.33, except when consumption is prescribed by the resident's attending physician.

It is reasonable that alcoholic beverages not be permitted on the veterans homes campuses because the resident population includes a percentage of residents with alcohol dependency in which alcohol use is contraindicated. It is necessary in order to make the homes a safe and healthy environment for residents that alcohol be prohibited when alcohol use is contraindicated with the resident's medication so that the facility may provide the best care possible for residents and residents may not jeopardize their own health care by consuming alcohol on campus.

It is reasonable that alcohol be prohibited on facility-sponsored events because these events are an extension of the facility as they are planned and staffed by facility staff and to allow the use of alcohol would necessitate additional staff to help care for residents on outings who might become intoxicated or ill because their medications were incompatible with alcohol. It is

reasonable to expect that residents who attend these facility-sponsored outings do so for therapeutic and social reasons and the use of alcohol during these outings may cause residents to disassociate from the group by focusing on alcohol and in some instances, alcohol induced behavior may contribute to social discomfort among residents.

This rule part also provides for consumption of alcohol when prescribed by the resident's attending physician. This is reasonable in that if the attending physician determines that a resident may have alcoholic beverages that the resident should be allowed to do so. This may occur when residents are not able to leave the campuses, are not diagnosed as chemically dependent and have shown responsible alcohol use.

It is necessary that an alcoholic beverage be defined as a beverage containing any amount of alcohol in order to provide the best possible health care environment for residents who are chemically dependent and to enable a resident to stay chemically free. This is reasonable in that the veterans homes are health care facilities and seek to help the resident to follow the resident's care plan and aid in the building of the resident's self-esteem and attitude towards himself and others.

Subp. 35. Room inspections.

This subpart makes provisions for routine inspections of resident rooms for facility compliance with rules and regulations.

It is necessary for facility staff to make routine inspections of resident rooms in order for the facility to meet licensing,

safety, sanitation, health and facility rules and regulations. This is reasonable also because the safety and health of the residents is the staff's primary concern. Some residents may maintain their rooms in an unsanitary or unsafe condition if routine inspections were not conducted.

Subp. 36. Searches of resident rooms.

This rule part recognizes a resident's right to a legitimate expectation of privacy against unreasonable searches and seizures and that searches must be conducted under Minnesota Statutes, section 198.33, subdivision 1.

When circumstances allow, it is necessary to have a provision for a search of a resident's room to protect residents from items such as contraband or items that are potentially injurious to residents, staff, volunteers and visitors. Minnesota Statutes, section 198.33, provides the procedures that facility staff must follow in order to implement a search while recognizing that residents have a reasonable expectation of privacy in their rooms. This rule part is necessary so that the facility may be in compliance Minnesota Statutes, section 198.33, subdivision 1, and so that residents will feel secure in their rooms from unnecessary interference from staff or other persons.

Subp. 36. Contraband.

This subpart identifies contraband items that residents may not possess at the facilities and establishes the general requirements for seizure under Minnesota Statutes, section 198.33,

and disposal of the contraband.

This rule part is necessary to protect residents and others from the potential and known risks of possession of contraband items at the facilities. It is reasonable to make provisions for the removal of contraband because these items have no legitimate purpose at the veterans homes. The homes are health care facilities with the objectives of maintaining the safety, health and welfare of the residents.

It is reasonable that the resident be given a receipt for any contraband which is removed from that resident's possession and it is necessary that this information be documented in the resident's chart so that the resident may receive the best possible protection.

Subp. 37. Double beds.

This subpart specifies that double beds are not permitted at the Minnesota veterans homes. For reasons of safety, space, sanitation and lack of necessity, double beds are not allowed. This requirement is considered reasonable because it is consistent with the common practice in the health care community.

Subp. 38. Photographs, voice recordings, or videotapes.

This subpart requires informed written consent from a resident before the resident may be photographed, voice recorded or videotaped, unless the photograph is for identification purposes and is kept in the resident's chart at the facility.

This rule part is needed to respect a resident's right to privacy and to make residents aware that they have a choice whether

to give consent to persons at the facility or persons coming into the facility to photograph, voice record or videotape them. This rule part is reasonable as it gives a resident the option of giving consent and assures the resident that the facility staff will support the resident's right to privacy.

WITNESSES

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

Stephen O'Connor
Chair, Rules Committee
Minnesota Veterans Homes Board of Directors

Eileen Hanlon
Rules Writer
Minnesota Veterans Homes Board of Directors

Susan Kiley
Administrator
Hastings Veterans Home

Karen Jennings
Assistant Administrator for Direct Care
Minneapolis Veterans Home

John Seelhammer
Assistant Administrator for Indirect Care
Minneapolis Veterans Home

Carlene Hoeschen
Quality Assurance Coordinator
Minneapolis Veterans Home

Kathleen Davis
Director of Nursing
Minneapolis Veterans Home

David Carroll
Director, Psychological Services
Minneapolis Veterans Home

Veterans Homes Board

Proposed Permanent Rules Relating to Facility Services; Resident Rights; Responsibilities

Rules as Proposed

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 72, see M.R.]

Subp. 73. **Medical director.** "Medical director" means a physician licensed under Minnesota Statutes, chapter 147, and employed by or under contract to the board who is responsible for overall direction of medical practice in a facility ~~and for liaison with independent physicians at the facility~~ to ensure the appropriateness of the medical services provided to the residents.

[For text of subps 74 to 86, see M.R.]

Subp. 86a. **Ombudsman.** "Ombudsman" has the meaning given it in the Older Americans Act of 1965, United States Code, title 42, section 3027(a)(12), and Minnesota Statutes, section 256.974.

[For text of subps 87 to 120, see M.R.]

9050.1000 RESIDENT CARE PLANNING.

An individual care plan must be developed, implemented, and maintained for each Minnesota veterans homes facility resident according to Department of Health and United States Department of Veterans Affairs nursing and domiciliary care regulatory standards.

The care plan must be consistent with the resident's medical treatment plan, as defined in part 9050.0040, subpart 74. The care plan must be developed by a multidisciplinary care plan team, as defined in part 9050.0040, subparts 58 and 80, based on an assessment of the resident's functioning, attitudes, behavior, and medical condition for use in integrating care and identifying service needs.

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Residents may be involved in their individual care plans according to part 9050.1070, subpart 4.

The resident's care plan must be used by the facility staff involved in the resident's care, and reviewed and updated according to the regulatory standards of nursing and domiciliary care or when there is a significant change in the resident's condition. For the purposes of this part, "significant change in a resident's condition" means a new problem or a measurable improvement or worsening of an existing problem or condition.

9050.1030 RESIDENT CARE SERVICES.

Subpart 1. **General.** Care services provided to residents of Minnesota veterans homes must be consistent with the overall goals and obligations of each facility as expressed in statute, the homes' mission statements, and rules governing the board-operated facilities, and must be consistent with available funding and limited if the service is not reimbursable by public or private resources according to Minnesota Statutes, section 144.651, subdivision 6.

Care services are provided according to Department of Health licensure regulations and the certification requirements of the United States Department of Veterans Affairs. Laws pertaining to resident care services include chapter 4655; Minnesota Statutes, chapters 144 and 144A; and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Resident care services must be authorized by the Minnesota Veterans Homes Board of Directors.

Services that are veteran-exclusive through the United States Department of Veterans Affairs are not available to nonveteran residents according to part 9050.0510, subpart 2.

A resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed in writing by the admission staff of each board-operated facility or the resident's social worker, before or at the time of admission and when changes occur, of services that are included in the facility's basic per diem and

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of other services that may be available at additional charges.

The facility staff shall assist residents in obtaining information and making application for possible benefits or programs to which the residents are entitled according to parts 9050.0770 and 9050.0800, subpart 2, item G, and Minnesota Statutes, section 144.651, subdivision 17.

Subp. 2. **Nursing services.** Primary care nursing services for each Minnesota veterans home resident are the responsibility of the nursing staff.

Nursing care services provided to residents in nursing care units must be according to part 9050.0040, subpart 83, and United States Department of Veterans Affairs standards.

Domiciliary care services provided to domiciliary residents must be according to parts 4655.0100, subpart 3, and 9050.0040, subpart 16, and United States Department of Veterans Affairs standards.

Subp. 3. **Dietary services.** At each board-operated facility, an adequately equipped kitchen must be maintained and qualified facility staff must be employed to supply the necessary food requirements of the residents. Dietary services provided to residents must be according to parts 4655.8500 to 4655.8800 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

A qualified dietician, as defined in part 9050.0040, subpart 34, or dietary supervisor if qualified, must be employed or contracted with to supervise the food service department of each facility. A qualified dietary supervisor is a person trained or experienced in the planning and preparation of meals as stated in part 4655.8510. The dietary staff shall prepare therapeutic diets as ordered by the resident's attending physician, according to federal and state standards and established recommended daily allowances.

A dietician shall ensure that nutritional care plans are developed according to each resident's nutritional needs and that an individual diet card is maintained for each resident.

Subp. 4. **Recreational therapy.** At each board-operated

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facility, a recreational therapy program must be provided according to part 4655.5200 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3. Recreational therapy programs must be appropriate to the needs and interests of residents to maximize individual residents' physical and psychosocial levels.

Adequate equipment, space, and supplies for recreational therapy programs must be provided at each facility.

A resident's recreation plan must be integrated into the resident's care plan and documentation of recreational therapy provided must be maintained in the resident's chart.

A qualified staff member responsible for the recreational therapy program shall meet at least the minimum qualifications in part 4655.5200, subpart 5.

Subp. 5. **Social work services.** On-site social work services must be provided to residents of each board-operated facility by qualified social workers to meet the psychosocial needs of individual residents.

The provision of social services must be documented in the resident's chart. Documentation must include a social services assessment or plan and quarterly progress reports on each resident in the facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 6. **Housekeeping services.** Housekeeping services must be maintained at each board-operated facility to ensure a clean, sanitary, and safe physical environment for residents according to parts 4655.9000 to 4655.9070. The facility must be kept free from offensive odors, dust, rubbish, and safety hazards. An example of a safety hazard would be the accumulation of combustible material or waste in unassigned areas.

Subp. 7. **Medical director.** Each board-operated facility must have a medical director according to part 9050.0040, subpart 73, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 8. **Attending physician.** Each resident must be

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assigned an attending physician who is responsible for overall medical care of the resident. A resident may choose a private attending physician at the resident's own expense if the physician agrees to comply with regulatory standards governing the home. Regulatory standards include parts 4655.4600 and 4655.4700 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

The attending physician shall prescribe a planned regimen of resident care based on a medical evaluation of the resident's immediate and long-term needs. The attending physician must be identified on the resident's medical chart.

The attending physician shall make arrangements for the medical care of the resident in the event of an on-site emergency or a planned absence by the attending physician.

Subp. 9. **Chaplain services.** Spiritual care must be provided by a chaplain to residents of each board-operated facility according to part 4655.5300 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Adequate space must be provided for chaplain services and private space provided for a resident to meet with clergy of the resident's choice.

Subp. 10. **Mental health services.** Mental health services must be made available to residents who meet admission and continued stay criteria as specified in part 9050.0070, subparts 3 and 4, at each board-operated facility either on-site or through other means such as contract services, sharing agreements, or other arrangements according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

A resident must be offered mental health services on request by the resident, or as determined by members of the resident's individual care plan team, which may include a staff psychologist, staff psychiatrist, or chemical dependency counselor.

These services must include, but are not limited to, assessment, diagnosis, supportive counseling or self-help groups for residents presenting behavioral problems, psychiatric

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disorders, and chemical dependency or chemical abuse disorders. These services must be provided through disciplines such as psychology, psychiatry, and chemical dependency.

Documentation of mental health services provided to a resident must be maintained in the resident's chart.

Subp. 11. **Dental care services.** Dental care must be made available for residents of each board-operated facility according to part 4655.4800 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Each facility must have a written agreement with a licensed dentist or dentists to provide emergency dental care when necessary.

Dental care for residents consists of, but is not limited to, cleaning of teeth by the dentist or dental hygienist, an examination of the resident's teeth and mouth by the dentist, taking of necessary X-rays as determined by the dentist, proper fitting of dentures, repair of dentures, and treatment of abnormalities caused by dentures as determined by the dentist.

Documentation of dental care provided must be maintained in the resident's chart.

Subp. 12. **Podiatric care services.** Podiatric care must be made available at each board-operated facility to residents through a podiatrist or physician, with the approval of the resident's attending physician, according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Documentation of podiatric care provided must be maintained in the resident's chart.

Subp. 13. **Optometric care services.** Optometric care must be made available to residents of each board-operated facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Consultation or treatment with the optometrist must be on written order of the resident's attending physician. For residents needing replacement of refractory lenses, the nursing department may request a resident's appointment with the optometrist.

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Documentation of optometric care provided must be maintained in the resident's chart.

Subp. 14. **Chiropractic care services.** Chiropractic care must be made available to residents of each board-operated facility according to Minnesota Statutes, section 198.065. Treatment by a chiropractor must be on written order of the resident's attending physician.

Documentation of chiropractic care provided must be maintained in the resident's chart.

Subp. 15. **Diagnostic services.** Diagnostic services must be made available to residents of each board-operated facility on written order of the resident's attending physician according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3. Payments for diagnostic services are determined according to part 9050.0510.

Examples of diagnostic services include, but are not limited to, X-rays and laboratory work, such as blood tests.

Documentation of diagnostic care provided must be maintained in the resident's chart.

Subp. 16. **Pharmaceutical services.** Pharmaceutical services must be made available through a licensed pharmacist by each board-operated facility to meet the needs of residents according to parts 4655.7790 to 4655.7860 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3. A licensed pharmacist is defined in part 9050.0040, subpart 92.

Documentation of pharmaceutical services provided must be maintained in the resident's chart.

Subp. 17. **Specialized rehabilitation services.** Specialized rehabilitation services such as physical therapy, occupational therapy, and speech therapy must be provided to residents to improve and maintain maximum functioning according to Minnesota Statutes, section 148.65, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Documentation of specialized rehabilitation services must be maintained in the resident's chart.

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Subp. 18. **Maintenance.** Maintenance services must be maintained at each board-operated facility to ensure that the physical plant is kept in a continuous state of good repair and operation with regard to the health, comfort, safety, and well-being of residents and others according to chapter 4660 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 19. **Transportation.** A means of transportation to and from approved medical providers must be provided by each board-operated facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3, if the providers are located within the areas regularly serviced by the transportation staff of the facility.

An approved medical provider is a medical facility with a written transfer agreement for acute care services or Minnesota veterans homes contract services.

9050.1070 RESIDENT RIGHTS AND RESPONSIBILITIES.

Subpart 1. **Scope.** Residents of each board-operated facility are guaranteed all rights expressed in Minnesota Statutes, section 144.651. Residents also have the right to exercise freedom of expression and assembly as guaranteed by the United States Constitution, Amendment I, the Minnesota Constitution, and Minnesota Statutes, section 198.32.

Residents shall cooperate with facility rules as specified in this chapter.

Subp. 2. **Information about rights.** On admission, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the Patient's and Resident's Bill of Rights expressed in Minnesota Statutes, section 144.651. If changes occur in the Patient's and Resident's Bill of Rights during the resident's stay at the board-operated facility, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy

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of the changes.

The Patient's and Resident's Bill of Rights must be posted in a conspicuous place in each board-operated facility.

Subp. 3. **Resident care.** Residents have the right to appropriate and regular medical and personal care based on individual needs to promote continuity of care by facility staff and other persons providing health care services according to Minnesota Statutes, section 144.651. "Appropriate care" means care designed to enable residents to achieve their highest level of physical and mental functioning. Residents must be treated courteously and with respect.

Competent residents have the right to refuse treatment according to Minnesota Statutes, section 144.651, subdivision 12. Residents who refuse treatment, medication, or dietary restrictions must be informed of the likely medical or major psychological results of the refusal, with documentation in the resident's medical record. If a resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or if legal requirements limit the right to refuse treatment, the conditions and circumstances must be fully documented by the attending physician in the resident's medical record.

A resident whose care needs cannot be met according to part 9050.0070, subparts 3 and 4, must be denied continued stay subject to the appeals procedures in part 9050.0220.

Resident care must meet the standards of the Vulnerable Adults Protection Act found in Minnesota Statutes, section 626.557.

Subp. 4. **Resident care plan participation.** Residents have the right to participate in care planning and implementation of the care plan according to Minnesota Statutes, section 144.651, subdivision 10, unless medically contraindicated. Medical contraindication must be documented by the attending physician in the resident's chart.

Subp. 5. **Resident handbook.** On admission, a resident must be given a resident handbook. The handbook must be reviewed by

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social services staff or nursing staff with the resident or the resident's representative.

After reviewing the handbook, the resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the handbook and reviewed the handbook. This statement must be kept with the resident's admission agreement.

The resident handbook must contain:

A. general information about the facility and resident care;

B. rules and regulations of the facility;

C. services available at the facility;

D. Patient's and Resident's Bill of Rights found in Minnesota Statutes, section 144.651; and

E. grievance procedures.

If changes occur concerning the information in the resident handbook, a resident must be informed of and given a copy of the changes. The resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the changes.

Subp. 6. **Resident councils.** Residents may organize, maintain, and participate in a resident advisory council with elected officers to express feelings and thoughts about the facility, facility policies, and resident care issues according to Minnesota Statutes, sections 144.651, subdivision 27, and 144A.33, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Space for resident council meetings must be provided at each board-operated facility. Staff or visitors may only attend resident council meetings at the council's invitation.

The administrator shall designate a staff person, with approval of the resident council, to assist the council and respond to written requests that result from council meetings.

Minutes of resident council meetings must be kept and made available to residents and other persons as the resident council determines. Minutes of resident council meetings must also be

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made available to the Department of Health and the United States Department of Veterans Affairs to show that resident council meetings are being held at each facility.

The designated staff person or other appropriate staff persons shall inform the resident council of:

A. resident rights and responsibilities;

B. resident council organization and maintenance;

C. laws and rules that apply to the facility and residents;

D. resident care in the facility;

E. human relations; and

F. resident self-help methods to increase quality of care and quality of life at the facility.

Subp. 7. **Family councils.** Each board-operated facility shall have a family council that gives members an opportunity to express feelings and thoughts about the facility and facility conditions, resident care, rules and the effect of rules, policies, and procedures according to Minnesota Statutes, sections 144.651, subdivision 20, and 144A.33.

The facility shall support and encourage development of and participation in family councils and shall provide a private meeting place and necessary administrative support through a staff liaison appointed by the administrator and approved by the council. Attendance at family council meetings of individuals other than family council members must be at council invitation only.

Minutes of family council meetings must be kept and made available to family council members and other persons as the family council determines. Minutes must also be made available to the Department of Health to show that family council meetings are being held at each facility.

Subp. 8. **Legal assistance for residents.** Residents have the right of reasonable access to outside advocacy and legal services according to Minnesota Statutes, section 144.651, subdivision 30. On a resident's request, a designated staff person shall instruct and assist that resident in obtaining

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advocacy and legal assistance.

The opportunity for private communication between the resident and the resident's representative must be provided at the board-operated facility.

Subp. 9. **Resident grievances and complaints.** A resident may voice grievances and complaints and recommend changes in rules, policies, and services of the board-operated facility without retaliation according to Minnesota Statutes, sections 198.32, 144.651, subdivision 20, and 144A.13, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

On admission, each resident must be informed in writing of the right to complain. A notice of the right to complain must be posted in a conspicuous place in each board-operated facility.

Residents may complain through the facility grievance and complaint procedures. A resident may also voice grievances to the administrator, the board, the commissioner of veterans affairs, the commissioner of health, facility staff, other residents, the family council, or outside representatives of the resident's choice.

The grievance procedure at each board-operated facility must include the following:

A. a list of internal resources for use by the resident, such as the resident council or a grievance committee, and a list of community resources available to the resident;

B. resident access to use of facility-approved forms for written grievances;

C. the time limits for decisions to be made by the facility;

D. an offer of assistance by social services staff, at the resident's request, in development and process of the grievance;

E. a written response to each resident filing a formal grievance; and

F. a statement that the resident making a complaint or grievance is free from retaliation, including freedom from restraint, interference, coercion, discrimination, and reprisals.

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Subp. 10. **Restraints.** A resident has the right to be free from physical and chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical condition according to part 4655.6600.

Chemical and physical restraints may be imposed on a resident only on written order of a physician that specifies the duration and circumstances under which the restraints are to be used, except in emergency circumstances when administrative nursing staff takes temporary emergency measures until an order can reasonably be obtained. If the resident's behavior poses a significant threat of harm to self or others, the resident may be discharged or transferred to an appropriate care facility.

Locked restraints must not be used on residents. Doors to resident rooms must not be locked in a manner that would prevent immediate opening in case of an emergency.

Use of restraints must be recorded in the resident's record. The record must include a description of the precipitating behavior, the expected behavioral outcome, the actual behavioral outcome, an assessment of the need for continued use of the restraint, and the duration of use of the restraint.

Subp. 11. **Right to associate; visitors.** A resident may meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference, unless the activities infringe on the rights of other residents. This subpart complies with Minnesota Statutes, section 144.651, subdivisions 21 and 26.

Residents may receive visitors during visiting hours and, on request and availability, be provided privacy for visits during visiting hours. Visiting hours must be established by the facility administrator and be posted in plain view. Visitors to each board-operated facility must follow facility rules.

Residents may receive private visits at any time from the resident's personal physician, religious advisor, or attorney. Residents diagnosed as critically ill may have visits from

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relatives, guardians, conservators, legal representatives, and persons designated by the resident at any time according to part 4655.1910.

Subp. 12. **Identity of physician and outside service providers.** In accordance with Minnesota Statutes, section 144.651, subdivision 7, facility staff shall give a resident, in writing, the name, business address, telephone number, and specialty of the physician responsible for coordination of the resident's care.

Residents receiving services from approved outside providers must be given, on request from the resident or resident's guardian, written information about the identity of the provider, including the name of the outside provider, address, telephone number, specialty of the physician, and a description of the service to be given.

Subp. 13. **Personal and treatment privacy.** A resident has a right to respect for the resident's privacy, individuality, and cultural identity as related to the resident's social, religious, and psychological well-being.

Privacy must be respected by other residents, staff, volunteers, and visitors. Individuals must knock on the door of a resident's room and obtain the resident's consent before entering, except in an emergency or when clearly inadvisable.

A resident has the right to privacy for the resident's medical and personal care program. Privacy must be respected during toileting, bathing, and other personal hygiene activities, except as needed for resident safety or assistance. Documentation of assistance given to or needed by a resident in personal hygiene activities must be maintained in the resident's chart.

Subp. 14. **Married residents.** Married residents have a right to privacy for spousal visits according to Minnesota Statutes, section 144.651, subdivision 28. If both spouses are residents of the facility, the couple must be permitted to share a room unless medically contraindicated and documented by the attending physicians in the medical records.

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Subp. 15. **Privacy of resident records.** A resident has a right to confidential treatment of personal and medical records and may approve or refuse release of the records to any individual outside the board-operated facility.

Medical records must be made available to persons at the board-operated facility who are responsible for the direct care of the resident. All information contained in the resident's records must be handled in a manner consistent with chapter 4655 and the Government Data Practices Act under Minnesota Statutes, chapter 13 and section 144.651, subdivision 16.

Written consent of the resident or the resident's guardian or conservator is required for the release of information concerning the resident to persons not otherwise authorized to receive it. Written consent of the resident must be handled in a manner consistent with Minnesota Statutes, section 13.04, subdivision 2.

Information to be released is limited to the items or information specified in the consent form.

Written consent for release of information need not be given when:

A. consent may be implied from circumstances in which a reasonable person would believe the resident would have consented had the resident been able to consent;

B. information released does not identify the individual resident;

C. information is to be used within the facility for routine or other legitimate purposes such as evaluation, education, research, or financial audits; or

D. release is mandated by statute, regulation, or court order.

Subp. 16. **Resident access to records.** On request, a resident must be given access to personal, financial, and medical records concerning the resident as provided under Minnesota Statutes, sections 13.04 and 144.335, and Code of Federal Regulations, title 42, part 2, section 2.23.

The facility staff shall supply to a resident complete and

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current information concerning diagnosis and treatment of the resident in terms and language the resident can reasonably be expected to understand. If it is medically inadvisable that the information be given to the resident, as documented by the attending physician in the resident's medical record, the information may be given to the resident's guardian, representative, or appropriate third party as specified in Minnesota Statutes, section 144.335, subdivision 2. The resident, guardian, or appropriate third party must be shown the data without any charge.

On a resident's written request, facility staff shall furnish to the resident copies of the resident's records within five days, excluding Saturdays, Sundays, and legal holidays. With the consent of the resident, a summary of the record may be furnished instead. A reasonable fee related to the costs of copying may be requested.

If facility staff is unable to comply with a resident's request for information within five days, excluding Saturdays, Sundays, and legal holidays, staff shall inform the resident and may have an additional five days within which to comply with the resident's request, excluding Saturdays, Sundays, and legal holidays. If records are required in fewer than five days, facility staff shall make all reasonable efforts to comply with the request.

Subp. 17. **Mail.** Residents have the right to send and receive mail without interference according to Minnesota Statutes, section 144.651, subdivision 21. A resident with a legal guardian or conservator shall have mail handled according to written instructions from the guardian or conservator according to part 4655.1910, subpart 5. On request by the resident, the resident shall be given a written or oral statement regarding any restrictions on the resident's mail.

Subp. 18. **Telephone access and use.** Residents must have access to a pay telephone, at a convenient location within the board-operated facility, where residents can make and receive calls. There must be at least one non-coin-operated telephone

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accessible at all times in case of an emergency according to part 4655.1910, subpart 4. "Emergency" has the meaning given in part 9050.0040, subpart 39.

For residents who need to speak privately, reasonable arrangements must be made by facility staff to accommodate the privacy of the resident's calls.

If restrictions on telephone access are medically advisable, the restrictions must be documented by the attending physician in the resident's medical record according to Minnesota Statutes, section 144.651, subdivision 21.

Subp. 19. **Resident vehicles.** Residents may keep one passenger vehicle, motorcycle, or motorized bicycle on the grounds of the board-operated facility in which the resident resides. "Passenger vehicle" means a passenger automobile as defined in Minnesota Statutes, section 168.011, subdivision 7; a pickup truck as defined in Minnesota Statutes, section 168.011, subdivision 29; or a van as defined in Minnesota Statutes, section 168.011, subdivision 28. "Motorcycle" has the meaning given in Minnesota Statutes, section 168.011, subdivision 26. "Motorized bicycle" has the meaning given in Minnesota Statutes, section 168.011, subdivision 27.

A resident who wants to maintain a vehicle on the grounds of the facility shall register the make, model, color, year, and license number of the vehicle with the transportation service of the facility. The resident shall comply with applicable state statutes, including Minnesota Statutes, chapter 169, regarding payment of taxes, registration of vehicles, and safety standards; Minnesota Statutes, chapter 171, regarding operators' licenses and driving privileges; Minnesota Statutes, chapter 65B, regarding insurance coverage; and relevant rules.

Resident vehicles must be parked in designated parking areas with properly displayed facility identification decals.

A resident vehicle that is an abandoned vehicle as defined in Minnesota Statutes, section 168B.02, subdivision 2, must be handled in a manner consistent with Minnesota Statutes, chapter 168B.

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Subp. 20. **Pets.** The administrator at each board-operated facility, after consultation with facility staff and residents, shall determine whether pets, such as dogs and cats, will be allowed in the facility and whether individual residents will be permitted to keep the pets.

If pets are allowed in the facility, the requirements in items A to C, in accordance with part 4638.0200, must be met.

A. The facility staff, in consultation with a veterinarian and physician, shall develop and implement written policies and procedures describing the types of pets allowed and the procedures for maintaining and monitoring the health and behavior of the pets, and identify areas in the facility where pets are not permitted. Pets are not permitted in kitchen areas, medication storage and administration areas, or clean or sterile supply storage areas. Guide dogs accompanying a blind or deaf individual are permitted at each board-operated facility.

B. A staff person, as designated in writing by the facility administrator, shall be responsible for monitoring or providing for the care, cleanliness, and maintenance of the pets, including fish. Residents or other individuals may also provide pet care.

C. The facility staff shall ensure that pets, including fish, do not jeopardize the health, safety, comfort, treatment, or well-being of residents or others, and shall assume overall responsibility for pets in the facility.

Pets or animals brought to the facility for visits must be preapproved by facility recreation staff and comply with this subpart.

Subp. 21. **Resident work programs.** A resident may take part in a resident work program on approval of the resident's attending physician or as recommended by the resident's attending physician and the resident's care team as part of the individual treatment or care plan.

The labor or services that the resident performs must be for therapeutic purposes and appropriately goal-related in the resident's care plan according to Minnesota Statutes, section

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144.651, subdivision 23.

The labor performed by the resident must be other than labor of a housekeeping nature with respect to the resident's own living area and the resident must be compensated appropriately and in compliance with Minnesota law and the Federal Fair Labor Standards Act.

Earnings derived from participating in a resident work program while the resident is living at the home may not be considered a means of support according to part 9050.0700, subpart 3, item A, and Minnesota Statutes, section 198.03.

Subp. 22. **Resident funds.** Resident funds must be handled according to parts 4655.1910, subpart 6; 4655.4100 to 4655.4170; and Minnesota Statutes, sections 144.651, subdivision 25; and 198.265, and be in compliance with items A to D.

A. A competent resident may manage personal financial affairs, or must be given at least a quarterly accounting of financial transactions on the resident's behalf if the resident delegates the responsibility to the facility for any period of time according to law.

B. Residents may keep money in a personal fund account at the board-operated facility, as defined in part 9050.0040, subpart 90, and according to Minnesota Statutes, section 198.265, or in fund accounts off facility premises.

Resident fund accounts at the facility are solely for the resident's use, and the facility cashier shall retain sufficient liquid funds to satisfy normal demand withdrawal requests of residents and other anticipated needs. Resident fund accounts must not draw interest directly to residents, but the interest must be used by the board only for the direct benefit of the residents of the homes. Before depositing money in a fund account at the facility, a resident must sign an agreement that the resident is willing to have money in an account that does not draw interest directly to the resident.

Restrictions placed on a resident's personal funds by the resident, resident's guardian, or person responsible for the resident's fund account must be documented in the resident's

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treatment plan.

C. The cashier at the facility shall have regular posted hours during which residents may deposit or withdraw funds. The cashier shall give a receipt to persons depositing funds and ensure that withdrawal forms are signed when funds are withdrawn.

D. Unclaimed account balances at the facility must be disposed of according to Minnesota Statutes, sections 198.23 and 198.231.

Subp. 23. **Laundry service.** Boarding care residents must have access to laundry facilities in the domiciliary units for the laundering of personal clothing. The administration of each facility may determine and post hours for use of the laundry facilities.

Each resident must be provided clean linens weekly, or as needed, according to parts 4655.8000 and 4655.8300. Boarding care residents may choose to launder their own linens.

Laundry services consisting of laundering of linens and personal clothing must be provided to nursing care residents.

Subp. 24. **Resident clothing.** Each resident must have a supply of personal clothing relative to individual needs. The administrator at each board-operated facility shall determine the standards for marking the resident's clothing for laundering and identification purposes.

A resident or resident's representative is responsible for the condition of the resident's personal clothing and should contact the facility for assistance in maintenance of clothing.

Subp. 25. **Resident hygiene.** Residents shall maintain a reasonable state of body and oral hygiene based on the resident's physical and mental capabilities. Each resident shall receive nursing care or personal and custodial care and supervision based on individual needs according to parts 4655.6400 and 4655.6800.

Subp. 26. **Room cleanliness and conditions.** Residents shall maintain personal rooms and personal items in a manner consistent with the safety, sanitary, and health regulations

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required by the Department of Health, United States Department of Veterans Affairs, state fire marshal, and other regulatory agencies.

Candles, oil lamps, or other items identified as flammable or hazardous by the state fire marshal are not allowed in resident rooms.

Floors in resident rooms must be clear of boxes, luggage, debris, and other materials to prevent congestion and health and safety hazards.

Residents may have electrical personal grooming items, clocks, audio and visual equipment, and approved portable fans as space and electrical capacity of the resident's room permits. Other electrical items may be permitted on written approval of administration or on written order of the resident's attending physician, and must be documented in the resident's medical record.

Items such as unapproved extension cords, hot plates, coffee makers, and electrical food appliances are prohibited in resident rooms.

Subp. 27. **Resident facility keys.** Each resident issued a personal room key or a key to locked spaces within the room shall return those keys to the facility on transfer or discharge. The resident may be charged the cost of replacing any lost keys.

Subp. 28. **Resident and facility property.** A resident may not damage another resident's property or the facility's property. A resident may be held financially responsible for property damaged or destroyed by the resident.

Subp. 29. **Resident's personal property.** In accordance with Minnesota Statutes, section 144.651, subdivision 22, a resident may retain personal possessions in the resident's personal living area as space permits, unless to do so would infringe on rights of other residents, or unless contraindicated for documented medical or safety reasons.

Personal property of deceased residents must be handled according to Minnesota Statutes, section 198.23. Personal

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property of discharged residents must be handled according to Minnesota Statutes, section 198.231.

Subp. 30. **Storage of resident's property.** Storage of a resident's property must be handled in compliance with items A to C.

A. The administration of each board-operated facility may determine an assigned amount of storage space for a resident needing storage space for personal property outside of the resident's personal living area. Particular kinds of personal property may be excluded from the facility for reasons of space limitations or safety.

Facility staff shall maintain an updated, itemized inventory of each resident's property in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

Residents must have access to storage areas during hours that are determined by administration and must be accompanied by the facility staff member who is in charge of storage, or that person's designee. The hours for access to storage areas must be posted in one or more conspicuous places in each of the board-operated facilities.

Cash may not be placed into storage.

Secure and temporary storage of a resident's possessions may be provided during a resident's emergency absence from the facility or on a specific request to the nursing staff from a resident leaving the facility on a personal absence.

The facility shall not accept resident possessions that cannot be accommodated in the facility storage areas.

B. A central, locked depository or locked storage area over which the facility has responsibility, in which residents may store valuables for safekeeping, must be provided at each board-operated facility.

Facility staff shall maintain an updated, itemized

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inventory of each resident's valuables in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

C. The facility may provide compensation for or replacement of lost or stolen items according to Minnesota Statutes, section 144.651, subdivision 22, if the loss was caused by the facility's negligence, as required under Minnesota Statutes, section 3.732.

Subp. 31. **Smoking.** The administrator of each board-operated facility shall designate smoking and nonsmoking areas according to chapter 4620 and Minnesota Statutes, sections 144.411 to 144.417. Residents may smoke in designated smoking areas only.

Smoking in resident rooms is prohibited, except that a bedridden resident may smoke with direct assistance from a staff person and only under written orders of the resident's attending physician. The orders must be documented in the resident's care plan.

Subp. 32. **Leaving the facility campus.** Residents shall notify administration or direct care staff before leaving the facility campus. The resident shall indicate to the appropriate staff member when the resident is leaving the facility campus, the expected time of return, and, if possible, the destination and telephone number where the resident can be contacted in case of an emergency. The resident shall notify direct care staff on return to the facility.

If a resident's departure is likely to cause immediate serious physical harm to the resident or others, reasonable efforts may be made to inform the resident of the likely consequences of the resident's actions or departure.

Subp. 33. **Coffee shop and canteen.** Depending on space, resources, and available funds, a coffee shop with posted hours may be provided at each board-operated facility. A canteen with

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posted hours where persons may purchase personal care items may also be provided.

Where canteens and coffee shops are operated by the facility, profits derived must be used only for the direct benefit of the residents of the homes according to Minnesota Statutes, section 198.261.

Subp. 34. **Alcoholic beverages.** The sale, distribution, consumption, and possession of alcoholic beverages are not allowed on the campuses of the Minnesota veterans homes or during facility-sponsored events according to Minnesota Statutes, section 198.33, except when consumption is prescribed by the resident's attending physician and documented in the resident's chart. An alcoholic beverage is a beverage containing any amount of alcohol.

Subp. 35. **Room inspections.** A resident room is subject to routine inspections by facility staff for compliance with safety, sanitation, health, and facility rules and regulations.

Subp. 36. **Searches of resident rooms.** Residents have the right to a legitimate expectation of privacy in their persons and property against unreasonable searches and seizures. A search of a resident's room or property must be conducted when necessary to protect the residents or others from contraband or other articles that are potentially injurious to residents, staff, volunteers, and visitors. All procedures of the search must be according to Minnesota Statutes, section 198.33, subdivision 1.

Subp. 37. **Contraband.** A resident may not possess contraband items at the facility campus. Contraband includes all illegal articles, firearms, weapons, ammunition, alcoholic beverages, nonprescribed prescription drugs, including narcotics and controlled substances.

Contraband is subject to seizure according to Minnesota Statutes, section 198.33, and must be disposed of according to applicable laws. A receipt must be given to the resident and the information must be documented in the resident's chart.

Subp. 38. **Double beds.** Double beds are not allowed in

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resident rooms at the Minnesota veterans homes.

Subp. 39. **Photographs, voice recordings, or videotapes.** Informed written consent is required before a resident may be photographed, voice recorded, or videotaped. Consent is not needed for identification photographs of the resident that are kept in the resident's chart at the board-operated facility.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Facility Services; Resident Rights; Responsibilities

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

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

MN Laws Chapter 24 - attached

end of comment period January 8, 1992

Rule 9050.1070 subd 15 A (Page 15 of Proposed) does that mean when the patient is physically or mentally able to give consent - rather broad

Great SOLAR

STATE OF MINNESOTA
VETERANS HOMES BOARD

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

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Hastings

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Dr. Robert W. Reif
White Bear Lake

Emily P. Spensieri
Hibbing

Jan. 23, 1992

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

Re: In the Matter of the Adoption of the Rule of the Minnesota Veterans Homes Board of Directors Relating to Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

Dear Patty:

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0300 for your review of the above entitled rule. Assistant Attorney General, Merwin Peterson, has approved these documents and signed the Declaration of Counsel.

Official documents in this submittal material include:

1. A copy of the notice of solicitation of outside opinion as published in the State Register.

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

3. The Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-five or more Persons Request a Hearing as mailed.

4. The Notice of Hearing and Notice of Intent to Cancel Hearing if fewer than Twenty-five Persons request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing as mailed.

5. The Statement of Need and Reasonableness in support of the proposed rule complying with part 2010.0700.

6. A copy of the letter submitted to the Legislative Commission to Review Administrative Rules.

7. A photocopy of the Notices of Adoption of the Rule and the rule as published in the State Register.

8. The affidavit of mailing the Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-

five or more Persons Request a Hearing.

9. The affidavit of mailing the Notice of Hearing and Notice of Intent to Cancel Hearing if fewer than Twenty-five Persons request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing.

10. The Affidavit of Additional Notice.

11. The Certificate of Mailing List, which states that pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that the names placed on file with the Minnesota Veterans Homes Board of Directors for the purpose of receiving notice of the proposed adoption of the rule by the Board is accurate, complete and current.

12. The Certificate of Authorizing Resolution.

13. Four copies of the rule as adopted by the Board. There were no modifications to the rule that was published in the State Register on December 9, 1991.

14. The Findings of Fact, Conclusions, and Order Adopting the Rule adopted by the Board. There were no written requests for a hearing, no written comments and no requests to be notified of the rule's submission to the Administrative Attorney General's office from any person during the thirty day notice period.

15. The Certificate of the Resolution Adopting the Rule.

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

17. The Declaration of Counsel that has been signed by Assistant Attorney General, Merwin Peterson.

18. Written comments on the rule received by the agency.

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

Sincerely,

Eileen Hanlon

Eileen Hanlon
Rules Writer, MN Veterans Home Board of Directors

Department of Veterans Affairs

Veterans Home 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' Home Board of the Minnesota Department of Veterans Affairs is drafting rules authorized by *Minnesota Statutes*, section 198.003, concerning the services, facility and resident rights and responsibilities of the Minnesota Veterans Homes.

All interested persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Eileen Hanlon
Minnesota Veterans Homes
Building 6, Room 105
5101 Minnehaha Avenue South
Minneapolis, Minnesota 55417

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 721-0600, extension 283.

All statements of information and comment will be accepted until further notice is given or the Notice of Hearing or Notice of Intent to Adopt Without a Hearing are published in the *State Register*. Any written material received by the Department shall become part of the hearing record.

State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

16 January 1990

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Pages 1789-1828

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

In the Matter of the Proposed Adoption of Permanent Rules of the Minnesota Veterans Homes Board of Directors Relating to Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

(1) Notice is hereby given that the Minnesota Veterans Homes Board of Directors proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 198.003, as amended by Laws of Minnesota 1991, Chapter 24.

(2) Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient

number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON TUESDAY, JANUARY 28, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES 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 January 9 and January 27, 1992 at (612) 297-5254.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

(5) Eileen Hanlon
Minnesota Veterans Homes Board
Suite 122, Veterans Service Building
20 West 12th Street
St. Paul, Minnesota 55155

Comments or requests for a public hearing must be received by the Board office by 4:30 p.m. on Wednesday, January 8, 1992.

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

(11) A free copy of this rule is available upon request for your review from:

Eileen Hanlon
Minnesota Veterans Homes Board
Suite 122, Veterans Service Building
20 West 12th Street
St. Paul, Minnesota 55155
(612) 297-5254

Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070 govern facility services that are provided to residents of the Minnesota Veterans Homes and resident rights and responsibilities. A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from:

Eileen Hanlon
Minnesota Veterans Homes Board
Suite 122, Veterans Service Building
20 West 12th Street
St. Paul, Minnesota 55155
(612) 297-5254

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

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

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

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

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

In the Matter of the Proposed Adoption of Permanent Rules of the Minnesota Veterans Homes Board of Directors Relating to Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.	**NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL 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 on the above-entitled matter will be held at the Veterans Service Building, 5th floor Conference Room, 20 West 12th Street, St. Paul, Minnesota, 55155, on Tuesday, January 28, 1992, commencing at 9:30 a.m. and continuing until all interested or affected persons have an opportunity to participate. 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 OF DIRECTORS. To verify whether a hearing will be held, please call the Veterans Homes Board Offices

between January 9 and January 27, 1992, at (612) 297-5254.

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 Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Flour Exchange Building, 5th floor, Minneapolis, Minnesota, 55415; telephone (612) 341-7606, 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.

Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070 govern facility services that are provided to residents of the Minnesota Veterans Homes and resident rights and responsibilities. A copy of the proposed rule is attached to this notice.

The agency's authority to adopt the proposed rules 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 rules are now available and at least one free copy may be obtained by writing to:

Eileen Hanlon
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 any questions on the content of the rule, contact Eileen Hanlon at (612) 297-5254.

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.

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.

James G. Sieben

Chair, Veterans Homes 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

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

November 25, 1991

Maryanne Hruby
Executive Director
Legislative Commission to Review Administrative Rules
Room 55
State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Enclosed please find a copy of the proposed rules of the Minnesota Veterans Homes Board of Directors that are approved by the Revisor of Statutes. A copy of the Statement of Need and Reasonableness is also included.

The rule is to be published in the State Register on December 9, 1991.

If you need to contact me, my phone number is 297-5254.

Thank you.

Sincerely,

Eileen Hanlon

Eileen Hanlon
Rules Writer
Minnesota Veterans Homes Board of Directors

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

R. ASTM C 1015-84 (reapproved 1990), Standard Practice for Installation of Cellulosic and Mineral Fiber Loose-Fill Thermal Insulation.

S. ASTM C ~~1029-85~~ 1029-90, Standard Specification for Spray-Applied Rigid Cellular Polyurethane Thermal Insulation.

[For text of items T and U, see M.R.]

V. ASTM C 1149-90, Specification for Self-Supported Spray-Applied Cellulosic Thermal, or Acoustical Insulation, or Both.

W. ASTM C 1158-90, Practice for Use and Installation of Radiant Barrier Systems (RBS) in Building Constructions.

X. ASTM D 2842-69 (reapproved 1975), Standard Test Method for Water Absorption of Rigid Cellular Plastics.

~~W.~~ Y. ASTM E 84-84 Revision A, Surface Burning Characteristics of Building Materials.

~~X.~~ Z. ASTM E 408-71 (reapproved 1985), Standard Test Methods for Total Normal Emittance of Surfaces Using Inspection Meter Techniques.

~~Y. ASTM E 605-77 (reapproved 1982), Thickness and Density of Sprayed Fire-Resistive Material Applied to Structural Members.~~

~~Z. ASTM E 736-86, Test for Cohesion/Adhesion of Sprayed Fire Resistive Materials Applied to Structural Members.~~

[For text of subp 2a, see M.R.]

Subp. 3. **Other incorporation and citations.** The following non ASTM standards are also incorporated by reference.

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

F. Uniform Building Code (~~1985~~ 1988 Edition), by the International Conference of Building Officials.

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

Subp. 4. **Availability.** The standards incorporated by reference are available for public inspection as follows:

A. All documents incorporated by reference in this chapter are available at the ~~following locations:~~

~~(1)~~ Minnesota State Law Library~~; and~~

~~(2) James J. Hill Reference Library~~.

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

REPEALER. *Minnesota Rules*, part 7640.0120, subpart 26, is repealed.

Veterans Homes Board

Proposed Permanent Rules Relating to Facility Services; Resident Rights; Responsibilities

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing If Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Veterans Homes Board of Directors proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 198.003, as amended by *Laws of Minnesota 1991*, Chapter 24.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON TUESDAY, JANUARY 28, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES 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 January 9 and January 27, 1992 at (612) 297-5254.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

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

Comments or requests for a public hearing must be received by the Board office by 4:30 p.m. on Wednesday, January 8, 1992.

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

A free copy of this rule is available upon request for your review from:

Eileen Hanlon
Minnesota Veterans Homes Board
Suite 122, Veterans Service Building
20 West 12th Street
St. Paul, Minnesota 55155
(612) 297-5254

Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070 govern facility services that are provided to residents of the Minnesota Veterans Homes and resident rights and responsibilities. A copy of the proposed rule is attached to this notice.

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from:

Eileen Hanlon
Minnesota Veterans Homes Board
Suite 122, Veterans Service Building
20 West 12th Street
St. Paul, Minnesota 55155
(612) 297-5254

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

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

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

James G. Sieben
Chair, Veterans Homes Board of Directors

Notice of Hearing and Notice of Intent to Cancel 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 on the above-entitled matter will be held at the Veterans Service Building, 5th floor Conference Room, 20 West 12th Street, St. Paul, Minnesota, 55155, on Tuesday, January 28, 1992, commencing at 9:30

KEY: **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

a.m. and continuing until all interested or affected persons have an opportunity to participate. 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 OF DIRECTORS. To verify whether a hearing will be held, please call the Veterans Homes Board Offices between January 9 and January 27, 1992, at (612) 297-5254.

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 Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Flour Exchange Building, 5th floor, Minneapolis, Minnesota, 55415; telephone (612) 341-7606, 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.

Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070 govern facility services that are provided to residents of the Minnesota Veterans Homes and resident rights and responsibilities. A copy of the proposed rule is attached to this notice.

The agency's authority to adopt the proposed rules 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 rules are now available and at least one free copy may be obtained by writing to:

Eileen Hanlon
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 any questions on the content of the rule, contact Eileen Hanlon at (612) 297-5254.

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.

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.

James G. Sieben
Chair, Veterans Homes Board of Directors

Rules as Proposed

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 72, see M.R.]

Subp. 73. **Medical director.** "Medical director" means a physician licensed under *Minnesota Statutes*, chapter 147, and employed by or under contract to the board who is responsible for overall direction of medical practice in a facility ~~and for liaison with independent physicians at the facility~~ to ensure the appropriateness of the medical services provided to the residents.

[For text of subps 74 to 86, see M.R.]

Subp. 86a. **Ombudsman.** "Ombudsman" has the meaning given it in the Older Americans Act of 1965, United States Code, title 42, section 3027(a)(12), and *Minnesota Statutes*, section 256.974.

[For text of subps 87 to 120, see M.R.]

9050.1000 RESIDENT CARE PLANNING.

An individual care plan must be developed, implemented, and maintained for each Minnesota veterans homes facility resident according to Department of Health and United States Department of Veterans Affairs nursing and domiciliary care regulatory standards.

The care plan must be consistent with the resident's medical treatment plan, as defined in part 9050.0040, subpart 74. The care plan must be developed by a multidisciplinary care plan team, as defined in part 9050.0040, subparts 58 and 80, based on an assessment of the resident's functioning, attitudes, behavior, and medical condition for use in integrating care and identifying service needs.

Residents may be involved in their individual care plans according to part 9050.1070, subpart 4.

The resident's care plan must be used by the facility staff involved in the resident's care, and reviewed and updated according to the regulatory standards of nursing and domiciliary care or when there is a significant change in the resident's condition. For the purposes of this part, "significant change in a resident's condition" means a new problem or a measurable improvement or worsening of an existing problem or condition.

9050.1030 RESIDENT CARE SERVICES.

Subpart 1. **General.** Care services provided to residents of Minnesota veterans homes must be consistent with the overall goals and obligations of each facility as expressed in statute, the homes' mission statements, and rules governing the board operated facilities, and must be consistent with available funding and limited if the service is not reimbursable by public or private resources according to *Minnesota Statutes*, section 144.651, subdivision 6.

Care services are provided according to Department of Health licensure regulations and the certification requirements of the United States Department of Veterans Affairs. Laws pertaining to resident care services include chapter 4655; *Minnesota Statutes*, chapters 144 and 144A; and United States Department of Veterans Affairs Code M-1, part I, chapter 3.

Resident care services must be authorized by the Minnesota Veterans Homes Board of Directors.

Services that are veteran-exclusive through the United States Department of Veterans Affairs are not available to nonveteran residents according to part 9050.0510, subpart 2.

A resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed in writing by the admission staff of each board-operated facility or the resident's social worker, before or at the time of admission and when changes occur, of services that are included in the facility's basic per diem and of other services that may be available at additional charges.

The facility staff shall assist residents in obtaining information and making application for possible benefits or programs to which the residents are entitled according to parts 9050.0770 and 9050.0800, subpart 2, item G, and *Minnesota Statutes*, section 144.651, subdivision 17.

Subp. 2. **Nursing services.** Primary care nursing services for each Minnesota veterans home resident are the responsibility of the nursing staff.

Nursing care services provided to residents in nursing care units must be according to part 9050.0040, subpart 83, and United States Department of Veterans Affairs standards.

Domiciliary care services provided to domiciliary residents must be according to parts 4655.0100, subpart 3, and 9050.0040, subpart 16, and United States Department of Veterans Affairs standards.

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Subp. 3. **Dietary services.** At each board-operated facility, an adequately equipped kitchen must be maintained and qualified facility staff must be employed to supply the necessary food requirements of the residents. Dietary services provided to residents must be according to parts 4655.8500 to 4655.8800 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

A qualified dietician, as defined in part 9050.0040, subpart 34, or dietary supervisor if qualified, must be employed or contracted with to supervise the food service department of each facility. A qualified dietary supervisor is a person trained or experienced in the planning and preparation of meals as stated in part 4655.8510. The dietary staff shall prepare therapeutic diets as ordered by the resident's attending physician, according to federal and state standards and established recommended daily allowances.

A dietician shall ensure that nutritional care plans are developed according to each resident's nutritional needs and that an individual diet card is maintained for each resident.

Subp. 4. **Recreational therapy.** At each board-operated facility, a recreational therapy program must be provided according to part 4655.5200 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3. Recreational therapy programs must be appropriate to the needs and interests of residents to maximize individual residents' physical and psychosocial levels.

Adequate equipment, space, and supplies for recreational therapy programs must be provided at each facility.

A resident's recreation plan must be integrated into the resident's care plan and documentation of recreational therapy provided must be maintained in the resident's chart.

A qualified staff member responsible for the recreational therapy program shall meet at least the minimum qualifications in part 4655.5200, subpart 5.

Subp. 5. **Social work services.** On-site social work services must be provided to residents of each board-operated facility by qualified social workers to meet the psychosocial needs of individual residents.

The provision of social services must be documented in the resident's chart. Documentation must include a social services assessment or plan and quarterly progress reports on each resident in the facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 6. **Housekeeping services.** Housekeeping services must be maintained at each board-operated facility to ensure a clean, sanitary, and safe physical environment for residents according to parts 4655.9000 to 4655.9070. The facility must be kept free from offensive odors, dust, rubbish, and safety hazards. An example of a safety hazard would be the accumulation of combustible material or waste in unassigned areas.

Subp. 7. **Medical director.** Each board-operated facility must have a medical director according to part 9050.0040, subpart 73, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 8. **Attending physician.** Each resident must be assigned an attending physician who is responsible for overall medical care of the resident. A resident may choose a private attending physician at the resident's own expense if the physician agrees to comply with regulatory standards governing the home. Regulatory standards include parts 4655.4600 and 4655.4700 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

The attending physician shall prescribe a planned regimen of resident care based on a medical evaluation of the resident's immediate and long-term needs. The attending physician must be identified on the resident's medical chart.

The attending physician shall make arrangements for the medical care of the resident in the event of an on-site emergency or a planned absence by the attending physician.

Subp. 9. **Chaplain services.** Spiritual care must be provided by a chaplain to residents of each board-operated facility according to part 4655.5300 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Adequate space must be provided for chaplain services and private space provided for a resident to meet with clergy of the resident's choice.

Subp. 10. **Mental health services.** Mental health services must be made available to residents who meet admission and continued stay criteria as specified in part 9050.0070, subparts 3 and 4, at each board-operated facility either on-site or through other means such as contract services, sharing agreements, or other arrangements according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

A resident must be offered mental health services on request by the resident, or as determined by members of the resident's individual care plan team, which may include a staff psychologist, staff psychiatrist, or chemical dependency counselor.

These services must include, but are not limited to, assessment, diagnosis, supportive counseling or self-help groups for residents presenting behavioral problems, psychiatric disorders, and chemical dependency or chemical abuse disorders. These services must be provided through disciplines such as psychology, psychiatry, and chemical dependency.

Documentation of mental health services provided to a resident must be maintained in the resident's chart.

Subp. 11. **Dental care services.** Dental care must be made available for residents of each board-operated facility according to part 4655.4800 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Each facility must have a written agreement with a licensed dentist or dentists to provide emergency dental care when necessary.

Dental care for residents consists of, but is not limited to, cleaning of teeth by the dentist or dental hygienist, an examination of the resident's teeth and mouth by the dentist, taking of necessary X-rays as determined by the dentist, proper fitting of dentures, repair of dentures, and treatment of abnormalities caused by dentures as determined by the dentist.

Documentation of dental care provided must be maintained in the resident's chart.

Subp. 12. **Podiatric care services.** Podiatric care must be made available at each board-operated facility to residents through a podiatrist or physician, with the approval of the resident's attending physician, according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Documentation of podiatric care provided must be maintained in the resident's chart.

Subp. 13. **Optometric care services.** Optometric care must be made available to residents of each board-operated facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Consultation or treatment with the optometrist must be on written order of the resident's attending physician. For residents needing replacement of refractory lenses, the nursing department may request a resident's appointment with the optometrist.

Documentation of optometric care provided must be maintained in the resident's chart.

Subp. 14. **Chiropractic care services.** Chiropractic care must be made available to residents of each board-operated facility according to *Minnesota Statutes*, section 198.065. Treatment by a chiropractor must be on written order of the resident's attending physician.

Documentation of chiropractic care provided must be maintained in the resident's chart.

Subp. 15. **Diagnostic services.** Diagnostic services must be made available to residents of each board-operated facility on written order of the resident's attending physician according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3. Payments for diagnostic services are determined according to part 9050.0510.

Examples of diagnostic services include, but are not limited to, X-rays and laboratory work, such as blood tests.

Documentation of diagnostic care provided must be maintained in the resident's chart.

Subp. 16. **Pharmaceutical services.** Pharmaceutical services must be made available through a licensed pharmacist by each board-operated facility to meet the needs of residents according to parts 4655.7790 to 4655.7860 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3. A licensed pharmacist is defined in part 9050.0040, subpart 92.

Documentation of pharmaceutical services provided must be maintained in the resident's chart.

Subp. 17. **Specialized rehabilitation services.** Specialized rehabilitation services such as physical therapy, occupational therapy, and speech therapy must be provided to residents to improve and maintain maximum functioning according to *Minnesota Statutes*, section 148.65, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Documentation of specialized rehabilitation services must be maintained in the resident's chart.

Subp. 18. **Maintenance.** Maintenance services must be maintained at each board-operated facility to ensure that the physical plant is kept in a continuous state of good repair and operation with regard to the health, comfort, safety, and well-being of residents and others according to chapter 4660 and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Subp. 19. **Transportation.** A means of transportation to and from approved medical providers must be provided by each board-operated facility according to United States Department of Veterans Affairs Code M-1, part 1, chapter 3, if the providers are located within the areas regularly serviced by the transportation staff of the facility.

An approved medical provider is a medical facility with a written transfer agreement for acute care services or Minnesota veterans homes contract services.

9050.1070 RESIDENT RIGHTS AND RESPONSIBILITIES.

Subpart 1. **Scope.** Residents of each board-operated facility are guaranteed all rights expressed in *Minnesota Statutes*, section

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144.651. Residents also have the right to exercise freedom of expression and assembly as guaranteed by the United States Constitution, Amendment I, the Minnesota Constitution, and *Minnesota Statutes*, section 198.32.

Residents shall cooperate with facility rules as specified in this chapter.

Subp. 2. **Information about rights.** On admission, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the Patient's and Resident's Bill of Rights expressed in *Minnesota Statutes*, section 144.651. If changes occur in the Patient's and Resident's Bill of Rights during the resident's stay at the board-operated facility, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the changes.

The Patient's and Resident's Bill of Rights must be posted in a conspicuous place in each board-operated facility.

Subp. 3. **Resident care.** Residents have the right to appropriate and regular medical and personal care based on individual needs to promote continuity of care by facility staff and other persons providing health care services according to *Minnesota Statutes*, section 144.651. "Appropriate care" means care designed to enable residents to achieve their highest level of physical and mental functioning. Residents must be treated courteously and with respect.

Competent residents have the right to refuse treatment according to *Minnesota Statutes*, section 144.651, subdivision 12. Residents who refuse treatment, medication, or dietary restrictions must be informed of the likely medical or major psychological results of the refusal, with documentation in the resident's medical record. If a resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or if legal requirements limit the right to refuse treatment, the conditions and circumstances must be fully documented by the attending physician in the resident's medical record.

A resident whose care needs cannot be met according to part 9050.0070, subparts 3 and 4, must be denied continued stay subject to the appeals procedures in part 9050.0220.

Resident care must meet the standards of the Vulnerable Adults Protection Act found in *Minnesota Statutes*, section 626.557.

Subp. 4. **Resident care plan participation.** Residents have the right to participate in care planning and implementation of the care plan according to *Minnesota Statutes*, section 144.651, subdivision 10, unless medically contraindicated. Medical contraindication must be documented by the attending physician in the resident's chart.

Subp. 5. **Resident handbook.** On admission, a resident must be given a resident handbook. The handbook must be reviewed by social services staff or nursing staff with the resident or the resident's representative.

After reviewing the handbook, the resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the handbook and reviewed the handbook. This statement must be kept with the resident's admission agreement.

The resident handbook must contain:

A. general information about the facility and resident care;

B. rules and regulations of the facility;

C. services available at the facility;

D. Patient's and Resident's Bill of Rights found in *Minnesota Statutes*, section 144.651; and

E. grievance procedures.

If changes occur concerning the information in the resident handbook, a resident must be informed of and given a copy of the changes. The resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the changes.

Subp. 6. **Resident councils.** Residents may organize, maintain, and participate in a resident advisory council with elected officers to express feelings and thoughts about the facility, facility policies, and resident care issues according to *Minnesota Statutes*, sections 144.651, subdivision 27, and 144A.33, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

Space for resident council meetings must be provided at each board-operated facility. Staff or visitors may only attend resident council meetings at the council's invitation.

The administrator shall designate a staff person, with approval of the resident council, to assist the council and respond to written requests that result from council meetings.

Minutes of resident council meetings must be kept and made available to residents and other persons as the resident council determines. Minutes of resident council meetings must also be made available to the Department of Health and the United States Department of Veterans Affairs to show that resident council meetings are being held at each facility.

The designated staff person or other appropriate staff persons shall inform the resident council of:

A. resident rights and responsibilities;

B. resident council organization and maintenance;

C. laws and rules that apply to the facility and residents;

D. resident care in the facility;

E. human relations; and

F. resident self-help methods to increase quality of care and quality of life at the facility.

Subp. 7. **Family councils.** Each board-operated facility shall have a family council that gives members an opportunity to express feelings and thoughts about the facility and facility conditions, resident care, rules and the effect of rules, policies, and procedures according to *Minnesota Statutes*, sections 144.651, subdivision 20, and 144A.33.

The facility shall support and encourage development of and participation in family councils and shall provide a private meeting place and necessary administrative support through a staff liaison appointed by the administrator and approved by the council. Attendance at family council meetings of individuals other than family council members must be at council invitation only.

Minutes of family council meetings must be kept and made available to family council members and other persons as the family council determines. Minutes must also be made available to the Department of Health to show that family council meetings are being held at each facility.

Subp. 8. **Legal assistance for residents.** Residents have the right of reasonable access to outside advocacy and legal services according to *Minnesota Statutes*, section 144.651, subdivision 30. On a resident's request, a designated staff person shall instruct and assist that resident in obtaining advocacy and legal assistance.

The opportunity for private communication between the resident and the resident's representative must be provided at the board operated facility.

Subp. 9. **Resident grievances and complaints.** A resident may voice grievances and complaints and recommend changes in rules, policies, and services of the board-operated facility without retaliation according to *Minnesota Statutes*, sections 198.32, 144.651, subdivision 20, and 144A.13, and United States Department of Veterans Affairs Code M-1, part 1, chapter 3.

On admission, each resident must be informed in writing of the right to complain. A notice of the right to complain must be posted in a conspicuous place in each board-operated facility.

Residents may complain through the facility grievance and complaint procedures. A resident may aiso voice grievances to the administrator, the board, the commissioner of veterans affairs, the commissioner of health, facility staff, other residents, the family council, or outside representatives of the resident's choice.

The grievance procedure at each board-operated facility must include the following:

A. a list of internal resources for use by the resident, such as the resident council or a grievance committee, and a list of community resources available to the resident;

B. resident access to use of facility-approved forms for written grievances;

C. the time limits for decisions to be made by the facility;

D. an offer of assistance by social services staff, at the resident's request, in development and process of the grievance;

E. a written response to each resident filing a formal grievance; and

F. a statement that the resident making a complaint or grievance is free from retaliation, including freedom from restraint, interference, coercion, discrimination, and reprisals.

Subp. 10. **Restraints.** A resident has the right to be free from physical and chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical condition according to part 4655.6600.

Chemical and physical restraints may be imposed on a resident only on written order of a physician that specifies the duration and circumstances under which the restraints are to be used, except in emergency circumstances when administrative nursing staff takes temporary emergency measures until an order can reasonably be obtained. If the resident's behavior poses a significant threat of harm to self or others, the resident may be discharged or transferred to an appropriate care facility.

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Locked restraints must not be used on residents. Doors to resident rooms must not be locked in a manner that would prevent immediate opening in case of an emergency.

Use of restraints must be recorded in the resident's record. The record must include a description of the precipitating behavior, the expected behavioral outcome, the actual behavioral outcome, an assessment of the need for continued use of the restraint, and the duration of use of the restraint.

Subp. 11. **Right to associate; visitors.** A resident may meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference, unless the activities infringe on the rights of other residents. This subpart complies with *Minnesota Statutes*, section 144.651, subdivisions 21 and 26.

Residents may receive visitors during visiting hours and, on request and availability, be provided privacy for visits during visiting hours. Visiting hours must be established by the facility administrator and be posted in plain view. Visitors to each board-operated facility must follow facility rules.

Residents may receive private visits at any time from the resident's personal physician, religious advisor, or attorney. Residents diagnosed as critically ill may have visits from relatives, guardians, conservators, legal representatives, and persons designated by the resident at any time according to part 4655.1910.

Subp. 12. **Identity of physician and outside service providers.** In accordance with *Minnesota Statutes*, section 144.651, subdivision 7, facility staff shall give a resident, in writing, the name, business address, telephone number, and specialty of the physician responsible for coordination of the resident's care.

Residents receiving services from approved outside providers must be given, on request from the resident or resident's guardian, written information about the identity of the provider, including the name of the outside provider, address, telephone number, specialty of the physician, and a description of the service to be given.

Subp. 13. **Personal and treatment privacy.** A resident has a right to respect for the resident's privacy, individuality, and cultural identity as related to the resident's social, religious, and psychological well-being.

Privacy must be respected by other residents, staff, volunteers, and visitors. Individuals must knock on the door of a resident's room and obtain the resident's consent before entering, except in an emergency or when clearly inadvisable.

A resident has the right to privacy for the resident's medical and personal care program. Privacy must be respected during toileting, bathing, and other personal hygiene activities, except as needed for resident safety or assistance. Documentation of assistance given to or needed by a resident in personal hygiene activities must be maintained in the resident's chart.

Subp. 14. **Married residents.** Married residents have a right to privacy for spousal visits according to *Minnesota Statutes*, section 144.651, subdivision 28. If both spouses are residents of the facility, the couple must be permitted to share a room unless medically contraindicated and documented by the attending physicians in the medical records.

Subp. 15. **Privacy of resident records.** A resident has a right to confidential treatment of personal and medical records and may approve or refuse release of the records to any individual outside the board-operated facility.

Medical records must be made available to persons at the board-operated facility who are responsible for the direct care of the resident. All information contained in the resident's records must be handled in a manner consistent with chapter 4655 and the Government Data Practices Act under *Minnesota Statutes*, chapter 13 and section 144.651, subdivision 16.

Written consent of the resident or the resident's guardian or conservator is required for the release of information concerning the resident to persons not otherwise authorized to receive it. Written consent of the resident must be handled in a manner consistent with *Minnesota Statutes*, section 13.04, subdivision 2.

Information to be released is limited to the items or information specified in the consent form.

Written consent for release of information need not be given when:

A. consent may be implied from circumstances in which a reasonable person would believe the resident would have consented had the resident been able to consent;

B. information released does not identify the individual resident;

C. information is to be used within the facility for routine or other legitimate purposes such as evaluation, education, research, or financial audits; or

D. release is mandated by statute, regulation, or court order.

Subp. 16. **Resident access to records.** On request, a resident must be given access to personal, financial, and medical records concerning the resident as provided under *Minnesota Statutes*, sections 13.04 and 144.335, and Code of Federal Regulations, title 42, part 2, section 2.23.

The facility staff shall supply to a resident complete and current information concerning diagnosis and treatment of the resident in

terms and language the resident can reasonably be expected to understand. If it is medically inadvisable that the information be given to the resident, as documented by the attending physician in the resident's medical record, the information may be given to the resident's guardian, representative, or appropriate third party as specified in *Minnesota Statutes*, section 144.335, subdivision 2. The resident, guardian, or appropriate third party must be shown the data without any charge.

On a resident's written request, facility staff shall furnish to the resident copies of the resident's records within five days, excluding Saturdays, Sundays, and legal holidays. With the consent of the resident, a summary of the record may be furnished instead. A reasonable fee related to the costs of copying may be requested.

If facility staff is unable to comply with a resident's request for information within five days, excluding Saturdays, Sundays, and legal holidays, staff shall inform the resident and may have an additional five days within which to comply with the resident's request, excluding Saturdays, Sundays, and legal holidays. If records are required in fewer than five days, facility staff shall make all reasonable efforts to comply with the request.

Subp. 17. **Mail.** Residents have the right to send and receive mail without interference according to *Minnesota Statutes*, section 144.651, subdivision 21. A resident with a legal guardian or conservator shall have mail handled according to written instructions from the guardian or conservator according to part 4655.1910, subpart 5. On request by the resident, the resident shall be given a written or oral statement regarding any restrictions on the resident's mail.

Subp. 18. **Telephone access and use.** Residents must have access to a pay telephone, at a convenient location within the board-operated facility, where residents can make and receive calls. There must be at least one non-coin-operated telephone accessible at all times in case of an emergency according to part 4655.1910, subpart 4. "Emergency" has the meaning given in part 9050.0040, subpart 39.

For residents who need to speak privately, reasonable arrangements must be made by facility staff to accommodate the privacy of the resident's calls.

If restrictions on telephone access are medically advisable, the restrictions must be documented by the attending physician in the resident's medical record according to *Minnesota Statutes*, section 144.651, subdivision 21.

Subp. 19. **Resident vehicles.** Residents may keep one passenger vehicle, motorcycle, or motorized bicycle on the grounds of the board-operated facility in which the resident resides. "Passenger vehicle" means a passenger automobile as defined in *Minnesota Statutes*, section 168.011, subdivision 7; a pickup truck as defined in *Minnesota Statutes*, section 168.011, subdivision 29; or a van as defined in *Minnesota Statutes*, section 168.011, subdivision 28. "Motorcycle" has the meaning given in *Minnesota Statutes*, section 168.011, subdivision 26. "Motorized bicycle" has the meaning given in *Minnesota Statutes*, section 168.011, subdivision 27.

A resident who wants to maintain a vehicle on the grounds of the facility shall register the make, model, color, year, and license number of the vehicle with the transportation service of the facility. The resident shall comply with applicable state statutes, including *Minnesota Statutes*, chapter 169, regarding payment of taxes, registration of vehicles, and safety standards; *Minnesota Statutes*, chapter 171, regarding operators' licenses and driving privileges; *Minnesota Statutes*, chapter 65B, regarding insurance coverage; and relevant rules.

Resident vehicles must be parked in designated parking areas with properly displayed facility identification decals.

A resident vehicle that is an abandoned vehicle as defined in *Minnesota Statutes*, section 168B.02, subdivision 2, must be handled in a manner consistent with *Minnesota Statutes*, chapter 168B.

Subp. 20. **Pets.** The administrator at each board-operated facility, after consultation with facility staff and residents, shall determine whether pets, such as dogs and cats, will be allowed in the facility and whether individual residents will be permitted to keep the pets.

If pets are allowed in the facility, the requirements in items A to C, in accordance with part 4638.0200, must be met.

A. The facility staff, in consultation with a veterinarian and physician, shall develop and implement written policies and procedures describing the types of pets allowed and the procedures for maintaining and monitoring the health and behavior of the pets, and identify areas in the facility where pets are not permitted. Pets are not permitted in kitchen areas, medication storage and administration areas, or clean or sterile supply storage areas. Guide dogs accompanying a blind or deaf individual are permitted at each board-operated facility.

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B. A staff person, as designated in writing by the facility administrator, shall be responsible for monitoring or providing for the care, cleanliness, and maintenance of the pets, including fish. Residents or other individuals may also provide pet care.

C. The facility staff shall ensure that pets, including fish, do not jeopardize the health, safety, comfort, treatment, or well-being of residents or others, and shall assume overall responsibility for pets in the facility.

Pets or animals brought to the facility for visits must be preapproved by facility recreation staff and comply with this subpart.

Subp. 21. **Resident work programs.** A resident may take part in a resident work program on approval of the resident's attending physician or as recommended by the resident's attending physician and the resident's care team as part of the individual treatment or care plan.

The labor or services that the resident performs must be for therapeutic purposes and appropriately goal-related in the resident's care plan according to *Minnesota Statutes*, section 144.651, subdivision 23.

The labor performed by the resident must be other than labor of a housekeeping nature with respect to the resident's own living area and the resident must be compensated appropriately and in compliance with Minnesota law and the Federal Fair Labor Standards Act.

Earnings derived from participating in a resident work program while the resident is living at the home may not be considered a means of support according to part 9050.0700, subpart 3, item A, and *Minnesota Statutes*, section 198.03.

Subp. 22. **Resident funds.** Resident funds must be handled according to parts 4655.1910, subpart 6; 4655.4100 to 4655.4170; and *Minnesota Statutes*, sections 144.651, subdivision 25; and 198.265, and be in compliance with items A to D.

A. A competent resident may manage personal financial affairs, or must be given at least a quarterly accounting of financial transactions on the resident's behalf if the resident delegates the responsibility to the facility for any period of time according to law.

B. Residents may keep money in a personal fund account at the board-operated facility, as defined in part 9050.0040, subpart 90, and according to *Minnesota Statutes*, section 198.265, or in fund accounts off facility premises.

Resident fund accounts at the facility are solely for the resident's use, and the facility cashier shall retain sufficient liquid funds to satisfy normal demand withdrawal requests of residents and other anticipated needs. Resident fund accounts must not draw interest directly to residents, but the interest must be used by the board only for the direct benefit of the residents of the homes. Before depositing money in a fund account at the facility, a resident must sign an agreement that the resident is willing to have money in an account that does not draw interest directly to the resident.

Restrictions placed on a resident's personal funds by the resident, resident's guardian, or person responsible for the resident's fund account must be documented in the resident's treatment plan.

C. The cashier at the facility shall have regular posted hours during which residents may deposit or withdraw funds. The cashier shall give a receipt to persons depositing funds and ensure that withdrawal forms are signed when funds are withdrawn.

D. Unclaimed account balances at the facility must be disposed of according to *Minnesota Statutes*, sections 198.23 and 198.231.

Subp. 23. **Laundry service.** Boarding care residents must have access to laundry facilities in the domiciliary units for the laundering of personal clothing. The administration of each facility may determine and post hours for use of the laundry facilities.

Each resident must be provided clean linens weekly, or as needed, according to parts 4655.8000 and 4655.8300. Boarding care residents may choose to launder their own linens.

Laundry services consisting of laundering of linens and personal clothing must be provided to nursing care residents.

Subp. 24. **Resident clothing.** Each resident must have a supply of personal clothing relative to individual needs. The administrator at each board-operated facility shall determine the standards for marking the resident's clothing for laundering and identification purposes.

A resident or resident's representative is responsible for the condition of the resident's personal clothing and should contact the facility for assistance in maintenance of clothing.

Subp. 25. **Resident hygiene.** Residents shall maintain a reasonable state of body and oral hygiene based on the resident's physical and mental capabilities. Each resident shall receive nursing care or personal and custodial care and supervision based on individual needs according to parts 4655.6400 and 4655.6800.

Subp. 26. **Room cleanliness and conditions.** Residents shall maintain personal rooms and personal items in a manner consistent with the safety, sanitary, and health regulations required by the Department of Health, United States Department of Veterans Affairs, state fire marshal, and other regulatory agencies.

Candles, oil lamps, or other items identified as flammable or hazardous by the state fire marshal are not allowed in resident rooms.

Floors in resident rooms must be clear of boxes, luggage, debris, and other materials to prevent congestion and health and safety hazards.

Residents may have electrical personal grooming items, clocks, audio and visual equipment, and approved portable fans as space and electrical capacity of the resident's room permits. Other electrical items may be permitted on written approval of administration or on written order of the resident's attending physician, and must be documented in the resident's medical record.

Items such as unapproved extension cords, hot plates, coffee makers, and electrical food appliances are prohibited in resident rooms.

Subp. 27. **Resident facility keys.** Each resident issued a personal room key or a key to locked spaces within the room shall return those keys to the facility on transfer or discharge. The resident may be charged the cost of replacing any lost keys.

Subp. 28. **Resident and facility property.** A resident may not damage another resident's property or the facility's property. A resident may be held financially responsible for property damaged or destroyed by the resident.

Subp. 29. **Resident's personal property.** In accordance with *Minnesota Statutes*, section 144.651, subdivision 22, a resident may retain personal possessions in the resident's personal living area as space permits, unless to do so would infringe on rights of other residents, or unless contraindicated for documented medical or safety reasons.

Personal property of deceased residents must be handled according to *Minnesota Statutes*, section 198.23. Personal property of discharged residents must be handled according to *Minnesota Statutes*, section 198.231.

Subp. 30. **Storage of resident's property.** Storage of a resident's property must be handled in compliance with items A to C.

A. The administration of each board-operated facility may determine an assigned amount of storage space for a resident needing storage space for personal property outside of the resident's personal living area. Particular kinds of personal property may be excluded from the facility for reasons of space limitations or safety.

Facility staff shall maintain an updated, itemized inventory of each resident's property in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

Residents must have access to storage areas during hours that are determined by administration and must be accompanied by the facility staff member who is in charge of storage, or that person's designee. The hours for access to storage areas must be posted in one or more conspicuous places in each of the board-operated facilities.

Cash may not be placed into storage.

Secure and temporary storage of a resident's possessions may be provided during a resident's emergency absence from the facility or on a specific request to the nursing staff from a resident leaving the facility on a personal absence.

The facility shall not accept resident possessions that cannot be accommodated in the facility storage areas.

B. A central, locked depository or locked storage area over which the facility has responsibility, in which residents may store valuables for safekeeping, must be provided at each board-operated facility.

Facility staff shall maintain an updated, itemized inventory of each resident's valuables in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

C. The facility may provide compensation for or replacement of lost or stolen items according to *Minnesota Statutes*, section 144.651, subdivision 22, if the loss was caused by the facility's negligence, as required under *Minnesota Statutes*, section 3.732.

Subp. 31. **Smoking.** The administrator of each board-operated facility shall designate smoking and nonsmoking areas according to chapter 4620 and *Minnesota Statutes*, sections 144.411 to 144.417. Residents may smoke in designated smoking areas only.

Smoking in resident rooms is prohibited, except that a bedridden resident may smoke with direct assistance from a staff person and only under written orders of the resident's attending physician. The orders must be documented in the resident's care plan.

Subp. 32. **Leaving the facility campus.** Residents shall notify administration or direct care staff before leaving the facility campus. The resident shall indicate to the appropriate staff member when the resident is leaving the facility campus, the expected time of return, and, if possible, the destination and telephone number where the resident can be contacted in case of an emergency. The resident shall notify direct care staff on return to the facility.

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If a resident's departure is likely to cause immediate serious physical harm to the resident or others, reasonable efforts may be made to inform the resident of the likely consequences of the resident's actions or departure.

Subp. 33. **Coffee shop and canteen.** Depending on space, resources, and available funds, a coffee shop with posted hours may be provided at each board-operated facility. A canteen with posted hours where persons may purchase personal care items may also be provided.

Where canteens and coffee shops are operated by the facility, profits derived must be used only for the direct benefit of the residents of the homes according to *Minnesota Statutes*, section 198.261.

Subp. 34. **Alcoholic beverages.** The sale, distribution, consumption, and possession of alcoholic beverages are not allowed on the campuses of the Minnesota veterans homes or during facility-sponsored events according to *Minnesota Statutes*, section 198.33, except when consumption is prescribed by the resident's attending physician and documented in the resident's chart. An alcoholic beverage is a beverage containing any amount of alcohol.

Subp. 35. **Room inspections.** A resident room is subject to routine inspections by facility staff for compliance with safety, sanitation, health, and facility rules and regulations.

Subp. 36. **Searches of resident rooms.** Residents have the right to a legitimate expectation of privacy in their persons and property against unreasonable searches and seizures. A search of a resident's room or property must be conducted when necessary to protect the residents or others from contraband or other articles that are potentially injurious to residents, staff, volunteers, and visitors. All procedures of the search must be according to *Minnesota Statutes*, section 198.33, subdivision 1.

Subp. 37. **Contraband.** A resident may not possess contraband items at the facility campus. Contraband includes all illegal articles, firearms, weapons, ammunition, alcoholic beverages, nonprescribed prescription drugs, including narcotics and controlled substances.

Contraband is subject to seizure according to *Minnesota Statutes*, section 198.33, and must be disposed of according to applicable laws. A receipt must be given to the resident and the information must be documented in the resident's chart.

Subp. 38. **Double beds.** Double beds are not allowed in resident rooms at the Minnesota veterans homes.

Subp. 39. **Photographs, voice recordings, or videotapes.** Informed written consent is required before a resident may be photographed, voice recorded, or videotaped. Consent is not needed for identification photographs of the resident that are kept in the resident's chart at the board-operated facility.

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.

Housing Finance Agency

Adopted Permanent Rules Relating to Rent Assistance for Family Stabilization Demonstration Program

The rules proposed and published at *State Register*, Volume 16, Number 10, pages 474-478, September 3, 1991 (16 SR 474), are adopted as proposed.

Technical Colleges Board

Adopted Permanent Rules Relating to President's License

The rules proposed and published at *State Register*, Volume 16, Number 9, pages 438-440, August 26, 1991 (16 SR 438), are adopted as proposed.

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 Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eileen Hanlon, being sworn, says:

That on the 27th day of November, 1991, in 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 who have requested, pursuant to Minnesota Statutes, section 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 (Board) for the purpose of receiving notice of the proposed adoption of rules by the Board.

Eileen Hanlon
Eileen Hanlon
Rules Writer

Subscribed and sworn to before me this 3rd day of December, 1991.

Terrence A Log
Notary Public

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

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 Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eileen Hanlon, being sworn, says:

That on the 27th day of November, 1991, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing, a copy thereof, with postage prepaid, to all persons and associations who have requested, pursuant to Minnesota Statutes, section 14.14, 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.

Eileen Hanlon
Rules Writer

Subscribed and sworn to before me this 3rd day of December, 1991.

Notary Public

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

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 Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

AFFIDAVIT OF ADDITIONAL NOTICE

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eileen Hanlon, being duly sworn, deposes and says:

That on the 5th day of December, 1991, at the City of Hastings, County of Dakota and Minneapolis, County of Hennepin, State of Minnesota, she 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.

Eileen Hanlon
Rules Writer

Subscribed and sworn to before me this 27th day of December, 1991.

Dennis L Forsberg
Notary Public

DENNIS L. FORSBERG
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES OCTOBER 27, 1993

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 Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eileen Hanlon, 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 (Board) for the purpose of receiving notice of the proposed adoption of rules by the Board is accurate, complete, and current as of this 26th day of November, 1991.

Eileen Hanlon
Rules Writer

Subscribed and sworn to before me
this 3rd day of December, 1991.

Notary Public

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

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

CERTIFICATE OF AUTHORIZING RESOLUTION

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 14th day of November 1991, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

BE IT RESOLVED, that James G. Sieben, Chair 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 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 14th day of November 1991.

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

ATTESTED TO

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

In the matter of the Proposed Adoption of Permanent Rules of the Minnesota Veterans Homes Board of Directors Relating to Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

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

The above-entitled matter came on for decision before the Minnesota Veterans Homes Board (Board) on the 9th day of January, 1992. 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 December 9, 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 November 27, 1991.

(2) The statement of need and reasonableness was prepared before the "Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing" and the "Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing" was mailed to all persons on the rulemaking list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking.

(5) The agency received no requests for a public hearing. Therefore, the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

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

No submissions or comments on the rule 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 of Directors 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.

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

No modifications were made to the rule.

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

NOW, THEREFORE, IT IS ORDERED that the rule identified as Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070 is adopted this 9th day of January, 1992, 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.

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

STATE OF MINNESOTA

MINNESOTA VETERANS HOMES BOARD OF DIRECTORS

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 9th day of January, 1992, 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 Facility Services; Resident Rights; Responsibilities, Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070, 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 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 9th day of January, 1992.

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
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

James Main
Chaska

Stephen J. O'Connor
Spring Valley

Dr. Robert W. Reif
White Bear Lake

Emily P. Spensieri
Hibbing

11/15/91

Honorable Peter Erickson
Administrative Law Judge
Office of Administrative Hearings
Flour Exchange Building, 5th floor
310 Fourth Avenue South
Minneapolis, Minnesota 55415

Re: Proposed Adoption of Permanent Rules of the Minnesota Veterans Homes Board of Directors relating to Facility Services; Resident Rights; Responsibilities, Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

Dear Judge Erickson:

Enclosed are the documents required under Minnesota Rules, part 1400.0300 for your reviewal. The proposed hearing date is Tuesday, January 28, 1992 at 9:30 a.m.

Included in this submittal are:

A. a certified copy of the proposed rule.
B. the Order for Hearing.
C. proposed Notice of Hearing.
D. Statement of Need and Reasonableness.
E. Certificate of Authorizing Resolution.

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

I will mail this notice and proposed rule to the Public Advisory Committee, veterans organizations, family and resident councils, and all other persons who have asked to be notified of this rulemaking procedure for the Minnesota Veterans Homes. I will post this notice at the Minneapolis and Hastings Veterans Homes, with evidence of this notice provided at the hearing.

I will be submitting the Notice of Hearing and the proposed rule to the State Register on Monday, November 25, 1991.

If you need any additional information, please call me at 297-5254. Thank you.
Sincerely,

Eileen Hanlon

Eileen Hanlon
Rules Writer, Minnesota Veterans Homes Board

STATE OF MINNESOTA
VETERANS HOMES BOARD

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1/14/92

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

Michas Ohnstad
Vice Chairman
North Branch

Robert E. Hansen
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Dr. Harvey Aaron
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Honorable Peter Erickson
Administrative Law Judge
Office of Administrative Hearings
Flour Exchange Building, 5th floor
310 Fourth Avenue South
Minneapolis, Minnesota 55415

Re: Proposed Adoption of Permanent Rules of the Minnesota Veterans Homes Board of Directors relating to Facility Services; Resident Rights; Responsibilities, Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

Dear Judge Erickson:

I just spoke with you on the telephone regarding the hearing scheduled for the rule of the Veterans Homes Board of Directors.

I am pleased to report that the Board received no requests for a hearing during the thirty day comment period. This letter serves as a request to cancel the hearing scheduled for 9:30 a.m. on January 28, 1992.

Thank you for your assistance.

Sincerely,

Eileen Hanlon

Eileen Hanlon
Rules Writer
Minnesota Veterans Homes Board of Directors

STATE OF MINNESOTA
VETERANS HOMES BOARD

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12/27/91

Maj. Gen. James G. Sieben (Ret.)
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Minneapolis, Minnesota 55415

Re: Proposed Adoption of Permanent Rules of the Minnesota Veterans Homes Board of Directors relating to Facility Services; Resident Rights; Responsibilities, Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

Dear Judge Erickson:

Enclosed are the documents required to be submitted under Minnesota Rules, part 1400.0600, 25 days before the hearing. Included in this submittal are:

A. Notice of Hearing as mailed;
B. Agency Certificate of Mailing list;
C. Affidavit of Mailing;
D. Affidavit of Additional Mailing;
E. Copy of the Notice of Solicitation of Outside Opinion along with the materials received;
F. Names of agency personnel who will represent the agency at the hearing;
G. Copy of the proposed rule as printed in the State Register.
H. Copy of the letter sent to the Legislative Commission to Review Administrative Rules.

Please call me at 297-5254, if you have any questions on this submittal.

Thank you.

Sincerely,

Eileen Hanlon

Eileen Hanlon
Rules Writer
Minnesota Veterans Homes Board of Directors

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 of Directors Relating to Facility Services; Resident Rights; Responsibilities; Minnesota Rules, Parts 9050.0040 and 9050.1000 to 9050.1070.

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: Jan. 17, 1992

February 25, 1991

answered 3/8/91

Eileen Hanlon

re: Rules Writer

Hi! Eileen,

Attached letter is my thoughts, briefly, concerning wording in 9050-1000 sub. p. 9. page 4 the draft. Trust my points are acceptable knowing you will be able to make the reading more concise than I can.

If you have any questions relating to my comments, please call.

Sincerely,

Lee W. Parks

Lee W. Parks
C.D. Consultant

CHAPTER 9050

9050.1000 - Resident Care Planning
Sub. p. Psychology.

The title of the sub-paragraghic is questionable. Psychology is not a department to be offering the services listed. Granted that the Minnesota Veterans Homes staffing for Chemical Dependency is not large enough to justify a separate department. Chemical Dependency Services should have a more precise identity for service responsibilities Chemical Dependency should provide the following:

1. Pre-admission and evaluation.
2. Diagnosis of residents needs.
3. Individual counseling.
4. Group Therapy meetings.
5. Set up and assist residents with planning, and setting goals for recovery and total abstinence from use.
6. Family evaluation and intervention.

The above items are the major services for Chemical Dependency staff to provide, as well as other resident needs that surface. Chemical Dependency shall not be a psychological service. Psychological or Physiciatric needs will be scheduled at request of Chemical Dependency Staff. Chemical Dependency, assessments, goal setting, counseling results, and recommendation for the residents shall not be subject to approval by the Psychology staff. The Chemical Dependency staff has proven their credibility, knowledge, ability in providing meaningful services to the Chemical Dependent and/or abuser resident.

Lee W. Parks
C.D. Counselor