

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

Subpart 1. **Notice and opportunity for correction.** 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.

A. 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.

B. 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.

C. 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;
- 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: *17 SR 634; L 1997 c 199 s 14; 28 SR 1578*

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