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*State of Minnesota*  
***Department of Human Services***

Human Services Building  
444 Lafayette Road  
St. Paul, Minnesota 55155

July 21, 1993

Ms. Maryanne Hruby  
Executive Director, LCRAR  
55 State Office Building  
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, section 14.131, enclosed is a statement of need and reasonableness relating to Licensure of Private Agencies that Provide Child Foster Care Services and Adoption Services, Minnesota Rules, parts 9545.0755 to 9545.0845.

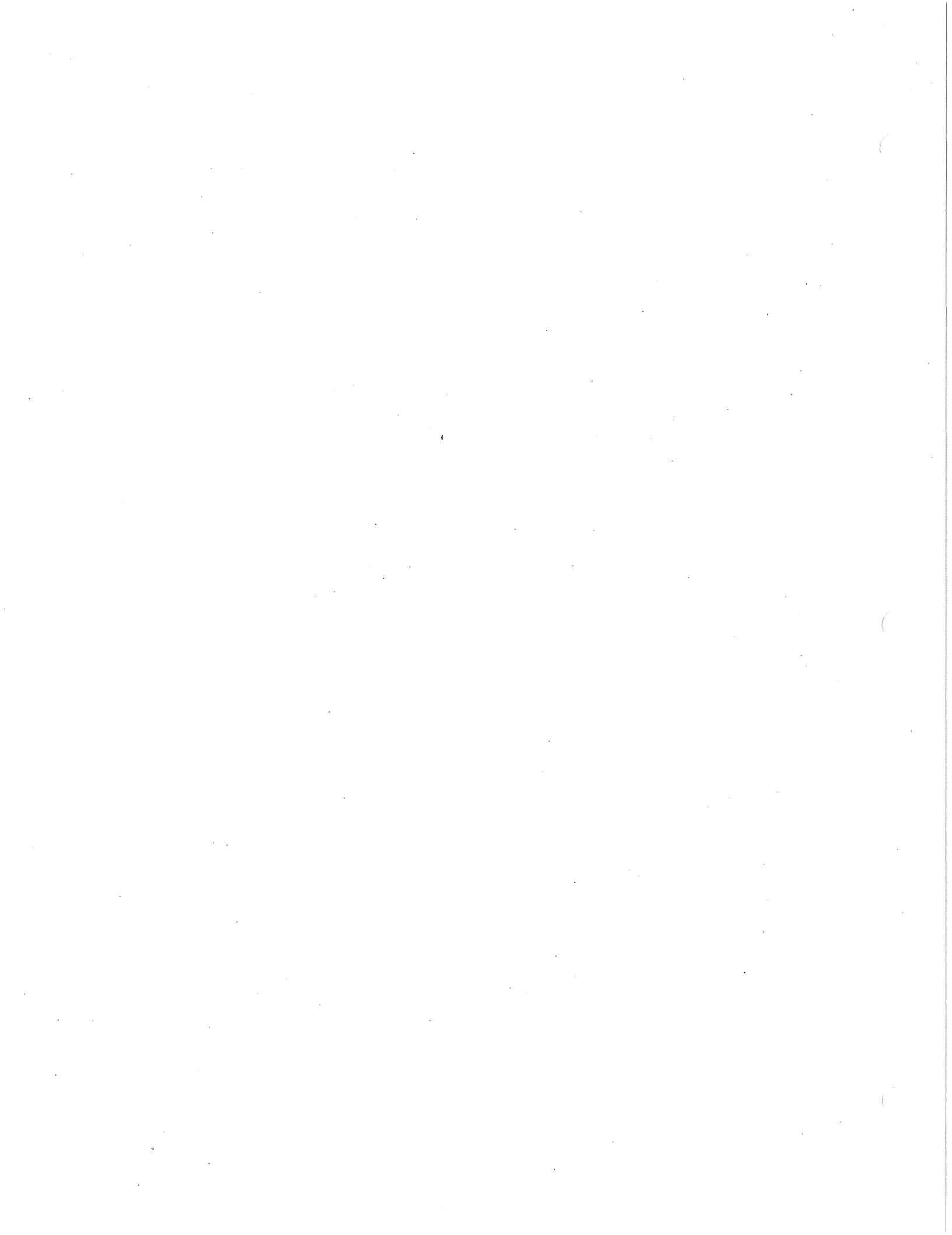
If you have any questions on the statement of need and reasonableness, please do not hesitate to contact me at 296-2794.

Sincerely,

A handwritten signature in cursive script that reads "Robert Klukas".

Robert Klukas  
Rules and Bulletins Division

Encl.



STATE OF MINNESOTA  
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption  
of Department of Human Services Rules  
Governing Licensure of Private Child-Placing  
Agencies, Minnesota Rules, parts 9545.0755  
to 9545.0845

STATEMENT OF NEED  
AND REASONABLENESS

INTRODUCTION

Proposed parts 9545.0755 to 9545.0845 repeal and replace parts 9545.0750 to 9545.0830 which were promulgated in 1957. The proposed rule parts govern Department of Human Services (DHS) licensure of private agencies that provide foster care and adoption services. On April 15, 1992 there were 45 such licensed agencies. Private agencies are known informally as Rule 4 agencies from the numbers assigned the original rule parts under the Minnesota Code of Administrative Rules (MCAR), a codification system no longer in effect.

The commissioner's authority to license private agencies is found in Minnesota Statutes, chapter 245A, the human services licensing act, and section 317A.907 governing corporations that secure or maintain homes for dependent children.

Rule 4 Agencies in Context

In Minnesota, as in most other states, both private and county social service agencies participate in recruiting, licensing, and supervising providers of child foster care. Of the 4000 licensed foster homes in Minnesota, one-fourth are supervised by private agencies and the remaining

three-fourths by counties. Parts 9543.0010 to 9543.0150, known informally as DHS Rule 13, were promulgated in 1991 to govern county and private agency administration of their foster care licensing responsibilities delegated to them by the commissioner. Those responsibilities are generally the same for county and Rule 4 agencies. Both county and private agencies, for example, evaluate prospective foster care providers and recommend to the commissioner whether a license should be granted or denied.

Both private and county agencies also perform adoption-related activities such as placing children or counseling birth parents. In providing both adoption and foster care services, the counties, as agents of the commissioner, need not be licensed while private agencies must be.

Some Rule 4 agencies provide only foster care services, almost always under contract with a county agency. Among the agencies that provide only foster care services is a subset of agencies that specialize in providing respite care and supported living services to children with mental retardation and related conditions.

Other Rule 4 agencies are primarily adoption agencies that occasionally provide short-term foster care while an adoptive placement is being arranged or an adoptive placement is disrupted.

The proposed rules must be read in conjunction with (1) Minnesota Statutes, section 317A.907 governing corporations to secure or maintain homes for dependent children; (2) Minnesota Statutes, chapter 245A, the human services licensing act; (3) Minnesota Statutes, chapters 257 and 259 governing child adoption and child custody; (4) Minnesota Rules, parts 9560.0010 to 9560.0180 governing how adoption services must be transacted; and (5) Minnesota Rules, parts 9543.0010 to 9543.0150, governing how counties and

private agencies meet delegated responsibilities related to foster care licensure.

### The Rulemaking Process

The current effort to revise Rule 4 is the third since 1986. All three efforts have been hampered at some point in their history by the department's need to reallocate assigned staff to some other priority. All three efforts also followed DHS policy of inviting representatives of affected parties to participate in rule development by serving on the advisory committee for the rule.

Notice of Solicitation of Outside Opinion for the current rulemaking activity was published April 30, 1990 in the State Register. An advisory committee, on which representatives from all licensed Rule 4 agencies, from counties, and from DHS were invited to participate, met in May, June, and July of 1990. In July of 1990 the commissioner convened a task force on child placement which was expected to address some issues relevant to Rule 4. Work on the Rule 4 draft was suspended with agreement of the advisory committee until it could reflect task force recommendations relevant to the Rule 4 committee's discussions of organizational structure and conflict of interest. When the task force report was completed in the spring of 1991, affected parts of the Rule 4 draft were reworked and the draft was distributed to committee members, several of whom also served on the child placement task force, for comment. No written comments from a member of the Rule 4 committee were received. Only one written comment requesting that licensed psychologists be included in the group of those persons eligible to do case work supervision under Rule 4 has been received since the spring of 1991.

The main effect of the child placement task force recommendations

reflected in the new Rule 4 draft of June, 1991 was to drop earlier requirements about composition of governing boards and conflict of interest to accommodate the variety of organizational structures represented by Rule 4 agencies. Those changes were consistent with the task force's work and were agreeable to the Rule 4 advisory committee.

#### SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115, subdivision 2 requires the Department to consider specific methods for reducing the impact of the proposed amendments on small businesses. However, Minnesota Statutes, section 14.115, subdivision 7, clause (3) provides that this rulemaking procedure is excepted from this requirement because it covers, "service businesses regulated by government bodies, for standards and cost," which would include the regulation of agencies providing adoption services under this rule.

Pursuant to Minnesota Statutes, section 14.115, subdivision 4, small businesses must be given the opportunity to participate in the rulemaking process. The Department will comply with this requirement by following Minnesota Statutes, section 14.115, subdivision 4, paragraph (b): Publishing in the State Register the notice of proposed rulemaking.

#### FISCAL COSTS ASSOCIATED WITH PROPOSED LANGUAGE

Because the Department's Fiscal Note anticipates that the proposed amendments will not require local public bodies to expend public money in either of the two years immediately following adoption of the rule, Minnesota Statutes, section 14.11, subdivision 1 is not applicable.

## AGRICULTURAL LANDS

Because the proposed rule language does not have a direct and substantial adverse impact on agricultural land in Minnesota, Minnesota Statutes, section 14.11, subdivision 2 is not applicable.

## NEED AND REASONABLENESS OF SPECIFIC PROVISIONS

The specific provisions of proposed parts 9545.0755 to 9545.0845 are affirmatively presented by the department in the following statement of need and reasonableness as required by Minnesota Statutes, section 14.131.

### 9545.0755 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Stating the purpose of the rule parts is necessary so that those consulting the rule parts can readily determine whether the rules have relevance or interest. The statement of purpose given is reasonable because it places the rule parts in statutory context and summarizes the functions served by the rule parts.

Subp. 2. **Applicability.** Identifying agencies governed by the rule parts is necessary to facilitate compliance; both those governed by and those administering compliance with the rule need to know which agencies must be licensed. Minnesota Statutes, section 245A.02, subdivision 12 defines a private agency as any individual, corporation, partnership, voluntary association, other organization, or controlling individual that receives a child for care, supervision, or placement in foster care or adoption or helps plan the placement of a child in foster care or adoption. It is reasonable to use an agency's performance of a function or activity that supports the receiving or planning function noted above as an indicator that the agency

should be licensed. Specifically, items A to H are reasonable to use as indicators that licensure is required for the reasons given below.

Items A and B describe the only arrangements under which foster care placement or planning can legally occur in Minnesota. If an agency performs any one of the functions shown, it is reasonable to infer that it performs activities that require licensure for provision of foster care services. In addition, providing or arranging for short-term foster care before an adoptive placement or after a placement is disrupted would only be necessary if the agency were trying to place a child for adoption or help plan the child's adoption.

Item C. Placing a child for adoption under a written agreement specified in Minnesota Statutes, section 259.25 or as a legal guardian under Minnesota Statutes, section 260. 242 describes the statutory process for placing a child for adoption and thus is a reasonable description of an agency that requires licensure, because it is placing a child or helping plan an adoption.

Item D. The activities involved in compiling and making available a list which connects birth parents to potential adoptive parents is an adoption planning activity, because it identifies specific placement choices for the birth parent and its purpose is to bring the birth parent together with a prospective adoptive parent to achieve an adoption. A controlling individual who helps plan the placement of a child for adoption must be licensed according to Minnesota Statutes, section 245A. 03, subdivision 1, (3).

Item E. Assisting birth parents or prospective adoptive parents with fulfilling the requirements of Minnesota Statutes, sections 257.40 to 257.48 is a reasonable indicator of an agency that requires licensure because



helping a parent meet the requirements of the Interstate Compact on the Placement of Children would occur only in the context of helping plan the placement of a child for adoption.

Item F. Collecting health and social history on behalf of prospective adoptive parents to assist them to accept and incorporate the child into the family is a reasonable indicator of an agency that requires licensure because the collecting constitutes helping plan the placement of a child for adoption.

Item G. Studying the suitability of an adoptive applicant's home is a reasonable indicator that the agency requires licensure because studying suitability would occur only in the context of helping to plan the placement of a child for adoption.

Item H. Assisting birth parents to execute consents to adoption, is part of helping plan the placement of a child for adoption, as such, it is a reasonable indicator that an agency requires licensure, because this action would not be taken in a context other than the adoption process.

#### 9545.0765 DEFINITIONS.

This rule part defines words and phrases that have a meaning specific to parts 9545.0755 to 9545.0845, that may have several possible interpretations, or that need exact definitions to be consistent with statute.

Subpart 1. Scope. This provision is needed to clarify that the following definitions apply to the entire sequence of parts 9545.0755 to 9545.0845.

Subp. 2. Agency. This definition is necessary to clarify the meaning of a term that could have several possible interpretations. The definition

given is reasonable because it clarifies which interpretation applies.

Subp. 3. **Applicant.** This definition is necessary because the term defined needs exact definition to be consistent with statute. The definition given is reasonable because it is consistent with the term as defined in Minnesota Statutes, section 245A.02, subdivision 3.

Subp. 4. **Commissioner.** This definition is needed to establish that the commissioner referred to throughout the rule parts is the commissioner of human services or that commissioner's designated representative. It is reasonable for the definition of commissioner to include "or the commissioner's designee" by way of giving notice that a delegation of authority by the commissioner may occur. Substituting "the commissioner" for "the commissioner of human services" promotes brevity and clarity in the rule parts.

Subp. 5. **Controlling individual.** This term has a specific meaning in statute and requires definition here to be consistent with statute. Referencing the applicable statute is a reasonable way to define the term.

Subp. 6. **Department.** This definition is necessary to specify that the term as used throughout the rule parts is a shortened version of the Minnesota Department of Human Services.

Subp. 7. **License.** This term has a specific meaning in statute and requires definition here to be consistent with statute. Referencing the applicable statute is a reasonable way to define the term.

Subp. 8. **Private agency.** This definition is necessary because the term needs exact definition to be consistent with statute. The definition given is reasonable because it is the same as the term defined in Minnesota Statutes, section 245A.02, subdivision 12.

Subp. 9. **Variance.** This definition is necessary to define a term that may have several possible interpretations. The definition given is reasonable because it establishes the exact meaning of the term by referencing Minnesota Statutes, section 245A.04, subdivision 4, and it is consistent with the requirement in Minnesota Statutes, section 14.05, subdivision 4.

Subp.10. **Volunteer.** This term requires definition because the rules state certain conditions that apply to volunteers. Those administering and those consulting the rules need to know the meaning of volunteer in order to know when the conditions apply. The word "compensated" is used in the definition to broadly refer to all forms of remuneration or payment made by an agency to an individual for services rendered, because it is necessary to clearly state that a volunteer may not receive any payment for services rendered. The definition given is reasonable because it differentiates between volunteers and staff.

9545.0775 LICENSURE.

Subpart 1. **License required.** Minnesota Statutes, section 245A.03, subdivision 1 requires licensure of agencies governed by these rule parts. It is reasonable to give notice to affected parties that they must be licensed.

Subp. 2. **Application for licensure.** It is necessary for applicants to apply for licensure in the manner prescribed by the commissioner because Minnesota Statutes, section 245A.04, subdivision 1 requires it.

Subp. 3. **License option.** Classifying the differing kinds of agencies licensed under the rules by the function they perform is necessary to facilitate the appropriate licensure of each individual agency. It is reasonable to base the classification on function because the differences in functions are matched to a corresponding difference in licensure. The DHS

licensing division might, for example, develop one kind of check list to monitor compliance by providers of foster care services only and another for providers of adoption services only. Because the commissioner is responsible for the health and safety of children, it is necessary to require the agency to indicate how it will arrange for needed licensed foster care if an adoptive placement is disrupted. If the agency itself is not prepared to arrange for foster care, then the commissioner needs to know the alternative arrangements the agency will make.

Subp. 4. Notice to commissioner. It is necessary for the commissioner to receive notice of the actions listed in items A to D because the actions affect the commissioner's right of access established by Minnesota Statutes, section 245A.04, subdivision 5. It is reasonable to require 30 days advance notice to enable the commissioner to make necessary changes in the licensing records by the time the change is in effect. In the case of an agency's closing, the 30 days advance notice is necessary to allow the commissioner to monitor implementation of agreements and provisions the agency has made for transferring its clients and records under part 9545.0845.

Subp. 5. Commissioner's right of access. The commissioner's right of access is established by Minnesota Statutes, section 245A.04, subdivision 5. It is reasonable for the rule to give notice of the commissioner's right so that license holders are aware they will need to cooperate. It is also reasonable to reference the statute rather than repeat it as a means of shortening the rule.

Subp. 6. Single license for multiple locations. As indicated by Minnesota Statutes, section 245A.04, subdivision 7, the commissioner typically licenses each site where a regulated activity occurs even if the same

organization is responsible for the activity. The regulated activity is typically a program which provides care or services so that each site needs to be inspected individually to determine whether health, safety, and program standards are being met. Health and safety standards are not an issue in the sites governed by parts 9545.0755 to 9545.0845 so licensure of each site is not necessary. It is therefore reasonable to issue one license which applies to all locations where an agency might have an office or records.

Explicitly stating that an agency with more than one office or record storage site will be issued only one license is necessary to avoid the confusion that could arise because this option departs from the customary practice.

Subp. 7. **Variations.** This provision is necessary to give notice to those governed by and those administering the rule parts that an applicant or license holder has the right to request a variance. It is reasonable to reference rather than repeat the applicable statute to shorten this rule.

#### 9545.0785 AGENCY GOVERNANCE AND ADMINISTRATION.

Subpart 1. **Office within Minnesota.** Requiring an agency licensed by the commissioner to conduct its activities from an office located in Minnesota is necessary because of the requirement in Minnesota Statutes, chapter 317A, that each corporation licensed under chapter 317A maintain a registered office in Minnesota. The requirement is reasonable because it ensures the commissioner has jurisdiction over and access to activities the commissioner licenses and is responsible for monitoring.

Subp. 2. **Space requirements.** This provision is necessary to give notice of the commissioner's expectation that the responsibilities for

confidentiality assigned to child-placing agencies by Minnesota Statutes, chapters 257, 259, and 260 will be reflected in the agencies' use of space. The expectation stated is reasonable because it is consistent with common practice in the field and is directly related to the effectiveness of the agency's practice.

Subp. 3. **Legal organization.** The requirements in this provision are necessary because they are based on requirements in Minnesota Statutes, chapters 303 and 317A governing corporations and nonprofit corporations.

Subp. 4. **Conflict of interest.** This provision is necessary to indicate that the department and the advisory committee did consider conflict of interest in revising the rule and did determine that the language proposed is adequate to address the issue. The indication is necessary because conflict of interest was an issue with private agencies in 1989 when the department proposed legislation that would have restricted private agencies' involvement in the licensing process. The proposed restriction reflected the department's concern that an agency's interest in having providers available to accept foster care placements that generate income for the agency is potentially in conflict with an agency's responsibility to monitor, supervise, and recommend negative licensing actions if necessary.

The legislation was defeated and the department has since promulgated parts 9543.0010 to 9543.0150, affirming the role private agencies in Minnesota have historically taken in licensing foster care. Part 9543.0130, subpart 4 of those rules addresses conflict of interest as it applies to employees or board members of agencies that provide foster care services. It is reasonable to reference part 9543.0130 here because it applies and governs. Requiring all agencies to have written policies indicating situations and behaviors the

agency prohibits as posing a conflict of interest was suggested by the advisory committee as being consistent with the accrediting standards the agencies follow. The department adopted the suggestion as reasonable.

9545.0795 AGENCY FINANCES.

Subpart 1. **Funding plan.** Requiring agencies to submit funding plans is necessary for the commissioner to conduct the studies, evaluations, and inspections required by Minnesota Statutes, section 245A.04. The information required is reasonable because it gives the commissioner a basis for determining whether applicants for licensure are financially viable. Financial viability is linked to the safety, health, and welfare of children being placed in foster care or adoption; an agency on shaky financial ground might be less influenced by the best interest of the child than by its own financial situation in determining whether to recommend foster parents for licensure or place a child with an adoptive applicant. Recommending a foster parent for licensure is potentially income producing because the agency has added to its capacity to accept children for foster care and thus to its capacity to generate the per diem rates paid the agency by the child's parent or legal custodian. Placing a child for adoption is potentially income producing because the agency is paid a fee by the prospective adoptive family.

It is particularly necessary for the commissioner to assess the financial viability of applicants for initial licensure to provide adoption services. Minnesota Statutes, section 317A.907, subdivision 6(b) prohibits an organization, association, or society licensed by the commissioner from accepting expense reimbursement from adoptive parents during the first 12

months of the agency's licensure. The commissioner, then, must be able to assess the applicant's ability to operate for a year without fees.

It is reasonable for the department to require all agencies to make projections for a year because fiscal planning is typically done on a yearly basis.

Subp. 2. **Explanation of fees.** Requiring applicants to give prospective clients written information about fees and to submit that material with their applications is necessary so the commissioner can fulfill the duties referenced above under Minnesota Statutes, sections 245A.04 and 317A.907.

The requirements for written material established in items A, B, and C are reasonable because they request only the information necessary to inform clients what to expect. It is reasonable to require, as item D does, that the material carry a signed statement from clients that they have read and understood the information, as the signed statement provides evidence of compliance. It is also reasonable to apply item D only to individuals as opposed to counties and agencies, because counties and agencies would use a legal instrument such as a contract to indicate their understanding of fees and services.

3. **Accounting of adoption expenses and fees.** Minnesota Statutes, section 317A.907, subdivision 6 requires an accounting of adoption expense reimbursement received by agencies licensed by the commissioner. The proposed rule provision is necessary to give notice that the commissioner will provide a reporting form. Providing the form in turn is necessary to give specificity to the general language of the statute. Further requiring agencies to make costs available on a case by case basis if requested is necessary to give the commissioner the option of comparing individual cases with the total



accounting if there are questions about an agency's fees.

9545.0805 PERSONNEL.

Subpart 1. Supervision by a licensed independent social worker or independent clinical social worker. Requiring supervision by a person with the qualifications and designation defined in Minnesota Statutes, section 148B.21, i.e., an experienced professional with a master's degree in social work (MSW), is reasonable because it is consistent with standards applicable to social work, maintains the level of supervision required by the present rule governing child-placing agencies, and is consistent with standards of accrediting agencies. The requirement was also strongly endorsed by most members of the advisory committee for the reasons noted above.

Allowing the requirement to be met in one of the ways listed in items A to D is reasonable because it recognizes that agencies with differing characteristics need to have flexibility in complying with rule standards. Any one of the three options is reasonable because it accomplishes the goal of involving a professional who is qualified by a specified level of training and experience to be responsible for the quality of case work performed by the agency. Item C, in particular, is reasonable because it allows agencies to provide supervision by an experienced licensed MSW without having to fill a full-time position with a person at this level. This flexibility is particularly helpful to smaller agencies with smaller budgets.

Subp. 2. Orientation. Requiring orientation on the material in items A and B is necessary to help ensure that new employees and volunteers are aware of and can comply with requirements mandated by Minnesota Statutes. Requiring

that the orientation be completed within five working days of starting is reasonable because it keeps the time of unawareness as brief as possible.

Subp. 3. **Annual training.** Requiring agencies to provide or arrange for the provision of training is necessary to help ensure that paid staff and volunteers have some opportunity to increase knowledge, skills, and awareness that support the quality of services offered and the safety of clients served. The advisory committee approved a minimum standard of at least 12 hours annually because the 12-hours-per-year requirement is consistent with those in other department rules and with accrediting standards. Referencing the emphasis in Minnesota Statutes, section 257.072, subdivision 7 is a reasonable way to promote compliance with the statutory requirement.

9545.0815 DESCRIPTION OF AGENCY PROGRAM AND SERVICES.

The written information required by this provision is necessary to help the commissioner conduct the evaluation required by Minnesota Statutes, section 245A.04, subdivision 6 and to help prospective foster parents or adoptive parents or counties that may contract with the agency know the agency's services and values. The commissioner's authority to require agencies to be self-disclosing to the public about philosophy and services can be inferred from the authority given the commissioner in Minnesota Statutes, section 317A.907, subdivision 2 to attest that agencies are reputable and trustworthy. The nature of the information required in items A to G is reasonable because it addresses points on which informed choice can be made, both by the commissioner in evaluating for licensure and by individuals or counties considering working with the agency.

9545.0825 FOSTER CARE PLACEMENT SERVICES.

Subpart 1. If agency has authority to place child in foster care. Minnesota Statutes, section 260.191, subdivision 1 specifies that private child placing agencies and county welfare boards or human service agencies can receive children under protective supervision or receive legal custody of a child. Minnesota Statutes, sections 317A.907, subdivision 5 and 260.242, subdivision 1 indicate that a private agency licensed by the commissioner may become the guardian of a child. Standards that counties must meet when they have legal custody or are making a voluntary placement are specified in part 9560.0540, subparts 2 and 3. No standards are set in part 9560.0540, however, for private child-placing agencies. This provision is necessary to state explicitly what a private agency's responsibilities are when it has the legal authority to place a child in foster care. It is reasonable to assign private agencies the same responsibilities as counties when the private agency stands in the same relationship to a child as the county typically does. It is also reasonable to reference the rule parts citing the responsibilities rather than duplicate them here as a means of shortening the rule.

Subp. 2. Providing foster care services under contract with a county. This provision is necessary to clarify the standards that govern when an agency contracts with a county so those administering and those affected by the rule parts know the standards. It is reasonable to require compatibility with the case plan required in part 9560.0610 because the county hires the agency to provide services that flesh out the case plan.

Subp. 3. Child's record. Requiring a record for each child supervised in foster care is necessary to meet the requirements of Minnesota Statutes, section 257.01 and to provide a centralized repository for information that is

needed by the placing agency, the supervising agency, and the commissioner. It is reasonable to require service plans and case plans that are not specified in Minnesota Statutes, section 257.01 but are needed to track the provision of service to the child. Requiring this information is within the authority given the commissioner in Minnesota Statutes, section 257.01 to require "further demographic and other information as is required by the commissioner of human services."

9545.0835 ADOPTION PLACEMENTS.

Subp. 1. Record of child's background and history. Requiring a record that includes the information requested is necessary to meet the minimum amount of information an agency is required to have by Minnesota Statutes, section 257.01.

Subp. 2. Study of applicants to adopt. Requiring agencies to study applicants or persons who want to adopt children is necessary both to protect children and to encourage a good "fit" between child and adoptive parent. In the interest of brevity, it is reasonable to reference part 9560.0140, which governs suitability studies in the department rules governing adoptions, as the standard for doing a study rather than restate the standards.

Subp. 3. Adoption-related foster care. This provision is necessary to clarify for affected parties that the exclusion in Minnesota Statutes, section 245A.03, subdivision 2(9) does not apply in the situations described in subpart 3. Section 245A.03, subdivision 2(9) exempts from licensure homes where the agency places a child for adoption with the expectation that the prospective adoptive parents in that home will legally adopt the child within two years of the beginning of the placement. It is necessary to require

licensure of homes where children awaiting adoption are placed for short-term foster care because Minnesota Statutes, section 245A.03 requires licensure of an individual or organization that provides 24-hour-a-day out-of-home care. It is reasonable to clarify statutory requirements as a means of facilitating compliance.

9545.0845 PLAN FOR TRANSFER OF RECORDS.

Requiring agencies to plan for the transfer of records is necessary to protect agency clients from lost records and lapsed services if the agency were to close. It is reasonable for the commissioner to attempt to reduce the likelihood of lost records and lapsed services because of the commissioner's obligations as regulator of private agencies and as protector of the welfare of children served by the agencies. It is also reasonable for the commissioner to require agencies to submit their plans both to demonstrate their compliance and to provide information the commissioner would need if an agency closed.

A. Providing for transferring clients, and the agency records concerning them, is necessary to facilitate follow through on the delivery of services on which the closed agency and the client have agreed and for which partial payment may have been made. It is reasonable for the commissioner to require such planning since it is the commissioner whose stamp of approval via license allows the agency to be in the business of providing services.

B. Requiring plans for the transfer of closed adoption records is necessary and reasonable for the reasons given above and because of the requirement in Minnesota Statutes, section 259.46 that all adoption records must be retained on a permanent basis under a protected record system which ensures confidentiality and lasting preservation.

EXPERT WITNESSES

If a public hearing on this rule is necessary, the Department does not intend to have outside expert witnesses testify on its behalf.

Date: 28 June 93

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Natalie Haas Steffen

Commissioner of Human Services