

**State of Minnesota
Department of Health**

M E M O R A N D U M

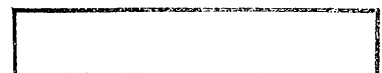
DATE: June 7, 1991
TO: Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
FROM: Sandy Abrams *Sandy Abrams*
Health Resources
PHONE: 643-2157 **FAX:** 643-2593
SUBJECT: Amendment of Rules

Enclosed is the Statement of Need and Reasonableness, Notice of Intent to Adopt a Rule Without a Hearing and a copy of the amendment of rules of the Department of Health concerning certain violations of the Residents' Bill of Rights by nursing homes, Minnesota Rules, part 4655.9340.

The Legislative Commission to
Review Administrative Rules

MAY 29 1991

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MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Amendment
of Rules of the Department of Health
Concerning Fines for Certain Violations
of the Resident's Bill of Rights by Nursing
Homes, Minnesota Rules, part 4655.9340

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

The Department of Health is required to establish a schedule of fines for violations of the nursing home licensure rules and the statutes relating to the operation of nursing homes. A schedule of fines for violations of these provisions by nursing homes is found in Minnesota Rules 4655.9300 et seq. The schedule of fines does address violations of the Resident's Bill of Rights contained in Minnesota Statutes 144.651.

In 1989, the Minnesota Legislature amended Minnesota Statutes, section 144A.10, which directed that the Department amend certain provisions of the schedule of fines to increase the fine amounts for specific provisions in the Bill of Rights. The proposed rule amends the schedule of fines to comply with this legislative mandate. It is necessary and reasonable for the Department to incorporate these legislatively mandated amendments. The specificity of the legislation does not provide the Department any discretion in altering the revised fine amounts.

LEGAL AUTHORITY

Minnesota Statutes, section 144A.10, subdivision 6d, paragraph (b), requires the Commissioner to amend the rules that establish fines for violations of certain residents' rights contained in Minnesota Statutes, section 144.651, subdivisions 18, 20, 21, 22, 27, and 30, to increase the fines to \$250.

RULEMAKING PROCESS

Because the statute does not give the Commissioner any discretion in amending the rule, no comments were solicited from the public before publishing the Notice of Intent to Adopt a Rule.

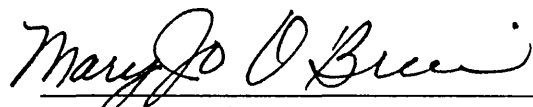
SMALL BUSINESS CONSIDERATIONS

Rules that regulate nursing homes are exempt from the requirements concerning small business considerations, under section 14.115, subdivision 7, clause (3).

EXPERT WITNESSES

If a public hearing is held on this rule, the Department does not plan to solicit outside expert witnesses to testify for the Department. The Department intends to have the following employees testify or be available at the hearing: H. Michael Tripple, Assistant Director of the Division of Health Resources, and Sandra Abrams, Division of Health Resources. Other Department staff may substitute for the above named individuals.

May 10, 1991



Mary Jo O'Brien
Acting Commissioner