

Minnesota Department of Veterans Affairs

Minnesota Veterans Homes

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received.

Proposed Amendments to Rules Governing Minnesota Department of Veterans Affairs, Minnesota Veterans Homes, *Minnesota Rules*, Chapter 9050; Revisor's ID Number R-4384.

Plain English Summary. This Dual Notice is the Minnesota Department of Veterans Affairs' (MDVA) legal notice of its intent to adopt amendments to its Rules governing the Minnesota Veterans Homes. The proposed amendments to the Veterans Homes rules are about admissions, discharges, and billing affecting residents of the Minnesota Veterans Homes. The nature of the proposed rule amendments to Minn. R. 9050.0040 - 9050.1090 is to continue to further clarify the authoritative basis for the internal functioning and operation of the Minnesota Veterans Homes. These proposed rules comprise the practices currently used at the Minnesota Veterans Homes, as well as practices that will be implemented upon the promulgation of these rules, and are based upon preexisting state rules and laws.

This notice provides an opportunity for the public to comment on the proposed rules. Anyone who would like to comment on the proposed rule language must submit written comment or a written request for a hearing on the proposed rules by the deadline identified below. The Subject of Rules section provides additional information about the proposed rules. If the proposed rules affect you in any, the MDVA encourages you to participate in the rulemaking process.

Introduction. The MDVA intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules **by 4:30 p.m. on November 23, 2021** (date comment period ends), the MDVA will hold a public hearing virtually via Microsoft Teams. The following information includes the website links, conference ID and an alternative meeting phone number for individual unable to access via the internet to allow all access and participation in the virtual hearing.

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Join with a video conferencing device

mn@m.webex.com

Video Conference ID: 118 862 905 9

[Alternate VTC instructions](#)

Or call in (audio only)

+1 651-395-7448 United States, St. Paul

Phone Conference ID: 264 561 304#

An Administrative Law Judge (ALJ) will conduct the hearing starting at **9:30 am on Tuesday, December 7, 2021**. The hearing will continue until all parties have been heard or until the ALJ adjourns it. To find out whether the MDVA will adopt the rules without a hearing or if it will hold the hearing, you should contact the MDVA contact person after **November 23, 2021** and before **December 7, 2021**.

Subject of Rules. The MDVA proposes to amend Minnesota Rules, chapter 9050. The proposed rules establish the necessary regulations governing the veterans homes in Minnesota under the operation of the MDVA. The rules are needed to effectively determine eligibility and suitability for admission to the Minnesota Veterans Homes facilities; to identify and define grounds on which a resident of a Minnesota Veterans Homes facility shall be discharged and to establish a method by which such discharge shall be effected; to clarify the method by which cost of providing care is calculated; to establish an objective and equitable method to determine the amount paid by the resident for services provided by the facility; to provide notice of admission requirements, eligibility standards, financial obligations, service obligations and information which must be disclosed to or by the Minnesota Veterans Homes facilities, and the requirements of disclosure.

The proposed rules:

- Add new or modify existing definitions.
- Confirm compliance with statutory changes by making technical corrections to existing rule language.
- Clarify repayment options; bed hold requirements; the discharge process including the addition of an immediate discharge process; and the cost of care calculation.
- Update income and property allowances for board and care residents; and Health Insurance Portability and Accountability Act (or HIPAA) requirements.
- Provide new rules for the adult day health care program and pharmaceutical services.

Availability of Rules. The proposed rules are published in the *State Register* after this notice, or they can be viewed on the MDVA's Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp>. A free copy of the rules is also available upon request from the MDVA contact person identified below.

Statement of Need and Reasonableness. The statement of need and reasonableness (SONAR) summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The SONAR is available on the MDVA's Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp>. A print copy is available for the cost of reproduction by contacting the MDVA contact person identified below.

Public Comment. You have until **Tuesday, November 23, 2021**, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the deadline. Submit written comments to the Office of Administrative Hearings Rulemaking eComments website at <https://minnesotaoah.granicusideas.com>. If it is not possible to use the eComments website, comments may be submitted in person, via United States mail, or by facsimile addressed to ALJ Jessica Palmer-Denig at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, MN 55164-0620 or at 651-539-0310 (fax). Any questions about submitting comments via the eComments website should be directed to Denise Collins, Office of Administrative Hearings, telephone 651-361-7875 and denise.collins@state.mn.us. All comments received are public and will be available for review at the Office of Administrative Hearings, and on the [MDVA's Rulemaking Docket](https://mn.gov/mdva/about/reports.jsp) website at <https://mn.gov/mdva/about/reports.jsp>.

Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

Modifications. The MDVA may modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. The modifications must be supported by comments and information submitted to the MDVA or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the MDVA follows the procedure under *Minnesota Rules*, part 1400.2110.

Request for a Hearing. In addition to submitting comments, you may also request that the MDVA hold a hearing on the proposed rules. You have until **4:30 p.m. on Tuesday November 23, 2021**, to submit your written request for a hearing to the Office of Administrative Hearings rulemaking eComments website at <https://minnesotaoah.granicusideas.com>. If it is not possible to use the eComments website, a hearing request may be submitted in person, via United States mail, or by facsimile addressed to ALJ Jessica Palmer-Denig at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, MN 55164-0620 or at 651-539-0310 (fax). Your written request for a public hearing must include your name and postal address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the MDVA cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the MDVA will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the MDVA must give written notice of this to all persons who requested a hearing, explain the actions the MDVA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MDVA will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The MDVA reserves the option to remove any section of the rule that

may be controversial and to proceed without a hearing on the noncontroversial part of the proposed rules.

Cancellation of Hearing. The MDVA will cancel the hearing scheduled for **December 7, 2021**, if the MDVA does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the MDVA will notify you before the scheduled hearing whether the hearing will be held. You may also call the MDVA contact person identified below after **November 23, 2021** to find out whether the hearing will be held. On the scheduled day, you may check for whether the hearing will be held by checking the MDVA's Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp>.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the MDVA will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The MDVA will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard or until the ALJ adjourns it. ALJ, the Honorable Judge Jessica Palmer-Denig is assigned to conduct the hearing. Judge Jessica Palmer-Denig's legal assistant, Michelle Severson, can be reached at the Office of Administrative Hearings 600 North Robert Street, P.O. Box 64620, Saint Paul, MN 55164-0620, telephone 651-361-7874 and fax 651-539-0310 or at Michelle.Severson@state.mn.us.

Hearing Procedure. If the MDVA holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the ALJ to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the ALJ may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the MDVA and any interested person may respond in writing to any new information submitted. No one may submit new evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the ALJ via the Office of Administrative Hearings rulemaking eComments website at <https://minnesotaoah.granicusideas.com> no later than 4:30 p.m. on the due date. If using the eComments website is not possible, you may submit post-hearing comments in person, via United States mail, or by facsimile addressed to ALJ Jessica Palmer-Denig at the address or facsimile number listed in the Notice of Hearing section above.

All comments or responses received will be available for review on the MDVA Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp>. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. You may direct questions about the procedure to the ALJ.

Adoption Procedure if No Hearing. If no hearing is required, the MDVA may adopt the rules after the end of the comment period. The MDVA will submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the MDVA submits the rules to the Office of Administrative Hearings. If you want to

receive notice of this, to receive a copy of the adopted rules, or to register with the MDVA to receive notice of future rule proceedings, submit your request to the MDVA contact person listed below.

Adoption Procedure after a Hearing. If a hearing is held, after the close of the hearing record, the ALJ will issue a report on the proposed rules. You may ask to be notified of the date that the ALJ's report will become available, and can make this request at the hearing or in writing to the ALJ. You may also ask to be notified of the date that the MDVA adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the MDVA contact person listed below.

Statutory Authority. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 196.04, 198.003 and *Minnesota Statute*, section 14.06(a).

MDVA Contact Person. The MDVA contact person is Dale Klitzke at the MDVA, 20 West 12th Street, Saint Paul, MN 55155, telephone 612-548-5706. Email: dale.klitzke@state.mn.us. You may also call the MDVA at 651-296-2562.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact Terri Curtis at the Minnesota Department of Veterans Affairs, 20 West 12th Street, St. Paul, MN 55155 telephone 612-548-5888 or email: Diversity.MDVA@state.mn.us.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, MN 55155, telephone 651-539-1180 or 1-800-657-3889.

October 1, 2021

Date


Larry Herke, Commissioner
Minnesota Department of Veterans Affairs