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State of Minnesota
Department of Health

MEMORANDUM

DATE: March 11, 1992

TO: Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules

FROM: Sandy Abrams *Sandy Abrams*
Rule Coordinator
Health Resources Division

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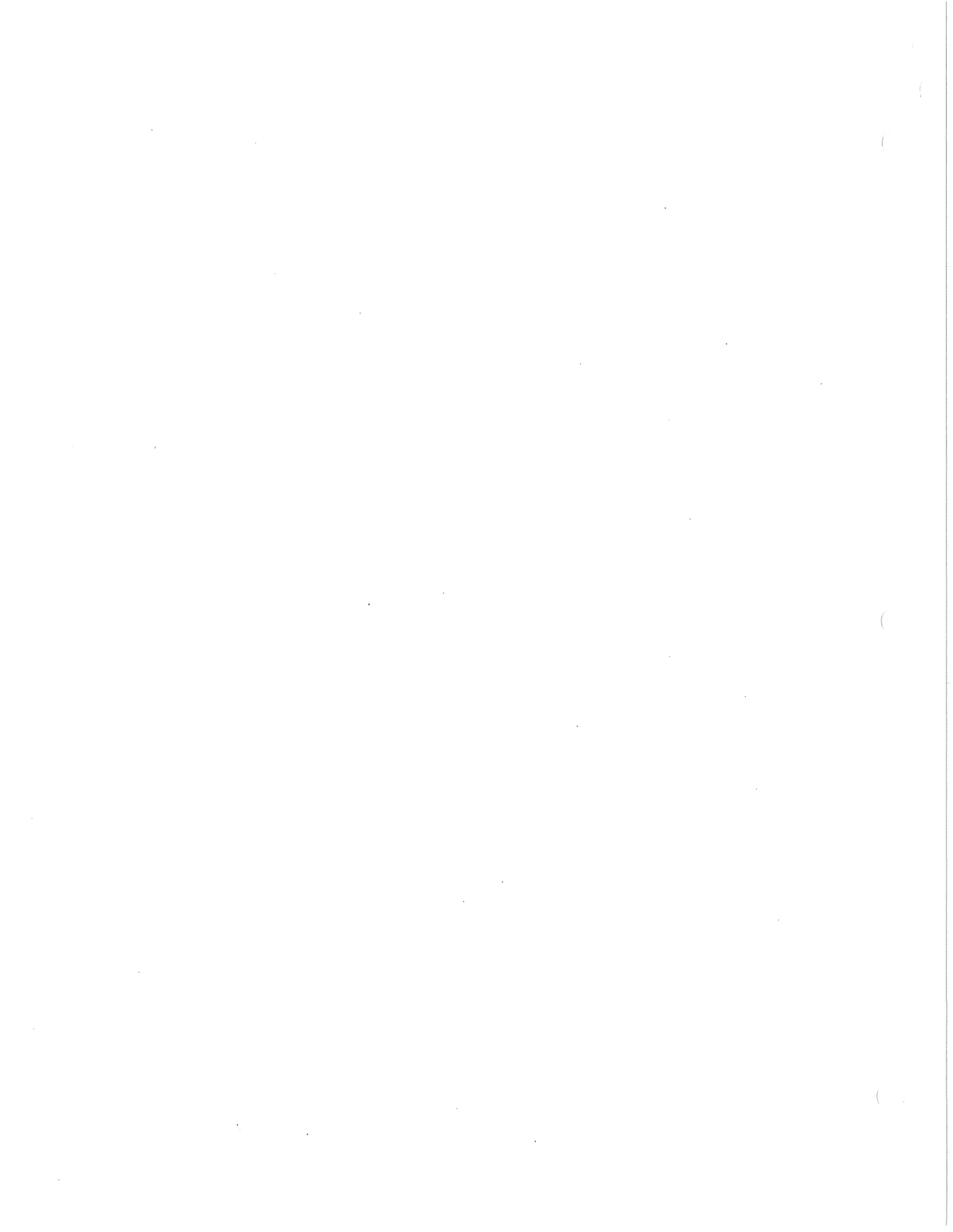
SUBJECT: Amendment of Rules

Enclosed is the Statement of Need and Reasonableness, Notice of Hearing and a copy of the amendment of rules of the Department of Health concerning License Fees for Hospitals, Nursing Homes, Boarding Care Homes, Supervised Living Facilities and Outpatient Surgical Centers, Minnesota Rules, parts 4640.0200, 4655.0300, 4665.0400, 4735.0200.

The Legislative Commission to
Review Administrative Rules

MAR 11 1992





MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Amendment
of Rules of the Department of Health
Concerning License Fees for Hospitals,
Nursing Homes, Boarding Care Homes,
Supervised Living Facilities and
Outpatient Surgical Centers, Minnesota
Rules, parts 4640.0200, 4655.0300,
4665.0400, 4735.0200

STATEMENT OF NEED
AND REASONABLENESS

BACKGROUND AND LEGAL AUTHORITY

Minnesota Statutes, sections 144.122, 144.53, and 144A.07 authorize the Department of Health to establish and collect state license fees for hospitals, nursing homes, boarding care homes, supervised living facilities and outpatient surgical centers. The Department of Health is required by Minnesota Statutes §16A.128 to recover the costs of state licensure activities through licensure fees. For several years the fees received have not been adequate to recover the actual costs. The projected accumulated difference between receipts and costs through FY91 is \$3,571,000. This difference continues to grow and necessitates an increase in fees. The proposed rule amends the licensure fees for hospitals, nursing homes, boarding care homes, supervised living facilities, and outpatient surgical centers by increasing the fees to recover actual costs and the deficit.

The Department of Health also performs federal survey and certification activities for Medicare and Medicaid. Costs for these activities are separate and not included in the state licensure fees the department needs to recover.

FEE SCHEDULE

The deficit will be recovered over four years (FY 93-96). As has been done in the past, fees will be increased on a uniform basis to all facilities. Fees will more than triple from the current fee schedule which was established in 1983. The following table shows the proposed fees.

<u>Licensure Classification</u>	<u>Current Fee</u>		<u>Proposed Fee</u>	
	(Established in 1983)			
	<u>Base</u>	<u>Per Bed</u>	<u>Base</u>	<u>Per Bed</u>
Joint Commission on Accreditation of Healthcare Organizations				
Accredited Hospital	\$450	\$ 0	\$1,647	\$ 0
Nonaccredited Hospital	468	29	1,713	106
Nursing Home	68	16	249	59
Boarding Care Home	68	16	249	59
Supervised Living Facility	68	16	249	59
Outpatient Surgical Center	450	0	1,647	0

Additional fees will no longer be collected between licensing periods when the number of beds increases. All state licensing costs will be covered by the initial or renewal license fee.

FEE REVIEW -- COST DETAILS

The following table shows the expenditures and receipts for this fee activity for fiscal years 1987-91. The projected accumulated difference between receipts and costs through FY91 is \$3,571,000.

	Fiscal Year (Thousands of Dollars)				
	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
<u>Expenditures</u>					
Health Resources Mgmt.	\$ 33	\$ 141	\$ 132	\$ 151	\$ 155
Survey & Compliance	896	706	760	802	440
Engineering Services	133	144	123	119	91
Office of Health Facility Complaints	294	329	291	363	424
State Fire Marshal	264	253	272	296	319
Attorney General	23	18	31 ¹	40 ¹	55
Statewide Indirect	33	23	30	20	16
Agency Indirect	206	157	178	207	178
Total Expenditures	<u>\$1,882</u>	<u>\$1,771</u>	<u>\$1,817</u>	<u>\$1,998</u>	<u>\$1,678</u>
Receipts	\$1,116	\$1,134	\$1,058	\$1,048	\$1,220
Difference	(766)	(637)	(759)	(950)	(458)
Accumulated Difference	(767)	(1,404)	(2,163)	(3,113)	(3,571)
State Percentage of Total Budget ²	29%	28%	23%	23%	13%

The state licensure activities are a percentage of the total work performed in the Health Resources Division of the Department of Health. For example, in FY87 the state licensure activity reflected 29% of the total work performed and in FY92 it is estimated that state licensure activity will be

¹\$100,000 in FY89 and \$80,000 in FY90 were expended in major nursing home litigation against a single nursing home corporation. These costs are not proposed for recovery as this would have the effect of charging all providers in the state for enforcement action against a single provider.

²The percent of state activities performed in the total survey program. These dollar amounts apply only to state activities, as federal activities are reimbursed from Medicare and Medicaid.

18%. The percentage fluctuates from year to year as a percentage of the total work performed based on the federal program requirements.

The Department of Health has an annual contract with the U.S. Department of Health and Human Services (U.S. DHHS) to perform certification and survey functions. The activities outlined in the U.S. DHHS contract impact the amount to be recovered from the state licensure fees. Should the required U.S. DHHS contract activities overlap with the state's requirements, the state has the ability to split the cost with the federal Medicare and Medicaid programs based on common requirements of each program. In instances where the Department surveys for both federal and state licensure requirements, travel time to the provider site can be shared on a 50/50 basis with the federal program saving the state from bearing the full cost.

Survey Time Reporting forms (See Attachment A) are used by the survey staff to record time spent performing each type of survey and to document their administrative and training time. This has been done for many years and workload requirements for the annual federal programs and for state licensure activities can be projected accurately (See Attachment B for the workplan for Federal FY92). Survey time data is used when scheduling the survey staff and for developing budget proposals. The federal programs impact the state licensure fee requirements as federal dollars are recouped whenever possible. In FY91 the state percentage was reduced to 13% of the total fiscal program because the federal contract requirements more closely matched state activities performed in that fiscal year. The federal time report forms support and document our requests for federal reimbursement.

RULEMAKING PROCESS

A Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Fees was published in the *State Register*, 13 S.R. 2102, on February 27, 1989. The purpose of this notice was to notify interested parties that the Minnesota Department of Health was beginning the rulemaking process and request information and opinions from them concerning the licensing fees for accredited and non-accredited hospitals, nursing homes, boarding care homes, supervised living facilities and outpatient surgical centers. No comments were received in response to this notice.

A letter regarding this fee increase was sent on September 30, 1991, to provider and consumer organizations for hospitals, nursing homes, boarding care homes and supervised living facilities licensed under what is commonly referred to as Rule 34 and Rule 36. A letter was sent to each supervised living facility licensed under what is commonly referred to as Rule 35 and to each Outpatient Surgical Center on September 30, 1991.

SMALL BUSINESS CONSIDERATIONS

Rules that regulate hospitals, nursing homes, boarding care homes, supervised living facilities and outpatient surgical centers are exempt from the requirements concerning small business considerations, under section 14.115, subdivision 7, clause (3). However, the following information on the impact of small businesses is provided voluntarily.

This rule does not impose any changes to reporting requirements or performance standards for small businesses. Minnesota Statutes, sections 144.53 and 144A.07 require that applications for licensure be accompanied by a fee.


CONCLUSION

Based on the information provided above, it is necessary and reasonable to raise the license fees for hospitals, nursing homes, boarding care homes, supervised living facilities and outpatient surgical centers.

EXPERT WITNESSES

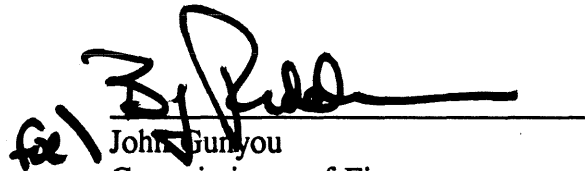
The Department does not plan to solicit outside expert witnesses to testify on behalf of the Department at the public hearing. The Department intends to have the following employees testify or be available at the hearing: Cecelia Weible, Supervisor of the Information and Analysis Section, Division of Health Resources and Sandra Abrams, Division of Health Resources. Other Department staff may substitute for the above-mentioned individuals.

January 2, 1992


Marlene E. Marschall
Commissioner

Approved by the Department of Finance under Minnesota Statutes, section 16A.128, subdivision 1a.

January 27, 1992


John Gurnoy
Commissioner of Finance

**MINNESOTA DEPARTMENT OF HEALTH
HEALTH RESOURCES INFORMATION SYSTEM
SURVEY TIME REPORTING**

Facility Name/City

I.D. No.

Survey type

HHA or HOSPICE: _____
of Home Visits

Total time of Home
Visits Only

Surveyor name/title

Surveyor
Type

Surveyor
Initials

MM DD YY

Exit Conference
Date

Presurvey

District

Travel

On Site

Documentation

Surveyor name/title

Surveyor
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Attachment B

LONG TERM CARE WORK PLAN, F.Y. 1992

Facility Survey Type	*				Federal Programs						State Program	
	No. of	No. of	Hrs per	Total	18 HOSP		18 SNF		TITLE 19		STATE	
	Facil.	Surveys	Surv.	Days	%	Days	%	Days	%	Days	%	Days
18/19 SNF & NF & Lic.	96	46	202.6	1164.7	0	0.0	28	326.1	56	652.2	16	186.4
PCR AND LOF	96	40	12.0	60.0	0	0.0	28	16.8	56	33.6	16	9.6
18/19 SNF & IMR & Lic.	4	4	136.8	68.4	0	0.0	28	19.2	56	38.3	16	10.9
PCR AND LOF	3	3	8.9	3.3	0	0.0	28	0.9	56	1.9	16	0.5
18/19 SNF & Lic.	330	165	183.7	3788.4		0.0	37	1401.7	42	1591.1	21	795.6
PCR AND LOF	330	160	11.3	226.0		0.0	37	83.6	42	94.9	21	47.5
18 SNF & Lic.	6	6	158.2	118.7		0.0	69	81.9	0	0.0	31	36.8
PCR AND LOF	6	6	8.7	6.5		0.0	69	4.5	0	0.0	31	2.0
19 SNF & Lic.	1	1	61.3	7.7		0.0	0	0.0	50	3.8	50	3.8
PCR AND LOF	1	1	5.5	0.7		0.0	0	0.0	50	0.3	50	0.3
18/19 SNF & NF	96	60	222.1	1665.6		0.0	33	549.6	67	1116.0	0	0.0
PCR	96	55	7.9	54.3		0.0	33	17.9	67	36.4	0	0.0
18/19 SNF	330	165	180.6	3725.7		0.0	50	1862.9	50	1862.9	0	0.0
PCR	330	160	9.6	192.0		0.0	50	96.0	50	96.0	0	0.0
NF & Lic. (BCH)	22	12	137.6	206.4		0.0	0	0.0	69	142.4	31	64.0
PCR AND LOF	22	12	13.4	20.1		0.0	0	0.0	69	13.9	31	6.2
NF (BCH)	22	10	130.4	163.0		0.0	0	0.0	100	163.0	0	0.0
PCR	22	10	6.1	7.6		0.0	0	0.0	100	7.6	0	0.0
IMR & LIC	360	180	65.9	1482.8		0.0	0	0.0	85	1260.3	15	222.4
PCR AND LOF	360	176	8.2	180.4		0.0	0	0.0	85	153.3	15	27.1
IMR	360	180	68.6	1543.5		0.0	0	0.0	100	1543.5	0	0.0
PCR	360	170	6.6	140.3		0.0	0	0.0	100	140.3	0	0.0
Licensing Only	160	90	48.7	547.9		0.0	0	0.0	0	0.0	100	547.9
LOF	160	85	4.4	46.8		0.0	0	0.0	0	0.0	100	46.8
Nursing Home Laboratory	1	1	19.6	2.4		0.0	50	1.2	50	1.2	0	0.0
PCR	1	1	5.6	0.7		0.0	50	0.4	50	0.4	0	0.0
State Penalty Assessment		35	10.7	46.8		0.0	0	0.0	0	0.0	100	46.8
Evacuation Difficulty Index		290	6.3	228.4		0.0	0	0.0	100	228.4	0	0.0
Complaints (federal only - Non CU)		30	10.6	39.8	33	13.1	33	13.1	33	13.1	0	0.0
Surveyor Testing And Survey Validation				42.0		0.0	50	21.0	50	21.0	0	0.0
Other		20.0	16.7	41.8		0.0	0	0.0	50	20.9	50	20.9
Consultations		4.0	13.8	6.9		0.0	0	0.0	50	3.5	50	3.5
TOTAL Long Term Care		2178		15829	0	13.1	28	4497	58	9240	13	2079
TOTAL Non Long Term Care		822		2954	93	2749	0	0	0	0	7	400
TOTAL Combined		3000.0		18784	15	2762.4	24	4496.8	49	9240	13	2479
Complaints (federal only - CU)		250.0	11.5	359.4	33	119	33	118.6	33	118.6	0	0.0

*Hours Per Survey is a statewide average which has been accumulated over several years based on actual time required in each facility type.

Non-Long Term Care Work Plan, F.Y. 1992

Facility/Survey Type	No. of Facil.	No. of Survey	Hrs per Survey	Total Days	Federal Programs						State Program	
					18 HOSP		18 SNF		TITLE 19		STATE	
					%	Days	%	Day	%	Days	%	Days
NCJAHO Hosp with Lic	63.0	13	47.0	76	50	38	0	0	0	0	50	38.2
PCR AND LOF	63.0	13	6.2	10	50	5	0	0	0	0	50	5.04
JCAHO Validation for 18	102.0	10	94.3	118	100	118	0	0	0	0	0	0
JCAHO Validation for State	102.0	10	94.3	118	0	0	0	0	0	0	100	118
PPS Surveys for Medicare	30.0	30	12.2	46	100	46	0	0	0	0	0	0
PPS Follow-ups	30.0	10	4.3	5	100	5	0	0	0	0	0	0
Swing Bed Surveys for 18	97.0	97	7.6	92	100	92	0	0	0	0	0	0
PCR	97.0	70	3.1	27	100	27	0	0	0	0	0	0
Hospital Lab	63.0	13	24.0	39	50	20	0	0	0	0	50	19.5
PCR & LOF	63.0	13	15.0	24	50	12	0	0	0	0	50	12.2
Hosp Rad. PCR & LOF	63.0	13	12.1	20	50	10	0	0	0	0	50	9.83
Independent Lab	31.0	31	24.0	93	100	93	0	0	0	0	0	0
PCR	31.0	31	15.0	58	100	58	0	0	0	0	0	0
Rural Health Facility	15.0	10	18.6	23	100	23	0	0	0	0	0	0
Portable X-ray	5.0	1	9.1	1	100	1	0	0	0	0	0	0
PCR	5.0	1	2.2	0	100	0	0	0	0	0	0	0
Home Health Agency	200.0	200	80.0	2000	100	2000	0	0	0	0	0	0
PCR	200.0	175	3.4	74	100	74	0	0	0	0	0	0
Outpatient P.T.	32.0	10	18.9	24	100	24	0	0	0	0	0	0
PCR	32.0	8	4.4	4	100	4	0	0	0	0	0	0
Outpatient O.T.	5.0	5	10.9	7	100	7	0	0	0	0	0	0
PCR	5.0	5	3.0	2	100	2	0	0	0	0	0	0
End Stage Renal Disease	35.0	9	22.6	25	100	25	0	0	0	0	0	0
PCR	35.0	9	4.3	5	100	5	0	0	0	0	0	0
Independent P.T.	75.0	10	17.2	22	100	22	0	0	0	0	0	0
PCR	75.0	10	2.6	3	100	3	0	0	0	0	0	0
Comp. Rehab. Outpt. Fac.	2.0	0	45.0	0	100	0	0	0	0	0	0	0
PCR	2.0	0	2.0	0	100	0	0	0	0	0	0	0
Hospice Cert. Only	21.0	5	40.2	25	100	25	0	0	0	0	0	0
PCR	21.0	5	7.0	4	100	4	0	0	0	0	0	0
Ambul. Surgery 18 & Lic.	12.0	2	16.3	4	50	2	0	0	0	0	50	2.04
PCR & LOF	12.0	2	4.0	1	50	1	0	0	0	0	50	0.5
Ambul. Surgery 18 Only	1.0	1	18.6	2	100	2	0	0	0	0	0	0
TOTAL Non Long Term Care		822		2954	93.1	2749					6.94	205

