

CHAPTER 8840
DEPARTMENT OF TRANSPORTATION
TRANSPORTATION FOR ELDERLY, DISABLED

OPERATING STANDARDS			
8840.5100	DEFINITIONS.	8840.5910	DRIVER AND ATTENDANT TRAINING REQUIREMENTS.
8840.5300	SCOPE.	8840.5925	VEHICLE EQUIPMENT.
8840.5400	COMPLIANCE.	8840.5940	VEHICLE CONSTRUCTION STANDARDS.
8840.5450	RESTRICTIONS ON NAME AND DESCRIPTION OF SERVICE.	8840.5950	STANDARDS FOR OPERATION OF VEHICLES.
8840.5500	CERTIFICATION.	8840.5975	STANDARDS FOR MAINTENANCE.
8840.5600	RENEWAL.	8840.6000	INSURANCE.
8840.5650	ANNUAL EVALUATION.	8840.6100	RECORDS.
8840.5700	INSPECTION.	8840.6200	CERTIFICATION OF TRAINING COURSES.
8840.5800	ENFORCEMENT.	8840.6250	AUDIT OF COURSES.
8840.5900	DRIVER QUALIFICATIONS.	8840.6300	VARIANCE.

8840.0100 [Repealed, L 1997 c 143 s 20]

8840.0200 [Repealed, L 1997 c 143 s 20]

8840.0300 [Repealed, L 1997 c 143 s 20]

8840.0400 [Repealed, L 1997 c 143 s 20]

8840.0500 [Repealed, L 1997 c 143 s 20]

8840.0600 [Repealed, L 1997 c 143 s 20]

8840.0700 [Repealed, L 1997 c 143 s 20]

8840.0800 [Repealed, L 1997 c 143 s 20]

8840.0900 [Repealed, L 1997 c 143 s 20]

8840.1000 [Repealed, L 1997 c 143 s 20]

8840.1100 [Repealed, L 1997 c 143 s 20]

8840.1200 [Repealed, L 1997 c 143 s 20]

8840.1300 [Repealed, L 1997 c 143 s 20]

OPERATING STANDARDS

8840.5100 DEFINITIONS.

Subpart 1. **Ambulance.** "Ambulance" has the meaning given to it in Minnesota Statutes, section 144E.001, subdivision 2.

Subp. 2. **Attendant.** "Attendant" means a person who assists in the transportation of passengers in special transportation service vehicles, but who does not drive the vehicle.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of transportation.

Subp. 4. **Common carrier.** "Common carrier" means a "regular route common carrier" as defined in Minnesota Statutes, section 221.011, subdivision 9.

Subp. 5. **Disabled.** "Disabled" means handicapped.

Subp. 6. **Elderly.** "Elderly" means age 55 and older.

Subp. 7. **Handicapped.** "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

MINNESOTA RULES 2001

8840.5100 TRANSPORTATION FOR ELDERLY, DISABLED

684

Subp. 8. **Major life activities.** "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Subp. 9. **Motor vehicle.** "Motor vehicle" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 3.

Subp. 10. **Municipality.** "Municipality" has the meaning given to it in Minnesota Statutes, section 466.01, subdivision 1.

Subp. 11. **Person.** "Person" means every natural person, firm, partnership, corporation, association, and body politic.

Subp. 12. **Physical or mental impairment.** "Physical or mental impairment" means any physiological disorder or condition or anatomical loss, any mental or psychological disorder, and specific learning disabilities and includes but is not limited to such diseases and nonacute conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction, and alcoholism.

Subp. 13. **Provider.** "Provider" means a public or private entity or person who operates special transportation service vehicles.

Subp. 14. **Regular basis.** "Regular basis" means providing more than an average of 12 round trips per month in any calendar year in a single vehicle or transporting more than 30 passengers per month, whichever is less.

Subp. 15. **School bus.** "School bus" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 6.

Subp. 16. **Semiambulatory.** "Semiambulatory" means having the ability to walk with difficulty or with the aid of an artificial limb or personal assistance device such as a brace, a cane, a crutch, or a walker.

Subp. 17. **Special transportation service.** "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, or disabled and who are unable to use regular means of transportation.

Subp. 18. **State.** "State" has the meaning given to it in Minnesota Statutes, section 3.732, subdivision 1, clause (1).

Subp. 19. **Variance.** "Variance" means permission to comply in a manner other than that specified.

Subp. 20. **Vehicle.** "Vehicle" means a motor vehicle used to provide special transportation service.

Statutory Authority: *MS s 174.30*

History: *17 SR 634; L 1997 c 199 s 14*

8840.5200 [Repealed, 17 SR 634]

8840.5300 SCOPE.

Subpart 1. **Service criteria.** Except as provided in subparts 2 and 3, the standards set forth in parts 8840.5100 to 8840.6300 apply to special transportation service as defined in part 8840.5100 and provided by a person receiving grants or other financial assistance from the state or federal government, or both, to provide or assist in providing the service.

Subp. 2. **Care facilities.** The standards set forth in parts 8840.5100 to 8840.6300 apply to nursing homes licensed under Minnesota Statutes, section 144A.02, boarding care facilities licensed under Minnesota Statutes, section 144.50, and day care and group home facilities licensed under Minnesota Statutes, chapter 245A:

A. the facility or program provides special transportation as described in subpart 1;

B. the facility or program transports nonresidents on a regular basis; and

MINNESOTA RULES 2001

685

TRANSPORTATION FOR ELDERLY, DISABLED 8840.5500

C. the facility receives reimbursement other than per diem payments for that service under rules promulgated by the commissioner of human services.

Subp. 3. **Exemptions.** The standards in parts 8840.5100 to 8840.6300 do not apply to transportation provided by:

A. a common carrier operating on fixed routes and schedules;

B. a volunteer driver using a private automobile that belongs to the volunteer;

C. a school bus as defined in Minnesota Statutes, section 169.01, subdivision 6; or

D. an ambulance providing ambulance service regulated under Minnesota Statutes, chapter 144. However, these standards apply to ambulances when they are providing special transportation services.

Statutory Authority: *MS s 174.30*

History: *L 1984 c 654 art 5 s 58; L 1987 c 209 s 39; 13 SR 1448; 17 SR 634*

8840.5400 COMPLIANCE.

Subpart 1. **Certificate of compliance required.** No person shall provide special transportation service without a current annual certificate of compliance issued by the commissioner. No vehicle may be used to provide special transportation service until it has been inspected as required by part 8840.5700 and Minnesota Statutes, section 299A.14. However, when a certified provider acquires a newly manufactured vehicle from a factory or factory-authorized dealer and it is not equipped with a wheelchair securement device, the vehicle may be used to provide special transportation service if it is inspected as required by part 8840.5700 within 30 days of its receipt by the provider.

A. A certificate of compliance shall be issued when the standards set forth in parts 8840.5100 to 8840.6300 have been met.

B. A certificate of compliance shall be issued to a provider who transports an occupied wheelchair in a vehicle only if the vehicle has been issued a current numbered certificate by the commissioner of public safety pursuant to Minnesota Statutes, section 299A.14.

Subp. 2. **Ambulance service license required.** No special transportation service provider shall provide, offer to provide, or represent itself as capable of providing ambulance service unless it is licensed as required by Minnesota Statutes, section 144E.10.

Statutory Authority: *MS s 174.30*

History: *L 1987 c 209 s 39; 17 SR 634; L 1997 c 199 s 14*

8840.5450 RESTRICTIONS ON NAME AND DESCRIPTION OF SERVICE.

A special transportation service provider subject to Minnesota Statutes, section 174.30, shall not use, in its name or in advertisements or information describing the service, the words "medical," "emergency," "life support," "ambulance," or other forms of those words or any other similar words that offer, suggest, or imply the availability of ambulance service, as defined in Minnesota Statutes, section 144E.001, subdivision 4; unless it is licensed as an ambulance service under Minnesota Statutes, section 144E.10.

Statutory Authority: *MS s 174.30*

History: *17 SR 634; L 1997 c 199 s 14*

8840.5500 CERTIFICATION.

Subpart 1. **Forms.** Application for a certificate of compliance or for renewal of an existing certificate of compliance must be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from the Department of Transportation, Office of Motor Carrier Services. Applications must be delivered or mailed to the Minnesota Department of Transportation, Office of Motor

MINNESOTA RULES 2001

8840.5500 TRANSPORTATION FOR ELDERLY, DISABLED

686

Carrier Safety and Compliance, Minnesota Administrative Truck Center, 100 Stockyards Road, South St. Paul, Minnesota 55075.

Subp. 2. **Required information.** Applicants shall submit the following information to the commissioner:

A. a provider application form containing the following information:

- (1) whether the application is new or a renewal;
- (2) the name, address, telephone number, and area served by the provider;
- (3) the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule, or other;
- (4) whether the passengers served are elderly, handicapped, or disabled;
- (5) for each vehicle used:
 - (a) make and year;
 - (b) seating capacity; and
 - (c) completed checklist showing whether the vehicle carries the safety equipment required by part 8840.5925, subpart 1;
- (6) if the vehicle will carry an occupied wheelchair:
 - (a) whether the vehicle is equipped with an approved wheelchair securement device; and
 - (b) the date that the wheelchair securement device was approved by the commissioner of public safety, and the number on the certificate issued by the commissioner of public safety;
- (7) the name, title, and phone number of the person who is responsible for the provider's special transportation service; and
- (8) the name and address of each driver, stating whether each complies with the standards in parts 8840.5100 to 8840.6300; and

B. a certificate of insurance which must be mailed to the Department of Transportation by the applicant's insurer.

Subp. 3. **When granted.** A certificate of compliance must be granted when the applicant complies with the standards set forth in parts 8840.5100 to 8840.6300.

Subp. 4. **Processed in 30 days.** All applications are to be processed and a certificate of compliance issued or denied in writing within 30 days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

Subp. 5. **Information on certificate.** When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

Subp. 6. **Record.** The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed, suspended, or revoked.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.5600 RENEWAL.

Subpart 1. **Certificate renewal form.** Thirty to 60 days prior to the expiration of any certificate of compliance, the provider shall request renewal of the certificate on a form provided by the commissioner.

Subp. 2. **Written answer.** The commissioner shall grant or deny requests for renewal in writing.

Subp. 3. **New certificate.** A new certificate listing each certified vehicle and showing the month and year in which the certification expires shall be issued to the provider.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

MINNESOTA RULES 2001

687

TRANSPORTATION FOR ELDERLY, DISABLED 8840.5700

8840.5650 ANNUAL EVALUATION.

The commissioner shall annually evaluate whether the provider complies with parts 8840.5100 to 8840.6300. The evaluation must include (1) an audit of the provider's records to determine that the provider is keeping the records required by part 8840.6100, (2) an inspection of the vehicles, and (3) a determination whether wheelchair securement devices in the vehicle are certified by the commissioner of public safety.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.5700 INSPECTION.

Subpart 1. Commissioner shall inspect. The commissioner shall inspect or provide for the inspection of each vehicle at least annually, and may inspect a vehicle on receipt of a complaint about the condition of the vehicle or its equipment. In addition, the commissioner shall inspect or provide for the inspection of at least five percent of the vehicles operated by certified providers on a quarterly, unannounced, random basis. The commissioner shall examine vehicle inspection, repair, and maintenance records for each vehicle at least annually. The results of an inspection of vehicles or records must be documented and a copy given to the provider. Vehicles and equipment, including specialized equipment to ensure usability or safety for disabled persons, may be inspected by employees of the Department of Public Safety, State Patrol Division, by agreement between the commissioners of transportation and public safety. These inspections must be conducted and documented in the manner provided by this part and part 8840.5800. A copy of an inspection report must be given to the commissioner when an inspection is conducted by employees of the Department of Public Safety, State Patrol Division. The commissioner or employees of the Department of Public Safety, State Patrol Division, shall direct a provider to immediately remove a vehicle from service on determining the vehicle is in a condition that is likely to cause an accident or break down. The "North American Uniform Vehicle Out-Of-Service Criteria," as adopted under Minnesota Statutes, section 221.031, must be followed in determining whether a vehicle is likely to cause an accident or break down. When employees of the Department of Public Safety, State Patrol Division, remove a vehicle from service, copies of the inspection and out-of-service forms must be sent to the commissioner. If the vehicle is equipped with a wheelchair securement device, the inspection form must state whether the device is certified by the commissioner of public safety. Providers directed to repair or replace defective equipment shall provide written evidence of compliance to the commissioner of transportation. When the provider has taken the required corrective action, the provider may return the vehicle to service.

Subp. 2. Complaint record. The commissioner shall document complaints and maintain a record of the name and address of the person making the complaint, the date and reason for the complaint, the result of an inspection of the provider's vehicles or records, and the corrective action the provider must take.

Subp. 3. [Repealed, 17 SR 634]

Subp. 4. Items examined. Annual inspections conducted under these standards must comprise:

A. examination of the records listed in part 8840.6100 to determine whether the provider complies with parts 8840.5100 to 8840.6300; and

B. examination of the vehicles to determine whether the provider complies with the requirements of parts 8840.5925, 8840.5940, 8840.5950, and 8840.5975, and may include inspection of any part of the vehicle subject to regulation under Minnesota Statutes, chapter 169.

Subp. 5. **Failure to permit inspection.** Failure to permit an inspection as provided in this part is grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.5800 ENFORCEMENT.

Subpart 1. **Notice.** When a provider is found in violation of parts 8840.5100 to 8840.6300 and the violation is not likely to cause a breakdown or accident, the provider must be given a 15-day written notice to correct the violation. When a provider is found to be operating a vehicle that is likely to break down or cause an accident, the provider shall remove the vehicle from operation immediately. The provider shall correct the defect before returning the vehicle to service. If the provider is violating the prohibition against providing ambulance service without a license issued under Minnesota Statutes, section 144E.10, the commissioner shall direct the provider to stop the violation immediately and shall report the violation to the commissioners of health and human services. If a provider is found to be using a driver or attendant who has not completed the training required by part 8840.5910 or a driver who does not meet the standards provided in part 8840.5900, the commissioner shall direct the provider to stop, and the provider shall stop using the driver or attendant immediately. Before returning the driver or attendant to service, a provider must give the commissioner written evidence that the driver or attendant meets the requirements of parts 8840.5900 and 8840.5910.

Subp. 2. **Violation determination.** After 15 days, the commissioner may conduct an inspection to determine whether the violation has been corrected. The provider may mail evidence of compliance to the department or provide written notice that the vehicle has been removed from service.

Subp. 3. **Suspension.** No provider may provide special transportation service or operate a special transportation service vehicle without correcting a violation of parts 8840.5100 to 8840.6300 as provided in subpart 1 or providing notice that a defective vehicle has been removed from service as provided in subpart 2. The commissioner shall suspend a provider's certificate of compliance until the provider complies with parts 8840.5100 to 8840.6300 if the commissioner determines a provider has:

- A. failed to correct a violation within 15 days of receiving written notice;
- B. operated a special transportation vehicle after the provider has been directed to remove the vehicle from service unless the defect has first been corrected;
- C. used a driver or attendant after the provider has been directed by the commissioner to stop using the driver or attendant; or
- D. failed to permit an inspection as provided in part 8840.5700.

Subp. 3a. **Revocation.** The commissioner shall revoke the certificate of compliance of a provider who provides special transportation service after the provider's certificate of compliance has been suspended. The commissioner shall revoke the certificate of compliance of a provider who provides ambulance service without a license issued under Minnesota Statutes, section 144E.10. If the commissioner revokes a provider's certificate, the provider may not apply for a new certificate for at least 180 days from the date of revocation.

Subp. 4. **Enforcement hearing.** An enforcement hearing conducted under the standards set forth in parts 8840.5100 to 8840.6300 must be conducted in accordance with Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 174.30*

History: *17 SR 634; L 1997 c 199 s 14*

8840.5900 DRIVER QUALIFICATIONS.

Subpart 1. **Standards.** Standards for drivers are as follows:

MINNESOTA RULES 2001

689

TRANSPORTATION FOR ELDERLY, DISABLED 8840.5900

A. No driver shall operate a special transportation service vehicle unless that driver:

(1) has visual acuity of 20/40 in each eye corrected and a field of vision of at least 70 degrees in the horizontal meridian of each eye;

(2) does not have a hearing loss greater than 30 db in the better ear with or without a hearing aid; and

(3) has no current medical condition which interferes with the ability to drive safely.

B. Every two years each driver shall obtain a physician's statement or the statement of a nurse practitioner certified by the American Nurses' Association or other professional nursing certifying organization having authority to certify registered nurses in advanced nursing practice, that the driver has no current medical condition that interferes with the driver's ability to drive safely. It must be obtained before driving a special transportation service vehicle. Drivers for facilities that are licensed by the Department of Health or the Department of Human Services and required by either of those departments to provide a physician's or nurse practitioner's statement of health on a regular basis may substitute that form or statement for the form required in this part. A driver who has a driver's license containing a valid school bus endorsement issued under Minnesota Statutes, section 171.321, or the rules of the commissioner of public safety, or a current United States Department of Transportation health card, may furnish the provider with a copy of that endorsement or card instead of furnishing the physician's statement of health.

C. Each driver must be able to perform a vehicle safety inspection. Each driver and attendant, when a vehicle is staffed by both a driver and an attendant, must be able to assist a passenger into and out of the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it.

D. Each driver must:

(1) possess a driver's license which is valid for the class of vehicle driven and, if required under Minnesota Statutes, section 171.323, evidence of a special transportation service vehicle permit or endorsement issued by the commissioner of public safety;

(2) be at least 18 years of age and have not less than one year of experience as a licensed driver;

(3) for the past three years:

(a) have not had a driver's license canceled under Minnesota Statutes, section 171.14, revoked under Minnesota Statutes, section 171.17, or suspended under Minnesota Statutes, section 171.18, clause (2), (3), (4), (5), (7), or (11);

(b) have a driving record clear of convictions for operating a motor vehicle or motorcycle without insurance as required by Minnesota Statutes, section 169.797; and

(c) have a driving record clear of convictions for driving a motor vehicle without a valid current license for the class of vehicle driven; and

(4) for the preceding three years, have a driving and criminal record clear of convictions for driving under the influence of alcohol or a controlled substance under Minnesota Statutes, section 169A.20, or an ordinance in conformity with that section, of alcohol-related driving by commercial vehicle drivers under Minnesota Statutes, section 169A.20, and of driver's license revocations under Minnesota Statutes, sections 169A.51 to 169A.53.

E. Each driver must also have a criminal record clear of convictions of crimes or anticipatory crimes against persons and crimes or anticipatory crimes reasonably related to providing special transportation services. For purposes of this part, "criminal record" means the conviction records of the Minnesota Bureau of Criminal Apprehension in which the last date of discharge from the criminal justice system is less than 15 years. The following offenses are considered crimes against persons or reasonably related to providing special transportation services, or both:

MINNESOTA RULES 2001

8840.5900 TRANSPORTATION FOR ELDERLY, DISABLED

690

- (1) Minnesota Statutes, section 609.17, attempts;
- (2) Minnesota Statutes, section 609.175, conspiracy;
- (3) Minnesota Statutes, section 609.185, murder in the first degree;
- (4) Minnesota Statutes, section 609.19, murder in the second degree;
- (5) Minnesota Statutes, section 609.195, murder in the third degree;
- (6) Minnesota Statutes, section 609.20, manslaughter in the first degree;
- (7) Minnesota Statutes, section 609.205, manslaughter in the second degree;
- (8) Minnesota Statutes, section 609.21, criminal vehicular homicide and injury;
- (9) Minnesota Statutes, section 609.215, suicide;
- (10) Minnesota Statutes, section 609.221, assault in the first degree;
- (11) Minnesota Statutes, section 609.222, assault in the second degree;
- (12) Minnesota Statutes, section 609.223, assault in the third degree;
- (13) Minnesota Statutes, section 609.2231, assault in the fourth degree;
- (14) Minnesota Statutes, section 609.224, assault in the fifth degree;
- (15) Minnesota Statutes, section 609.228, great bodily harm caused by distribution of drugs;
- (16) Minnesota Statutes, section 609.23, mistreatment of persons confined;
- (17) Minnesota Statutes, section 609.231, mistreatment of residents or patients;
- (18) Minnesota Statutes, section 609.235, use of drugs to injure or facilitate crime;
- (19) Minnesota Statutes, section 609.24, simple robbery;
- (20) Minnesota Statutes, section 609.245, aggravated robbery;
- (21) Minnesota Statutes, section 609.25, kidnapping;
- (22) Minnesota Statutes, section 609.255, false imprisonment;
- (23) Minnesota Statutes, section 609.265, abduction;
- (24) Minnesota Statutes, section 609.2661, murder of an unborn child in the first degree;
- (25) Minnesota Statutes, section 609.2662, murder of an unborn child in the second degree;
- (26) Minnesota Statutes, section 609.2663, murder of an unborn child in the third degree;
- (27) Minnesota Statutes, section 609.2664, manslaughter of an unborn child in the first degree;
- (28) Minnesota Statutes, section 609.2665, manslaughter of an unborn child in the second degree;
- (29) Minnesota Statutes, section 609.267, assault of an unborn child in the first degree;
- (30) Minnesota Statutes, section 609.2671, assault of an unborn child in the second degree;
- (31) Minnesota Statutes, section 609.2672, assault of an unborn child in the third degree;
- (32) Minnesota Statutes, section 609.268, injury or death of an unborn child in the commission of a crime;
- (33) Minnesota Statutes, section 609.322, solicitation, inducement, and promotion of prostitution;
- (34) Minnesota Statutes, section 609.323, receiving profit from prostitution;

MINNESOTA RULES 2001

691

TRANSPORTATION FOR ELDERLY, DISABLED 8840.5900

- (35) Minnesota Statutes, section 609.324, subdivisions 1 and 1a, other prohibited acts;
- (36) Minnesota Statutes, section 609.33, disorderly house;
- (37) Minnesota Statutes, section 609.342, criminal sexual conduct in the first degree;
- (38) Minnesota Statutes, section 609.343, criminal sexual conduct in the second degree;
- (39) Minnesota Statutes, section 609.344, criminal sexual conduct in the third degree;
- (40) Minnesota Statutes, section 609.345, criminal sexual conduct in the fourth degree;
- (41) Minnesota Statutes, section 609.3451, criminal sexual conduct in the fifth degree;
- (42) Minnesota Statutes, section 609.352, solicitation of children to engage in sexual conduct;
- (43) Minnesota Statutes, section 609.365, incest;
- (44) Minnesota Statutes, section 609.377, malicious punishment of a child;
- (45) Minnesota Statutes, section 609.378, neglect or endangerment of a child;
- (46) Minnesota Statutes, section 609.498, tampering with a witness;
- (47) Minnesota Statutes, section 609.561, arson in the first degree;
- (48) Minnesota Statutes, section 609.582, subdivision 1, burglary;
- (49) Minnesota Statutes, section 617.23, indecent exposure;
- (50) Minnesota Statutes, section 617.241, obscene materials and performances;
- (51) Minnesota Statutes, section 617.243, indecent literature, distribution;
- (52) Minnesota Statutes, section 617.246, use of minors in sexual performance;
- (53) Minnesota Statutes, section 617.247, possession of pictorial representations of minors;
- (54) Minnesota Statutes, section 617.293, harmful materials; dissemination and display to minors; and
- (55) felony convictions under Minnesota Statutes, chapter 152, prohibited drugs.

Subp. 2. Provider responsibility. Before using or hiring a driver to provide special transportation service, a provider shall determine that the driver has a valid driver's license and, if required under Minnesota Statutes, section 171.323, evidence of a special transportation service vehicle permit or endorsement issued by the Department of Public Safety. Before using or hiring a driver who is not required to have a special transportation service vehicle endorsement or permit, a provider shall determine that the driver has a valid driver's license and, except as provided in subpart 3, must conduct a review of the driving and criminal record of a driver. In addition, a provider shall annually review the driving and criminal record of a driver it uses or employs. The driving and criminal record review must include an examination of the records of the Department of Public Safety, Division of Driver and Vehicle Services to determine if the driver meets the standards of subpart 1, item D, subitems (1), (3), and (4). The review must also include an examination of the conviction records of the Minnesota Bureau of Criminal Apprehension to determine if the driver has a criminal record of convictions for crimes listed in subpart 1, item E. If, during the time a provider is using or employing a driver, the driver's special transportation service vehicle permit or endorsement is withdrawn by the commissioner of public safety or if the driver no longer meets the standards of subpart 1, item D or E, the provider shall immediately

stop using or employing the driver as a special transportation vehicle driver or attendant and shall report the withdrawal, the reason the driver no longer meets the standards, or both, to the commissioner.

Subp. 3. Limited criminal record review. Instead of conducting an initial or annual review of the criminal record of a driver under subpart 2, a provider may conduct a limited review of the criminal record of a driver determined to be not disqualified under Minnesota Statutes, section 245A.04. A provider choosing to conduct a limited criminal record review under this subpart must have written evidence of no disqualification issued by the commissioner of human services that is less than one year old before conducting the limited review. The limited review must include an examination of the conviction records of the Minnesota Bureau of Criminal Apprehension for crimes listed in subpart 1, item E, but not listed in Minnesota Statutes, section 245A.04, subdivision 3d. A provider choosing to conduct a limited review must keep the written evidence of no disqualification together with the results of the limited review in the driver's file required by part 8840.6100, subpart 1, item A.

Subp. 4. Complaint records. A provider shall keep a record of a complaint, report, or allegation of misconduct made against a driver it uses or employs. The record must contain a copy of the complaint or report or a detailed written summary of the allegation. A provider shall investigate the accuracy of the complaint, report, or allegation and shall include a summary of the investigation and resulting action taken, if any, in the record. These records must be included in the driver's file or in a separate file kept by the provider.

Statutory Authority: *MS s 174.30*

History: *L 1984 c 654 art 5 s 58; 17 SR 634; L 1992 c 571 art 14 s 13; L 2000 c 478 art 2 s 7; L 2001 ISP9 art 14 s 35*

8840.5910 DRIVER AND ATTENDANT TRAINING REQUIREMENTS.

Subpart 1. Training required before driving. Before providing special transportation service, each driver and attendant shall receive:

- A. passenger assistance training described in subpart 5, items E to I;
- B. instruction in operating the radio required by part 8840.5925, subpart 1, item C;
- C. instruction and demonstration in operating the vehicle ramp, wheelchair lift, and wheelchair securement devices, if the vehicle is so equipped;
- D. instruction in what to do and whom to call in a medical emergency or an accident; and
- E. instruction in conducting the daily vehicle inspection required by part 8840.5950, subpart 1, item B.

Subp. 2. Additional training required. Within 45 days after beginning to provide special transportation service, each driver and attendant shall complete:

- A. four hours of training in first aid, except that this requirement does not apply to a person who possesses a current basic or advanced American Red Cross First Aid Certificate or who possesses a current certificate issued under parts 4690.3900 to 4690.7900;
- B. four hours of classroom instruction in defensive driving; and
- C. abuse-prevention training described in subpart 8.

Within 60 days after beginning to provide special transportation service, each driver and attendant shall complete the passenger assistance training described in subpart 5 or 6.

Subp. 3. Training required for certain drivers after September 28, 1992. A person who is used or employed as a driver on September 28, 1992, and who has not received defensive driver training or abuse-prevention training during the two years preceding that date, must complete the training within 120 days from that date.

MINNESOTA RULES 2001

693

TRANSPORTATION FOR ELDERLY, DISABLED 8840.5910

Subp. 4. **First aid training.** Each driver and attendant shall successfully complete a first aid or emergency-care course of not less than four hours that must include instruction in:

- A. preliminary treatment of shock;
- B. control of bleeding;
- C. airway management;
- D. prevention and treatment of frostbite and exposure to cold;
- E. prevention and treatment of heat exhaustion and heat stroke;
- F. recognition of sudden illness such as stroke, heart attack, convulsions, fainting, and seizures; and
- G. when and how to summon emergency medical assistance services.

Subp. 5. **Passenger assistance training.** Each driver and attendant who transports passengers seated in wheelchairs or who assists passengers in transferring from a wheelchair to a vehicle shall complete a minimum of eight hours training in the techniques of transporting and assisting elderly and physically handicapped passengers. Passenger assistance training must include:

- A. discussion of functional limitations of the aging process and major disabling conditions and how those conditions affect mobility and communication, including:
 - (1) speech limitations;
 - (2) balance limitations;
 - (3) limb loss and muscle control loss;
 - (4) breathing disorders;
 - (5) skin sensation loss;
 - (6) vision and hearing impairments;
 - (7) emotional disorders and mental impairments;
 - (8) paralysis;
 - (9) endurance level diminishment; and
 - (10) temperature control loss;
- B. description of the uses, functions, and limitations of common assistive devices used by elderly and handicapped persons and the proper means of providing assistance to persons using those devices;
- C. discussion of attitudes toward elderly and handicapped persons, which must include the participation of handicapped and elderly persons;
- D. discussion of the effect of mobility impairments, medication, and past experiences on passengers and how to behave in a sensitive and professional manner;
- E. discussion, demonstration, and practice by students in methods of:
 - (1) handling wheelchairs, including moving wheelchairs up and down steps, curbs, ramps, and lifts;
 - (2) folding and unfolding manual wheelchairs; and
 - (3) handling wheelchairs on uneven, wet, or icy surfaces;
- F. if the service transfers passengers from a wheelchair to a seat, discussion and demonstration of moving, lifting, and transferring passengers, including assisted and unassisted transfers, two-handed transfers, and standing transfers;
- G. instruction in guidelines for appropriate handling of a vehicle transporting handicapped persons that includes instruction that passengers may have balance or mobility problems and may not be able to grab railings or brace themselves for sudden stops, sharp turns, or other uneven or abrupt maneuvers;
- H. discussion and demonstration of placing the assistive devices, operating the lifts, ramps, and wheelchair securement devices, and using them properly if the vehicle to be operated is equipped with them;

I. discussion and demonstration of the assistance to be offered to ambulatory passengers, including assistance for standing, sitting, and going up and down steps and curbs; and

J. if the service transports passengers who use assistive devices, discussion of common assistive devices including:

- (1) manual and electric wheelchairs and electric scooters;
- (2) canes;
- (3) crutches;
- (4) walkers;
- (5) leg braces, prostheses, and slings; and
- (6) guide dogs.

Subp. 6. **Ambulatory passenger assistance training.** Each driver and attendant who transports elderly and physically handicapped passengers who do not use stretchers or wheelchairs, or who transports passengers who do not transfer from a wheelchair to a seat in the vehicle, shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers. The training must include instruction in the elements listed in subpart 5, items A to D, G, I, and J.

Subp. 7. **Fire extinguisher training.** Each provider shall instruct each driver and attendant in using the fire extinguisher and shall record the date and location of the instruction in the driver's or attendant's file.

Subp. 8. **Abuse-prevention training.** Each driver and attendant shall successfully complete an abuse-prevention training course of not less than four hours that must include instruction in statutes, rules, and applicable procedures relating to:

- A. sexual abuse or misconduct;
- B. the protection of vulnerable adults;
- C. the maltreatment of minors;
- D. the appropriate response to victims of abuse, neglect, maltreatment, or sexual misconduct; and
- E. the reporting requirements for incidents of abuse, neglect, maltreatment, or misconduct.

Subp. 9. **Refresher course.** Each driver and attendant shall successfully complete a refresher first aid or emergency-care course every three years. The refresher course must include instruction in the elements listed in subpart 4. Each driver and attendant shall complete the training described in either subpart 5 or 6 and the training described in subpart 8 every three years.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.5925 VEHICLE EQUIPMENT.

Subpart 1. **Safety equipment.** Each vehicle when in use must carry the following safety equipment:

A. The vehicle must carry a dry chemical fire extinguisher, with not less than a 5B:C rating, bearing a tag or gauge indicating that it has been serviced within the preceding year. Passenger automobiles that are not vans may carry the fire extinguisher in the trunk of the vehicle if the following notice is affixed to the dashboard of the vehicle: "A fire extinguisher is in the trunk of this vehicle." In other vehicles, the fire extinguisher must be securely mounted in a bracket and readily accessible to the driver in case of emergency.

B. The vehicle must carry an emergency first aid kit in a dustproof container, labeled "FIRST AID." The kit must contain at least the following items:

- (1) six four-inch by four-inch sterile gauze pads;

MINNESOTA RULES 2001

695

TRANSPORTATION FOR ELDERLY, DISABLED 8840.5940

- (2) two soft roll bandages three inches to six inches by five yards;
- (3) adhesive tape; and
- (4) scissors.

C. The vehicle must be equipped with a working radio capable of two-way communication. A citizen's band (CB) radio is acceptable.

D. The vehicle must carry an operable flashlight.

E. When a vehicle carries children under the age of four, a child-restraint system that meets the requirements of federal motor vehicle safety standard number 213, Code of Federal Regulations, title 49, section 571.213, as revised through October 1, 1990, and which is incorporated by reference, must be available in the vehicle. This item does not apply to taxis.

F. The vehicle must carry three emergency warning triangles. Both faces of each triangle must consist of red reflective and orange fluorescent material. Each of the three sides of the triangular device must be 17 to 22 inches long and two to three inches wide. The units must be kept clean and in good repair and stored so as to be readily available when needed.

G. Each vehicle must carry an ice scraper from October 1 to April 30, and each vehicle that is not a taxi must carry a blanket at all times.

H. Vehicles with interior fuse boxes must carry extra electrical fuses.

I. If a vehicle is equipped with a wheelchair securement device, it must carry a tool designed and used for cutting securement straps. The tool must not have an exposed sharp edge or be of a type that could be used as a weapon.

Subp. 2. **Seats.** Seats must be securely fastened to the floor or frame of the vehicle. Vehicles, except type I school buses, displaying a current certificate issued by the commissioner of public safety, must have a usable seat belt for each person being transported and for the driver.

Subp. 3. **Ramps.** Ramps must have a slip-proof surface to provide traction. One end of the ramp must be secured to the floor of the vehicle when the ramp is in use. Ramps put into service after September 28, 1992, must conform to the requirements of Code of Federal Regulations, title 49, section 38.23, paragraph (c), which is incorporated by reference.

Subp. 4. **Wheelchair lifts, requirements.** A vehicle that is equipped with a wheelchair lift and carries semiambulatory persons who use the wheelchair lift must be equipped with either a wheelchair lift with an adjustable or removable railing 28 inches to 36 inches high on one side of the lift or with a folding wheelchair stored on the vehicle when it is in use.

A wheelchair lift put into service after September 28, 1992, must conform to the requirements of Code of Federal Regulations, title 49, section 38.23, paragraph (b), which is incorporated by reference.

Subp. 5. **Securement devices.** Vehicles that carry occupied stretchers or litters must comply with requirements for securement devices in part 4690.1700. Vehicles that carry wheelchairs must comply with the requirements for securement devices in parts 7450.0100 to 7450.0900.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.5940 VEHICLE CONSTRUCTION STANDARDS.

Subpart 1. **Rollover protection.** This subpart applies to all kinds of vans and buses but does not apply to passenger cars, taxis, or station wagons. A special transportation service vehicle obtained and first used by that provider after January 1, 1993, must meet federal motor vehicle safety standard number 220, rollover protection, found in Code of Federal Regulations, title 49, section 571.220, which is incorporated by reference. This subpart also applies to used vehicles that are purchased or obtained after that date. For a vehicle subject to this subpart, the provider must obtain from the

manufacturer or from the person who manufactures, constructs, or reconstructs the roof of the vehicle, certification that the vehicle meets the requirements of federal motor vehicle safety standard number 220. The certification must be in a form prescribed by the commissioner and must contain the following information:

- A. the vehicle identification number;
- B. the make, model, and year of manufacture of the vehicle;
- C. a statement that the vehicle was constructed according to standards that have been tested and found to meet the performance requirements for rollover protection established by federal motor vehicle safety standard number 220;
- D. the name, address, and telephone number of the manufacturer or person who manufactured, constructed, or reconstructed the roof of the vehicle;
- E. the name, address, and telephone number of the laboratory or testing facility that conducted tests on the manufacturer's or other person's test specimen and certified that a vehicle built to the design and construction standards used in the test specimen meets the performance requirements of federal motor vehicle safety standard number 220;
- F. the date the test was conducted; and
- G. the name, address, and telephone number of the provider to whom the vehicle described on the form was supplied.

Instead of the statement prescribed in items A to G, the provider may submit literature, letters, and memoranda from the manufacturer or other person who constructs or reconstructs the vehicle or from the testing facility if those documents establish that the vehicle meets the performance standards of federal motor vehicle safety standard number 220.

Subp. 2. **Emergency exits.** If a vehicle is equipped with a wheelchair lift, it must have a front entrance door in addition to the lift door.

If a vehicle is designed to carry more than ten persons, it must comply with the requirements of federal motor vehicle safety standard number 217, found in Code of Federal Regulations, title 49, section 571.217, which is incorporated by reference.

If a vehicle is designed to carry fewer than ten persons and is obtained and first used by a provider after January 1, 1993, it must also be constructed with one of the following:

- A. windows that open;
- B. at least one roof hatch; or
- C. a rear exit door that can be opened from both the inside and the outside of the vehicle.

The location of exits must be marked on the interior and exterior of vehicles except for passenger cars, taxis, and station wagons.

Subp. 3. **Holes.** The vehicle must not have holes that admit exhaust gases.

Subp. 4. **Doors and windows.** Doors and windows must open and close as intended by the manufacturer.

Subp. 5. **Door heights.** This subpart applies to all kinds of vans and buses but does not apply to passenger cars, taxis, and station wagons. The door height of vehicles put into service after September 28, 1992, must conform to the requirements of Code of Federal Regulations, title 49, section 38.25, paragraph (c), which is incorporated by reference.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.5950 STANDARDS FOR OPERATION OF VEHICLES.

Subpart 1. **Operation.** Standards for vehicle operation are as follows:

A. Vehicles must be operated in compliance with Minnesota Statutes, chapter 169, and rules adopted under that chapter.

MINNESOTA RULES 2001

697

TRANSPORTATION FOR ELDERLY, DISABLED 8840.5950

B. Providers shall conduct or cause to be conducted, a daily visual safety inspection of:

- (1) coolant level;
- (2) lights, turn signals, hazard flashers;
- (3) tires;
- (4) windshield wipers and washer fluid;
- (5) mirrors; and
- (6) fuel level.

C. Providers shall conduct or cause to be conducted a vehicle safety inspection once each week or every 1,000 miles, whichever comes first. The provider shall maintain a record that shows the date and mileage at each safety inspection and a notation of needed repairs and replacements. The record must be maintained in the vehicle or in the provider's files. The safety inspection must include inspection of the:

- (1) coolant level;
- (2) oil level;
- (3) lights, turn signals, hazard flashers;
- (4) tires and tire pressure;
- (5) brake, parking brake, and brake fluid level, if visible in the engine compartment;
- (6) instrument panel;
- (7) horn;
- (8) windshield wipers and washer fluid;
- (9) fan belt;
- (10) mirrors, inside and outside;
- (11) wheelchair ramps and lifts and lift electrical systems, lubrication points, and fluid reservoirs, if applicable;
- (12) wheelchair securement or stretcher securement device, if applicable; and
- (13) emergency doors or windows. Tests must be conducted to ensure that the emergency doors or windows function properly.

Subp. 2. **Smoking.** Smoking is prohibited in vehicles at all times. A sign stating "NO SMOKING" must be posted in the vehicle so that it is visible to all passengers. This subpart applies to a taxi only when it is providing special transportation.

Subp. 3. **Seat belts.** Drivers and passengers shall use seat belts at all times. Drivers shall instruct each passenger to use the seat belt. Before pulling away from a stop, drivers shall make sure that passengers are seated with seat belts properly secured. Children under the age of four shall use approved child-restraint systems at all times, except in taxis. This subpart does not apply to persons exempted by Minnesota Statutes, sections 169.685, subdivision 6, paragraph (b), and 169.686, subdivision 2, clause (3).

Subp. 4. **Emergency stopping.** When a vehicle is stopped for an emergency purpose or is disabled on the roadway or shoulder of a highway outside a business or residence district during the time when lighted lamps must be displayed, the driver shall promptly place an emergency warning triangle on the roadway on the traffic side of the vehicle ten feet from the vehicle in the direction of approaching traffic. A second emergency warning triangle must be placed approximately 100 feet from the vehicle in the direction of approaching traffic. If the vehicle is stopped or disabled on a one-way roadway, the driver shall place an additional warning triangle approximately 200 feet from the vehicle in the direction of approaching traffic.

Subp. 5. **Emergency policy.** Each provider shall develop a written policy that describes what action the driver or attendant must take in the event of an accident or emergency.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.5975 STANDARDS FOR MAINTENANCE.

Subpart 1. **Maintenance.** Standards for vehicle maintenance are as follows:

A. Vehicles must be maintained in accordance with the manufacturer's recommended maintenance schedule or an improved schedule based on actual vehicle operating conditions.

B. Providers shall correct a deficiency that might interfere with the safe operation of the vehicle before the vehicle is placed in service.

C. Windows and lights must be kept clean.

D. The interior of vehicles must be clean and in good repair.

Subp. 2. **Wheelchair lifts.** Wheelchair lifts must be maintained in conformance with the manual and instructions provided by the lift manufacturer. When the provider has the vehicle serviced, it shall instruct the mechanic or service facility to inspect, repair, or service the lift in accordance with the manufacturer's instructions.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.6000 INSURANCE.

Subpart 1. **Minimum coverage.** A provider shall have in effect an insurance plan that provides the following minimum coverage for each vehicle:

A. basic economic loss benefits as required by Minnesota Statutes, chapter 65B;

B. residual liability coverage in the following minimum amounts:

(1) for private providers \$100,000 for bodily injury to or death of any one person in a single accident, subject to a maximum of \$300,000 for bodily injuries to or the death of two or more persons in a single accident, and \$50,000 for destruction of or damage to property in a single accident, or if the policy is written on a single limit basis, \$300,000 per occurrence;

(2) for municipalities \$100,000 for bodily injury to or death of any one person in a single accident, subject to a maximum of \$300,000 for bodily injury to or death of two or more persons in a single accident, and \$50,000 for destruction of or damage to property in a single accident; or

(3) for the state \$100,000 for bodily injury to or death of any one person in a single accident, subject to a maximum of \$500,000 for bodily injury to or death of two or more persons in a single accident, and \$100,000 for destruction of or damage to property in a single accident; and

C. uninsured and underinsured motorist coverage as required by Minnesota Statutes, chapter 65B.

Subp. 2. **Certificate of insurance.** A provider shall obtain a certificate of insurance for the special transportation service vehicles it operates. The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation, Office of Motor Carrier Services, Minnesota Administrative Truck Center, Livestock Exchange Building, 100 Stockyards Road, South St. Paul, Minnesota 55075. The certificate must show the vehicles covered by the policy and the policy limits. The insurer shall notify the department in writing ten days before termination of coverage by either party.

MINNESOTA RULES 2001

699

TRANSPORTATION FOR ELDERLY, DISABLED 8840.6100

Subp. 3. **Self-insurer.** A provider may qualify as a self-insurer by providing evidence that it has complied with the requirements of Minnesota Statutes, section 65B.48, subdivision 3.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.6100 RECORDS.

Subpart 1. **Information required.** A provider shall maintain files containing the following information:

A. for each driver, a file that contains the following information:

- (1) the name, address, and birthdate of the driver;
- (2) the driver's license number, the class of the license, and, if required under Minnesota Statutes, section 171.323, evidence of a special transportation vehicle endorsement or permit issued by the commissioner of public safety;
- (3) whether the driver has had at least one year of driving experience;
- (4) whether the driver's record meets the standards of part 8840.5900, subpart 1, item D, subitems (3) and (4), the date the driver's record was last checked, and the name of the person who checked the driver's record;
- (5) the date on which the driver successfully completed at least four hours of training in first aid as required by part 8840.5910, subpart 4, or a certificate showing completion of one of the courses described in part 8840.5910, subpart 2, item A;
- (6) the date on which the driver successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by part 8840.5910, subpart 5 or 6, whichever is applicable;
- (7) the date and location at which the driver was trained in the use of the fire extinguisher;
- (8) the date the driver received the training required before driving, described in part 8840.5910, subpart 1;
- (9) the date or dates the driver received the additional training required by part 8840.5910, subpart 2;
- (10) the date the driver completed the refresher course described in part 8840.5910, subpart 9; and
- (11) a statement signed by the person who conducted the review of a driver's criminal and driving record as required by part 8840.5900, subpart 2. The statement must contain the date the driver's criminal record was checked and must state whether the driver was found to meet the standards of part 8840.5900, subpart 1, item E. If the driver was found not to meet the standards, the statement must contain the date the driver became disqualified, the reason for the disqualification, and the date the commissioner was notified;

B. for each driver, the physician's or nurse practitioner's statement that the driver has no current medical condition that interferes with the ability to drive safely or a copy of the school bus driver's endorsement or United States Department of Transportation health card;

C. for each attendant, a file that contains the following information:

- (1) the name and address of the attendant;
- (2) the date on which the attendant successfully completed at least four hours of training in first aid as required by part 8840.5910, subpart 4;
- (3) the date on which the attendant successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by part 8840.5910, subpart 5 or 6, whichever is applicable; and
- (4) the date and location at which the attendant was trained in the use of the fire extinguisher;

MINNESOTA RULES 2001

8840.6100 TRANSPORTATION FOR ELDERLY, DISABLED

700

D. all correspondence with the commissioner, including the certificate of compliance;

E. all accident records;

F. a record of insurance claims arising from the operation of the vehicle or a photocopy of claims documents submitted to an insurer;

G. service records for each vehicle and wheelchair lift indicating the date, the odometer reading, and the nature of the inspection, repair, or maintenance each time the vehicle or wheelchair lift was serviced;

H. the safety inspection record for each vehicle, unless it is maintained in the vehicle; and

I. the certification of compliance with federal motor vehicle safety standard number 220 required by part 8840.5940, subpart 1.

Subp. 2. **Documents required in vehicle.** The following documents must be maintained in each vehicle:

A. evidence of insurance required by Minnesota Statutes, section 65B.481, except that vehicles for which proof of insurance is filed under Minnesota Statutes, chapter 221, are not subject to this requirement;

B. accident report forms; and

C. a card showing local emergency telephone numbers.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.6200 CERTIFICATION OF TRAINING COURSES.

Subpart 1. **Commissioner approval.** Training courses must be approved by the commissioner before being offered to fulfill the requirements of parts 8840.5100 to 8840.6300.

Subp. 2. **Application form.** The application for approval of a training course must be made on a form prescribed by the commissioner.

Subp. 3. **Minimum standards.** The commissioner shall approve a course if it meets the following minimum standards:

A. It must include instruction, demonstration, discussion, and, when applicable, an opportunity for student practice in the elements required by these standards.

B. The application shall specify when and where the instructor has previously taught the course.

C. The name, address, employment, and relevant training of the instructor must be shown.

D. The name and address of any institution which is sponsoring the course must be shown.

Subp. 4. **Instructors.** Standards for instructors are as follows:

A. A first aid course shall be taught by any person who is a licensed physician, registered nurse, licensed practical nurse, a paramedic, an emergency medical technician, a certified first aid instructor, or a physician's assistant.

B. Passenger assistance training must be taught by a person who is a licensed physician; registered nurse; registered physical therapist; registered occupational therapist; public health nurse as defined in Minnesota Statutes, section 145A.02, subdivision 18; or other person who has had work experience with physical disabilities, aging, and communication disorders, and their effect on transportation; or by a team that includes one of those persons.

Subp. 5. **Written answer.** The commissioner shall grant or deny, in writing, applications for approval of training courses within 30 days of receipt of the complete application.

Subp. 6. **Notice to commissioner.** Applicants who are approved to teach first aid or passenger assistance training courses shall notify the commissioner of the starting date, location, and time of each course at least 72 hours before that starting date.

Statutory Authority: *MS s 174.30*

History: *L 1987 c 309 s 24; 17 SR 634*

8840.6250 AUDIT OF COURSES.

The commissioner may audit courses approved under part 8840.6200. The audit may include course inspection, classroom observation, review of instructor qualifications, and student interviews.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*

8840.6300 VARIANCE.

Subpart 1. **Elements.** The commissioner may grant a variance from parts 8840.5100 to 8840.6300, except part 8840.5400. The commissioner shall grant a variance if the applicant shows that:

A. the rationale for the rule or rules in question can be met or exceeded by the specific alternative practice which the applicant proposes to substitute;

B. the application of the rule in question would impose an excessive burden on the applicant; and

C. the granting of the variance will not adversely affect the public health and safety.

Subp. 1a. **Consultation with council on disability.** Before granting a variance, the commissioner shall consult with the Minnesota state council on disability. The commissioner shall provide to the council a copy of the variance application, documents filed by the provider or other persons that support or oppose the variance, and other material that the commissioner intends to consult in deciding whether to grant or deny the variance. The commissioner shall not provide information that is classified as private, confidential, nonpublic, or protected nonpublic data under the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. The commissioner shall transmit the relevant information to the council on receipt of the variance application and shall tell the council when the 30-day period for granting or denying the variance will expire. If the council chooses to make a recommendation to the commissioner, it shall do so in writing at least seven days before the 30-day period expires.

Subp. 2. **Written answer in 30 days.** The commissioner shall set forth in writing the reasons for granting or denying the variance within 30 days of receiving the application. If the variance is denied, the applicant may, within 30 days of receiving notice of the denial, request a contested case hearing. The commissioner shall notify the Minnesota state council on disability of each grant or denial of a variance and each request for a contested case hearing on a variance denial.

Subp. 3. **Compliance.** Any special transportation service provider that is granted a variance shall comply with the alternative practice specified in its successful application for a variance.

Subp. 4. **Material change in circumstances.** Any special transportation service provider that has been granted a variance shall immediately notify the Department of Transportation if any material change occurs in the circumstances which justified granting the variance.

Subp. 5. **Revocation of variance.** A variance must be revoked if a material change occurs in the circumstances that justified the variance or if the applicant fails to comply with the alternative practice specified in the application for a variance. The commissioner shall notify the Minnesota state council on disability of each variance revocation.

Statutory Authority: *MS s 174.30*

History: *17 SR 634*