



Protecting, maintaining and improving the health of all Minnesotans

November 10, 2016

Governor Mark Dayton

Greg Hubinger, Director
Legislative Coordinating Commission

Paul Marinac
Revisor of Statutes

Policy and Funding Committees and Divisions with
Jurisdiction over the Minnesota Department of Health

[A complete list of addressees is at the end of the letter.]

Subject: Annual Report on Obsolete, Unnecessary, or Duplicative Rules, as Required by Minnesota Statutes, Section 14.05, Subdivision 5.

Minnesota Statutes, section 14.05, subdivision 5, states:

By December 1 of each year, an agency must submit to the governor, the Legislative Coordinating Commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year's report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's December 1 report must state that conclusion.

We have identified no Minnesota Department of Health (MDH) rules not previously reported as obsolete for this 2016 report.

In last year's report, we identified the following six sections of MDH rules as being obsolete, unnecessary, or duplicative. The current status of these rules is:

1. Newborn Screening—Minnesota Department of Health has determined that repealing rules 4615.0300 to 4615.0700 is justified on the basis of language that is either obsolete, or is redundant because the 2014 Legislature added explicit language to the Newborn Screening statutes (Minnesota Statutes, sections 144.125 to 144.128).

4615.0300 — This part is obsolete because most duties of the duties stated are defined in Minn. Statutes 144.125.

4615.0400 — This overlaps and thus partially duplicates language included in Minnesota Statutes, section 144.125 and thus is unnecessary.

4615.0500 — This part is obsolete because it does not include all conditions currently on screening panel and does not reflect parents' rights to opt out for any reason. It also duplicates language in Minnesota Statutes, section 144.125.

4615.0600 — This part is now unnecessary because it prescribes basic, standard MDH practice that is integral to operating the program.

4615.0700 — This obsolete part does not require reporting of all conditions currently on screening panel and includes an incorrect reporting address.

2. Tuberculosis testing—Minnesota Department of Health (MDH) has identified the following MDH rules that govern tuberculosis testing of employees and residents in health care facilities as being obsolete, unnecessary, or duplicative, because in 2013 the Legislature enacted Minnesota Laws, chapter 45, which included new statutes that supersede them:

4640.0100, subpart 12, and other specific phrases listed below — these definitions for hospital licensing and operation rules refer to TB hospitals, but Minnesota no longer has TB hospitals:

- “with tuberculosis or” in subpart 3;
- “a tuberculosis hospital” in subpart 10;
- “tuberculosis” in subpart 11;

4640.4400–4640.6000 — these hospital licensing and operation rules, which govern staff of TB hospitals, are superfluous because Minnesota has no TB hospitals.

4655.3000 — these requirements for specific tests for nursing and boarding care home employees are now outdated because of Minnesota Statutes, sections 144A.04 and 144.56, subdivision 2c, statutes passed in 2013.

4655.4700, subpart 1 — the following specific language for a physical exam of boarding care home residents at admission requires a now-obsolete testing method:

“a report of a standard Mantoux tuberculin test or, if the Mantoux test is positive or contraindicated, a chest X-ray within three months in advance of admission and as indicated thereafter;”

4658.0800, subpart 4, item E, delete "a tuberculosis program as defined in part 4658.0810," and item F, delete ", including a tuberculosis program as defined in part 4658.0815." These references are obsolete because parts 4658.0810 and 4658.0815 are superseded by Minnesota Statutes, section 144A.04, a statute passed in 2013.

4658.0810 — nursing home providers need no longer use this resident tuberculosis program since Minnesota Statutes, section 144A.04, a statute passed in 2013, makes this language obsolete.

4658.0815 — nursing home providers need no longer use this employee tuberculosis program since Minnesota Statutes, section 144A.04, a statute passed in 2013, makes this language obsolete.

4664.0190, subpart 3, item L — delete ", as required by part 4664.0290, subpart 6." This is an obsolete reference as the part was made obsolete by Minnesota Statutes, section 144A.752, subdivision 4, a statute passed in 2013.

4664.0290, remove subparts 1–6 and subpart 8, A–F — hospice providers need no longer use these infection control requirements because Minnesota Statutes, section 144A.753, subdivision 4,* a statute passed in 2013, makes this language obsolete.

*Note: The enacting legislation, Laws 2013, Chapter 43, section 18, erroneously codified this new subdivision in “Minnesota Statutes, section 144A.752, subdivision 4.” The Revisor’s Office has since re-codified the provision into section 144A.753.

4664.0290, change subpart 8 to read, “For a violation of subpart 7, the stated fine shall be \$300.”— hospice providers need no longer use these infection control requirements because Minnesota Statutes, section 144A.753, subdivision 4, a statute passed in 2013, makes this language obsolete.

4665.1200, item A — supervised living facilities need no longer follow this staff health provision because a statute passed in 2013, Minnesota Statutes, section 144.50, subdivision 6a, makes this language obsolete.

4675.0500, item I — governs outpatient surgical centers medical staff. Minnesota Statutes, section 144.55, subdivision 3(c) a statute passed in 2013, makes this language obsolete.

3. Certified Food Manager certification fees—Minnesota Rules 4626.2015, subparts 3(c) and 6(b) — Certified Food Manager certification fees are obsolete and duplicative because Minn. Stat. § 157.16 imposes different fees that supersede the rule.

4. Local Public Health Agencies; Merit System—Chapter 4670, Local Public Health Agencies; Merit System, is obsolete because the Legislature repealed its statutory authority, Minnesota Statutes, section 144.071, by Laws 2014, chapter 192.

5. Accrediting environmental laboratories—In 2010, we identified obsolete rules in Minnesota Rules, Chapter 4740, which governs accrediting environmental laboratories. In 2009, the Legislature amended Minnesota Statutes, sections 144.98 and .99, requiring the commissioner to accredit labs according to national laboratory standards and charging the fees stated in the amended statute. Consequently, the following subparts are duplicative or obsolete for the reasons stated:

4740.2010, subpart 39 — “Notarial officer” is a defined term that is no longer used in Minnesota Rules 4740.2050, subpart 1 but is defined in statutes elsewhere.

4740.2050, subpart 1, item C with the phrase beginning “The laboratory must supply...”, — MDH is converting the lab certification program’s application to an online form using an electronic signature so this item is superfluous.

4740.2050, subpart 1, item D (1) to (2), — these requirements are superseded by Minnesota Statutes, section 144.98.

4740.2050, subpart 1, item D (3) to (6) and item E, — these requirements are superseded by Minnesota Statutes, section 144.98, subd.6.

4740.2050, subpart 2, item C with the phrase beginning “With each change in location...”, — the information required here is now included in laboratory documentation required with application under Minnesota Statutes, section 144.98.

4740.2050, subpart 3, — these requirements are superseded by Minnesota Statutes, section 144.98, subd.3a(b).

4740.2050, subpart 7, item B, — the required items are listed in national standards and adopted in Minnesota Statutes, section 144.98.

4740.2050, subpart 7, item D, — these requirements are superseded by Minnesota Statutes, section 144.98, subd.7.

4740.2050, subpart 12, item A with the phrase beginning “Fees include the on-site...”, — these fees and their frequency of payment are requirements that are superseded by Minnesota Statutes, section 144.98.

4740.2050, subpart 12, item C, — these requirements for approval of reciprocal agreements are in the national standard (adopted in Minnesota Statutes, section 144.98) and as replaced by Minnesota Statutes, section 144.98, subd.6(d).

4740.2050, subpart 12, item F, remove the phrase “...except the fee for out-of-state inspection under subpart 16, item D”., — requirements for approval of reciprocal agreements are in the national standard (adopted in Minnesota Statutes, section 144.98) and as replaced by Minnesota Statutes, section 144.98, subd.6(d).

4740.2050, subpart 12, item F, remove the last sentence beginning “Only fixed-base laboratories located within...”, — requirements for approval of reciprocal agreements are in the national standard (adopted in Minnesota Statutes, section 144.98) and as replaced by Minnesota Statutes, section 144.98, subd.6(d).

4740.2050, subpart 16, item A remove the phrase “..., subdivision 3.”, — this change reflects the reference change made in Minnesota Statutes, section 144.98.

4740.2050, subpart 16, item C remove the phrase “..., subdivision 3.”, — this change reflects the reference change made in Minnesota Statutes, section 144.99.

4740.2050, subpart 16, item D, — current rule language contradicts Minnesota Statutes, section 144.98.

4740.2060, subpart 2, item C; subpart 3, item C; subpart 4, item C; and subpart 5, item C remove the phrase “...as required under part 4740.2050, subpart 16, item C”, — repeal of a prior reference in this rule requires repeal of the references here.

4740.2065, subpart 8, — required items listed in national standard (adopted in Minnesota Statutes, section 144.98)

4740.2070, subpart 2; subpart 3; subparts 5 to 6; and subpart 7, items A, B and D, — the required items are now listed in Minnesota Statutes, section 144.98, eliminating the need for these references.

4740.2070, subpart 8, — the required items here are now listed in national standard (adopted in Minnesota Statutes, section 144.98).

4740.2070, subpart 11, — the required items here are now listed in national standard (adopted in Minnesota Statutes, section 144.98).

4740.2087, subpart 2, items A and C, — this rule language contradicts requirement in national standard (adopted in Minnesota Statutes, section 144.98).

4740.2089, item C, — these required items are listed in the national standard (adopted in Minnesota Statutes, section 144.98).

4740.2091, subpart 3, item E, — these required items are listed in the national standard (adopted Minnesota Statutes, section 144.98).

4740.2100, subpart 4, item A, remove the second sentence, — not included in national standard (adopted in Minnesota Statutes, section 144.98).

4740.2100, subpart 5, item B remove “before sample preparation or extraction”, — not included in national standard (adopted in Minnesota Statutes, section 144.98).

4740.2100, subpart 8, item C, remove the phrase “The percent recovery of the standard must fall within plus or minus 40 percent of the true value.” and remove subpart 8, item D, — current language contradicts items required in the national standard and some items that are not included in national standard (adopted in Minnesota Statutes, section 144.98)

4740.2100, subpart 9, item A, — the national standard includes a broader list of technologies affected by selectivity and consequently this item is out of date.

The above listed sections 1–5 contain MDH’s rules identified as obsolete from previous years’ reports. MDH will repeal all these rule subparts, items, and any related portions of rules inadvertently overlooked, plus the rules superseded by statute, using the expedited process for repealing obsolete rules under Minn. Stat. § 14.3895.

MDH has omitted a sixth section from the above list. These rules were repealed by Laws 2013 and 2014 [See Laws 2013, chapter 108, article 11, section 33; and Laws 2014, chapter 275, article 1, section 134]:

6. Class E licenses for assisted living programs—Minnesota Rules 4668.0012 subparts 3, items A(4) and 4, item D — Class E licenses for assisted living programs were abolished and no longer exist.

Previously described plans to repeal these rules have met with other Department priorities. MDH decided in its judgment that no harm would befall the public if this project were postponed further. Early in 2017, however, MDH will repeal all these rule subparts, and any related subparts inadvertently overlooked, plus the rules superseded by statute, using the expedited process for repealing obsolete rules under Minn. Stat. § 14.3895.

If you have any questions regarding this report, please contact me at:

Patricia Winget
Department of Health
Orville L. Freeman Building
625 Robert Street North
Saint Paul, Minnesota 55164-0975
651.201.5748
patricia.winget@state.mn.us

Yours very truly,

A handwritten signature in cursive script that reads "Patricia Winget". The signature is written in black ink and is positioned above the typed name and title.

Patricia Winget, Rules Coordinator
Minnesota Department of Health

This is a complete list of addressees for MDH's 2016 Obsolete Rules Report

Senate Health and Human Services Budget Division

Senator Tony Lourey
Minnesota Senate
95 University Avenue W.
2105 Minnesota Senate Bldg.
St. Paul, MN 55155

Senator Julie Rosen
Minnesota Senate
100 Rev. Dr. Martin Luther King Jr. Blvd.
139 State Office Building
Saint Paul, MN 55155

Senate Environment and Energy Committee

Senator John Marty
Minnesota Senate
95 University Avenue W.
3233 Minnesota Senate Bldg.
St. Paul, MN 55155

Senator David J. Osmek
Minnesota Senate
100 Rev. Dr. Martin Luther King Jr. Blvd.
19 State Office Building
Saint Paul, MN 55155

Senate State and Local Government Committee

Senator Patricia Torres Ray
Minnesota Senate
95 University Avenue W.
3225 Minnesota Senate Bldg.
St. Paul, MN 55155

Senator Dan D. Hall
Minnesota Senate
100 Rev. Dr. Martin Luther King Jr. Blvd.
103 State Office Building
Saint Paul, MN 55155

Senate Health and Human Service Committee

Senator Kathy Sheran
Minnesota Senate
95 University Avenue W.
2103 Minnesota Senate Bldg.
Saint Paul, MN 55155

Senator Michelle R. Benson
Minnesota Senate
100 Rev. Dr. Martin Luther King Jr. Blvd.
115 State Office Building
Saint Paul, MN 55155

Senate Environment, Economic Development and Agriculture Budget Division

Senator David J. Tomassoni
Minnesota Senate
95 University Avenue W.
3401 Minnesota Senate Bldg.
Saint Paul, MN 55155

Senator Bill Ingebrigtsen
Minnesota Senate
100 Rev. Dr. Martin Luther King Jr. Blvd.
143 State Office Building
Saint Paul, MN 55155

Senate State Departments and Veterans Division

Senator Tom Saxhaug
Minnesota Senate
95 University Avenue W.
2111 Minnesota Senate Bldg.
Saint Paul, MN 55155

Senator Roger C. Chamberlain
Minnesota Senate
100 Rev. Dr. Martin Luther King Jr. Blvd.
129 State Office Building
Saint Paul, MN 55155

House Health and Human Services Finance Committee

Representative Matt Dean
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
401 State Office Building
Saint Paul, MN 55155

Representative Tina Liebling
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
357 State Office Building
Saint Paul, MN 55155

Representative Diane Loeffler
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
337 State Office Building
Saint Paul, MN 55155

House Health and Human Services Reform Committee

Representative Tara Mack
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
545 State Office Building
Saint Paul, MN 55155

Representative Joe Mullery
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
303 State Office Building
Saint Paul, MN 55155

House Environment and Natural Resources Policy and Finance

Representative Denny McNamara
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
365 State Office Building
Saint Paul, MN 55155

Representative Rick Hansen
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
247 State Office Building
Saint Paul, MN 55155

House Government Operations and Elections Policy Committee

Representative Tim Sanders
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
553 State Office Building
Saint Paul, MN 55155

Representative Michael V. Nelson
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
351 State Office Building
Saint Paul, MN 55155

House State Government Finance Committee

Representative Sarah Anderson
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
583 State Office Building
Saint Paul, MN 55155

Representative Sheldon Johnson
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
259 State Office Building
Saint Paul, MN 55155

House Veterans Affairs Division Committee

Representative Bob Dettmer
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
565 State Office Building
Saint Paul, MN 55155

Representative John Persell
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
359 State Office Building
Saint Paul, MN 55155

Agriculture Finance Committee

Representative Rod Hamilton
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
443 State Office Building
Saint Paul, MN 55155

Representative Jeanne Poppe
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
291 State Office Building
Saint Paul, MN 55155

House Agriculture Policy Committee

Representative Paul Anderson
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
597 State Office Building
Saint Paul, MN 55155

Representative David Bly
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
301 State Office Building
Saint Paul, MN 55155

House Commerce and Regulatory Reform Membership Committee

Representative Joe Hoppe
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
543 State Office Building
Saint Paul, MN 55155

Representative Joe Atkins
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
349 State Office Building
Saint Paul, MN 55155

Governor Mark Dayton
Office of the Governor and Lieutenant Governor
116 Veterans Service Building
20 West 12th Street
St. Paul, MN 55155

Greg Hubinger
Legislative Coordinating Commission
72 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Paul Marinac
Revisor of Statutes
700 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Legislative Reference Library
645 State Office Building
St. Paul, MN 55155