

CHAPTER 8840
DEPARTMENT OF TRANSPORTATION
TRANSPORTATION FOR ELDERLY, DISABLED

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8840.5100 DEFINITIONS.

[For text of subpart 1, see MR]

Subp 1a **Applicant**. "Applicant" means a person who applies for a new certificate of compliance, or its renewal, as required to operate as a special transportation service provider.

Subp 1b **Certificate of course completion**. "Certificate of course completion" means a certificate that includes the.

A name of the training course;

B. name of the instructor, sponsoring organization, or company who provided the training;

C date the training was given;

D location where the training was given;

E number of hours of training that were provided, and

F name and signature of the instructor.

[For text of subp 2, see MR]

Subp 2a. **City**. "City" includes statutory cities and home rule charter cities

Subp 3 **Commissioner**. "Commissioner" means the commissioner of transportation, or an authorized agent.

Subp 4 [Repealed, 28 SR 1578]

[For text of subp 5, see MR]

Subp 5a. **Driver**. "Driver" means a person who transports passengers in special transportation service vehicles, but who is not a volunteer driver. A volunteer driver is one who transports passengers in a private automobile, and is not subject to the direction or control of a provider.

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

Subp. 6a. **Grants or other financial assistance**. "Grants or other financial assistance" means funds from either the state or federal government, including funds that are distributed to third-party entities under contract with either the state or federal government for purposes of special transportation service.

[For text of subps 7 to 10, see M.R.]

Subp. 11 **Person**. "Person" means every natural person, proprietorship, firm, general or limited liability partnership, corporation, limited liability company, or other business entity; association, and body politic.

[For text of subps 12 and 13, see M.R.]

Subp 14 **Regular basis.** "Regular basis" means either providing more than an average of 12 round trips per month in any calendar year or transporting more than 30 passengers per month.

[For text of subps 15 and 16, see M.R.]

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 but do not require ambulance service, as defined in Minnesota Statutes, section 144E.001, subdivision 3. Special transportation service includes, but is not limited to, service provided by specially equipped buses, vans, taxis, and volunteers driving private automobiles as provided for in Minnesota Statutes, section 174.29, subdivision 1

[For text of subps 18 to 20, see M.R.]

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

8840.5300 SCOPE.

Subpart 1 **Service criteria.** Except as provided in Minnesota Statutes, sections 174.29 to 174.315, the standards in parts 8840.5100 to 8840.6400 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. [Repealed, 28 SR 1578]

Subp. 3 [Repealed, 28 SR 1578]

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

8840.5400 CERTIFICATE OF COMPLIANCE, GENERAL REQUIREMENTS.

Subpart 1 **Certificate of compliance required.** A person shall not 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, and displays a valid decal as required by Minnesota Statutes, section 174.30, subdivision 4.

The commissioner shall issue a certificate of compliance 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 pursuant to Minnesota Statutes, section 174.30, subdivisions 3 and 4.

[For text of subp 2, see M.R.]

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

8840.5500 CERTIFICATE OF COMPLIANCE APPLICATION.

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. Applications must be delivered or mailed to the Minnesota Department of Transportation.

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,

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(2) the applicant's name, the name of the business, including any assumed name filed with the secretary of state as provided in Minnesota Statutes, sections 333.01 to 333.06, the type of business entity, the business address, the telephone and facsimile (fax) numbers, and the Internet e-mail address,

(3) whether the passengers served are elderly, handicapped, or disabled,

(4) for each vehicle used

(a) make, year, vehicle identification number (VIN), and license plate number of the vehicle,

(b) seating capacity and manufacturer's gross vehicle weight rating;

and
(c) whether the vehicle is equipped with an approved wheelchair securement device and the number of wheelchair securement positions for each vehicle,

(5) the name and telephone number, including each cellular telephone number, of the person who is responsible for the day-to-day operation of the proposed provider's special transportation service,

(6) the name and address of each driver, stating whether each complies with the standards in parts 8840.5100 to 8840.6300;

(7) the names of corporate directors and officers, general partners and limited partners, limited liability company board members, or owners of the applicant's business,

(8) whether the applicant or any of the applicant's corporate directors or officers, general and limited partners, limited liability company board members, or owners of the applicant's business have had a certificate of compliance suspended, denied, canceled, or revoked during the preceding year and, if so, the certificate number of the applicable certificate,

(9) if the applicant is not a Minnesota corporation, but is authorized to transact business in Minnesota, the name and address of its registered agent, and

(10) the location in Minnesota where the records required by part 8840.6100 will be available for inspection and copying; and

B. the following documentation, if not previously filed with the commissioner

(1) evidence of insurance coverage on the provider's vehicle in the amount specified in part 8840.6000 on a form E, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance" under Code of Federal Regulations, title 49, part 1023, Appendix (1992), which is incorporated by reference except for the last paragraph of Form E, and

(2) a statement showing compliance with the workers' compensation requirements under Minnesota Statutes, section 176.181, subdivision 2

Subp. 2a Signature required. The application must be signed by a corporate officer, general partner, limited liability company board member, or sole proprietor verifying that the information on the application is true. In lieu of a required document completed on paper, the commissioner may accept an electronically transmitted document authenticated by an electronic signature

Subp. 3. [Repealed, 28 SR 1578]

Subp. 4. [Repealed, 28 SR 1578]

Subp. 5 Information on certificate. When a certificate is granted, the commissioner shall issue to the provider a numbered certificate of compliance that shows the month and year in which the certification expires.

[For text of subp 6, see MR]

Subp. 7 Keeping application information current. An applicant or provider shall notify the commissioner in writing of any change in its application information within ten days of the change.

Statutory Authority: *MS s 174.30*

History: *28 SR 1578*

8840.5525 ISSUANCE AND EXPIRATION OF CERTIFICATE OF COMPLIANCE.

Subpart 1. **Processed in 30 days.** The commissioner shall process all applications and a certificate of compliance must be issued or denied in writing within 30 days of the receipt of the completed application and documentation required by the commissioner.

Subp. 2. **Issuance or denial of certificate.** The commissioner shall issue a certificate of compliance to an applicant who meets the requirements in parts 8840.5100 to 8840.6400, except the commissioner shall not issue a certificate of compliance if:

- A. the applicant had a certificate revoked during the preceding 180 days,
- B. the application for certification contains a statement that is false, misleading, or fraudulent, or
- C. the applicant fails to provide all requested data

Subp 3 **Contesting a denial.** To contest a denial of the issuance of a certificate, the provider shall follow the procedures in part 8840.6400.

Subp. 4 **Certificate denied, revoked, or canceled.** If a provider's certificate of compliance is denied, revoked, or canceled, and the provider wishes to reapply, the applicant must submit a new application under part 8840.5500.

Subp. 5. **Term of certificate; good cause extension.** A certificate of compliance expires one year from the date it is issued and is renewable on an annual basis as provided for in part 8840.5500 and this part. The commissioner, for good cause, may extend the time before a certificate is canceled for up to an additional 30 days beyond expiration "Good cause" means circumstances beyond control or circumstances that were not reasonably foreseeable, such as a serious physical or mental incapacity or illness.

Statutory Authority: *MS s 174 30*

History: 28 SR 1578

8840.5600 [Repealed, 28 SR 1578]

8840.5640 INITIAL SPECIAL TRANSPORTATION SERVICE PROVIDER EDUCATION.

Subpart 1 **Initial education requirement, generally; enforcement.** Within 90 days from issuance of an initial certificate of compliance, the provider must complete the initial special transportation service provider education. The provider must have in attendance at least one person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the provider's certificate of compliance. Upon failure to comply with the requirement of this subpart, the certificate of compliance is deemed canceled upon expiration of the 90 days.

Subp 2. **Initial education sources and topics.** The initial education must be through an education seminar or, if approved by the department, through a personal contact with a representative of the department. The initial education must consist of a discussion of the statutes, rules, and regulations that apply to special transportation service providers. Topics discussed must include:

- A driver qualifications;
- B driver and attendant training requirements;
- C. vehicle equipment;
- D vehicle construction standards,
- E standards for vehicle operation;
- F. standards for vehicle maintenance including the cleanliness of vehicles,
- G insurance requirements,
- H. record requirements; and

I. enforcement provisions

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

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 to determine that the vehicle meets the standards of parts 8840.5700 and 8840.5950, and (3) a determination whether wheelchair securement devices in the vehicle are certified as required by Minnesota Statutes, section 174.30, subdivisions 3 and 4.

Statutory Authority: *MS s 174.30*

History: *28 SR 1578*

8840.5700 INSPECTION AND AUDIT.

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. 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. The commissioner 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. If the vehicle is equipped with a wheelchair securement device, the inspection form must state whether the device is certified by the commissioner. 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.

[For text of subp 2, see MR.]

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

[For text of items A and B, see M.R.]

[For text of subp 5, see MR.]

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

8840.5800 ENFORCEMENT: VIOLATIONS, SUSPENSIONS, REVOCATIONS, AND CANCELLATIONS.

[For text of subps 1 and 2, see MR.]

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:

[For text of items A and B, see MR.]

C. used a driver or attendant after the provider has been directed by the commissioner to stop using the driver or attendant,

D. failed to permit an inspection as provided in part 8840.5700, or

E. failed to maintain insurance as provided in part 8840.6000

Subp. 3a. **Revocation.** The commissioner shall revoke the certificate of compliance of a provider who.

A. provides special transportation service after the provider's certificate of compliance has been suspended or canceled,

B. provides ambulance service without a license issued under Minnesota Statutes, section 144E 10, or

C. has committed a pattern of violating the standards that shows a willful or reckless disregard for the health and safety of persons who use special transportation service

Subp. 3b. **Consideration in determining revocation.** In making a determination under subpart 3a, the commissioner must consider

A. the willfulness of the violations,

B. the seriousness of the violations including whether they resulted in, or were likely to result in, passenger injuries or vehicle accidents,

C. the provider's history of violations including the time elapsed since the last violation, the number of previous violations, and the response of the person to the most recent violation identified; and

D. other factors as justice may require if the commissioner specifically identifies the additional factors in the commissioner's order.

Subp 3c. **Cancellation.** The commissioner shall cancel the certificate of compliance of a provider who

A. failed to renew a certificate of compliance as provided in part 8840 5525, subpart 5,

B. knowingly made a material statement that was false or fraudulent regarding the standards provided in this chapter, or

C. failed to maintain insurance after a notice of suspension was issued as provided for in part 8840 6000

Subp. 3d **Application for another certificate after revocation.** 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. [Repealed, 28 SR 1578]

Subp 5 **Administrative orders and penalties.** The commissioner may issue an order requiring violations of the standards to be corrected or assessing monetary penalties as provided in Minnesota Statutes, section 174.30, subdivision 8 Minnesota Statutes, section 221 036, applies to orders issued under this part and a person who wishes to contest an order must follow the procedures in that section.

Subp 6 **Notice of suspension, revocation, or cancellation.** The commissioner shall mail notice of suspension, revocation, or cancellation of a certificate of compliance under this chapter to the provider's last known address by certified mail The notice must include

A. a concise statement of the facts alleged to constitute a violation,

B. a reference to the section of the statute, rule, or order that has been violated;

C. a statement of the person's right to review of the order pursuant to part 8840 6400, and

D. the effective date of the suspension, revocation, or cancellation

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

8840.5900 DRIVER QUALIFICATIONS.

Subpart 1. **Physical qualification.** No driver may operate a special transportation service vehicle providing special transportation unless the driver is physically qualified

to drive under Code of Federal Regulations, title 49, section 391.41, paragraphs (a) and (b), which is incorporated by reference

Subp. 2. [Renumbered Subp. 13]

Subp. 3. [Repealed, 28 SR 1578]

Subp. 4. [Renumbered Subp. 17]

Subp. 5 **Evidence of physical qualification.** Before driving a special transportation service vehicle providing special transportation, a driver must have a valid medical examiner's certificate under Code of Federal Regulations, title 49, section 391.43, which is incorporated by reference, certifying that the driver meets the requirements in subpart 1. A copy of the medical examiner's certificate must be in the driver's possession while operating a special transportation service vehicle.

Subp. 6 **Waiver for physical defects.** A person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b), clause (1) or (2), and who is otherwise qualified to drive a motor vehicle, may drive a special transportation service vehicle if the commissioner grants a waiver to that person under Minnesota Statutes, section 221.0314, subdivisions 3, 3a, and 3b. A copy of the waiver must be given to the provider who employs the driver and must be in the driver's possession while operating a special transportation service vehicle.

Subp. 7 **Other evidence of physical qualifications.** A driver who has a driver's license with a valid school bus endorsement issued under Minnesota Statutes, section 171.321, or the rules of the commissioner of public safety, may furnish the provider with a copy of that endorsement instead of furnishing the medical examiner's certificate described in subpart 5.

Subp. 8 **Ability to inspect vehicle and assist passenger.** 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.

Subp. 9 **Driver's license.** A driver must have a driver's license valid for the class of vehicle driven.

Subp. 10 **Age and experience.** A driver must be at least 18 years of age and have not less than one year of experience as a licensed driver.

Subp. 11 **Driving record.** A driver must, 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 driving a motor vehicle without a valid current license for the class of vehicle driven, and

C 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.

Subp. 12. **Criminal record.** A driver must not have a criminal record for which the person was convicted of or pled guilty to, either crimes against persons or crimes reasonably related to providing special transportation services.

A For purposes of this subpart, "criminal record" means the conviction records of the Minnesota Bureau of Criminal Apprehension or other states' criminal history repository in which the last date of discharge from the criminal justice system is less than 15 years.

B Conviction has the meaning given it in Minnesota Statutes, section 171.01, subdivision 29.

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C Criminal record and driving record includes a conviction, suspension, cancellation, or revocation for a crime in another jurisdiction that would be a violation under this part.

D The following offenses are considered crimes against persons or reasonably related to providing special transportation services, or both

- (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,

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(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,

(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 609.52, felony theft,

(48) Minnesota Statutes, section 609.561, arson in the first degree,

(49) Minnesota Statutes, section 609.582, subdivisions 1 and 2, burglary,

(50) Minnesota Statutes, section 609.713, terroristic threats,

(51) Minnesota Statutes, section 609.749, nonfelony, harassment and stalking;

(52) Minnesota Statutes, section 617.23, indecent exposure,

(53) Minnesota Statutes, section 617.241, obscene materials and performances;

(54) Minnesota Statutes, section 617.243, indecent literature, distribution,

(55) Minnesota Statutes, section 617.246, use of minors in sexual performance,

(56) Minnesota Statutes, section 617.247, possession of pictorial representations of minors,

(57) Minnesota Statutes, section 617.293, harmful materials; dissemination and display to minors; and

(58) felony convictions under Minnesota Statutes, chapter 152, prohibited drugs

Subp. 13 **Provider responsibility; employee's driver's license.** Before using or hiring a driver to provide special transportation service, a provider must obtain and review a copy of the driver's license showing that the driver has a valid driver's license

Subp. 14 **Provider responsibility; driver's traffic and criminal record.** Before using or hiring a driver to provide special transportation service, a provider must obtain and review the driving and criminal records of a driver. In addition, a provider shall annually review the driving and criminal record of a driver it uses or employs.

A 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 subparts 9, 10, and 11. 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 12

B. A provider satisfies the requirements of this subpart by obtaining a background check from the Minnesota Bureau of Criminal Apprehension. A private business or local law enforcement agency may be used for conducting the criminal background check if the review consists of an examination of the records of the Minnesota Bureau of Criminal Apprehension.

C If a person has resided in Minnesota for less than ten years, the provider shall also conduct a search of the criminal history repository records in each state where the person has resided for the preceding ten years.

D If a person has held a driver's license in a state other than Minnesota for the preceding three years, the provider shall review the driving record in each state where the person has held a driver's license for the preceding three-year period.

Subp 15 **Provider responsibility; statement of physical qualifications.** Before using or hiring a driver to provide special transportation service, a provider must obtain and review a copy of the statement of physical qualifications or other evidence of physical qualifications listed in subpart 5 or 6 that the driver meets the physical qualifications in subpart 1

Subp 16 **Provider responsibility; failure to maintain qualifications.** If, during the time a provider is using or employing a driver, the driver no longer meets the standards of this part, 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. 17 **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: *28 SR 1578*

NOTE A special transportation driver's health statement obtained before June 21, 2004, under the authority of a former provision last published in Minnesota Rules 2003, part 8840 5900, subpart 1, item B, remains valid until the earlier of (1) the expiration of the statement or (2) the last day of a two-year period beginning June 21, 2004

8840.5910 DRIVER AND ATTENDANT TRAINING REQUIREMENTS.

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

A. passenger assistance training described in subpart 5, items E to I,

B instruction in operating the radio, cellular telephone, or other means of two-way communication 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, including training in the use of the fire extinguisher and use of emergency triangles under part 8840 5950, subpart 4, and

E except for attendants, 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:

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A four hours of training in first aid, except that this requirement does not apply to a person who possesses a current first aid certificate taught by a certified instructor using a certified course under part 8840 6200 or who possesses a current certificate issued under Minnesota Statutes, section 144E 27,

B except for attendants, four hours of classroom instruction in defensive driving,

C abuse-prevention training described in subpart 8, and

D. the passenger assistance training described in subpart 5 or 6

Subp 3 [Repealed, 28 SR 1578]

[For text of subp 4, see MR]

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

[For text of items A to I, see MR]

J discussion of common assistive devices including

[For text of subitems (1) to (6), see MR]

[For text of subp 6, see MR]

Subp 7. [Repealed, 28 SR 1578]

[For text of subp 8, see MR]

Subp 9 **Refresher course and continuing education.** Each driver and attendant shall successfully complete within three years from the date the driver or attendant completed the training required in subpart 2, and every three-year period thereafter.

A a four-hour refresher first aid or emergency-care course, which must include instruction in the elements listed in subpart 4,

B except for attendants, two hours of classroom instruction in defensive driving,

C two hours of training in issues relating to passenger assistance and abuse prevention, and

D. seven hours of continuing education related to providing special transportation service

Statutory Authority: *MS s 174.30*

History: *28 SR 1578*

8840.5925 VEHICLE EQUIPMENT.

Subpart 1 **Safety equipment.** When in use, each vehicle must carry the following safety equipment

A The vehicle must carry a fully charged, dry chemical, fire extinguisher that has not less than a 5B C rating and a gauge indicating the charge level of the fire extinguisher. 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 dust-proof container, labeled "FIRST AID." The kit must contain at least the following items

- (1) sterile gauze pads,
- (2) soft roll bandages;
- (3) adhesive tape, and
- (4) scissors.

C. The vehicle must be equipped with a working radio, cellular telephone, or other means of two-way communication

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 amended, which is incorporated by reference, must be available in the vehicle.

[For text of item F, see MR]

G Each vehicle must carry an ice scraper from October 1 to April 30, and each vehicle must carry a blanket at all times

[For text of items H and I, see MR]

[For text of subp 2, see M.R.]

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 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 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 Minnesota Statutes, section 144E 103, and the federal ambulance standards as they apply to stretcher or litter securement devices referenced in part 4690.1500, subpart 2. Vehicles that carry wheelchairs must comply with the requirements for securement devices in parts 7450.0100 to 7450.0800.

Subp 6 **Vehicle identification.** Every vehicle must display on both sides the provider's business name and the provider's United States Department of Transportation (USDOT) number or if the provider does not have a USDOT number the special transportation service certificate number preceded by the letters "STS". The name and numbers must be marked in colors that sharply contrast with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary, and be maintained in a manner that retains the legibility of the markings. The markings may be shown by use of a removable device if that device meets the identification and legibility requirements of this subpart.

Statutory Authority: *MS s 174.30*

History: *28 SR 1578*

NOTE Subpart 6, added at 28 SR 1578, is effective December 16, 2004.

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 must meet federal motor vehicle safety standard number 216 or 220, roof crush resistance or school bus rollover protection, found in Code of Federal Regulations, title 49, sections 571.216 and 571.220, which are incorporated by reference. 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 216 or 220. The certification must be in a form prescribed by the commissioner and must contain the following information:

A the vehicle identification number,

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B the make, model, and year of manufacture of the vehicle, and

C a statement that the vehicle was constructed according to standards that have been tested and found to meet the performance requirements for roof crush resistance or school bus rollover protection established by federal motor vehicle safety standard number 216 or 220.

Subp 1a. **Evidence for vehicle with remanufactured roof.** If the roof of the vehicle has been altered, the certification must contain:

A the vehicle identification number;

B. the vehicle's make, model, and year of manufacture;

C a statement from the person who alters the roof of the vehicle 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 altered the roof of the vehicle,

[For text of items E to G, see MR]

Subp 1b **Alternative evidence for vehicle with remanufactured roof.** Instead of the statement prescribed in this part, the provider may submit to the commissioner 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 ten or fewer persons, it must also be constructed with one of the following:

[For text of items A to C, see M.R.]

[For text of subs 3 and 4, see MR]

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 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: *28 SR 1578*

8840.5950 STANDARDS FOR OPERATION OF VEHICLES.

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

[For text of items A and B, see MR]

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:

[For text of subitems (1) to (11), see MR.]

(12) wheelchair securement or stretcher securement device, if applicable,

(13) emergency doors or windows. Tests must be conducted to ensure that the emergency doors or windows function properly,

(14) steering mechanism,

(15) exhaust system,

- (16) frame,
- (17) suspension,
- (18) wheels and rims; and
- (19) fuel system.

[For text of subps 2 to 5, see MR]

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

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 kept clean so as to be free from dirt, grease, body fluids, and other offensive matter and in good repair

[For text of subp 2, see MR]

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

8840.6000 INSURANCE.

[For text of subpart 1, see MR]

Subp 2. **Certificate of insurance.** A provider shall obtain a certificate of insurance for the special transportation service vehicles it operates, on a form E, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance," incorporated by reference in part 8840 5500 The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation as required by part 8840 5500, subpart 2, item B, subitem (1).

[For text of subp 3, see MR]

Subp 4 **Cancellation of insurance.** A certificate of insurance, form E filing, may only be canceled by filing with the commissioner a form K, "Uniform Notice of Cancellation of Motor Carrier Insurance Policies," under Code of Federal Regulations, title 49, part 1023, Appendix (1992), which is incorporated by reference except for the last paragraph of form K A cancellation notice takes effect 30 days from the day the form K is received by the commissioner The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation

Subp 5 **Grounds for suspension.** A certificate of compliance is suspended if the provider fails to maintain and file with the commissioner the insurance required by this chapter In order to avoid cancellation of the certificate, the provider must do one of the following within 45 days from the date of suspension:

A. comply with the rules in this chapter by filing proof of insurance; or

B request a hearing before the commissioner regarding failure to comply with the rules

Subp. 6 **Suspension rescission.** If the provider complies with the requirements of this chapter within 45 days after the date of suspension, the commissioner shall rescind the suspension

Subp 7. **Hearing.** If the provider requests a hearing within 45 days after the date of suspension, the commissioner shall review the suspension and

A determine that the carrier has complied with the rule and cancel the suspension,

B for just cause, grant an extension that must not exceed 20 days, or

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C schedule a hearing to ascertain whether the provider has failed to comply with the rule. On determining at the conclusion of the hearing that the carrier has failed to comply with the rule, the commissioner shall cancel the provider's suspended certificate.

Subp 8. Grounds for cancellation. Except as provided in subpart 10, failure to comply with the requirements of subpart 5 within 45 days of the date of suspension, is deemed abandonment of the provider's certificate and the certificate must be canceled by the commissioner.

Subp 9 Notice of cancellation. The commissioner shall notify the provider by certified mail, return receipt requested, that the certificate is canceled effective on the date of mailing the notice of cancellation.

Subp 10 Reinstatement after cancellation. A provider whose certificate is canceled for failure to comply with the insurance requirements may ask the commissioner to review the cancellation. Upon review, the commissioner shall rescind the cancellation if

A the provider presents evidence showing that before the effective date of the notice of cancellation issued under subpart 9, the provider had obtained and paid for the insurance required by this chapter, and

B the commissioner is satisfied that the provider has complied with the insurance requirements of this chapter.

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

8840.6100 RECORDS.

Subpart 1 Availability to commissioner. A provider shall keep the records required in this chapter at the provider's principal place of business and make the records available for inspection and copying in Minnesota by the commissioner upon request.

Subp 2 [Repealed, 28 SR 1578]

Subp. 3. Drivers. A provider shall maintain for each driver, a file that contains the following information:

A the name, address, and birthdate of the driver;

B the driver's license number and class of the license;

C. whether the driver has had at least one year of driving experience;

D whether the driver's record meets the standards of part 8840.5900, subpart 11, the date the driver's record was last checked, and the name of the person who checked the driver's record,

E the date the driver first provided special transportation service for the provider;

F the certificate of course completion showing that:

(1) 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;

(2) 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,

(3) the driver received the training required before driving, described in part 8840.5910, subpart 1,

(4) the driver received the additional training required by part 8840.5910, subpart 2, and

(5) the driver completed the refresher and continuing education courses described in part 8840.5910, subpart 9,

G a statement that must:

(1) be signed by the person who conducted the review of a driver's criminal and driving record as required by part 8840.5900, subparts 13 and 14,

(2) contain the date the driver's records were checked, the driver's full name and date of birth, and the list of disqualifying offenses, if any,

(3) state whether the driver was found to meet the standards of part 8840.5900, subparts 10 and 11; and

(4) if the driver was found not to meet the standards in subitem (3), contain the date the driver became disqualified, the reason for the disqualification, and the date the commissioner was notified; and

H for each driver, the medical examiner's certificate or school bus endorsement required under part 8840.5900, subpart 5 or 7

Subp 4. Attendants. A provider shall maintain for each attendant, a file that contains the following information:

A. the name and address of the attendant,

B the date the attendant first provided assistance in special transportation service for the provider;

C. the certificate of completion showing that:

(1) the attendant 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,

(2) 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,

(3) the attendant received the training required by part 8840.5910, subpart 1,

(4) the attendant received the additional training required by part 8840.5910, subpart 2, and

(5) the attendant completed the refresher course and continuing education courses described in part 8840.5910, subpart 9

Subp 5 Correspondence with commissioner. A provider shall maintain files that contain all correspondence with the commissioner, including the certificate of compliance

Subp 6 Accidents. A provider shall maintain files that contain all accident records, including for each accident the following information

A. date of the accident,

B. city or town in which or most near where the accident occurred,

C. driver name;

D. number of injuries or fatalities,

E. description of the accident,

F number of passengers in the vehicle at the time of the accident,

G. the vehicle identification number of the vehicle involved in the accident;

H whether the driver was convicted of a moving violation for driving conduct that led to the accident; and

I. copies of all accident reports required by state or other governmental entities or insurers "Accident" means an occurrence involving a motor vehicle that results in:

(1) a fatality,

(2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(3) one or more motor vehicles incurring disabling damage as a result of the accident, requiring that a motor vehicle be transported away from the scene by a tow truck or other motor vehicle

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Subp. 7. **Insurance claims.** A provider shall maintain files that contain a record of insurance claims arising from the operation of the vehicle or a photocopy of claims documents submitted to an insurer

Subp. 8. **Vehicle and wheelchair lift service records.** A provider shall maintain files that contain 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

Subp. 9. **Safety inspection and maintenance records.** A provider shall maintain files that contain

A the safety inspection records described in part 8840.5950, and maintenance records described in part 8840.5975 for each vehicle, unless it is maintained in the vehicle; and

B the certification of compliance with federal motor vehicle safety standard number 216 or 220 required by part 8840.5940, subpart 1.

Subp. 10. **Retention.** A provider shall keep the records required under this chapter for a minimum of three years, except that the daily and weekly safety inspection records required under part 8840.5950 must be kept for only a three-month period.

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*

8840.6200 CERTIFICATION OF TRAINING COURSES AND INSTRUCTORS.

Subpart 1. **Commissioner approval.** Training courses and instructors 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 and instructor must be made on a form prescribed by the commissioner.

Subp. 3. **Minimum standards.** The commissioner shall approve a course and instructor if they meet the following minimum standards:

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

B. The application must 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, and information showing that the instructor meets the standards under subpart 4.

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

E. An application for certification of a continuing education course must include the following information:

(1) the specific topic of instruction and its relevance to special transportation service,

(2) a course plan that describes expected outcomes for the participant,

(3) a written outline of the topics, the total length of instruction, and how much time will be spent on training for each topic during the course; and

(4) written course materials

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

A. A first aid course must 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

[For text of item B, see MR]

C Continuing education courses must be taught by a person who is knowledgeable in the specific topic of instruction for the course. The person's qualifications must be documented by specialized training in the subject matter, experience in teaching the subject matter, or experience in working in the subject areas.

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

Subp 5a. **Certification expiration.** Certification of a course or instructor expires three years from the date it is issued.

Subp 6 **Notice to commissioner.** Applicants who are approved to teach under this part shall notify the commissioner of the starting date, location, and time of each course at least 72 hours before that starting date.

Subp 7 **Certificate of course completion.** For each training course given under part 8840.5910, a certificate of course completion must be completed by the instructor or the sponsoring organization for each driver and attendant who successfully completed the training course.

Subp 8 **Application information kept current.** An instructor, while certified, must notify the commissioner in writing of any change in the application information.

Statutory Authority: *MS s 174.30*

History: *28 SR 1578*

8840.6250 AUDIT OF COURSES.

Subpart 1 **Auditing authority.** 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.

Subp 2. **Withdrawing certification.** If, after auditing a course, the commissioner determines that the course materials or instruction do not meet the standards in parts 8840.5910 and 8840.6200, the commissioner must immediately withdraw certification of the course, the instructor, or both.

Subp 3. **Appeal of certification withdrawal.** An instructor who wants to contest a withdrawal of certification must follow the procedures in part 8840.6400.

Statutory Authority: *MS s 174.30*

History: *28 SR 1578*

8840.6300 VARIANCE.

Subpart 1 **Elements.** The commissioner may grant a variance from parts 8840.5100 to 8840.6300, except part 8840.5400. An application for a variance must be in writing, state the specific rule part or subpart from which a variance is requested, and show that

[For text of items A to C, see MR]

[For text of subs 1a to 5, see MR]

Statutory Authority: *MS s 174.30*

History: *28 SR 1578*

8840.6400 ADMINISTRATIVE HEARING.

A person who disagrees with a decision or order of the commissioner issued pursuant to this chapter may request a contested case hearing. The request for a contested case hearing must be submitted in writing to the commissioner within 30 days, or within 45 days if submitted pursuant to part 8840.6000, subpart 7, of the date of the commissioner's decision or order. The request for a contested case hearing must set out in detail the reasons why the person contends the decision of the commissioner should be reversed or modified. If the commissioner receives a written request for a

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contested case hearing, the commissioner must schedule a hearing within 30 days after the request is received under the procedures in Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings

Unless otherwise provided by law, a demand for a hearing does not stay the effective date of a suspension, revocation, or cancellation order.

The decision of the administrative law judge will be submitted to the commissioner for the commissioner's adoption. The commissioner's decision on the issue under appeal is the final decision of the department.

Statutory Authority: *MS s 174 30*

History: *28 SR 1578*