

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:

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Bill Daniels, Attorney
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Lyle Foltz, Director
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MN Dept. Veterans Affairs
Claims Division, Room 182A
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Dennis Forsberg, Director
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Tom Hanson
Assistant Director
VFW Claims Office
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Steve Lindstrom
Ramsey County Veterans
Service Officer
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Dan Steinhagen
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Chair, Rules Committee
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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 communication 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 accommodate 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 accommodate. 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

Kim DeVeau
Business Office Manager
Hastings Veterans Home

Bonnie Hagstrom
Medical Records Technician
Minneapolis Veterans Home

EXHIBITS

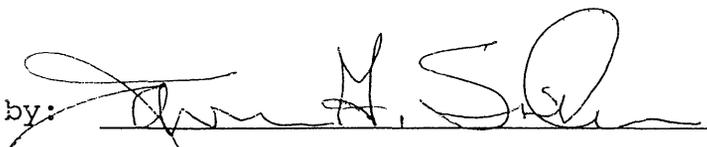
In support of the need and reasonableness of the proposed rules, the following exhibit will be entered into the hearing record by the Board:

Exhibit Number	Document
1	Department of Veterans Affairs Code M-1, part 1, chapter 3.

CONCLUSION

Based on the foregoing, the proposed Minnesota Rules, parts 9050.0040, and 9050.1000 to 9050.1070 are both needed and reasonable.

Dated: November 18, 1991

by: 
James G. Sieben
Chair
Minnesota Veterans Homes Board of Directors