



November 27, 2019

Governor Tim Walz (emmet.hedin@state.mn.us)

Senator Michelle R. Benson, Chair (sen.michelle.benson@senate.mn)
Senator John Marty, Ranking Minority Party Member (sen.john.marty@senate.mn)
Senate Health and Human Services Finance and Policy Committee

Senator Jim Abeler, Chair (sen.jim.abeler@senate.mn)
Senator Jeff Hayden, Ranking Minority Party Member (sen.jeff.hayden@state.mn.us)
Senate Human Services Reform Finance and Policy Committee

Representative Rena Moran, Chair (rep.rena.moran@house.mn)
Representative Debra Kiel, Republican Lead (rep.deb.kiel@house.mn)
House Health and Human Services Policy Committee

Representative Tina Liebling, Chair (rep.tina.liebling@house.mn)
Representative Joe Schomacker, Republican Lead (rep.joe.schomacker@house.mn)
House Health and Human Services Finance Division Committee

Legislative Coordinating Commission (lcc@lcc.leg.mn)

Ryan Inman, Revisor (revisor@revisor.mn.gov)
Office of the Revisor of Statutes

VIA ELECTRONIC MAIL

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

Dear Governor Walz, Senators, Representatives, Legislative Coordinating Commission, and Revisor Inman:

Minnesota Statutes, section 14.05, subdivision 5, directs state agencies to report to you by December 1 of each year whether any of its rules are obsolete, unnecessary, or duplicative, and to provide an update on the status of such rules identified in the prior year. This letter contains the 2019 report of the Minnesota Department of Human Services.

Last year, the Minnesota Department of Human Services identified the following rules as obsolete:

Minnesota Rules, part 9555.6255. Minnesota Rules, part 9555.6255 relates to rights for people living in adult foster care. These rights are now listed in Minnesota Statutes, section 245A.11, subdivision 10. In 2017, the Department proposed legislative policy changes related to the federal home and community-based services settings rule, which included moving the rights from rule to statute. The Department proposed repealing this section of the rule, but it did not end up in the final bill. **Update:** The Department did not repeal this rule part legislatively and is now planning to repeal the rule part through the process detailed in Minnesota Statutes, section 14.3895.

This year, the Minnesota Department of Human Services has reviewed its rules and identified the rules listed below as obsolete, unnecessary or duplicative:

Minnesota Rules, part 9525.0032. Minnesota Rules, parts 9525.0004 to 9525.0036 establish the standards to be met by county boards or others authorized by the commissioner to provide case management and govern the planning, development, and provision of services to persons with developmental disabilities. Part 9525.0032 refers to DHS's former policy regarding host county concurrence. The policy to request host county concurrence is no longer in effect; the Department now relies on Minnesota Statutes, section 256B.092, subdivision 8a for the process for counties to notify each other in certain circumstances. The Department is considering whether to repeal this rule part through the process detailed in Minnesota Statutes, section 14.3895, or to include it in a 2021 legislative proposal.

Minnesota Rules, part 9525.3045. Minnesota Rules, part 9525.3045 allows county staff acting as public guardian to consent to the use of aversive and deprivation procedures. Minnesota Rules, Chapter 9544 and related requirements in Minnesota Statutes, Chapter 245D render this rule obsolete. The Department is considering whether to repeal this rule part through the process detailed in Minnesota Statutes, section 14.3895, or to include it in a future legislative proposal.

Minnesota Rules, part 9530.6800; and Minnesota Rules, part 9530.6810. Minnesota Rules, part 9530.6800 requires the commissioner of human services to assess the need for chemical dependency treatment or rehabilitation programs seeking licensure. This assessment of need is applied inconsistently, and does not apply to all of the potentially eligible vendors of chemical dependency treatment. Minnesota Rules, part 9530.6810 requires applicants for licensure of chemical dependency treatment or rehabilitation programs to seek recommendations from county boards to support the need for the programs. This requirement is unnecessarily duplicative of zoning rules that already allow municipalities to determine appropriate locations for business. These assessment of need requirements have become an extra burden placed on certain chemical dependency treatment providers without benefit. The Department plans to repeal these rule parts through the process detailed in Minnesota Statutes, section 14.3895.

Minnesota Rules, part 2960.3090, subpart 6; Minnesota Rules, part 9560.0020, subparts 3-6, 10, and 13; Minnesota Rules, part 9560.0060; Minnesota Rules, part 9560.0160; and Minnesota Rules, part 9560.0670, subpart 5. Minnesota Statutes, Chapters 259 and 260C govern adoption, foster care, and juvenile safety and placement. Both contain a number of policy provisions that are consistent with current best practices, such as permitting foster parents to approve age-appropriate activities for a foster child, and addressing the best interests of a child and preserving a child's connections in adoptive placements. These statutory chapters also expressly set forth requirements for operating the State Adoption Exchange; family recruitment methods; and post-adoption services. In Minnesota Rules, parts of chapters 2960 and 9560 govern Child Safety and Permanency programs, including foster care, licensure and social services. The identified rule parts are either inconsistent with current practices, redundant with statute, or rendered obsolete by statute. The Department continues work on the substance of the necessary changes to these rules and will likely pursue making amendments to the rule parts with conventional rulemaking.

Please let me know if I can provide further information.

Sincerely,



Vanessa Vogl
Rulemaking Attorney
Administrative Law Office/General Counsel's Office

CC: Karen E. Sullivan Hook, DHS Administrative Law Office Manager
Dan Kitzberger, DHS Interim Director of State Legislative Relations