

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

#464 Dept of Health

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 9-7-78 Temporary Rule ——

Resubmitted and Received _____

DUE DATE 9-27-78

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable ✓
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statements of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable ✓
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓ But cites evidentiary problem in Bd. findings
    (ii) Permission to Incorporate by Reference, where applicable _____
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
17. Petition by Public, where applicable —.

Rules as finally adopted.

MINNESOTA BOARD OF NURSING
717 Delaware Street S.E.
Minneapolis, MN 55414
(612) 296-5493

Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Endorsement

§ 5.1010 Qualifications.

C. Continuing education.

1. Before August 1, 1980, the registered nurse applying for licensure by interstate endorsement who has not been employed in nursing for five or more years immediately preceding application, except an applicant who graduated from an approved professional nursing program during the five years immediately preceding application, shall be required to submit evidence of competency in nursing before receiving a license in Minnesota. Such evidence, submitted on an affidavit, may include any of the following which occurred within the five year period immediately prior to the application for a license: completion of a refresher course, attendance at no less that 15 clock hours of nursing-related continuing education courses, completion of an apprenticeship, participation in an orientation program at least one week in length conducted by an employer or potential employer or such other evidence as the Board may reasonably require.

2. On August 1, 1980, and thereafter, an applicant for licensure by interstate endorsement who has not been employed as a registered nurse for a period of two years or more immediately preceding application shall be required to submit an evidence form attesting to participation in continuing education activities which meet

the criteria specified in 7 MCAR § 5.1031. The continuing education participation must have occurred within the 24 months preceding application for licensure.

3. On August 1, 1980, and thereafter, continuing education participation, as required in 7 MCAR § 5.1010 C.2, shall not be required of an applicant who graduated from an approved professional nursing program during the two years immediately preceding application for licensure.

§ 5.1011 Application. The application forms and instructions for filing are provided by the Board.

A. A completed application for licensure by interstate endorsement shall include all of the following:

1. The completed and notarized application form;
2. A verification of licensure from the state in which the licensure examination was written;
3. A verification of licensure from the state in which most recently employed if this is different than the state of examination;
4. A satisfactory employment reference from the five years preceding the application. If the applicant has not been employed during this period, a personal reference is substituted;
5. The fee of $35;
6. An affidavit attesting to the required continuing education participation.

Chapter Four: § § 5.1030 - ~~5.1039~~ 5.1036 ~~Annual~~ Registration ~~(~~Renewal~~)~~; Penalty, Delinquent and Nonpracticing Status; Change of Name and Address; Duplicate and Replacement Documents; Verification of Minnesota License.

§ 5.1030 ~~Renewal of Registration.~~ Introduction and Definitions. ~~Each licensee is responsible for applying for renewal registration if he/she wishes to be employed as a Registered Nurse in Minnesota in the coming year. The Board issues renewal applications to all current licensees and will renew registration upon receipt of the application and the renewal fee. Beginning with the 1976 renewal period, the annual fee shall be $5.~~

A. Introduction. These rules are adopted pursuant to Minn. Stat. §§ 148.231 and 214.12 (1976). They pertain to the establishment of requirements and procedures for registration renewal for registered nurses and criteria which continuing education activities must meet in order to be acceptable for registration renewal.

B. ~~The renewal period shall be 24 months in length, beginning August 1 and ending July 31.~~ Definitions.

1. "Acceptable continuing education activity" means a learning experience in which a registered nurse has participated, evidence of which he/she submits to the Board as part of the application for registration renewal, and which meets the requirements stated in these rules.
2. "Board" means the Minnesota Board of Nursing.
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6. "Instructor" means a presenter, preparer, or guide for a continuing education activity. Written programmed instruction comes within this definition.

7. "License" means the document issued by the Board to an individual who meets for the first time the requirements to practice professional nursing in Minnesota.

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12. "Registration renewal" means the periodic process by which the Board confers legal authority upon an individual licensed and registered with the Board, authorizing the person to continue engaging in professional nursing.

13. "Registration renewal deadline" means May 31, immediately preceding the licensee's next renewal period.

14. "Renewal certificate" means the document issued periodically by the Board to a registered professional nurse who meets registration renewal requirements.

15. "Renewal date" means the first calendar day of a renewal period.

~~6.--The-December-31,-1977,-expiration-date-of-all-renewal-certificates is-hereby-extended-to-July-31,-1978.--All-renewal-certificates-issued between-the-effective-date-of-this-rule-and-July-31,-1978,-which-are intended-to-be-valid-during-these-dates-shall-contain-an-expiration-date-of July-31,-1978.~~

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§ 5.1031 ~~Penalty.~~ Registration Renewal. ~~An-applicant-for-renewal-of registration,-except-if-in-nonpracticing-status,-shall-pay-a-late-penalty fee-of-$4-as-well-as-the-renewal-fee-if-the-request-for-renewal-is postmarked-after-the-end-of-the-renewal-period.~~

A. Requirements.

1. On June 1, 1978, each registered nurse currently licensed and registered with the Board shall begin his/her first continuing education participation period.

2. Fifteen contact hours of acceptable continuing education activities shall be required for registration renewal between August 1, 1980, and July 31, 1982. Contact hours shall be accrued during the continuing education participation periods of June 1, 1978, through May 31, 1980, or June 1, 1979, through May 31, 1981.

3. Thirty contact hours of acceptable continuing education activities shall be required for registration renewal on August 1, 1982, and thereafter. Contact hours shall be accrued during a continuing education participation period beginning June 1, 1980, or any June 1 thereafter.

4. At least one of the acceptable continuing education activities required for registration renewal on or after August 1, 1986, shall require the licensee to show evidence that he/she successfully demonstrated to the instructor skill in performing one or a portion of a professional nursing function as indicated in Minn. Stat. § 148.171 (3) (1976).

5. The renewal fee shall be $15 per renewal period, effective August 1, 1978.

6. An acceptable application for registration renewal consisting of a completed, signed application form; a completed evidence form meeting requirements stated in these rules; and a renewal fee, shall be postmarked on or before May 31, immediately preceding the licensee's next renewal period. Resubmission of a previously incomplete or incorrect application form, evidence form and renewal fee postmarked on or before May 31, shall constitute timely submission.

7. An applicant for registration renewal, except if in the nonpracticing status, shall pay a penalty fee of $4 as well as the renewal fee for the current renewal period if the application, evidence form or renewal fee is postmarked after May 31, of the year in which it was due.

8. In order for a continuing education activity to be acceptable to the Board for registration renewal, a licensee shall be able to substantiate that each of the criteria listed below has been met.

   a. The content is related to one or more of the following components of professional nursing specified in Minn. Stat. § 148.171 (3) (1976):

      (1) Independent nursing functions as listed below:

         (a) providing a nursing assessment of the actual or potential health needs of individuals, families or communities;

         (b) providing nursing care supportive to or restorative of life by functions such as:

            i. skilled ministration of nursing care,

            ii. supervising nursing personnel,

            iii. teaching nursing personnel,

            iv. health teaching,

            v. health counseling,

            vi. case finding,

            vii. referral to other health resources; and

         (c) evaluating nursing functions; or

      (2) Delegated medical functions.

b. The duration of the activity was at least one contact hour.

c. The objectives were written in measurable terms which describe what a licensee can expect to learn.

d. The instructor's qualifications in the subject, such as education and experience, shall be stated in written form.

e. The method to be utilized by the learner to determine whether or not learning occurred was in written form. Acceptable methods may include but need not be limited to self-evaluation check lists or tests.

f. The continuing education activity was completed during the continuing education participation period immediately preceding the renewal date for which the licensee is seeking registration renewal.

g. Credit shall not be granted for identical continuing education activities submitted during any single continuing education participation period.

h. A written statement of participation provided by the instructor or a designee following completion of each acceptable continuing education activity was obtained. A fee receipt shall not be acceptable.

i. A grade indicating successful completion was obtained in an acceptable continuing education activity for which grades are granted.

9. A continuing education activity which the licensee taught shall not meet that licensee's registration renewal requirements.

10. A licensee shall submit true information. Falsification of any evidence for any registration renewal period and/or failure to comply with these rules for any two registration renewal periods shall constitute unethical conduct and provide grounds for suspension or revocation of a license.

11. A licensee shall keep records documenting each acceptable continuing education activity submitted to meet registration renewal requirements and obtain data from the acceptable continuing education activity as required in § 5.1031 B 8. The records shall be kept for two years following the end of the renewal period to which the activity is applied.

B. Procedure.

1. The licensee shall maintain with the Board his/her correct mailing address for the purpose of receiving Board communications and/or notices. Placing the notice in first class United States mail, postage prepaid and addressed to the licensee at his/her last known address shall constitute valid service.

2. The Board shall mail a renewal application and evidence form at least 120 calendar days prior to a licensee's renewal date to the last known address of every registered nurse holding a current renewal certificate. Failure to receive such notice shall not relieve a license holder of his/her obligation to comply with these rules.

3. An application, evidence form and renewal fee postmarked on June 1, or later, shall not be processed and shall be returned to a licensee for payment of a penalty fee.

4. A licensee's renewal application, evidence form and renewal fee postmarked on August 1, or later, shall be considered delinquent.

5. Information to be provided by the licensee on an evidence form shall include:

   a. identification of the licensee;

   b. identification of the continuing education activities;

   c. verification that the continuing education activities met all the criteria specified in 7 MCAR § 5.1031 A and that the information contained on the form is true in every respect;

   d. licensee's signature and date signed.

6. If the application form, evidence form or renewal fee submitted by a licensee is incomplete, incorrect or in noncompliance with these rules, the licensee shall be notified as to the reason for rejection and all documents shall be returned to the licensee within 30 calendar days after receipt.

7. If an individual is granted a Minnesota license within six calendar months prior to the first day of the licensee's renewal period, the license fee shall serve as payment for the first renewal period.

8. Following each renewal date the Board may select a sample of licensees applying for registration renewal and require substantiation of participation in acceptable continuing education activities. Selected licensees shall submit in writing the following data obtained from each continuing

education activity which verifies the information on the evidence form:

a. objective(s) of each continuing education activity;

b. verification received by the licensee of the number of contact hours and, for activities lasting four or more hours, a schedule listing time periods;

c. documentation of each instructor's qualifications, such as education and experience;

d. evidence that the licensee used the mechanism which was provided to determine if learning occurred. Acceptable methods may include but need not be limited to self-evaluation checklists or tests;

e. written verification received by the licensee of participation in each continuing education activity, provided by an instructor involved with the continuing education activity or a designee;

f. the specific professional nursing content area to which each continuing education activity is related;

g. in 1986 and thereafter, proof of compliance with 7 MCAR § 5.1031 A 4; and

h. any additional documentation the Board deems necessary.

9. If a licensee cannot demonstrate that he/she has sufficient hours of acceptable continuing education activities, the number of hours lacking to comply for that continuing education participation period shall be added to the contact hours required in the immediately succeeding period. This rule may

be applied once for any one licensee.

10. A licensee in noncompliance with 7 MCAR § 5.1031 A 2, 3, 4 and 8 shall be subject to the conditions in 7 MCAR § 5.1031 B 8. By this rule an audit shall be automatic for a nurse who has been found in an audit of the immediately preceding continuing education participation period to be in noncompliance with the rules.

§ 5.1032 Delinquent Status.

A. ~~An applicant for renewal of registration except if in nonpracticing status, who failed to re-register in the previous year or years shall pay a delinquent fee of $4 for each year for which he/she has been delinquent up to a maximum of $40 as well as the penalty fee of $4 and the renewal fee for the current period.~~ A registered nurse who fails to apply for registration renewal or request nonpracticing status or is in noncompliance with 7 MCAR § 5.1031 shall be deemed delinquent and shall not be entitled to practice nursing in Minnesota.

B. ~~The registered nurse who has failed to re-register with the Board and whose license has been in delinquent status for five years or more must present evidence of competency in nursing before becoming actively re-registered. Such evidence, submitted on a notarized form, may include any of the following which occurred within the five year period prior to the application for a current renewal certificate:~~

~~1. employment as a registered nurse in another U. S. jurisdiction or foreign country,~~

~~2. completion of no less than one week of a refresher course,~~

~~3. attendance at no less than 15 clock hours of nursing related education offering;~~

~~4. participation in an orientation program at least one week in length conducted by an employer or potential employer; or~~

~~5. such other similar evidence; and~~

~~such other evidence as the Board may reasonably require.~~ Whenever a license is placed in the delinquent status the Board shall mail a notice to the licensee's last known address which indicates the license status and the requirements for removal from such status.

C. Failure to fulfill the requirements for registration renewal or nonpracticing status within four years after being found delinquent in a hearing shall constitute unethical conduct and provide grounds for suspension or revocation of a licence.

D. Before August 1, 1980, the registered nurse holding a license which is in the delinquent status who applies for registration renewal shall:

1. submit a signed application;
2. pay a delinquent fee of $4 for each year or part thereof during which the license was delinquent up to a maximum of $40, the penalty fee, and the renewal fee for the current period; and
3. submit evidence of competency in nursing before becoming actively re-registered if the license has been in the delinquent status for five or more years. Such evidence may include any of the following which occurred within the five year period prior to the submission of an application for a current renewal certificate:

a. employment as a registered nurse in another U. S. jurisdiction or foreign country;

b. completion of no less than one week of a refresher course;

c. participation in no less than 15 contact hours of nursing-related educational offerings;

d. participation in an orientation program at least one week in length conducted by an employer or potential employer; or

e. such other similar evidence the licensee chooses to submit.

E. On August 1, 1980, and thereafter each registered nurse holding a license which is in the delinquent status who applies for registration renewal shall:

1. submit a signed application;

2. pay a delinquent fee of $4 for each year or part thereof during which the license was delinquent up to a maximum of $40, the penalty fee, and the renewal fee for the current period; and

3. submit evidence of meeting all requirements specified in 7 MCAR § 5.1031. Participation in continuing education activities shall have occurred during the two years prior to the submission of the application for registration renewal.

§ 5.1033 Nonpracticing Status.

A. ~~An applicant for nonpracticing status who failed to renew registration for the previous year or years shall pay a delinquent fee of $4 for each year which he/she has been delinquent up to a maximum of $40.~~ The Board shall

change a registered nurse's license status to nonpracticing only at the end of a renewal period and upon receipt of a written request.

B. ~~The registered nurse who has been in the nonpracticing status for five years or more must present evidence of competency in nursing before becoming actively re-registered. Such evidence may include any of the following which occurred within the five-year period prior to the application for a current renewal certificate:~~

~~1. employment as a registered nurse in another U. S. jurisdiction or foreign country;~~

~~2. completion of no less than one week of a refresher course;~~

~~3. attendance at no less than 15 clock hours of nursing related education offerings;~~

~~4. participation in an orientation program at least one week in length conducted by an employer or potential employer; or~~

~~5. such other similar evidence; and~~

~~such other evidence as the Board may reasonably require.~~ A licensee holding a current renewal certificate need not have met continuing education requirements to have his/her license placed in nonpracticing status.

C. ~~The licensee who has been in the nonpracticing status for less than five years will be granted renewal of registration upon notification to the Board of intent to renew and payment of the renewal fee for the current period.~~ A registered nurse holding a license which is in the delinquent status who applies for nonpracticing status shall pay all delinquent fees before such status shall be granted.

D. Before August 1, 1980, a registered nurse holding a license which is in nonpracticing status who applies for registration renewal shall:

1. submit a signed application;

2. pay the renewal fee for the current period; and

3. submit evidence of competency in nursing before becoming actively re-registered if the licensee has been in non-practicing status for five or more years. Such evidence may include any of the following which occurred within the five year period prior to the submission of an application for a current renewal certificate:

a. employment as a registered nurse in another U. S. jurisdiction or foreign country;

b. completion of no less than one week of a refresher course;

c. participation in no less than 15 contact hours of nursing-related educational offerings;

d. participation in an orientation program at least one week in length conducted by an employer or potential employer; or

e. such other similar evidence the licensee chooses to submit.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 19 1978
Joan Anderson Growe
Secretary of State
11:10 AM

APPROVED AS TO FORM AND LEGALITY
SEP. 18 1978 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

E. On August 1, 1980, and thereafter, a registered nurse holding a license which is in nonpracticing status who applies for registration renewal shall:

1. submit a signed application;

2. pay the renewal fee for the current period; and

3. submit evidence of meeting all requirements specified in 7 MCAR § 5.1031. Participation in continuing education activities must have occurred during the 24 months prior to the submission of the application for registration renewal.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ~~ATTORNEY GENERAL-Health~~

Office Memorandum

TO : Lee E. Scheehy
Special Assistant
Attorney General
G-25 Administration Bldg.

DATE: September 5, 1978

FROM : Terry P. O'Brien
Special Assistant
Attorney General

PHONE: 5371

SUBJECT: In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees

Enclosed for your review are three files containing the documents in support of the above-referenced rules. The continuing education requirements inspired a great deal of favorable and unfavorable comment.

I believe that both the Report of the Hearing Examiner as well as the Findings of Fact adopted by the Board of Nursing address and respond to comments submitted at the hearings held in Duluth, Rochester and the Twin Cities.

In the report submitted by the chief hearing examiner, dated on June 8, 1978, reference is made to Finding paragraph M incorporated into the Board of Nursing's Findings of Fact dated April 28, 1978. The chief hearing examiner states that the recitation of facts therein do not appear in the record and therefore are not in compliance with the provisions of Minn. Stat. § 15.0412, subd. 4. Regardless of whether the facts therein are in the record, facts in the record adequately support the rule. The Statement of Facts Establishing Reasonableness of Amendments, Board's Exhibit No. 11, at page 7 provides the factual basis upon which section 5.1031A.8c. rests. Furthermore, in the Supplemental Statement of Evidence, received as Board's Exhibit No. 18, the proposed section is again addressed with supportive rationale. Indeed, the hearing examiner addressed the proposed rule in Finding No. 28 of his report dated January 18, 1978, by stating in part as follows:

> "It appears that the rule is needed in order to provide some assurance of competency beyond passive attendance at activities. It cannot be said that the Board has attempted to accomplish this goal in an unreasonable manner."

The hearing examiner then states that the rule as written does have shortcomings and recommends that the Board might enact a rule governing skill demonstration at a later time when competency

testing in nursing is further developed. The Board in reviewing this matter determined that it would be better to notify the nursing public now that by 1984 some form of competency testing will be required. This is a policy decision which the Board is empowered to make and clearly rests upon the facts in the record. Thus, regardless of whether or not Finding of Fact paragraph M in the Board's Findings of Fact addresses matters not raised in the record, proposed rule section 5.1031A.8c. rests upon the affirmative presentation of facts presented both in the Statement of Facts Establishing Reasonableness of Amendments and the subsequent Supplemental Statement of Evidence submitted prior to the close of the record. Support of the adoption of this rule does not rest on the Board's Findings of Fact paragraph M which was adopted following the close of the record.

If you have any questions concerning these rules or the documents filed in support of these rules, please do not hesitate to contact me. Thank you.

FOX RIVER BOND

TPO:kd

Enclosures

cc: Joyce M. Schowalter, R.N.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Lee E. Sheehy
Special Assistant
Attorney General

DATE: 9-18-78

FROM : MICHAEL B. MILLER
Special Assistant
Attorney General

PHONE: 6-2639

SUBJECT: Rules of Board of Nursing

Lee:

The captioned rules present two issues. Here is a list of them and a discussion of each:

1. Rule 5.1031(a)(9) - exclusion of teaching from credited activities. The Hearing Examiner concludes that the rule is without affirmative support (see top of page 18, Hearing Examiner's Report) because the majority of the public was opposed. However, this is not the test, as you know. The Board has supported the rule as well as possible (see Finding "N"). In addition, by adopting the Hearing Examiner's view and rejecting the rule, we would be in effect telling the Board they had to affirmatively adopt a rule (i.e., granting credit for teaching). I don't think we should do this.

2. The Chief Hearing Examiner disputes finding "M" of the Board as not being based in the record. The finding contains cites to the record as well as the Board's reasoning, which it is entitled to include (in my opinion). Moreover, see Terry O'Brien's transmittal letter for other evidence in the record on this point.

Recommendation: The rules should be approved as adopted.

MBM/glp

MINNESOTA BOARD OF NURSING
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§ 5.1031 ~~Penalty.~~ Registration Renewal. ~~An-applicant-for-renewal-of registration,-except-if-in-nonpracticing-status,-shall-pay-a-late-penalty fee-of-$4-as-well-as-the-renewal-fee-if-the-request-for-renewal-is postmarked-after-the-end-of-the-renewal-period.~~

A. Requirements.

1. On June 1, 1978, each registered nurse currently licensed and registered with the Board shall begin his/her first continuing education participation period.

2. A licensee shall submit true information. Falsification of any evidence and/or failure to comply with these rules for any two registration renewal periods shall constitute unethical conduct and provide grounds for suspension or revocation of a license.

3. An acceptable application for registration renewal consisting of a completed, signed application form; a completed, notarized evidence form meeting requirements stated in these rules; and a renewal fee, shall be postmarked on or before May 31, immediately preceding the licensee's next renewal period. Resubmission of an acceptable application form, evidence form and renewal fee postmarked on or before May 31, shall constitue timely submission.

4. The renewal fee shall be $15 per renewal period, effective August 1, 1978.

5. An applicant for registration renewal, except if in the nonpracticing status, shall pay a penalty fee of $4 as well as the renewal fee for the current renewal period if the application, evidence form or renewal fee is postmarked after May 31, of the year in which it was due.

6. A licensee shall keep records documenting each acceptable continuing education activity submitted to meet registration renewal requirements and obtain data from the acceptable continuing education activity as required in § 5.1031 B 8. The records shall be kept for two years following the end of the renewal period to which the activity is applied.

7. In order for a continuing education activity to be acceptable to the Board for registration renewal, a licensee shall be able to substantiate that each of the criteria listed below has been met.

a. The content is related to one or more of the following components of professional nursing specified in Minn. Stat. § 148.171 (3) (1976):

(1) Independent nursing functions as listed below:

(a) providing a nursing assessment of the actual or potential health needs of individuals, families or communities;

(b) providing nursing care supportive to or restorative of life by functions such as:

i. skilled ministration of nursing care,

ii. supervising nursing personnel,

iii. teaching nursing personnel,

iv. health teaching,

v. health counseling,

vi. case finding,

vii. referral to other health resources; and

(c) evaluating nursing functions; or

(2) Delegated medical functions.

b. The duration was at least one contact hour.

c. The objectives were written in measurable terms which describe what a licensee can expect to learn.

d. The instructor's qualifications in the subject shall be stated in written form.

e. The method utilized to determine whether or not learning occurred was in written form.

f. The continuing education activity was completed during the continuing education participation period immediately preceding the renewal date for which the licensee is seeking registration renewal.

g. The continuing education activity submitted shall not have identical objectives to another continuing education activity submitted during the same continuing education participation period.

h. A written statement of participation following completion of each acceptable continuing education activity was obtained. A fee receipt shall not be acceptable.

i. A grade indicating successful completion was obtained in an acceptable continuing education activity for which grades are granted.

8. Continuing education requirements.

a. Fifteen contact hours of acceptable continuing education activities shall be required for registration renewal between August 1, 1980, and July 31, 1982.

b. Thirty contact hours of acceptable continuing education activities shall be required for registration renewal on August 1, 1982, and thereafter.

c. At least one of the acceptable continuing education activities required for registration renewal on or after

August 1, 1986, shall require the licensee to show evidence that he/she successfully demonstrated to the instructor skill in performing one or a portion of a professional nursing function as indicated in Minn. Stat. § 148.171 (3) (1976).

9. A continuing education activity which the licensee taught shall not meet that licensee's registration renewal requirements.

B. Procedure.

1. The licensee shall maintain with the Board his/her correct mailing address for the purpose of receiving Board communications and/or notices. Placing the notice in first class United States mail, postage prepaid and addressed to the licensee at his/her last known address shall constitute valid service.

2. The Board shall mail a renewal application and evidence form at least 120 calendar days prior to a licensee's renewal date to the last known address of every registered nurse holding a current renewal certificate. Failure to receive such notice shall not relieve a license holder of his/her obligation to comply with these rules.

3. An application, evidence form and renewal fee postmarked on June 1, or later, shall not be processed and shall be returned to a licensee for payment of a penalty fee.

4. A licensee's renewal application, evidence form and renewal fee postmarked on August 1, or later, shall be considered delinquent.

5. Information to be provided by the licensee on an evidence form shall include:

   a. identification of the licensee;

   b. identification of the continuing education activities;

   c. verification that the continuing education activities met all the criteria specified in 7 MCAR § 5.1031 A and that the information contained on the form is true in every respect;

   d. licensee's signature and date signed; and

   e. notarization.

6. If the application form, evidence form or renewal fee submitted by a licensee is incomplete, incorrect or in noncompliance with these rules, the licensee shall be notified as to the reason for rejection and all documents shall be returned within 30 calendar days after receipt.

7. If an individual is licensed within six calendar months prior to the first day of the licensee's renewal period, the license fee shall serve as payment for the first renewal period.

8. Following each renewal date the Board may select a sample of licensees applying for registration renewal and require substantiation of participation in acceptable continuing education activities. Selected licensees shall submit in writing the following data obtained from each continuing education activity:

   a. continuing education activity materials received by the licensee which verify the information on the evidence form;

b. objective of each continuing education activity;

c. verification received by the licensee of the number of contact hours and a schedule listing time periods for activities lasting four or more hours;

d. documentation of each instructor's qualifications;

e. evidence that the licensee used a mechanism to determine if learning occurred;

f. written verification received by the licensee of participation in each continuing education activity, signed by an instructor involved with the continuing education activity or his/her designee;

g. the specific professional nursing content area to which each continuing education activity is related;

h. in 1986 and thereafter, proof of compliance with 7 MCAR § 5.1031 A 8 c; and

i. any additional documentation the Board deems necessary.

9. If a licensee cannot demonstrate that he/she has sufficient hours of acceptable continuing education activities, the number of hours lacking to comply for that continuing education participation period shall be added to the contact hours required in the immediately succeeding period.

10. A licensee in noncompliance with 7 MCAR § 5.1031 A 7 and A 8 shall be subject to the conditions in 7 MCAR § 5.1031 B 8.

11. Rule 7 MCAR § 5.1031 B 9 may be applied once for any one licensee.

§ 5.1032 Delinquent Status.

A. An applicant for renewal of registration except if in nonpracticing status, who failed to re-register in the previous year or years shall pay a delinquent fee of $4 for each year for which he/she has been delinquent up to a maximum of $40 as well as the penalty fee of $4 and the renewal fee for the current period. A registered nurse who fails to apply for registration renewal or request nonpracticing status or is in noncompliance with 7 MCAR § 5.1031 shall be deemed delinquent and shall not be entitled to practice nursing in Minnesota.

B. The registered nurse who has failed to re-register with the Board and whose license has been in delinquent status for five years or more must present evidence of competency in nursing before becoming actively re-registered. Such evidence, submitted on a notarized form, may include any of the following which occurred within the five year period prior to the application for a current renewal certificate:

1. employment as a registered nurse in another U. S. jurisdiction or foreign country,
2. completion of no less than one week of a refresher course,
3. attendance at no less than 15 clock hours of nursing related educational offerings,
4. participation in an orientation program at least one week in length conducted by an employer or potential employer, or
5. such other similar evidence; and

such other evidence as the Board may reasonably require. Whenever a license is placed in the delinquent status the Board shall mail a notice

to the licensee's last known address which indicates the license status and the requirements for removal from such status.

C. Failure to fulfill the requirements for registration renewal or nonpracticing status within four years after being found delinquent in a hearing shall constitute unethical conduct and provide grounds for suspension or revocation of a license.

D. Before August 1, 1980, the registered nurse holding a license which is in the delinquent status who applies for registration renewal shall:

1. submit a signed application;
2. pay a delinquent fee of $4 for each year or part thereof during which the license was delinquent up to a maximum of $40, the penalty fee, and the renewal fee for the current period; and
3. submit evidence of competency in nursing before becoming actively re-registered if the license has been in the delinquent status for five or more years. Such evidence, submitted on a notarized form, may include any of the following which occurred within the five year period prior to the submission of an application for a current renewal certificate:
   a. employment as a registered nurse in another U.S. jurisdiction or foreign country;
   b. completion of no less than one week of a refresher course;
   c. participation in no less than 15 contact hours of nursing-related educational offerings;
   d. participation in an orientation program at least one week in length conducted by an employer or potential employer; or

e. such other similar evidence the licensee chooses to submit.

E. On August 1, 1980, and thereafter, each registered nurse holding a license which is in the delinquent status who applies for registration renewal shall:

1. submit a signed application;
2. pay a delinquent fee of $4 for each year or part thereof during which the license was delinquent up to a maximum of $40, the penalty fee, an the renewal fee for the current period; and
3. submit notarized evidence of meeting all requirements specified in 7 MCAR § 5.1031. Participation in continuing education activities shall have occurred during the two years prior to the submission of the application for registration renewal.

§ 5.1033 Nonpracticing Status.

A. ~~An applicant for nonpracticing status who failed to renew registration for the previous year or years shall pay a delinquent fee of $4 for each year which he/she has been delinquent up to a maximum of $40.~~ The Board shall change a registered nurse's license status to nonpracticing only at the end of a renewal period and upon receipt of a written request.

B. ~~The registered nurse who has been in the nonpracticing status for five years or more must present evidence of competency in nursing before becoming actively re-registered. Such evidence may include any of the following which occurred within the five year period prior to the application for a current renewal certificate:~~

~~1. employment as a registered nurse in another U.S. jurisdiction or foreign country,~~

~~2. completion of no less than one week of a refresher course,~~

~~3. attendance at no less than 15 clock hours of nursing related education offerings,~~

~~4. participation in an orientation program at least one week in length conducted by an employer or potential employer, or~~

~~5. such other similar evidence, and~~

~~such other evidence as the Board may reasonably require.~~ A licensee holding a current renewal certificate need not have met continuing education requirements to have his/her license placed in nonpracticing status.

C. ~~The licensee who has been in the nonpracticing status for less than five years will be granted renewal of registration upon notification to the Board of intent to renew and payment of the renewal fee for the current period.~~ A registered nurse holding a license which is in the delinquent status who applies for nonpracticing status shall pay all delinquent fees before such status shall be granted.

D. Before August 1, 1980, a registered nurse holding a license which is in nonpracticing status who applies for registration renewal shall:

1. submit a signed application;

2. pay the renewal fee for the current period; and

3. submit evidence of competency in nursing before becoming actively re-registered if the licensee has been in nonpracticing status for five or more years. Such evidence, submitted on a notarized form, may include any of the following which occurred within the

five year period prior to the submission of an application for a a current renewal certificate:

a. employment as a registered nurse in another U.S. jurisdiction or foreign country;

b. completion of no less than one week of a refresher course;

c. participation in no less than 15 contact hours of nursing-related educational offerings;

d. participation in an orientation program at least one week in length conducted by an employer or potential employer; or

e. such other similar evidence the licensee chooses to submit.

E. On August 1, 1980, and thereafter, a registered nurse holding a license which is in nonpracticing status who applies for registration renewal shall:

1. submit a signed application;

2. pay the renewal fee for the current period; and

3. submit notarized evidence of meeting all requirements specified in 7 MCAR § 5.1031. Participation in continuing education activities must have occurred during the 24 months prior to the submission of the application for registration renewal.

9/23/77

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA BOARD OF NURSING

IN THE MATTER OF PROPOSED RULES RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR REGISTERED NURSES AND REGISTERED NURSE APPLICANTS FOR LICENSURE BY INTERSTATE ENDORSEMENT AND AN AMENDMENT RELATING TO PENALTY FEES.	REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, hearings were held on November 14 and 16, 1977, before George A. Beck, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of the Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Board of Nursing on January 18, 1978; and

WHEREAS, the Board of Nursing has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Board of Nursing has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final rules proposed for adoption are not substantially different from those proposed at the public hearings, but that the Board of Nursing, in its Findings of Fact dated April 28, 1978, has, in Finding No. M, given a recitation of facts which do not appear in the record and, as such, said Finding would not be in compliance with the provisions of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Board of Nursing has the responsibility of submitting the complete hearing record and the rules as adopted by the Board to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 8th day
of June, 1978.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

EMET-75-003-GB

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.	REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before George A. Beck, duly appointed as Hearing Examiner in this matter at 9:30 a.m. on November 14, 1977, in the Auditorium of Rochester Methodist Hospital at 201 West Center Street, Rochester, Minnesota; the hearing was subsequently convened on November 16, 1977, at 9:30 a.m. in the Auditorium of the Museum of Natural History at the University of Minnesota, Minneapolis, Minnesota; the final hearing session was convened on November 18, 1977, at 9:30 a.m. in the Auditorium of St. Luke's Hospital at 915 East First Street in Duluth, Minnesota.

This proceeding is a rules hearing held pursuant to Minn. Stat. Chapter 15, to determine whether proposed rules should be adopted. Copies of this Report are available for review from the State Board of Nursing and from the Office of Hearing Examiners.

Members of the agency panel appearing at the hearing sessions included: Terry O'Brien, Special Assistant Attorney General, assigned to the State Board of Nursing; Joyce Schowalter, Executive Secretary of the State Board of Nursing; Douglas Bruce, Assistant Executive Secretary of the State Board of Nursing; Helen Hansen, member of the State Board of Nursing; and Jane Phillips, President of the State Board of Nursing.

Thirty-four public witnesses appeared and spoke at the hearing. Fifty-two timely written comments were received concerning the proposed rules and made a part of the record.

Based upon all the testimony, exhibits and written comments,

the Hearing Examiner makes the following:

FINDINGS OF FACT

1. On October 14, 1977, the Board filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On October 11, 1977, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 755.

3. On October 7, 1977, the Board mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice. The Notice of Hearing was also mailed to all members of the Minnesota Legislature and to a list of approximately 2,000 names compiled by the Board of Nursing and known to be persons who are interested in continuing education for nurses.

4. On October 20, 1977, the Board filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Evidence, including the names of witnesses to be called; and
(h) The names of Board personnel who will represent the agency;
(i) A Statement of Facts establishing reasonableness of amendments;
(j) A notice of intent to obtain information on proposed rules from non-agency sources;
(k) An Affidavit of Mailing of intent to obtain information on proposed rules from non-agency sources;
(l) An Affidavit of Receipt of the Secretary of State's list; and
(m) Certificate of Board of Nursing's authorizing resolution.

On November 8, 1977, amendments were submitted to the Affidavit of Receipt of the Secretary of State's list.

All documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through December 19, 1977, for

the receipt of written comments and statements.

6. The Board relies upon Minn. Stat. § 148.191, subd. 2, Minn. Stat. § 148.231, and Minn. Stat. § 214.12, as authority to promulgate the rules. Minn. Stat. § 148.191, subd. 2, generally authorizes the Board to "adopt and, from time to time, revise rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of section 148.171 to 148.299." Minn. Stat. § 148.231 governs continuing education for nurses and provides in subdivision 1 that, "upon adoption by the board of rules and regulations establishing procedures and minimum requirements for successful completion of specified continuing education as hereinafter provided, no certificate of registration shall be issued by the board to a nurse until he or she has submitted satisfactory evidence of compliance with the procedures and minimum requirements established by the board." Subdivision 2 established a task force to study continuing education for nurses and subdivision 4 mandates satisfactory evidence of compliance with the procedures and minimum requirements established by the Board for continuing education as a part of an application for renewal registration. Minn. Stat. § 214.12 also provides authority for any health related licensing board to promulgate by rule requirements of continuing professional education not to exceed an average attendance requirement of 50 clock hours per year. Minn. Stat. § 148.231, subd. 1, provides authority for a penalty fee to be added for any application received after the expiration date as specified by the Board by rule.

7. The proposed rules were developed by the Board with the assistance of a 15-member task force which was appointed pursuant to statute on August 5, 1975. The task force was geographically diverse and was representative of the various kinds of nursing services. (T. I, p. 11) The task force met for a period of about 15 months on a regular basis and held a series of open meetings around the State of Minnesota, in ten different cities, to discuss continuing education for nurses. The meetings were

attended by over 1,000 persons. (T. I, p. 12) Individual task force members or Board staff have also made approximately 20 appearances around the State to discuss the development of the proposed rules. (T. I, p. 13)

8. The proposed rules establish a framework for continuing education for nurses in the State of Minnesota. The rules require 30 contact hours of education every two years after the initial two-year period. The rules also describe what activities will be acceptable as continuing education and establish a procedure at the time of license renewal to document compliance with continuing education requirements. As a check on compliance with the rules, a procedure is also established whereby a sample of persons will be selected who will be asked for more detailed information on their continuing education. (T. III, pp. 14-17) General support for the proposed rules was expressed by the Minnesota Nurses Association (MNA) (T. II, p. 52) and the Minnesota League of Nursing (T. II, p. 58) and a number of others. (T. II, p. 72; T. III, p. 42; Exs. M, Z, QQ, AA) General comments against the rules were concerned primarily with the cost to each nurse of compliance with the continuing education rules (Exs. G, R, p. 2; Exs. BB, II, NN, WW), especially when consideration is given to the level of nursing salaries and the fact that some nurses are the sole support of their families. (Exs. EE, RR) The Board has sought to minimize the cost by permitting the use of in-service hospital training and American Nurse Association home study courses as activities which comply with the rules. The rules also seek to minimize costs by foregoing an elaborate system of program approval, which was favored by some speakers (T. II, p. 88; Exs. QQ, TT, VV), and instead placing the primary responsibility on the licensees to judge the value of a particular continuing education activity and to judge whether or not the program criteria in the rules will be met by the continuing education offering. (T. II, pp. 15-17) A few comments were received indicating a belief that continuing education as a concept was ineffectual and

produced paperwork without an appreciable improvement in the competence of nurses. (Exs. Y, OO, XX)

Introductions and Definitions

9. Section 5.1030(A) contains the introduction to the proposed rules and gives the reader a statutory citation and summarizes the content of the proposed rules. The rule drew no comment and is needed and reasonable.

10. Section 5.1030(B) contains 15 definitions to be used in interpretation of the proposed rules. The only definition which drew specific comment was the definition of "instructor". Three comments questioned whether the word "guide" in the definition would include a programmed instruction such as that offered by the American Journal of Nursing. Although the rule is reasonable as stated, the Board should consider adding to or modifying the definition to make it clear that written programmed instruction comes within the definition. Exhibit 2 notes on Page 2 that a typographical error occurred in the publication of section 5.1030(B)(4), the definition of "continuing education participation period". The word "date" in the proposed rule should read "deadline". The Board also suggested in Exhibit 18, Page 2 that the definition of "participation" be revised so as to avoid conflict with section 5.1031(A)(9). The amended definition is as follows:

> "Participation" means attendance at or in any manner other than teaching taking part in an acceptable continuing education activity documentation of which is submitted as part of the application for registration renewal.

For the reasons set out at Finding of Fact No. 29, it is recommended that this amendment not be adopted. The Board's statement at the hearing in support of the rules, which is also contained in Board Ex. 11, establishes the need for and reasonableness of the definitions as originally proposed. (See also Ex. KK)

License Renewal Requirements

11. Section 5.1031(A)(1) sets the date, namely June 1,

1978, of the commencement of the first 24-month continuing education participation period. The only comments received (Exs. R, p. 1; PP, p. 1) questioned why the continuing education period differed from the renewal period. The difference allows the Board to review the applications which are due May 31, prior to issuing a license which will be effective August 1. The rule is needed and reasonable as proposed; however, the Board may well wish to consider rearranging the requirements section if it can be done in such a way as to clarify the sequence of events involved in registration renewal and the relationships of the various dates.

12. Section 5.1031(A)(2) requires a licensee to submit true information. The rule is needed to permit enforcement of the rules. The MNA pointed out that the wording of the rule is ambiguous in that it could be read to mean that falsification of any evidence for any two renewal periods would constitute unethical conduct. (T. II, p. 55) The Board's intent was to discipline even a single instance of falsification. (Ex. 18, p. 2) The rule should either be reworded or punctuated so as to make it clear that a single instance of falsification is grounds for suspension or revocation of a license. So amended, the rule is reasonable and needed.

13. Section 5.1031(A)(3) sets out what must be submitted as an acceptable application for registration renewal, and makes May 31 the deadline for submitting an application. The requirement in the rule that the evidence form be notarized drew considerable comment. The notarization requirement is repeated at section 5.1031(B)(5)(e) and section 5.1010(C)(1). The Board believes that notarization will discourage fraud or deceit. (Ex. 11) The Board's hope is that the notarization requirement would decrease the percentage of licensees who would be found not to have supporting evidence when a sample is taken under section 5.1031(B)(8). (T. I, p. 43) The notarization requirement was opposed as unnecessary by the MNA, the MLN and the Minnesota Association of Nurse Anethetists (MANA). (T. II,

pp. 48, 55, 57) A large number of individuals also saw the requirement as unnecessary, costly, and a questioning of the integrity of professional nurses. (T. II, pp. 67, 72, 76, 86; T. III, p. 46; Exs. B; I; T, p. 1; AA, pp. 1-2; CC, p. 1; SS; UU; VV)

Robert R. Johnson, an RN from Rochester, pointed out that while "notarization" affirms that the person signing the document is in fact that person, it does not necessarily mean that the signer is swearing to the accuracy of the content of the document. He points out that falsification has other penalties in the rules namely suspension or revocation of a license. (Ex. S; see also Ex. MM, p. 2) A review of the statutes governing the acts of a notary public reveals that the word "notarization" is ambiguous. A notary has authority to issue a certificate of acknowledgment in which he attests that the person signing a document appeared before him and acknowledged execution. (See Minn. Stat. § 358.36, Minn. Stat. § 359.04) A notary can also administer oaths and therefore cause an affiant to swear under oath as to the accuracy of the contents of an affidavit. (See Minn. Stat. § 359.04, Minn. Stat. § 359.05) The penalties for perjury would only apply in the case of a representation made under oath. It is therefore concluded that the notarization requirement contained in these rules is neither needed, since there are other strong sanctions against falsification, and is not reasonable since (1) the ambiguity of "notarization" prevents the Board from requiring an affidavit, and (2) the same result can be obtained without the cost and extra time involved in visiting a notary public.

One comment was also received concerning the last sentence of this proposed rule subsection dealing with resubmission of applications. The MANA stated that it was not clear whether "resubmission" applied to those previously examined, completed applications that were not found to be acceptable, or to applications to be submitted in following years. (T. II, pp. 48-49) Although the entire rule subsection, with exception of the

notarization requirement, is needed and reasonable, the last sentence as proposed is somewhat confusing since any submission prior to May 31 would be timely. If the Board's intent is merely to authorize resubmission of an incomplete or incorrect application, the sentence could be reworded to more clearly state that.

14. Section 5.1031(A)(4) sets the amount of the renewal fee to be submitted with each application. The financial statistics and Department of Finance approval of this fee were submitted in Board Exhibit 9. This proposed rule received no comment, and is needed and reasonable.

15. Section 5.1031(A)(5) requires that a penalty fee of $4.00 be paid when an application is postmarked after May 31. The penalty fee is increased in order to allow the Board to recover the cost of special handling when processing applications postmarked after the deadline. The penalty fee also acts as a deterrent to submitting a late application. Board Exhibit 9 provides the financial statistics and Department of Finance approval of the fee increase. The rule received no comment and is needed and reasonable.

16. Section 5.1031(A)(6) requires licensees to retain records documenting their continuing education activity for two years following the end of the period to which the activity is applied. One comment (Ex. R, p. 1) questioned the need for keeping records. The need is to permit the Board to verify compliance through the sample set out in section 5.1031(B)(8). Another comment (Ex. KK, p. 1) supported the rule as helpful in advising a licensee of his or her responsibilities. The rule is needed and reasonable.

17. Section 5.1031(A)(7) sets out the criteria which the licensee must be able to substantiate in order for a continuing education activity to be acceptable. Section 5.1031(A)(7)(a) restates the statutory definition of the practice of nursing as being the components of professional nursing to which the content of the continuing education activity must be related. The Board

stated that since an individual is licensed to perform the functions as defined in the statute, it is logical that a licensee be judged against the same criteria at the time of registration renewal. This subsection received a good deal of comment. Most of the comments stated that the definition was too narrow and too restrictive (T. II, p. 53) and should specifically include other areas such as nursing administration (T. III, p. 78; Exs. SS, YY, CC, p. 1; T. II, p. 65), health planning, nursing research (Exs. MM, O), publication in professional journals (Ex. AA, p. 2), communication skills, and nursing law (Ex. II, p. 2).

Nurses at St. Luke's Hospital in Duluth asked that continuing education not be limited only to the components of professional nursing as stated in the statute, but be altered to include the content related to one's specific area of current nursing practice. They recommended that the following language be added to section 5.1031(A)(7)(a):

> (3) Additional expertise components required for professional nurses practicing as coordinators, supervisors, educators, consultants, clinicians, other nurse specialists and administrators in a health care setting. (Ex. ZZ, p. 2)

In regard to these comments, the Board stated that:

> The use of the statutory definition of professional nursing as the basis for continuing education is reasonable because that definition is the only presently existent, universally accepted statement of the functions which the public expect professional nurses to be able to perform. The Board recognizes that it is imprecise and open to a certain amount of variance in interpretation, but believes that all nurses are able to make reasonable judgments as to its meaning. Further latitude in interpretation of the continuing education activities which will be acceptable is the use of the words "related to" in the stem of the rule. The result of this inclusion is that course work taken as part of a program toward an advanced nursing degree, courses supportive to the application of nursing services and training in programs preparing a nurse to become or continue to practice as anesthetist will apply.
>
> The Board is aware of the fact that many nurses hold active nursing licenses, yet have jobs in related fields. In those cases, the nurse's professional nursing education and/or experience either was considered important at the time of employment or is considered vital to adequate job performance on a continuing basis. In cases of the first type

a non-practicing license probably is appropriate. In the second type, the person can best demonstrate his/her currency by meeting the continuing education requirements for holding an active license.

Since the definition is by law the only one which authorizes all types of nursing practice, it is broad enough to accommodate the advanced educational needs of all--from new graduates to advanced nurse researchers. The requirements do not restrict the breadth or depth of education as long as it falls within the scope of nursing practice as defined. This approach is viewed by the Board as a means of accommodating all licensees.

If a licensee in the sample submits evidence which is not clearly related to one of the components additional information will be sought. This information will be reviewed by a Registered Nurse on the staff. Since the rules do not provide specific criteria for rejecting the evidence, those continuing education activities in which the staff does not see the relationship to the components will be referred to a Board Review Panel including at least one other Registered Nurse. If after review by the Panel the relationship is still unclear, the activity will be rejected and the hours added to the next renewal period. Of course, a hearing would be held at the appropriate juncture. This procedure is fair, public and by the very fact that no other criteria for rejection have been proposed, it operates in the licensee's favor. (Ex. 18, pp. 3-4)

Support was expressed for use of the statutory language to define an acceptable continuing education activity. (Exs. FF, KK, p. 1) Given the Board's approach, it would appear that duplication of the statutory language is crucial to the ability of a person affected by a rule to comprehend its meaning and effect, in compliance with Minn. Stat. § 15.0412, subd. 1. (Ex. 17, pp. 1-2)

The rule is clearly needed in order to establish a framework for determining what types of continuing education will be acceptable. The Examiner is unable to conclude that the proposed rule is unreasonable because it is too narrow or restrictive. Some of the areas suggested for inclusion within the rule, such as nursing research, nursing law, and others, would likely be judged to be included within the present proposed language even though not explicitly so stated. Based upon the Board's comments and a reading of the proposed rule, it would be less likely that nursing administration would be included. Such a decision is

properly a policy decision to be made by the Board of Nursing. The language of the statutory definition of professional nursing would not, however, prevent the Board from adding further language to section 5.1031(A)(7)(a) which would further clarify for nurses who must read this rule additional areas which the Board believes properly falls within the language of the existing proposed rule. The proposed rule should help to clarify and interpret the statutory definition.

18. Section 5.1031(A)(7)(b) sets the minimum duration of an acceptable activity at one contact hour which is defined as 50 minutes. The Board believes that activities of less than 50 minutes are not a sound way of improving one's knowledge. The proposed rule would also provide consistency between states with mandatory continuing education. A few comments questioned the mechanics of application of the rule (T. II, p. 78; Exs. AA, p. 3; R, p. 2). A more serious consideration was raised by nurses at the University of Minnesota Hospitals who stated that "at the University of Minnesota and at some other colleges some classes are 45 minutes. The contact hour, then restricts us from taking pertinent college classes that are related to nursing." (Ex. UU, p. 1) The Board made no reply to this letter, presumably because the letter was not received until December 15, 1977. The rule is needed; however, should the rule exclude any significant number of nursing-related classes at the University of Minnesota or other schools, it would be unreasonable.

19. Section 5.1031(A)(7)(c) requires that an acceptable activity have written objectives which describe what a nurse can expect to learn. The purpose of the rule is to allow a potential student to determine the direction an educational offering will take. If the objectives are stated in measurable terms, a nurse may then select continuing education activities that meet his or her needs and will be able to make a judgment as to whether or not the offering is acceptable under the continuing education rules. Two comments (Exs. V, p. 1; NN) questioned how objectives will be judged as being measurable or not measurable. The Board

indicated that professional nurses may reasonably be expected to judge whether or not the objective used words which indicated measurement such as "perform", "write", or "state". The Board gave as an example of an objective written in measurable terms the following: "The participant will be able to name three community resources for persons with kidney disease." (Ex. 18, p. 4) The rule is needed and reasonable as proposed.

20. Section 5.1031(A)(7)(d) requires that the instructors' qualifications be stated in writing so that a nurse can determine whether the instructor is capable of providing a continuing education activity designed to improve his or her professional skills. Several comments (Exs. R, p. 2; CC, p. 1) asked who would judge whether or not the instructors qualify. The Board replied that each nurse will make this judgment, and that the Board will be judging only whether or not the qualifications were listed on a written document. (Ex. 18, p. 5) Several other comments requested a better definition of what type of qualifications should be listed. (T. III, p. 44; Exs. M; T, p. 2; GG; MM, p. 2; PP, p. 2) The Board stated that it has not proposed qualifications for instructors since licensees will be participating in a variety of types of educational activity. Since there are no grounds to reject an activity based upon the qualifications of the instructor, all submitted evidence in this regard will be accepted by the Board. The rule is needed and reasonable as proposed; however, the Board might well consider at least stating in the rule that qualifications "such as education and experience" should be stated. This would give nurses some indication of the type of qualifications for which they should be looking.

21. Section 5.1031(A)(7)(e) requires continuing education activities to utilize a method of determining if learning occurred in the course of the activity. The Board believes that without some evaluation of learning, it is difficult for the student to judge whether or not the objectives of the course were reached and if learning occurred. Several comments were submitted questioning the mechanics of this rule. (Exs. I; M; MM,

p. 2; NN; SS) The Board stated that its goal was only to document that the method utilized was in written form. In its post-hearing comments, the Board stated that it was not the intent to require licensees to take tests from instructors, and that therefore the rule should be amended to clarify that self-evaluation checklists and other methods in which the learner knows the results can be utilized. The Board proposed that the rule read as follows:

> The method utilized by the learner to determine whether or not learning occurred was in written form. (Ex. 18, p. 5)

The rule as amended by the Board is reasonable and needed. One written comment (Ex. PP, p. 2) called for more specificity in the rule as to what types of methods can be used. The Board might well wish to consider whether or not giving examples of acceptable methods in the rule might make the rule more understandable.

22. Section 5.1031(A)(7)(f) provides that an acceptable activity must be completed in the period immediately preceding the renewal date. The rule is needed to ensure current continuing education and to simplify administration of the program and is reasonable.

23. Section 5.1031(A)(7)(g) provides that the activity shall not have identical objectives to any other activity submitted during the same period. The Board stated that the rule is intended to prevent a licensee from repeating an activity since the goal is to learn new information and remain current with developments in nursing. Several comments indicated that this proposed rule might be too inflexible (T. II, p. 49), and that it is possible to have programs with the same objectives with different approaches which would be a valuable learning experience. (Exs. V, p. 1; SS; UU, p. 2) One person commented that the proposed rule was unreasonable since a better quality program with the same objectives may be offered at a later point in time. (Ex. CC, p. 2) The RNs at Lake Region Hospital in Fergus Falls questioned what the result would be if one or two

of many objectives were the same. (Ex. X, p. 2) In its post-hearing comments, the Board stated that if two courses are offered on the same topic, but the approach is different, the objectives would reflect this difference and it would therefore not be identical. Similar objectives would be acceptable. The Board then offered the following as an amendment of the rule:

> The continuing education activity submitted shall not have objectives all of which are identical to all objectives for another continuing education activity submitted during the same continuing education participation period. (Ex. 18, p. 6)

William J. Hodapp commented that since the intent of the Board appeared to be to prohibit credit for participation in the same program more than once in any participation period, the Board should simply state that without referring to objectives. He suggested the following language:

> The applicant may not submit identical continuing education programs for credit during any continuing education participation period.

The rule is needed; however, it is not a reasonable way of accomplishing the Board's stated objective of prohibiting a licensee from applying participation in the same activity more than once during any registration renewal cycle. (See, Ex. 18, p. 6) If this is indeed the Board's intent, it should simply prohibit credit for submission of the same program without resorting to vague and ambiguous language concerning objectives which requires unnecessary guessing on the part of the licensee when he or she attempts to determine whether or not the program is acceptable under the rules.

24. Section 5.1031(A)(7)(h) requires that a written statement of participation be obtained. The written statement is needed to document actual participation in the activity beyond a fee receipt. One comment stated that it might be difficult to obtain the instructor's verification of participation in an in-service setting. (Ex. I) Another comment interpreted the rule to mean that a licensee was responsible for preparing a statement of participation. The Board responded that it would not be difficult for in-service education departments of hospitals and

other employment settings to supply attendees with an already prepared document. The rule is needed and reasonable. The Board might wish to consider clarifying the fact that the instructor should provide the statement where this is possible.

25. Section 5.1031(A)(7)(i) provides that where grades are given, a licensee must receive a successful grade in order to qualify the activity. One comment expressed the belief that a successful grade does not necessarily document learning. (T. III, p. 45) Another comment (Ex. KK, p. 2) saw unequal treatment in requiring a successful grade in graded activities without any sort of requirement in activities for which grades are not granted. The rule is needed and reasonable. It is reasonable to conclude that a failing grade may indicate that learning did not occur.

26. Section 5.1031(A)(8)(a) sets out the number of hours which will be required for the first continuing education participation period from June 1, 1978 to June 1, 1980. The proposed rule sets the number of hours at one-half of the number of hours which will be required for the next and successive periods in order to "phase in" the program. The rule is needed and the lower number of hours in the initial period is reasonable; however, one comment (T. III, p. 84) did indicate that the rule was difficult to understand as written. This is probably true since the rule does not reference the dates of the first continuing education participation period. The Board may wish to consider including this.

27. Section 5.1031(A)(8)(b) sets 30 contact hours as the requirement for each two-year period beginning in 1980. The Board believes that this number of hours reflects the opinions of nurses who participated in information gathering prior to this rule hearing procedure It is also consistent with California's requirement and Florida's proposal. The 30 contact hour figure is well below the 50 clock hour maximum permitted under Minn. Stat. § 214.12. There was very little criticism of the number of hours as proposed in the rule. There was some

concern that acquiring 30 hours might be more difficult in rural areas. (Exs. R, p. 2; MM, p. 2) Only one comment expressed the belief that 30 hours was too much. (Ex. CC, p. 2) The MNA stated that 40 hours would be acceptable. (T. II, p. 56) The rule is reasonable and needed. (Ex. T, p. 2)

28. Section 5.1031(A)(8)(c) requires that, beginning with the 1984-1986 participation period, one of the acceptable activities shall require each nurse to show evidence that he or she successfully demonstrated to an instructor skill in performing a professional nursing function. The Board believes that since professional nursing requires performance of functions as well as acquisition of knowledge, continuing education should include evidence that the licensee possesses such skills. Several comments received evidenced a concern about the cost of this type of one on one instruction and expressed the belief that there are too many nurses in the State to permit accomplishing this requirement. (Exs. D; I, P; R, p. 2; II, p. 2) Several comments stated that the rule simply did not provide enough guidance to licensees or instructors as to what is required in showing evidence of successful performance of a nursing function. (Ex. KK, p. 2) Some nurses questioned what type of skill, namely physical, communication, or written, was to be demonstrated. (Ex. MM, p. 2) Some comments pointed out that demonstration of a basic skill or a repetitive skill or perhaps even a skill which is unrelated to the nurses' field of practice would not add to the continuing education program. (Exs. I; Z, p. 1)

The Board acknowledged in its Statement of Need that this was a small move in the direction of competency based registration renewal, but that the state of art in competency testing in nursing was not advanced enough to require more than one activity of this nature even in 1986. One comment stated that such testing may not be far enough along by 1986, and that this rule should wait until testing is developed. (Ex. X, p. 3) In its post-hearing submission, the Board suggested that the proposed rule is a means of encouraging competency assessment and that establishing the

testing system within the rule would be both costly and not likely to encourage diversity of approach. The Board suggests that since the rule would be effective until 1984, the Board has time to revise it or add details if that should be necessary.

It appears that the rule is needed in order to provide some assurance of competency beyond passive attendance at activities. It cannot be said that the Board has attempted to accomplish this goal in an unreasonable manner. However, the rule does have shortcomings as the above-mentioned comments have indicated. The Board should consider withdrawing this rule subsection and enacting a rule governing skill demonstration at a later time when competency testing in nursing is further developed and a more detailed guideline could therefore be presented.

29. Section 5.1031(A)(9) provides that a continuing education activity taught by the licensee cannot be used to meet his or her continuing education requirements. The Board stated that teaching of an activity would not have measurable objectives and would not include a written method to determine whether or not the teacher learned. This rule subsection drew approximately 17 comments. With the exception of one comment (Ex. KK, p. 2) the belief was expressed that it was unfair not to allow at least some credit for teaching a continuing education activity since preparing for a presentation is a superior learning experience. (T. II, p. 50; T. III, p. 72; Exs. A; GG) Many comments stated that the instructor should receive credit for only the first presentation of a program. (Exs. R, p. 2; B; VV, p. 2) One comment pointed out that section 5.1031(A)(7)(g) would likely allow use of the program presentation only once anyway. (Ex. II, p. 2) There was also support expressed for the proposition that credit for teaching continuing education activities should be limited to one-third or some other fraction of the total number of contact hours required in a two-year participation period. (T. I, pp. 35-36; Ex. JJ) Several comments pointed out that there are good policy reasons for allowing some credit to instructors, since proper preparation is crucial to the success of

a continuing education program and should be rewarded. (Ex. U) Allowing credit would encourage knowledgeable and experienced nurses to be instructors and would encourage instructors to comply with these rules. (Ex. HH; T. II, p. 85)

The Board pointed out that teaching an activity is remote from the nursing/patient relationship which is central to nursing. The Board believes that it is unfair to the thousands of licensed nurses who are competent, but cannot get credit for their satisfactory work experience to allow instructors to get credit for a portion of their work experience. Although a rule is needed to deal with teaching, the proposed rule is not reasonable. The Board has not sustained its burden of presenting an affirmative presentation of facts to show that it is reasonable to deny at least some credit to instructors for their presentation of continuing education activities. If the goal of continuing education is to acquire new knowledge of nursing in order to keep current in the field, then preparation for teaching a course satisfies this goal. Based upon the record, the Board could reasonably limit such credit to the first program presented and could limit the number of teaching contact hours to one-third or some other fraction of the total number of credits to be earned over the two-year period.

Procedural Requirements

30. Section 5.1031(B)(1) provides that each nurse shall maintain a correct mailing address with the Board. This rule is needed so that the Board may effectively administer and enforce these rules and is reasonable.

31. Section 5.1031(B)(2) obligates the Board to mail a renewal application and evidence form 120 days prior to the renewal date to each licensee. The rule is needed to remind licensees that if they have not yet obtained sufficient contact hours, they will have to do so. The rule is reasonable.

32. Section 5.1031(B)(3) provides that an application received by the Board on June 1 or after, shall be returned to the licensee for payment of a penalty fee. The rule advises the

licensees of what to expect upon a late submission and is needed and reasonable.

33. Section 5.1031(B)(5) sets out the information to be provided by the licensee on an evidence form. The comments directed at this rule subsection were directed at letter (e) dealing with notarization and as in regard to the notarization specified in section 5.1031(A)(3), the comments were in opposition to this requirement. (T. II, p. 65; T. III, p. 46; Exs. I; R, p. 2; CC, p. 2; GG) For the same reasons set out in Finding of Fact No. 13 in connection with the prior rule subsection, the Hearing Examiner finds that the Board has failed to show a need for the notarization requirement, and that it is not reasonable. The remainder of this subsection is needed and reasonable.

34. Section 5.1031(B)(6) provides that if a submission by a licensee is incomplete, the Board will advise the licensee of the reasons for rejection and return all documents within 30 calendar days. The rule is necessary to provide a mechanism and a time limit in regard to incomplete applications. The MANA suggested that the last phrase could be clarified by indicating that all documents shall be returned to the licensee. The rule is reasonable as proposed, but could be clarified by the MANA addition.

35. Section 5.1031(B)(7) provides that if a nurse is licensed for the first time within six months prior to the first day of the renewal, then the licensee fee will cover the entire first renewal. The rule is needed to prevent a licensee from paying a substantial initial licensing fee and then having to pay a full renewal fee a month or two later. The rule is needed and reasonable; however, it might be clarified to make it obvious that the rule is speaking about initial licensure.

36. Section 5.1031(B)(8) allows the Board to select a sample of licensees and require specific substantiation of participation in continuing education activities by submission of the various documents set out in the rule. The Board believes that this type of mechanism is needed to ensure compliance with

the requirements and procedures established by the Board. The use of a sample is designed to minimize the cost of enforcement while still keeping licensees aware that enforcement of the rules is being carried out. Two comments felt that it was unfair to select out a few nurses for an audit. (Exs. DD, p. 1; MM, p. 2) Two comments suggested that the rule should explicitly state that the audit could only be conducted in the two-year period following the participation period being audited, even though another rule indirectly suggests this by requiring records to be kept for only two years. (Exs. T, p. 2; YY) The rule is needed because a means of checking compliance with the rules must accompany a system where the major responsibility for compliance is placed upon the licensee. The method chosen is reasonable.

37. Section 5.1031(B)(8)(a) requires audited licensees to submit continuing education activity materials received by the licensee. One comment (Ex. R, p. 3) questioned to what materials the rule referred. The rule is needed and reasonable, but could be more specific.

38. Section 5.1031(B)(8)(b) is essentially a restatement of section 5.1031(A)(7)(c) and the comments at Finding of Fact No. 19 apply. The rule is reasonable and needed.

39. Section 5.1031(B)(8)(c) requires submission of any verification received by the nurse of the number of contact hours. One comment (Ex. X, p. 3) found the language concerning four or more hours to be confusing. The Board suggested in Ex. 18, p. 9 that the rule be revised to read:

> c. Verification received by the licensee of the number of contact hours and, for activities lasting four or more clock hours, a schedule listing time periods;

As amended, the rule is needed and reasonable.

40. Section 5.1031(B)(8)(d) essentially repeats section 5.1031(A)(7)(d) and received comments similar to the comments addressed to that section. (T. II, pp. 50, 68, 71) The findings and conclusions at Paragraph 20 of the Findings of Fact apply here. The rule is needed and reasonable.

41. Section 5.1031(B)(8)(e) is essentially the same as section 5.1031(A)(7)(e) and attracted similar comments. (T. II, pp. 68, 89, 92; T. III, p. 57; Exs. R, p. 2; T, p. 2; NN) The Examiner's comments at Paragraph 21 of the Findings of Fact apply here also. The rule is needed and reasonable.

42. Section 5.1031(B)(8)(f) requires a written verification signed by an instructor that the licensee particpated in each activity. This requirement is similar to section 5.1031 (A)(7)(h) and the comments at Finding of Fact No. 24 therefore apply. The rule is needed and reasonable.

43. Section 5.1031(B)(8)(g) requires a nurse to specify the content area for each activity. The rule received no comment and is needed and reasonable.

44. Section 5.1031(B)(8)(h) provides that when the skill demonstration rule becomes effective, the audited licensee must supply some proof of compliance. The rule is needed and reasonable.

45. Section 5.1031(B)(8)(i) provides that the Board may request additional documentation. The Board believes that this rule is needed since, if a licensee is unable to obtain certain of the required items, the Board must have the flexibility to require different materials. (T. II, p. 91) One comment (Ex. PP, p. 3) felt that this provision gave the Board too much discretion. However, the rule is needed in order to provide some administrative discretion for the Board. It appears to be reasonable since the licensee may resist an improper request and demand a contested case hearing concerning concerning the matter.

46. Section 5.1031(B)(9) provides that if a licensee cannot demonstrate a sufficient number of hours, the number of hours lacking shall be added to the hours required in the next participation period. The rule is necessary to allow some flexibility when a nurse has made a mistake in selection of a continuing education activity and is reasonable.

47. Section 5.1031(B)(10) states that a license in noncompliance with the rule shall be subject to the conditions in the audit section. The Board apparently intends by this rule to

automatically require an audit of a nurse who has been found in a previous audit to be in non-compliance with the rules. This is reasonable and needed; however, as one comment pointed (Ex. PP, p. 2), the rule is somewhat confusing as it is written since it does not exactly say what the Board intends and does not explain what is contained in the rule provisions being cited.

48. Section 5.1031(B)(11) allows a licensee to use section 5.1031(B)(9) only once. The Board believes that this rule is necessary to prevent a licensee from continually circumventing the rules and shifting contact hours to a subsequent renewal period. One person commented that this rule is unrealistic since it is possible for a nurse to make a mistake more than once in his or her working lifetime. (Ex. MM, p. 2) A rule is needed to prohibit abuse of section 5.1031(B)(9); however, it is unreasonable to absolutely prohibit use of the shifting of contact hours more than once in a nurse's lifetime. The Board should consider including this rule subsection along with section 5.1031(B)(9) for clarity and should consider drafting a rule which would allow only a single automatic shifting of contact hours into a subsequent renewal period. A second use of this device should then require action by a vote of the Board or some other type of discretionary administrative action.

49. Section 5.1032 deals with delinquent status and states when a registered nurse falls into that status. The rule requires the Board to notify a nurse when this happens and allows suspension or revocation after four years of delinquency. The rule also specifies what a delinquent registered nurse must do to apply for registration renewal. The requirement of a refresher course and an orientation program drew some comment. (Exs. R, p. 2; Cc, p. 3; SS) The rule is needed and reasonable.

50. Section 5.1033 sets out the rules governing a registered nurse's license in non-practicing status. The rule received support as being reasonable. (Ex. KK, p. 2) The rule provides that those licensees in non-practicing status do not have to meet continuing education requirements, but provides that should the nurse seek to activate his or her license, certain

requirements must then be met. After August 1, 1980, a licensee in non-practicing status who applies for registration renewal will have to comply with the continuing education requirements in the 24-month period prior to submission of the application for renewal. Some comments (Ex. MM, p. 2; T. III, p. 77) asked interpretive questions. Other comments (Exs. N; D) simply expressed concern that non-practicing RNs who volunteer not be required to complete continuing education requirements. It does not appear that this rule would specifically do that. The rule is needed and reasonable.

51. Section 5.1010(C) is necessary to establish continuing education requirements a licensee must meet for licensure in Minnesota by interstate endorsement. Two comments questioned the availability of an orientation program to someone who is unlicensed since most employers require a license before employment and therefore before orientation. (Exs. M, p. 1; NN) The rule does not appear to mandate this item however. Another comment suggested that the Board might wish to delete use of the word "competency" in the rule since it may be misleading in this context. (Ex. X, p. 1) Other comments questioned the availability of refresher courses (Ex. R, p. 1) and apprenticeships. (T. III, p. 52) The rule is needed in order to mesh the continuing education system with licensure by interstate endorsement, and reasonably accomplishes that goal.

52. Section 5.1011 sets out the requirements for an application for licensure by interstate endorsement. The rule is changed by the Board only in that the submission of a notarized evidence form is required to document continuing education participation for endorsement to Minnesota. The rule is needed and reasonable and drew little comment (Ex. V, p. 1). It is found that a requirement of some type of notarization is not unreasonable in section 5.1010(C) and section 5.1011(A). There was very little objection to such a requirement in this section. (See Exs. X, p. 2; R, p. 1) Since "notarization" would only be required once when the nurse comes into the State, as opposed to

every two years in other proposed rule subsections, cost and extra effort are minimized. An applicant for licensure by interstate endorsement may not have been licensed before in Minnesota and in that sense, is "unknown" to the Board. The Board should clarify in both section 5.1010(C)(1) and in section 5.1011(A)(6) exactly what is meant by "notarization".

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Board of Nursing gave proper notice of the promulgation of the proposed rules.

2. That the Board of Nursing has statutory authority to take the action proposed, to wit, the promulgation of the proposed rules.

3. That the Board of Nursing has fulfilled all relevant, substantive and procedural requirements of law or rule.

4. That except as otherwise specifically noted in the foregoing Findings of Fact, the Board of Nursing has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is recommended that the proposed rules be adopted by the Board of Nursing as set out in the Findings of Fact herein.

Dated: January 18, 1978.

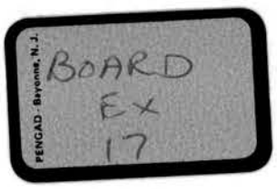
GEORGE A. BECK
Hearing Examiner

NOTICE

Pursuant to Minn. Stat. § 15.0421, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Board of Nursing shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete

hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Board on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Board shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.



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EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

ORDER FOR HEARING

To effectively implement Minn. Stat. §§ 148.231 (1976), 214.12 (1976) and 148.191 subd. 2 (1976), the Minnesota Board of Nursing deems it necessary to consider adoption of the proposed rules and the amendment captioned above pursuant to the authority vested in it by the above-referenced statutes.

NOW, THEREFORE, IT IS ORDERED this 26th day of September, 1977, that a public hearing on the proposed rules captioned above be held on the dates and locations as follows: On Monday, November 14, 1977, at the Rochester Methodist Hospital Auditorium, 201 West Center Street, Rochester, Minnesota; on Wednesday, November 16, 1977, at the University of Minnesota, Room 175 Willey Hall, 225 19th Avenue South, Minneapolis, Minnesota; and on Friday, November 18, 1977 at the St. Luke's Hospital Auditorium, 915 East First Street, Duluth, Minnesota. All of the hearings referenced hereinabove shall commence at 9:30 a.m., and continue until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearings be published in the State Register and be given to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
BOARD OF NURSING

Joyce M. Schowalter

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

NOTICE OF HEARING

Notice is hereby given that public hearings in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412 subd. 4 (1976), as amended by Minn. Laws 1977, ch. 443 § 2, on the dates and locations as follows: On Monday, November 14, 1977, at the Rochester Methodist Hospital Auditorium, 201 West Center Street, Rochester, Minnesota; on Wednesday, November 16, 1977, at the University of Minnesota, Room 175 Willey Hall, 225 19th Avenue South, Minneapolis, Minnesota; and on Friday, November 18, 1977 at the St. Luke's Hospital Auditorium, 915 East First Street, Duluth, Minnesota. All of the hearings referenced hereinabove shall commence at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules and an amendment to 7 MCAR § 5.1031, captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at any of the hearings, written statements or material may be submitted by mail to Mr. George Beck, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8108, either before the hearing or within five (5) working days after the close of the final hearing to be held on November 18, 1977. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it

is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

A copy of the proposed rules and the amendment is attached hereto and made a part hereof.

Copies of the proposed rules and amendment are now available and at least one free copy may be obtained by writing to the Minnesota State Board of Nursing, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414. Additional copies will be available at the door on the date of the hearing.

A Statement of Need explaining the Board of Nursing's position relative to the necessity for the proposed rules and the amendment and a Statement of Evidence outlining the testimony and evidence which will be introduced by the Board in support of the proposed rules and the amendment will be filed with the Hearing Examiner's Office at least twenty-five (25) days prior to the hearing and will be available there for public inspection. The statutory authority of the Board of Nursing to promulgate and adopt these rules and the amendment is contained in Minn. Stat. §§ 148.231 (1976), 214.12 (1976) and 148.191 subd. 2 (1976).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 a year or five (5) hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: September 26, 1977

STATE OF MINNESOTA

BOARD OF NURSING

By: Joyce M. Schowalter

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

RECEIVED
OCT 20 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

NOTICE OF HEARING

Notice is hereby given that public hearings in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412 subd. 4 (1976), as amended by Minn. Laws 1977, ch. 443 § 2, on the dates and locations as follows: On Monday, November 14, 1977, at the Rochester Methodist Hospital Auditorium, 201 West Center Street, Rochester, Minnesota; on Wednesday, November 16, 1977, at the University of Minnesota, Room 175 Willey Hall, 225 19th Avenue South, Minneapolis, Minnesota; and on Friday, November 18, 1977 at the St. Luke's Hospital Auditorium, 915 East First Street, Duluth, Minnesota. All of the hearings referenced hereinabove shall commence at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules and an amendment to 7 MCAR § 5.1031, captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at any of the hearings, written statements or material may be submitted by mail to Mr. George Beck, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8108, either before the hearing or within five (5) working days after the close of the final hearing to be held on November 18, 1977. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

A copy of the proposed rules and the amendment is attached hereto and made a part hereof.

Copies of the proposed rules and amendment are now available and at least one free copy may be obtained by writing to the Minnesota State Board of Nursing, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414. Additional copies will be available at the door on the date of the hearing.

A Statement of Need explaining the Board of Nursing's position relative to the necessity for the proposed rules and the amendment and a Statement of Evidence outlining the testimony and evidence which will be introduced by the Board in support of the proposed rules and the amendment will be filed with the Hearing Examiner's Office at least twenty-five (25) days prior to the hearing and will be available there for public inspection. The statutory authority of the Board of Nursing to promulgate and adopt these rules and the amendment is contained in Minn. Stat. §§ 148.231 (1976), 214.12 (1976) and 148.191 subd. 2 (1976).

In addition, please be advised that Minn. Sta. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 a year or five (5) hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: September 26, 1977

STATE OF MINNESOTA

BOARD OF NURSING

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

MINNESOTA BOARD OF NURSING
717 Delaware Street S.E.
Minneapolis, MN 55414
(612) 296-5493

Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Endorsement

§ 5.1010 Qualifications.

C. Continuing education.

1. Before August 1, 1980, the registered nurse applying for licensure by interstate endorsement who has not been employed in nursing for five or more years immediately preceding application, except an applicant who graduated from an approved professional nursing program during the five years immediately preceding application, shall be required to submit evidence of competency in nursing before receiving a license in Minnesota. Such evidence, submitted on a notarized form, may include any of the following which occurred within the five year period immediately prior to the application for a license: completion of a refresher course, attendance at no less than 15 clock hours of nursing-related continuing education courses, completion of an apprenticeship, participation in an orientation program at least one week in length conducted by an employer or potential employer or such other evidence as the Board may reasonably require.

2. On August 1, 1980, and thereafter, an applicant for licensure by interstate endorsement who has not been employed as a registered nurse for a period of two years or more immediately preceding application shall be required to submit an evidence form attesting to participation in continuing education activities which meet

the criteria specified in 7 MCAR § 5.1031. The continuing education participation must have occurred within the 24 months preceding application for licensure.

3. On August 1, 1980, and thereafter, continuing education participation, as required in 7 MCAR § 5.1010 C.2, shall not be required of an applicant who graduated from an approved professional nursing program during the two years immediately preceding application for licensure.

§ 5.1011 Application. The application forms and instructions for filing are provided by the Board.

A. A completed application for licensure by interstate endorsement shall include all of the following:

1. The completed and notarized application form;
2. A verification of licensure from the state in which the licensure examination was written;
3. A verification of licensure from the state in which most recently employed if this is different than the state of examination;
4. A satisfactory employment reference from the five years preceding the application. If the applicant has not been employed during this period, a personal reference is substituted;
5. The fee of $35;
6. A notarized evidence form attesting to the required continuing education participation.

Chapter Four: § § 5.1030 - ~~5.1039~~ 5.1036 ~~Annual~~ Registration ~~(~~Renewal~~)~~; Penalty, Delinquent and Nonpracticing Status; Change of Name and Address; Duplicate and Replacement Documents; Verification of Minnesota License.

§ 5.1030 ~~Renewal of Registration.~~ Introduction and Definitions. ~~Each licensee is responsible for applying for renewal registration if he/she wishes to be employed as a Registered Nurse in Minnesota in the coming year. The Board issues renewal applications to all current licensees and will renew registration upon receipt of the application and the renewal fee. Beginning with the 1976 renewal period, the annual fee shall be $5.~~

A. Introduction. These rules are adopted pursuant to Minn. Stat. §§ 148.231 and 214.12 (1976). They pertain to the establishment of requirements and procedures for registration renewal for registered nurses and criteria which continuing education activities must meet in order to be acceptable for registration renewal.

B. ~~The renewal period shall be 24 months in length, beginning August 1 and ending July 31.~~ Definitions.

1. "Acceptable continuing education activity" means a learning experience in which a registered nurse has participated, evidence of which he/she submits to the Board as part of the application for registration renewal, and which meets the requirements stated in these rules.
2. "Board" means the Minnesota Board of Nursing.
3. "Contact hour" means 50 consecutive minutes.
4. "Continuing education participation period" means the 24 month interval of time immediately prior to the renewal deadline date during which a licensee must fulfill the requirements for registration renewal.
5. "Evidence form" means the printed document provided by the Board for use in reporting the information required in 7 MCAR § 5.1031.

6. "Instructor" means a presenter, preparer, or guide for a continuing education activity.

7. "License" means the document issued by the Board to an individual who meets for the first time the requirements to practice professional nursing in Minnesota.

8. "Licensure" mean the process by which the Board confers legal authority upon an individual authorizing the person to engage in professional nursing, thereby certifying that those licensed have attained the minimal degree of competency necessary to ensure that the public health, safety and welfare will be reasonably well protected.

9. "Participation" means attendance at, or in any other manner taking part in, an acceptable continuing education activity documentation of which is submitted as a part of the application for registration renewal.

10. "Registration" means the process by which the names and original license numbers of individuals licensed by the Board are recorded on a roster.

11. "Renewal period" means a 24 month interval of time for which a renewal certificate is issued, beginning August 1 of any given year.

12. "Registration renewal" means the periodic process by which the Board confers legal authority upon an individual licensed and registered with the Board, authorizing the person to continue engaging in professional nursing.

13. "Registration renewal deadline" means May 31, immediately preceding the licensee's next renewal period.

14. "Renewal certificate" means the document issued periodically by the Board to a registered professional nurse who meets registration renewal requirements.

15. "Renewal date" means the first calendar day of a renewal period.

~~C.--The-December-31,-1977,-expiration-date-of-all-renewal-certificates is-hereby-extended-to-July-31,-1978.--All-renewal-certificates-issued between-the-effective-date-of-this-rule-and-July-31,-1978,-which-are intended-to-be-valid-during-these-dates-shall-contain-an-expiration-date-of July-31,-1978.~~

~~D.--Beginning-August-1,-1978,-the-fee-for-registration-renewal-shall-be $15.00-per-renewal-period.~~

~~E.--Individuals-licensed-for-the-first-time-within-three-calendar-months prior-to-the-first-day-of-a-renewal-period-shall-not-be-required-to-meet requirements-for-that-renewal-period-but-shall-be-considered-in-good standing.~~

§ 5.1031 ~~Penalty.~~ Registration Renewal. ~~An-applicant-for-renewal-of registration,-except-if-in-nonpracticing-status,-shall-pay-a-late-penalty fee-of-$4-as-well-as-the-renewal-fee-if-the-request-for-renewal-is postmarked-after-the-end-of-the-renewal-period.~~

A. Requirements.

1. On June 1, 1978, each registered nurse currently licensed and registered with the Board shall begin his/her first continuing education participation period.

2. A licensee shall submit true information. Falsification of any evidence and/or failure to comply with these rules for any two registration renewal periods shall constitute unethical conduct and provide grounds for suspension or revocation of a license.

3. An acceptable application for registration renewal consisting of a completed, signed application form; a completed, notarized evidence form meeting requirements stated in these rules; and a renewal fee, shall be postmarked on or before May 31, immediately preceding the licensee's next renewal period. Resubmission of an acceptable application form, evidence form and renewal fee postmarked on or before May 31, shall constitue timely submission.

4. The renewal fee shall be $15 per renewal period, effective August 1, 1978.

5. An applicant for registration renewal, except if in the nonpracticing status, shall pay a penalty fee of $4 as well as the renewal fee for the current renewal period if the application, evidence form or renewal fee is postmarked after May 31, of the year in which it was due.

6. A licensee shall keep records documenting each acceptable continuing education activity submitted to meet registration renewal requirements and obtain data from the acceptable continuing education activity as required in § 5.1031 B 8. The records shall be kept for two years following the end of the renewal period to which the activity is applied.

7. In order for a continuing education activity to be acceptable to the Board for registration renewal, a licensee shall be able to substantiate that each of the criteria listed below has been met.

a. The content is related to one or more of the following components of professional nursing specified in Minn. Stat. § 148.171 (3) (1976):

(1) Independent nursing functions as listed below:

(a) providing a nursing assessment of the actual or potential health needs of individuals, families or communities;

(b) providing nursing care supportive to or restorative of life by functions such as:

i. skilled ministration of nursing care,

ii. supervising nursing personnel,

iii. teaching nursing personnel,

iv. health teaching,

v. health counseling,

vi. case finding,

vii. referral to other health resources; and

(c) evaluating nursing functions; or

(2) Delegated medical functions.

b. The duration was at least one contact hour.

c. The objectives were written in measurable terms which describe what a licensee can expect to learn.

d. The instructor's qualifications in the subject shall be stated in written form.

e. The method utilized to determine whether or not learning occurred was in written form.

f. The continuing education activity was completed during the continuing education participation period immediately preceding the renewal date for which the licensee is seeking registration renewal.

g. The continuing education activity submitted shall not have identical objectives to another continuing education activity submitted during the same continuing education participation period.

h. A written statement of participation following completion of each acceptable continuing education activity was obtained. A fee receipt shall not be acceptable.

i. A grade indicating successful completion was obtained in an acceptable continuing education activity for which grades are granted.

8. Continuing education requirements.

a. Fifteen contact hours of acceptable continuing education activities shall be required for registration renewal between August 1, 1980, and July 31, 1982.

b. Thirty contact hours of acceptable continuing education activities shall be required for registration renewal on August 1, 1982, and thereafter.

c. At least one of the acceptable continuing education activities required for registration renewal on or after

August 1, 1986, shall require the licensee to show evidence that he/she successfully demonstrated to the instructor skill in performing one or a portion of a professional nursing function as indicated in Minn. Stat. § 148.171 (3) (1976).

9. A continuing education activity which the licensee taught shall not meet that licensee's registration renewal requirements.

B. Procedure.

1. The licensee shall maintain with the Board his/her correct mailing address for the purpose of receiving Board communications and/or notices. Placing the notice in first class United States mail, postage prepaid and addressed to the licensee at his/her last known address shall constitute valid service.

2. The Board shall mail a renewal application and evidence form at least 120 calendar days prior to a licensee's renewal date to the last known address of every registered nurse holding a current renewal certificate. Failure to receive such notice shall not relieve a license holder of his/her obligation to comply with these rules.

3. An application, evidence form and renewal fee postmarked on June 1, or later, shall not be processed and shall be returned to a licensee for payment of a penalty fee.

4. A licensee's renewal application, evidence form and renewal fee postmarked on August 1, or later, shall be considered delinquent.

5. Information to be provided by the licensee on an evidence form shall include:

   a. identification of the licensee;

   b. identification of the continuing education activities;

   c. verification that the continuing education activities met all the criteria specified in 7 MCAR § 5.1031 A and that the information contained on the form is true in every respect;

   d. licensee's signature and date signed; and

   e. notarization.

6. If the application form, evidence form or renewal fee submitted by a licensee is incomplete, incorrect or in noncompliance with these rules, the licensee shall be notified as to the reason for rejection and all documents shall be returned within 30 calendar days after receipt.

7. If an individual is licensed within six calendar months prior to the first day of the licensee's renewal period, the license fee shall serve as payment for the first renewal period.

8. Following each renewal date the Board may select a sample of licensees applying for registration renewal and require substantiation of participation in acceptable continuing education activities. Selected licensees shall submit in writing the following data obtained from each continuing education activity:

   a. continuing education activity materials received by the licensee which verify the information on the evidence form;

b. objective of each continuing education activity;

c. verification received by the licensee of the number of contact hours and a schedule listing time periods for activities lasting four or more hours;

d. documentation of each instructor's qualifications;

e. evidence that the licensee used a mechanism to determine if learning occurred;

f. written verification received by the licensee of participation in each continuing education activity, signed by an instructor involved with the continuing education activity or his/her designee;

g. the specific professional nursing content area to which each continuing education activity is related;

h. in 1986 and thereafter, proof of compliance with 7 MCAR § 5.1031 A 8 c; and

i. any additional documentation the Board deems necessary.

9. If a licensee cannot demonstrate that he/she has sufficient hours of acceptable continuing education activities, the number of hours lacking to comply for that continuing education participation period shall be added to the contact hours required in the immediately succeeding period.

10. A licensee in noncompliance with 7 MCAR § 5.1031 A 7 and A 8 shall be subject to the conditions in 7 MCAR § 5.1031 B 8.

11. Rule 7 MCAR § 5.1031 B 9 may be applied once for any one licensee.

§ 5.1032 Delinquent Status.

A. ~~An applicant for renewal of registration except if in nonpracticing status, who failed to re-register in the previous year or years shall pay a delinquent fee of $4 for each year for which he/she has been delinquent up to a maximum of $40 as well as the penalty fee of $4 and the renewal fee for the current period.~~ A registered nurse who fails to apply for registration renewal or request nonpracticing status or is in noncompliance with 7 MCAR § 5.1031 shall be deemed delinquent and shall not be entitled to practice nursing in Minnesota.

B. ~~The registered nurse who has failed to re-register with the Board and whose license has been in delinquent status for five years or more must present evidence of competency in nursing before becoming actively re-registered. Such evidence, submitted on a notarized form, may include any of the following which occurred within the five year period prior to the application for a current renewal certificate:~~

~~1. employment as a registered nurse in another U. S. jurisdiction or foreign country;~~

~~2. completion of no less than one week of a refresher course;~~

~~3. attendance at no less than 15 clock hours of nursing related educational offerings;~~

~~4. participation in an orientation program at least one week in length conducted by an employer or potential employer; or~~

~~5. such other similar evidence; and~~

~~such other evidence as the Board may reasonably require.~~ Whenever a license is placed in the delinquent status the Board shall mail a notice

to the licensee's last known address which indicates the license status and the requirements for removal from such status.

C. Failure to fulfill the requirements for registration renewal or nonpracticing status within four years after being found delinquent in a hearing shall constitute unethical conduct and provide grounds for suspension or revocation of a license.

D. Before August 1, 1980, the registered nurse holding a license which is in the delinquent status who applies for registration renewal shall:

1. submit a signed application;
2. pay a delinquent fee of $4 for each year or part thereof during which the license was delinquent up to a maximum of $40, the penalty fee, and the renewal fee for the current period; and
3. submit evidence of competency in nursing before becoming actively re-registered if the license has been in the delinquent status for five or more years. Such evidence, submitted on a notarized form, may include any of the following which occurred within the five year period prior to the submission of an application for a current renewal certificate:
   a. employment as a registered nurse in another U.S. jurisdiction or foreign country;
   b. completion of no less than one week of a refresher course;
   c. participation in no less than 15 contact hours of nursing-related educational offerings;
   d. participation in an orientation program at least one week in length conducted by an employer or potential employer; or

e. such other similar evidence the licensee chooses to submit.

E. On August 1, 1980, and thereafter, each registered nurse holding a license which is in the delinquent status who applies for registration renewal shall:

1. submit a signed application;
2. pay a delinquent fee of $4 for each year or part thereof during which the license was delinquent up to a maximum of $40, the penalty fee, an the renewal fee for the current period; and
3. submit notarized evidence of meeting all requirements specified in 7 MCAR § 5.1031. Participation in continuing education activities shall have occurred during the two years prior to the submission of the application for registration renewal.

§ 5.1033 Nonpracticing Status.

A. ~~An applicant for nonpracticing status who failed to renew registration for the previous year or years shall pay a delinquent fee of $4 for each year which he/she has been delinquent up to a maximum of $40.~~ The Board shall change a registered nurse's license status to nonpracticing only at the end of a renewal period and upon receipt of a written request.

B. ~~The registered nurse who has been in the nonpracticing status for five years or more must present evidence of competency in nursing before becoming actively re-registered. Such evidence may include any of the following which occurred within the five year period prior to the application for a current renewal certificate:~~

~~1. employment as a registered nurse in another U.S. jurisdiction or foreign country,~~

~~2. completion of no less than one week of a refresher course,~~

~~3. attendance at no less than 15 clock hours of nursing related education offerings,~~

~~4. participation in an orientation program at least one week in length conducted by an employer or potential employer, or~~

~~5. such other similar evidence, and~~

~~such other evidence as the Board may reasonably require.~~ A licensee holding a current renewal certificate need not have met continuing education requirements to have his/her license placed in nonpracticing status.

C. ~~The licensee who has been in the nonpracticing status for less than five years will be granted renewal of registration upon notification to the Board of intent to renew and payment of the renewal fee for the current period.~~ A registered nurse holding a license which is in the delinquent status who applies for nonpracticing status shall pay all delinquent fees before such status shall be granted.

D. Before August 1, 1980, a registered nurse holding a license which is in nonpracticing status who applies for registration renewal shall:

1. submit a signed application;
2. pay the renewal fee for the current period; and
3. submit evidence of competency in nursing before becoming actively re-registered if the licensee has been in nonpracticing status for five or more years. Such evidence, submitted on a notarized form, may include any of the following which occurred within the

five year period prior to the submission of an application for a a current renewal certificate:

a. employment as a registered nurse in another U.S. jurisdiction or foreign country;

b. completion of no less than one week of a refresher course;

c. participation in no less than 15 contact hours of nursing-related educational offerings;

d. participation in an orientation program at least one week in length conducted by an employer or potential employer; or

e. such other similar evidence the licensee chooses to submit.

E. On August 1, 1980, and thereafter, a registered nurse holding a license which is in nonpracticing status who applies for registration renewal shall:

1. submit a signed application;

2. pay the renewal fee for the current period; and

3. submit notarized evidence of meeting all requirements specified in 7 MCAR § 5.1031. Participation in continuing education activities must have occurred during the 24 months prior to the submission of the application for registration renewal.

9/23/77

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

STATEMENT OF NUMBER OF PERSONS EXPECTED TO ATTEND AND LENGTH OF HEARING

The number of persons expected to attend each of the hearings and the estimated length of each of the hearings are as follows:

The hearing to be held in Rochester on November 14, 1977, may have 100 persons in attendance and may last six hours.

The hearing to be held in Minneapolis on November 16, 1977, may have 300 persons in attendance and may last seven hours.

The hearing to be held in Duluth on November 18, 1977, may have 100 persons in attendance and may last six hours.

STATE OF MINNESOTA
BOARD OF NURSING

Joyce M. Schowalter

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

CERTIFICATE OF BOARD OF NURSING'S

AUTHORIZING RESOLUTION

I, Joyce M. Schowalter, do hereby certify that I am the Executive Secretary of the Minnesota Board of Nursing, a board duly authorized under the laws of the state of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the said Board duly and properly called and held on the 4th day of August, 1977, that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that Joyce M. Schowalter, Executive Secretary of the Minnesota Board of Nursing, be and she hereby is granted the authority and directed to call a hearing for the purpose of promulgating rules of the Board relating to continuing education requirements for registered nurses and registered nurse applicants for licensure by endorsement as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as requesting the appointment of a hearing examiner and complying with all applicable provisions of the Minnesota Administrative Procedure Act and the Rules of the Office of Hearing Examiners.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20th day of October, 1977.

STATE OF MINNESOTA
BOARD OF NURSING

Joyce M. Schowalter

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

AFFIDAVIT OF MAILING

Sara Sue Kabrick, being first duly sworn, deposes and says:

That on the 7 day of October, 1977, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the Certificate of the Secretary of State attached and made a part hereof as Exhibit A, to all persons and associations at the addresses listed on Exhibit B, attached and made a part hereof, we well as to all members of the Minnesota Legislature as of the date of mailing.

Sara Sue Kabrick

Subscribed and sworn to before me this 12th day of October, 1977.

Christine Grinsteinner

CHRISTINE GRINSTEINNER
Notary Public, Dakota Co., Minn.
My Commission Expires
Dec. 5, 1981

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

CERTIFICATE

I hereby certify that the 488 general labels and 2 page list for the Minnesota Board of Nursing, all of which are attached and made a part hereof, constitute the complete lists of persons, associations, and other interested groups who as of 11:00 o'clock A .m., this 5th day of October, 1977, have requested pursuant to Minn. Stat. § 15.0412 subd. 4 (1976), that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules and amendments thereto on the subject captioned above.

SECRETARY OF STATE

JOAN ANDERSON GROWE

Joan Anderson Growe

By Cheri L. Mattson

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

AFFIDAVIT

SARA KABRICK, being duly sworn upon oath, deposes and says:

1. That she is an employee of the Minnesota Board of Nursing.

2. That on the 27th day of September, 1977, she called the Minnesota Secretary of State's office and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules or amendments thereto pursuant to Minn. Stat. § 15.0412 subd. 4 (1976).

Further affiant sayeth not.

Sara Kabrick

SARA KABRICK

Subscribed and sworn to before me

this 3rd day of November, 1977.

Christine Grinsteinner

CHRISTINE GRINSTEINNER
Notary Public, Dakota Co., Minn.
My Commission Expires
Dec. 5, 1981

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

WILLIAM DICKEY, being duly sworn upon oath, deposes and says:

1. That he is an employee of the Minnesota Department of Health.

2. That on the 5th day of October, 1977, in response to a request of the Board of Nursing, he obtained from the Secretary of State a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules or amendments thereto pursuant to Minn. Stat. § 15.0412 subd. 4 (1976). A photocopy of this list received from the Secretary of State is attached hereto and incorporated by reference.

Further affiant sayeth not.

WILLIAM DICKEY

Subscribed and sworn to before me

this 3 day of November, 1977.

Notary Public, Ramsey Co., Mn.
My commission expires Nov. 4, 1978

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees

STATEMENT OF NEED

The above-captioned rules are amendments to existing rules of the Board of Nursing, and, in part, address the imposition of requirements of continuing education for licensure renewal, which requirements were not previously imposed.

The legal authority authorizing the Board of Nursing to promulgate the rules entitled above is to be found in Minn. Stat. §§ 148.231 (1976), 214.12 (1976) and 148.191 subd. 2 (1976).

The need to adopt those rules relating to continuing education arises in order that the Board may comply with a legislative directive. Minn. Stat. § 148.231 (1976) addresses renewal registration for licensed professional nurses and mandates that each professional nurse must maintain a current registration with the Board in order to practice as a registered nurse, which registration must be renewed at regular intervals stipulated by Board rule. Furthermore, this statute states in relevant part as follows:

> Upon adoption by the Board of rules and regulations establishing procedures and minimum requirements for successful completion of specified continuing education as hereinafter provided, no certificate of registration shall be issued by the Board to a nurse until he or she has submitted satisfactory evidence of compliance with the procedures and minimum requirements established by the Board.

Minn. Stat. § 148.231 subd. 2 (1976) requires the Board of Nursing to establish an advisory task force on registration to study procedures and requirements for continuing education for nurses. This task force was to submit and did submit recommendations for rules to the Board of Nursing by January 1, 1977. Minn. Stat. § 148.231 subd. 4 states that any licensed nurse shall not be entitled to practice

nursing in Minnesota until an application for renewal registration has been filed with the Board accompanied by satisfactory evidence of compliance with the procedures and minimum requirements currently established by the Board for continuing education, among other matters.

Subsequent to the passing of Minn. Stat. § 148.231 (1976), approved June 2, 1975, the legislature enacted Minn. Stat. § 214.12 (1976) , approved April 9, 1976. This statute relating to all non-health and health related licensing boards is permissive inasmuch as it provides that licensing boards may promulgate by rule requirements for renewal of licenses designed to promote professional continuing education. During the same legislative session, Minn. Laws 1976, ch. 222 § 209, was enacted repealing Minn. Stat. § 148.231 subd. 3, which required that the Board of Nursing promulgate continuing education rules not later than January 1, 1978.

One need not find a legislative mandate by mere identification of the verb "shall" in a statute. By focusing solely on Minn. Stat. § 214.12 (1976) in conjunction with the repealer of Minn. Stat. § 148.231 subd. 3, one might infer that the authority for continuing education rules for the Board of Nursing is permissive. However, by failing to repeal the remainder of Minn. Stat. § 148.231, the legislature has emphasized that the Board of Nursing should be involved with promulgating regulations concerning renewal of licenses based on continuing education. The repeal of subdivision 3 of Minn. Stat. § 148.231 would appear to delete only the date by which continuing education rules must be promulgated. Inasmuch as the legislature did not disturb the task force which was established to submit recommendations to the Board of Nursing by January 1, 1977, the scheme set out and incorporated into current Minn. Stat. § 148.231 (1976) assumes that the Board would adopt rules establishing procedures and minimum requirements for continuing education in a timely manner. If the legislature had intended that the Board of Nursing would fall only within the permissive and general provisions of Minn. Stat. § 214.12 (1976), it could easily have repealed many more sections of Minn. Stat. § 148.231 (1976) than were repealed. It may be assumed that the legislature has

reviewed continuing education for nursing and has decided to delete only that part of the nurse practice act relating to a timetable for promulgation of rules and decided to keep the remainder.

Further support for claiming that rules for continuing nursing education requirements are mandatory is found in the legal ramifications which the legislature has placed upon nurses who fail to submit evidence of continuing education. Pursuant to Minn. Stat. § 144.231 subd. 1 (1976), the Board may not issue a certificate of registration to applicants who do not present satisfactory evidence of compliance with continuing education rules. To practice nursing without a current registration violates Minn. Stat. § 148.281(3) (1976) and constitutes a misdemeanor. Thus, a county or city attorney could prosecute those who do not fulfill continuing education requirements, but who continue to practice nursing.

In making license renewal contingent upon successful completion of continuing education requirements, the legislature must have assumed that such education would improve the professional competence of nurses practicing in Minnesota.

The need for continuing education may also be established inasmuch as the definition of professional nursing was amended in Minn. Laws 1974, ch. 554 § 1. This law, now incorporated in Minn. Stat. § 148.171(3) (1976), defines professional nursing to include the providing of nursing assessments of actual or potential health needs of individuals, families or communities, the providing of skilled ministration of nursing care, supervision and teaching of other health personnel, and the providing of independent nursing functions, as distinguished from delegated medical functions, which may be performed autonomously by the professional nurse. Inasmuch as a relatively small percentage of the approximately 33,000 licensed professional nurses have received their license since the amendment of the practice act, it is imperative to insure that all nurses who are licensed within the state have kept current with new developments, not only in the art and science of nursing, but in the expanded role of the profession itself as contemplated by the legislature.

Furthermore, as nursing practice has developed, nurses and the public have gained an increased awareness of the concepts of accountability and responsibility which the nurse owes to the patient/public. Concomitant with this awareness, these rules are necessary to insure that nurses' knowledge of new advances in the art and science of nursing correspond with increased expectations of the public, the legislature, the courts and other health professions. As an expression of the need for continuing education, the Minnesota Nurses Association, as a representative of approximately 8,000 licensed professional nurses within the state, has stated that continuing education is necessary in order to give greater assurance to the patient/public that nursing professionals are keeping current in the developments relating to the scope of their practice.

Inasmuch as it is common lay knowledge that health care knowledge is continually advancing and techniques of applied health science are continually developing, these rules are necessary to insure that the nurses who hold active licenses are keeping abreast of latest developments.

There is a need to amend the penalty fee imposed in current 7 MCAR § 5.1031 from $2.00 to $4.00. Minn. Stat. § 148.231 (1976) states in relevant part that, "A penalty fee shall be added for any application received after the expiration date as specified by the Board by rule." Minn. Stat. § 214.06 subd. 1 (1976) states in relevant part that:

> Notwithstanding any law to the contrary, . . . all health related licensing boards may by rule, . . . adjust any fee which the Board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures.

In another set of proposed rules of the Board of Nursing, entitled "In the matter of proposed amendments relating to application, renewal, and verification fees, licensure examinations, renewals, delinquencies and name change for professional nurses and practical nurses," which were submitted for public hearing on September 8, 1977, reference to an increased penalty fee from $2.00 to $4.00 in proposed 7 MCAR § 5.1031 was inadvertently omitted from publication of the rules. Nonetheless, a statement of need, attached hereto as Exhibit A, was filed in support of those rules and addresses, among other matters, the need to increase the

penalty fee. The increase was seen as necessary in order for the Board to approximate the anticipated expenditures with income as indicated in Tables 1 and 2, in the Statement of Justification, attached hereto as Exhibit B. As indicated on Table 2, the anticipated income from a four dollar penalty fee is $2,000 per year. Table 1 projects the cost of processing professional nursing renewals, with and without penalties, as $25,618. The Department of Finance specifically approved the increase in the penalty fee as indicated in paragraph 3 of the Department of Finance Approval, attached hereto as Exhibit C. The proposed increase in the penalty fee is needed to cover the costs of special handling and processing of applications received after the expiration date for submission.

STATE OF MINNESOTA
BOARD OF NURSING

Dated: October 20, 1977

Joyce M. Schowalter

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees

STATEMENT OF EVIDENCE

The Board of Nursing (hereinafter "Board") will introduce the following evidence at the first hearing in the above-entitled matter scheduled for Monday, November 14, 1977, commencing at 9:30 a.m. in the Auditorium at Rochester Methodist Hospital, 201 West Center Street, Rochester, Minnesota. Such evidence will be referenced at the hearings to be held on Wednesday, November 16, 1977, at the University of Minnesota, Room 175 Willey Hall, 225 19th Avenue South, Minneapolis, Minnesota; and on Friday, November 18, 1977, at the St. Luke's Hospital Auditorium, 915 East First Street, Duluth, Minnesota.

1. Documents attached hereto and made a part hereof evidencing the Board's compliance with procedural requirements for rule making:

(a) Order for Hearing;

(b) Notice of Hearing as mailed;

(c) Affidavit of Receipt of the Secretary of State's List;

(d) Certificate of the Secretary of State;

(e) Affidavit of Mailing of the Notice of Hearing;

(f) Certificate of Board's Authorizing Resolution;

(g) Notice of Intent to Obtain Information on Proposed Rules From Non-Agency Sources, dated February 25, 1976;

(h) Affidavit of Receipt of Secretary of State's List; and

(i) Affidavit of Mailing of Intent to Obtain Information on Proposed Rules From Non-Agency Sources.

2. Documents attached hereto and made a part hereof constituting the Board's affirmative presentation of facts establishing the need for and reasonableness of the proposed rule and evidencing the Board's compliance with substantive requirements for rule making:

(a) Statement of Need; and

(b) Statement of Facts Establishing Reasonableness of Rule.

3. The following witnesses are anticipated to represent the Board at all three hearings:

Joyce M. Schowalter, R.N., Executive Secretary of Board of Nursing

Doug Bruce, Assistant Executive Secretary of Board of Nursing

Sandra McKenzie, R.N., Assistant Secretary of Board of Nursing

At the hearings to be held in Rochester and Minneapolis, Helen Hanson, R.N., a member of the Board of Nursing, will represent the Board. At the hearing to be held in Duluth, Jane Phillips, R.N., President of the Board, will represent the Board.

Said witnesses will be available to answer questions as they might relate to the Board's affirmative presentation of facts as set forth through the previously listed and attached documents.

4. The Statement of Need attached hereto contains the citations to the Board's statutory authority to promulgate the proposed amendments to the Board's rules.

Dated: October 20, 1977

STATE OF MINNESOTA
BOARD OF NURSING

Joyce M. Schowalter

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

EXHIBIT A

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Amendments Relating to Application, Renewal, and Verification Fees, Licensure Examinations, Renewals, Delinquencies and Name Change for Professional Nurses and Practical Nurses

STATEMENT OF NEED

The above-captioned rules are amendments to existing rules of the Minnesota Board of Nursing. The last time 7 MCAR § 5.1003 was amended was in 1967. The last time the remaining rules were amended was in 1975.

The need to adopt these rules arises primarily in order to bring them up to date with new legislation and to provide further clarification to applicants and licensees.

Several rules are amended to increase fees assessed by the Board in order to provide services. Minn. Stat. § 214.06 subd. 1 (1976) states in relevant part that:

> Notwithstanding any law to the contrary, . . . all health related licensing boards may by rule, . . . adjust any fee which the Board is empowered to assess a sufficient amount so that the total fees collected by each Board will as closely as possible equal anticipated expenditures. Examination fees, if any, shall be set by rules so that the total amount of annual examination fee income approximately meets the anticipated costs of administering the examinations.

Proposed amendments to 7 MCAR §§ 5.1002, 5.1030, 5.1032, 5.1033, 5.1035, 5.1036, 5.2002, 5.2030, 5.2031, 5.2032, 5.2033, 5.2035 and 5.2036 all increase or add fees. Such increases are necessary in order for the Board to approximate with income anticipated expenditures as indicated in Tables numbered 1 and 2 attached to the Statement of Justification.

Minn. Laws 1977, ch. 433 § 2 states in relevant part that:

> Each agency shall adopt rules setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.

Inasmuch as application for licensure, administration and grading of examinations, granting of temporary permits, licensure, and registration renewal, and approval of educational programs are all official duties of the Board of Nursing pursuant to Minn. Stat. §§ 148.91 subd. 2, 148.211, 148.231, 148.291, 148.294 and 214.06 subd. 2 (1976), several of the rules are necessary to set forth the nature of these requirements and procedures before the Board with respect to these requirements. Examples of such rules are found in proposed amendments to 7 MCAR §§ 5.1003, 5.1004, 5.1012, 5.1030, 5.1032, 5.1033, 5.1034, 5.1035, 5.1036, 5.2003, 5.2005, 5.2030, 5.2032, 5.2033, 5.2034, and 5.2035.

Since the Board of Nursing is required by Minn. Stat. § 148.191 subd. 2 (1976) to prescribe by rule standards for courses preparing persons for licensure, proposed repeals of sections of 7 MCAR §§ 5.1060, 5.1061, 5.1063, 5.1080, 5.2050, 5.2051, 5.2053, 5.2070, and 5.2082 are necessary to insure that the Board concentrates its reviewing efforts while surveying schools to those items within a curricula which relate to ultimate licensure and which are within the Board's expertise to review.

These proposed amendments to rules are necessary due to legislative mandates, the need to amend existing rules to bring them up to date with new legislation, the need to insure that income received by the Board nearly approximates anticipated expenditures, the need of the Board to recognize advances in the art and science of nursing and the need to provide clarity to the public of requirements and procedures in its dealings with the Board. Further need is clarified and put forth in the Statement of Justification filed in support of these rules.

STATE OF MINNESOTA

BOARD OF NURSING



JOYCE M. SCHOWALTER, R.N.
Executive Secretary

MINNESOTA BOARD OF NURSING

EXHIBIT B

Statement of Justification

§ 5.1002 Application for licensure as a Registered Nurse.

A.3 proposes an increase in the licensure fee for applicants licensed by examination who graduated from a Minnesota nursing program. The increase is needed to balance as nearly as possible the projected costs of licensing including the examination during the next two fiscal years. The fee is reasonable as can be seen by examination of the attached tables. The anticipated cost per year is $135,007 and the anticipated income from 2,100 new licenses at $60 each is $126,000. The Board believed that any greater increase at this time was not warranted since other fees will be available to cover the difference. It should be noted that no change is being recommended in the fee for licensure by endorsement, thereby creating an income each year of approximately $6,000 more than anticipated costs.

B.3 proposes the same increased fee for licensing applicants by examination who graduated from an out-of-state nursing program. It is reasonable to change the same fee, since the same costs are incurred for these applicants as for Minnesota graduates.

§ 5.1003 Permit to practice professional nursing.

B. is needed to clarify for permit holders and employers the acceptable manner in which such a person may be identified. The Joint Commission on Accreditation of Hospitals requires that there be a method established to identify the authors of entries on the patient's record. The identification may include signatures and initials. Many health care facilities require identification to include job title. The title "graduate nurse" resolves the recording and identification problem. It identifies to the public individuals who have met the requirements to practice nursing under direct supervision. The title and letters are reasonable since they accurately describe the person's status and are clearly understood by the general public.

§ 5.1004 Examination and re-examination for registered nurse licensure. All proposed revisions are needed to provide clarification and specificity to Board practices so that applicants may have advanced knowledge of requirements.

A. is needed to clarify the specific examination used by Minnesota. The use of the State Board Test Pool Examination (SBTPE) is in conformance with Minn. Stat. § 214.03 requiring the use of national standardized tests.

The passing score of 350 has been used since 1957. It is reasonable since it is used by all states except Wisconsin which determines the passing score after each exam and uses the range 350 to 400. Interstate mobility is therefore enhanced. Experience since 1970 has shown that the percentage of graduates from Minnesota and other U.S. nursing programs who

attempt the licensing exam for the first time in Minnesota and pass on the first attempt is 93. See Table 3 attached for details.

B. is needed to state precisely the grounds used to determine whether or not a candidate has failed the examination. Since the examination has five sections and since each section tests different knowledge, it is reasonable to expect a passing grade in each section. The sections are medical nursing, surgical nursing, nursing of children, obstetrical nursing and psychiatric nursing.

C. is needed to make the requirement known to candidates. It is reasonable, since the requirement of anything greater would put an unfair burden on the candidate. No purpose would be served by requiring repeated demonstration of knowledge.

D. is needed to add additional specificity to an existing rule and to revise. The number of sections in the exam is to be deleted so that in the event that the number of sections changes, the Board will not be in the dilemna of complying with Minn. Stat. § 214.03 but having a contradictory rule.

The period of time is increased from 18 to 24 months so that all candidates throughout the year have the same opportunity to write the exam three times before being required to re-write all sections and present evidence of remedial assistance. The exams are administered in February and July in accordance with a schedule developed nationally. Presently individuals who take the test in February and fail may skip one writing of the examination and still have the opportunity to write three times within 18 months. This is not possible for those individuals who write and fail in July.

E. is merely a re-ordering of a portion of old § 5.1004D and an amplification. Since December 1975 only 76 percent of the second writers and 50 percent of the third writers have passed. According to Bevis, Pressey and Robinson, half of what is taught in the science areas will be obsolete in two and one-half years and each year there is at least one-tenth more information generated. Further, it has been shown that 75 percent of what is memorized will be forgotten in two years. Thus remedial assistance continues to be justified. The specific content area of the remedial assistance is needed to assist the applicant to focus on their problem areas. The three listed (subject, test-taking skill and English language) are those found to cause failure most often.

G. & H. are merely re-ordering for clarity and logical sequence.

§ 5.~~1002~~ 1012 Permit to practice professional nursing (applicants for licensure by interstate endorsement).
The extension of time is necessary to allow the applicant to practice while waiting for the Board to process the application. The verification of licensure that must be received from the state of original licensure and the state in which the individual

has been most recently employed is not always received within the current 90 day limit. Neither the applicant nor the Board has control over the time period a given state may take to process a verification of licensure. Sometimes after a verification is received there may be problems such as omissions in information, discrepancies in information, or an indication that the license has been suspended or revoked. The current 90 day limit does not always provide sufficient time for correspondence with other Boards of Nursing, time for Board consideration of the applicant, or time to seek advice of legal counsel.

§ 5.1030 Renewal of registration (registered nurses).

A. is needed to provide assurance of the identification of renewal applicants and to prevent applications from being processed unnecessarily. Confusion has resulted in the past when a relative or friend has sent in the form and fee thinking they were being helpful. However, the licensee later notified the office that he/she intended to change to a non-practicing status and sought to have the fee refunded.

B. is needed as a preliminary step to requiring evidence of continuing education as a condition of registration renewal. There is no reason to justify renewal more frequently than every two years. This length is proposed because it corresponds with fiscal and reporting periods. The proposed beginning and ending dates are reasonable since they will allow the licensing section of the Minnesota Department of Health to spread out the processing work load for the various licensing boards. This proposal creates a renewal period separate from the license practical nurse renewal period, another means of equalizing the processing work load. Any further staggering of renewal periods appears unnecessary at this time and could lead to confusion among licensees and their employers.

C. is needed to provide legal protection to licensees during the transition from the present to the proposed renewal period.

D. is needed to establish the renewal fee. The amount is reasonable because it represents the amount needed from each of 31,500 registered nurse licensees to operate the agency but does not cover costs incurred in licensing or verification of licenses to other states. (See Tables 1 and 2) Past records show that agency expenditures of registered nurse-related activities amount to 70 percent of total expenditures.

E. is needed to accommodate individuals licensed by interstate endorsement. The three calendar months is reasonable since it encompasses the period between the mailing of renewal applications and the first day of the new renewal period. In the past there has been much displeasure expressed by new licensees who are expected to pay a renewal fee so soon after paying a licensing fee. In fact, persons licensed during this period feel they are being discriminated against. The license fees as proposed include an amount equivalent to about one-fourth of the renewal fee.

§ 5.1032 Delinquent status (registered nurses).

A. is needed and reasonable since the proposed increase in the delinquent fee should act as a deterent to failing to apply for renewal or non-practicing status. The proposed annual delinquent fee will cover the costs of special handling and processing of applications received more than a year after the expiration of a registration renewal certificate. The maximum delinquent fee is reasonable since it does not exceed the proposed licensure fee of $60.

B. is needed to fill an existing gap in the handling of persons who have not maintained an active license and have not applied for non-practicing status. The requirements proposed are the same as are currently applied to persons in the non-practicing status five years or more, but are made for specific based on experience with the existing non-practicing rule over the past one and one-half years.

B.1 is reasonable as proposed since employment in a registered nursing capacity may be assumed to indicate that the nurse has been able to demonstrate to an employer that he/she possessed at least a minimum level of nursing competence.

B.2 is reasonable because completion of one week of a course designed specifically to update the knowledge of a registered nurse will provide assurance that an instructor has observed the student. If the instructor becomes aware that the student lacks either knowledge or skill to perform safely, he/she could report the observation to the Board for further action. Since some refresher courses require that attendees hold an active license, it is not reasonable to expect completion of a course before issuing a current registration certificate.

B.3 is reasonable since it corresponds with the proposed requirements to maintain an active license. Applicants unaware of this rule could meet the requirements by attending only two all-day workshops or seminars, thus delaying their application very slightly.

B.4 is reasonable since one week of supervised learning is considered by most nursing instructors to be an adequate amount of time to judge the competency of a student.

B.5 is needed to provide flexibility and allow applicants to propose other similar methods of meeting the requirements.

§ 5.1033 Non-practicing status for registered nurses.

A. is necessary in order to revise the delinquent fee in accordance with that proposed in § 5.1032.

B. is needed for the same reasons as indicated for proposed rule § 5.1032. It is necessary for the Board to provide as much specific information as possible to applicants wishing to

change their licensure status from non-practicing to active.

B.1 is reasonable since many nurses who move to other states and practice in those states retain their Minnesota license on a non-practicing status during that same time.

B.2 is necessary to be certain that the student participated in nursing content classes as well as general orientation type classes.

B.3 is reasonable since the 15 clock hours may be obtained in a very short period, thus delaying action on an applicant's request by only a few days.

B.4 is reasonable since it will not create a hardship on a person who has obtained employment prior to requesting a change in licensure status.

B.5 is needed to provide flexibility and allow applicants to propose other similar methods of meeting the requirements.

§ 5.1034 Change of name on records (registered nurses).
The proposed rule changes are needed to provide greater clarification to licensees regarding the requirement for maintaining accurate licensure records. The system of regulation is only as good as the accuracy of each licensee's records.

A.1 is needed in order to make clear to licensees their responsibility in reporting name changes. Each licensee must be able to show a prospective employer a renewal certificate which bears a correct name.

A.2 is needed as a safe guard against the utilization of unauthorized certificates. If inaccurate certificates were not returned, they could be used by an untrained person. Such usage could result in misrepresentation and potential harm to patients. Since some incorrect certificates may be lost or otherwise unavailable, a written statement from the licensee is necessary to document the situation.

A.3 is needed to allow the Board to obtain copies of marriage licenses or other records of name changes whenever necessary to correctly identify a licensee. Since the changing of identification may be done for fraudulent purposes, the Board must be cognizant of the facts in each case and vigilant to prevent misrepresentation. Such representation could result in harm to the general public. This proposed rule is not new, merely a reordering for clarity.

B.1 is needed to notify licensees of their responsiblity in reporting address changes. Such reporting is vital to assure that applications for renewal certificates are mailed in a timely fashion. Written notification is necessary to prevent errors in verbal communication and to increase the efficiency of the staff in handling the changes.

B.2 is needed to specify the procedure used in processing address changes. It is reasonable to notify the licensee of changes made so that they may be confident that their records are correct. However, it is undesirable to issue corrected certificates because of the danger that multiple certificates issued to the same name could be in circulation. Licensees currently notify the office when addresses are changed but do not send back the current certificate. This proposed rule merely clarifies an existing procedure.

§ 5.1035 Duplicate and replacement documents for registered nurses. These rules are proposed as a clarification of the existing rules and are needed to identify the Board's operating procedures affecting licensees.

A.1 is reasonable since the issuance of duplicate licenses could result in the usage of one copy by an unauthorized and potentially harmful person.

A.2 is reasonable because all licensees should be able to use the original license as proof of licensure in this state. It is reasonable to expect certification of the fact that the original license was lost, stolen, or destroyed, since the license represents the acquisition of a legal right to practice and is not to be treated casually.

A.3 is appropriate as a method of identifying the fact that the newly issued license replaces a previous one.

A.4 is needed as a means of recovering the cost of processing the replacement. The exact cost will vary according to the time needed to process; however, all replacements will include the cost of staff time, the license and mailing. The proposed $5 fee is minimal.

B.1 is reasonable since the issuance of duplicate certificates could result in the usage of one copy by an unauthorized and potentially harmful person.

B.2 is needed so that the Board is able to maintain accurate records of certificates which potentially could be used by unauthorized persons. Evidence in writing is necessary to prevent the miscommunication which can occur when such information is transmitted orally.

B.3 is reasonable as a means of providing the licensee with a form of identification for the current renewal period. Since registration renewal certificates are issued through the Information Systems Division (ISD) of the Department of Administration via the Licensing Section of the Department of Health, it would be too cumbersome to go through the procedure of having a replacement certificate issued. Therefore, the proposal to issue a Verification of Current Registration through the Board office is reasonable as a means of rapidly handling requests from licensees. The fee is necessary as a means of recovering the costs of staff time in updating records and processing the request as well as the cost of supplies. Exact costs will vary. The costs to the state for processing any receipt probably make charges of less than $3 inadvisable.

B.4 is reasonable since licensees should not be penalized for delays or losses outside of their control.

§ 5.1036 Verification of Minnesota License (RN). This rule is needed in order to identify to the public the conditions under which verifications are issued by the Board to agencies equivalent to the Board of Nursing. It is reasonable to require that the requests be written because each

licensing agency has a form for the specific purpose of receiving such verification. The receipt of the form is considered a written request when received directly from the licensee or submitted to the Minnesota Board by another licensing authority on behalf of the licensee. If verbal requests were honored, the process would be duplicative since a form would follow soon after.

B. is needed as a means of assuring an accurate record keeping system on each licensee. It is reasonable to expect licensees to keep their licensure status in good standing at all times. Because a non-practicing status is available for individuals not intending to practice in Minnesota, licensees wishing to clear the delinquent status by placing their license in the non-practicing status may do so by merely paying the fee as required in § 5.1033. Since a relatively small number of licensees allow their license to become delinquent each year (less than 100 of the 32,000 registered nurses renewed), this proposed rule will affect very few.

C. is needed to comply with Minn. Stat. § 214.06 and state the fees charged. No increase is proposed at this time. The amount is appropriate since about 1,850 RN and 550 LPN licenses are verified each year creating an income of about $12,000. Expenditures include 75 percent of a clerk-typist's time ($6,300); postage including notifications of required fee ($700); supplies, equipment, supervision and overhead ($5,000) totaling $12,000.

D. is needed to recover the cost of duplicating transcripts. The costs include staff time to locate old records, photocopy the transcript, certify it and mail it to the other licensing agency. Requests for transcripts seldom occur; however, when they do, they are for the records which are most difficult to locate. Occasionally a transcript may require a re-typing and require more staff time. There is no accurate means of estimating the actual costs, since the time spent searching for records is variable. However, it is reasonable to charge a relatively small fee for this additional service.

§ 5.1060 Controlling institution (RN preparing programs).

It is reasonable to repeal B since the Board's jurisdiction for setting approval standards relates to the operation of the program preparing nurses for licensure and not to the operation of the entire institution or its other programs. The remaining rules for approval of nursing programs specify the requirements for the nursing program curriculum, including supporting non-nursing courses, that are pertinent to the preparation of a licensed nurse. Recognition of the quality of the institution is a matter for determination by the authorities of the controlling institution and the nursing program faculty.

C. should be repealed since controlling institutions that are able to meet the requirements for approval of nursing programs specified in the remaining Board rules should be granted interim approval.

D. should be repealed since it is not usually possible for a controlling institution to guarantee the future support of one education program. If the nursing program is able to

maintain compliance with the remaining Board rules there will be evidence that the controlling institution supports a sound program.

§ 5.1061 Organization (RN preparing programs).

B. should be deleted because the factors involved in formulating, implementing and evaluating the curriculum which relate to the production of a graduate with the knowledge and skills prerequisite for application for licensure are regulated through the remaining Board rules for the approval of nursing programs. Neither the organization of the faculty nor the involvement of faculty members are necessarily influential factors in the formulation, implementation and evaluation of the curriculum.

§ 5.1063 Publications (RN preparing programs).

A. should be deleted because publication of information describing the curriculum in student related policies does not insure the production of a graduate with the knowledge and skills prerequisite to application for a nursing license. The remaining rules for approval of nursing programs specify the requirements for the curriculum that are pertinent to the preparation of a licensed nurse.

B. should be repealed since the communication of fees charged students has no relationship to the production of graduates with the knowledge and skills prerequisite to the application for a nursing license. This matter is one that should be determined by the controlling institution and, where necessary, other types of regulatory and consumer protection agencies.

§ 5.1080 Admission (RN preparing programs).

A. should be repealed because the congrugence of an institution's admission practices to its stated selection criteria does not necessarily have a direct bearing on the production of a graduate with the knowledge and skills prerequisite to the application for a nursing license. The remaining rules for approval of nursing programs specify the requirements for the nursing curriculum and graduation which are pertinent to the preparation of a licensed nurse. This matter is one that should be determined by the controlling institution and, where necessary, other types of regulatory and consumer protection agencies.

B. should be repealed because non-discrimination in the selection and advancement of students is safeguarded by the state and federal agencies charged with the administration of state and federal laws on non-discrimination. It is not necessary for the Board to duplicate the effort of other agencies, nor is it necessary for the Board to cause the controlling institution to file reports with an additional agency. Since this rule was promulgated in 1975 no cases of such non-discrimination have come to the Board's attention.

§ 5.1091 Curriculum development and objectives (RN preparing programs).

A. is merely a re-lettering.
Old A should be repealed because this rule is repetetive of the following rules which are being retained: § 5.1092 B1 "Nursing course objectives shall be consistent with the philosophy and goals of the program" and § 5.1092 B2 "Nursing course objectives shall be developed in behaviorial terms and shall identify the changes in behavior in the student as a result of the learning process."

A.1 should be repealed because part of this rule is repetetive of rule § 5.1092 B which is being retained and states "Nursing course objectives shall be developed by the nurse faculty members and shall be in writing." The remaining relevant rules require course objectives. Such objectives assure direction for the development and implementation of specific courses.

A.2 should be repealed because this rule is repetetive of § 5.1092 B2 which would remain in effect.

§ 5.2002 Application for licensure as a licensed practical nurse.

A.3 proposes an increase in the licensure fee for applicants licensed by examination who graduated from a Minnesota nursing program. The increase is needed to balance as nearly as possible the projected costs of licensing including the examination during the next two fiscal years. The fee is reasonable as can be seen by examination of the attached tables. The anticipated cost per year is $46,594 and the anticipated income from 1,200 new licensees at $40 each is $48,000. This is believed to be as close an appropriation of costs and fees as is practical.

B.3 proposes the same increased fee for licensing applicants by examination who graduated from an out-of-state nursing program. It is reasonable to change the same fee, since the same costs are incurred for these applicants as for Minnesota graduates.

§ 5.2003 Examination and re-examination for practical nurse licensure.
All proposed revisions are needed to provide clarification and specificity to Board practices so that applicants may have advanced knowledge of requirements.

A. is needed to clarify the specific examination used by Minnesota. The use of the State Board Test Pool Examination (SBTPE) is in conformance with Minn. Stat. § 214.03 requiring the use of national standardized tests.

The passing score of 400 has been used since 1969. Requiring a passing score of 400 is reasonable because the success rate of examination candidates for LPN licensure is similar to that of candidates for RN licensure when passing scores of 400 and 350 respectively are used. Table 4 shows that 94 percent of graduates from Minnesota and other states who took the examination for the first time passed during the

period January 1973 to January 1977. During a similar period 93 percent of candidates for registered nurse licensure passed. Minnesota is one of five states which requires a passing score higher than 350. Therefore it is reasonable to retain a passing score which provides a degree of assurance that registered nurses and licensed practical nurses licensed have met similarly rigorous standards and can provide the high quality of patient care for which Minnesotans are noted and which they have come to expect from all types of health care providers.

B. is needed to state precisely the grounds used to determine whether or not a candidate has failed the examination.

C. is needed to add additional specificity to an existing rule. The period of time is increased from 18 to 24 months so that all candidates throughout the year have the same opportunity to write the exam three times before being required to present evidence of remedial assistance and to be consistent with requirements for RN applicants. The exams are administered in April and October in accordance with a schedule developed nationally.

D. is merely a re-ordering of a portion of old § 5.2003D and an amplification. Since April 1976 only 42 percent of the second writers and none of the third writers have passed. According to Bevis, Pressey, and Robinson, half of what is taught in the science areas will be obsolete in two and one-half years and each year there is at least one-tenth more information generated. Further, it has been shown that 75 percent of what is memorized will be forgotten in two years. Thus remedial assistance continues to be justified. The specific content area of the remedial assistance is needed to assist the applicant to focus on his/her problem areas. The three listed (subject, test-taking skill and English language) are those found to cause failure most often.

E. & F. are merely re-ordering for clarity and logical sequence.

§ 5.2005 Permit to practice practical nursing.
This rule is needed to provide clarity to the 1975 statute which authorized the Board to issue permits to applicants for LPN licensure by examination [Minn. Stat. § 148.295 (2)]. The proposed parts of the rule are reasonable because they parallel a similar rule for RN applicants, § 5.1003.

A. is needed to provide a clear statement of the grounds on which a permit is issued. Since it rephrases but does not change the legal authority, it is reasonable.

B. is needed to specify the time period and conditions under which the permit shall be valid. Because persons practicing without valid permits could be charged with the unauthorized practice of nursing, this degree of clarity is needed.

C. is needed to clarify for permit holders and employers the acceptable manner in which such a person may be identified. The Joint Commission on Accreditation of Hospitals requires that there be a method established to identify the authors of entries on a patient's record. The identification may include signatures and initials. Many health care facilities require identification to include job titles. The title "graduate practical nurse" resolves the recording and identification problem. It identifies to the public individuals who have met the requirements to practice nursing under direct supervision. The title and letters are reasonable since they accurately describe the person's status and are clearly understood by the general public.

D. is needed and reasonable as a means of informing applicants of their responsibility. If a permit were not returned, it could be used by an unauthorized and untrained person who may cause harm to a patient.

§ 5.2030 Renewal of registration (licensed practical nurses).

A. is needed to increase the renewal fee. The amount is reasonable because it represents the amount needed from each of 13,500 practical nurse licensees to operate the agency but does not cover costs incurred in licensing or verification of licenses to other states. (See Tables 1 and 2) Past records show that agency expenditures of practical nurse-related activities amount to 30 percent of total expenditures.

B. is needed to accommodate individuals licensed by interstate endorsement and following the October examination. The three calendar months is reasonable since it encompasses the period between the mailing of renewal applications and the first day of the new renewal period. In the past there has been much displeasure expressed by new licensees who are expected to pay a renewal fee so soon after paying a licensing fee. In fact, persons licensed during this period feel they are being discriminated against. The license fees as proposed include an amount equivalent to about one-fourth of the renewal fee.

§ 5.2031 Penalty (licensed practical nurses).

The proposed increase in the penalty fee is reasonable, since the amount should act somewhat as a deterent to submitting the application for renewal and should recover the cost of special handling which are necessary when processing applications received after the deadline date.

§ 5.2032 Delinquent status (licensed practical nurses).

A. is needed and reasonable since the proposed increase in the delinquent fee should act as a deterent to failing to apply for renewal or non-practicing status. The proposed annual delinquent fee will recover the costs of special handling and processing of applications received more than a year after the expiration of a registration renewal certificate. The maximum delinquent fee is reasonable since it does not exceed the proposed licensure fee of $40.

B. is needed to fill an existing gap in the handling of persons who have not maintained an active license and have not applied for non-practicing status. The requirements proposed are the same as are currently applied to persons in the non-practicing status five years or more, but are made for specific based on experience with the existing non-practicing rule over the past one and one-half years.

B.1 is reasonable as proposed since employment in a practical nursing capacity may be assumed to indicate that the nurse has been able to demonstrate to an employer that he/she possessed at least a minimum level of nursing competence.

B.2 is reasonable because completion of one week of a course designed specifically to update the knowledge of a practical nurse will provide assurance that an instructor has observed the student. If the instructor becomes aware that the student lacks either knowledge or skill to perform safely, he/she could report the observation to the Board for further action. Since some refresher courses require that attendees hold an active license, it is not reasonable to expect completion of a course before issuing a current registration certificate.

B.3 is reasonable since it may be met by attending only two all-day workshops or seminars, thus delaying their application very slightly.

B.4 is reasonable since one week of supervised learning is considered by most nursing instructors to be an adequate amount of time to judge the competency of a student.

B.5 is needed to provide flexibility and allow applicants to propose other similar methods of meeting the requirements.

§ 5.2033 Nonpracticing status for licensed practical nurses.

A. is necessary in order to revise the delinquent fee in accordance with that proposed in § 5.2032.

B. is needed for the same reasons as indicated for proposed rule § 5.2032. It is necessary for the Board to provide as much specific information as possible to applicants wishing to change their licensure status from non-practicing to active.

B.1 is reasonable since many nurses who move to other states and practice in those states retain their Minnesota license on a non-practicing status during that same time.

B.2 is necessary to be certain that the student participated in nursing content classes as well as general orientation type classes.

B.3 is reasonable since the 15 clock hours may be obtained in a very short period, thus delaying action on an applicant's request by only a few days.

B.4 is reasonable since it will not create a hardship on a person who has obtained employment prior to requesting a change in licensure status.

B.5 is needed to provide flexibility and allow applicants to propose other similar methods of meeting the requirements.

§ 5.2034 Change of name on records (licensed practical nurses). The proposed rule changes are needed to provide greater clarification to licensees regarding the requirement for maintaining accurate licensure records. The system of regulation is only as good as the accuracy of each licensee's records.

A.1 is needed in order to make clear to licensees their responsibility in reporting name changes. Each licensee must be able to show a prospective employer a renewal certificate which bears a correct name.

A.2 is needed as a safe guard against the utilization of unauthorized certificates. If inaccurate certificates were not returned, they could be used by an untrained person. Such usage could result in misrepresentation and potential harm to patients. Since some incorrect certificates may be lost or otherwise unavailable, a written statement from the licensee is necessary to document the situation.

A.3 is needed to allow the Board to obtain copies of marriage licenses or other records of name changes whenever necessary to correctly identify a licensee. Since the changing of identification may be done for fraudulent purposes, the Board must be cognizant of the facts in each case and vigilant to prevent misrepresentation. Such representation could result in harm to the general public. This proposed rule is not new, merely a reordering for clarity.

B.1 is needed to notify licensees of their responsibility in reporting address changes. Such reporting is vital to assure that applications for renewal certificates are mailed in a timely fashion. Written notification is necessary to prevent errors in verbal communication and to increase the efficiency of the staff in handling the changes.

B.2 is needed to specify the procedure used in processing address changes. It is reasonable to notify the licensee of changes made so that they may be confident that their records are correct. However, it is undesirable to issue corrected certificates because of the danger that multiple certificates issued to the same name would be in circulation. Licensees currently notify the office when addresses are changed but do not send back the current certificate. This proposed rule merely clarifies an existing procedure.

§ 5.2035 Duplicate and replacement documents for licensed practical nurses. These rules are proposed as a clarification of the existing rules and are needed to identify the Board's operating procedures affecting licensees.

A.1 is reasonable since the issuance of duplicate licenses could result in the usage of one copy by an unauthorized and potentially harmful person.

A.2 is reasonable because all licensees should be able to use the original license as proof of licensure in this state. It is reasonable to expect certification of the fact that the original license was lost, stolen, or destroyed, since the license represents the acquisition of a legal right to practice and is not to be treated casually.

A.3 is appropriate as a method of identifying the fact that the newly issued license replaces a previous one.

A.4 is needed as a means of recovering the cost of processing the replacement. The exact cost will vary according to the time needed to process; however, all replacements will include the cost of staff time, the license and mailing. The proposed $5 fee is minimal.

B.1 is reasonable since the issuance of duplicate certificates could result in the usage of one copy by an unauthorized and potentially harmful person.

B.2 is needed so that the Board is able to maintain accurate records of certificates which potentially could be used by unauthorized persons. Evidence in writing is necessary to prevent the miscommunication which can occur when such information is transmitted orally.

B.3 is reasonable as a means of providing the licensee with a form of identification for the current renewal period. Since registration renewal certificates are issued through the Information Systems Division (ISD) of the Department of Administration via the Licensing Section of the Department of Health, it would be too cumbersome to go through the procedure of having a replacement certificate issued. Therefore, the proposal to issue a Verification of Current Registration through the Board office is reasonable as a means of rapidly handling requests from licensees. The fee is necessary as a means of recovering the costs of staff time in updating records and processing the request as well as the cost of supplies. Exact costs will vary. The costs to the state for processing any receipt probably make charges of less than $3 inadvisable.

B.4 is reasonable since licensees should not be penalized for delays or losses outside of their control.

§ 5.2036 Verification of Minnesota License (LPN).

This rule is needed in order to identify to the public the conditions under which verifications are issued by the Board to agencies equivalent to the Board of Nursing. It is reasonable to require that the requests be written because each licensing agency has a form for the specific purpose of receiving such verification. The receipt of the form is considered a written request when received directly from the licensee or submitted to the Minnesota Board by another licensing authority on behalf of the licensee. If verbal requests were honored, the process would be duplicative, since a form would follow soon after.

B. is needed as a means of assuring an accurate record keeping system on each licensee. It is reasonable to expect licensees to keep their licensure status in good standing at all times. Because a non-practicing status is available for individuals not intending to practice in Minnesota, licensees wishing to clear the delinquent status by placing their license in the

non-practicing status may do so by merely paying the fee as required in § 5.2033. Since a relatively small number of licensees allow their license to become delinquent each year (less than 50 of the 13,000 licensed practical nurses renewed), this proposed rule will affect very few.

C. is needed to comply with Minn. Stat. § 214.06 and state the fees charged. No increase is proposed at this time. The amount is appropriate, since about 1,850 RN and 550 LPN licenses are verified each year creating an income of about $12,000. Expenditures include 75 percent of a clerk-typist's time ($6,300); postage including notifications of required fee ($700); supplies, equipment, supervision and overhead ($5,000) totaling $12,000.

D. is needed to recover the cost of duplicating transcripts. The costs include staff time to locate old records, photocopy the transcript, certify it and mail it to the other licensing agency. Requests for transcripts seldom occur; however, when they do, they are for the records which are most difficult to locate. Occasionally a transcript may require a re-typing and require more staff time. There is no accurate means of estimating the actual costs, since the time spent searching for records is variable. However, it is reasonable to charge a relatively small fee for this additional service.

§ 5.2040 Definitions.

B. is needed to bring the definition in line with the law. In 1975 the membership of the Board of Nursing was changed to create a single Board which administers all sections of Minn. Stat. § 148.171 through 148.299 (1976).

§ 5.2050 Controlling institution (LPN preparing programs).

D. should be repealed since it is not usually possible for a controlling institution to guarantee the future support of one education program. If the nursing program is able to maintain compliance with the remaining Board rules there will be evidence that the controlling institution supports a sound program.

§ 5.2051 Organization (LPN preparing programs).

B. should be deleted because the factors involved in formulating, implementing and evaluating the curriculum which relate to the production of a graduate with the knowledge and skills prerequisite for application for licensure are regulated through the remaining Board rules for the approval of nursing programs. Neither the organization of the faculty nor the involvement of faculty members are necessarily influential factors in the formulation, implementation and evaluation of the curriculum.

§ 5.2053 Publications (LPN preparing programs).

A. should be deleted because publication of information describing the curriculum in student related policies does not insure the production of a graduate with the knowledge and skills prerequisite to application for a nursing license. The remaining rules for approval of nursing programs specify the requirements for the curriculum that are pertinent to the

preparation of a licensed nurse.

B. should be repealed since the communication of fees charged students has no relationship to the production of graduates with the knowledge and skills prerequisite to the application for a nursing license. This matter is one that should be determined by the controlling institution and, where necessary, other types of regulatory and consumer protection agencies.

§ 5.2070 Selection and admission (LPN preparing programs).

A. should be repealed because the congrugence of an institution's admission practices to its stated selection criteria does not necessarily have a direct bearing on the production of a graduate with the knowledge and skills prerequisite to the application for a nursing license. The remaining rules for approval of nursing programs specify the requirements for the nursing curriculum and graduation which are pertinent to the preparation of a licensed nurse. This matter is one that should be determined by the controlling institution and, where necessary, other types of regulatory and consumer protection agencies.

B. should be repealed because non-discrimination in the selection and advancement of students is safeguarded by the state and federal agencies charged with the administration of state and federal laws on non-discrimination. It is not necessary for the Board to duplicate the effort of other agencies, nor is it necessary for the Board to cause the controlling institution to file reports with an additional agency. Since this rule was promulgated in 1975 no cases of such non-discrimination have come to the Board's attention.

C. should be repealed because it is a rule which establishes licensure requirements and licensure requirements are not appropriately included in program approval rules. Pursuant to Minn. Stat. § 148.291 subdivision 1 secondary education requirements for licensure may be determined by the Board by rule. The Board should not have rules which restrict students from entering nursing programs.

§ 5.2082 Curriculum plan (LPN preparing programs).

The deletion of the second sentence in the unlettered paragraph is necessary as it is in conflict with the legal definition of practical nursing practice found in Minn. Stat. § 148.29 subdivision 4. The definition does not require the guidance and supervision of a registered nurse or physician in every aspect of nursing care.

A. should be deleted since according to Pittenger and Gooding in Learning Theories in Educational Practice no two persons seek meaning to experience in exactly the same manner. The faculty of the nursing program should be free to sequence curriculum content in ways that would best accommodate the learning styles and needs of students.

B. should be repealed since the faculty of the nursing program should be free to integrate curriculum content in ways that would best accommodate learning styles and needs of students.
C. should be deleted since the currency of application of theory in this rule is repetitive of § 5.2083C and 5.2084D and C which are being retained.
D. should be repealed since it is not feasible to determine whether or not a curriculum plan reflects program objectives in a way that is meaningful to each teacher and student.

Table 1

MINNESOTA BOARD OF NURSING

Projected Costs - Fiscal Year 1979

Code	Item	Budget	Licensing Costs					Other Agency Costs			
				RN			LPN				
			Percent of Budget	Amount[1]	Exam[2]	End.	Exam[3]	End.	Percent of Budget	Amount[4]	RN	LPN
1-9	Personnel	$293,548	30	$ 88,064	43,151	18,494	21,135	5,284	70	$ 205,484	$ 143,839	$ 61,645
04	Board per diem	5,005	10	500	245	105	120	30	90	4,505	2,703	1,802
10	MDH Space	8,316	35	2,911	1,426	612	699	174	65	5,405	3,784	1,621
	Exam Space	13,380	100	13,380	9,366	0	4,014	0	0	0	0	0
	Other Rents	100	0	0	0	0	0	0	100	100	70	30
11	Advertising	25	0	0	0	0	0	0	100	25	18	7
12	Repair Service	750	30	225	110	47	54	14	70	525	368	157
14	Printing	7,000	40	2,800	1,372	588	672	168	60	4,200	2,940	1,260
15	Non-st. empl. service	3,900	0	0	0	0	0	0	100	3,900	2,730	1,170
	Proctors	13,680	100	13,680	9,120	0	4,560	0	0	0	0	0
16	Exams	70,900	100	70,900	60,410	0	10,490	0	0	0	0	0
	St. register	4,800	10	480	235	101	115	29	90	4,320	3,024	1,296
	Legal Costs	47,776	10	4,778	2,341	1,004	1,146	287	90	42,998	30,099	12,899
	Licensing Serv.	18,000	0	0	0	0	0	0	100	18,000	12,600	5,400
17	EDP & syst.serv.	200	30	60	29	13	14	4	70	140	98	42
	Renewals	21,640	0	0	0	0	0	0	100	21,640	15,148	6,492
20	Communications	17,630	50	8,815	4,319	1,852	2,115	529	50	8,815	6,171	2,644
	Renewals	14,957	0	0	0	0	0	0	100	14,957	10,470	4,487
21	Travel-in-state	14,400	10	1,440	706	302	346	86	90	12,960	9,072	3,888
22	Travel-out-of state	4,300	10	430	211	90	103	26	90	3,870	2,709	1,161
26	Shipping	1,500	100	1,500	975	0	525	0	0	0	0	0
29	Other cont. service	400	0	0	0	0	0	0	100	400	280	120
30	Supplies	6,742	30	2,023	991	425	486	121	70	4,719	3,303	1,416
84	Refunds	100	0	0	0	0	0	0	100	100	70	30
	TOTAL	$569,049		211,986	135,007	23,633	46,594	6,752		357,063	249,496	107,567
									Minus Verification Income		9,250	2,750
											$ 240,246	$ 104,817

Total RN costs: $ 408,136
Total LPN costs: $ 160,913

[1]Licensing costs are charged 70% to RNs and 30% to LPNs, based on the average numbers of persons licensed per year.

[2]RN licensing costs are charged 70% to examination applicants and 30% to endorsement applicants based on the average number licensed per year.

[3]LPN licensing costs are charged 80% to examination applicants and 20% to endorsement applicants based on the average number licensed per year.

[4]The amount is divided on an RN/LPN ratio of 70/30, the ratio of each renewal per year.

Table 2

MINNESOTA BOARD OF NURSING

PROPOSED FEE SCHEDULE

FISCAL YEARS 1978-79

RN	TYPE	NUMBER	FEE	INCOME PER YEAR
	Exam	2,100	$60	$ 126,000
	Re-exam	350	20	7,000
	Endorsement	850	35	29,750
	Renewal	31,500	7.50	236,250
	Penalty	500	4	2,000
	Delinquent	80	4-40	640
	Verification	1,850	5	9,250
				$ 410,890

LPN				
	Exam	1,200	$40	$ 48,000
	Re-exam	150	15	2,250
	Endorsement	250	25	6,250
	Renewal	13,500	7	94,500
	Penalty	500	4	2,000
	Delinquent	80	4-40	640
	Verification	550	5	2,750
	TOTAL			$ 156,390
	GRAND TOTAL			$ 567,280

Appropriation	F.Y. 78	F.Y. 79
Basic	$ 522,923	$ 524,049
Salary Supplement	30,689	45,000
TOTAL	$ 553,612	$ 569,049

JMS/mh
5/77

Table 3

MINNESOTA BOARD OF NURSING

Success of Candidates for Registered Nurse Licensure
in Minnesota Who Wrote the SBTPE between
1/1/72 and 1/1/77 by Location of Nursing Program

LOCATION OF NURSING PROGRAM	FIRST WRITING					REPEATED WRITINGS				
	Number Writing	Passed No.	%	Failed No.	%	Number Writing	Passed No.	%	Failed No.	%
Minnesota Associate	4043	3484	86	559	14	741	475	64	266	36
Baccalaureate	2706	2503	92	203	8	200	150	75	50	25
Diploma	3207	3012	94	195	6	231	172	74	59	26
TOTAL	9956	8999	90	957	10	1172	797	68	375	32
Other U.S. Jurisdictions	992	940	95	52	5	63	51	81	12	19
Other Countries	319	84	26	235	74	528	176	34	352	66
TOTAL	11,267	10,023	89	1,244	11	1,763	1,024	58	739	42

Table 4

MINNESOTA BOARD OF NURSING

Success of Candidates for Licensed Practical Nurse Licensure
in Minnesota Who Wrote the SBTPE between
1/1/73 and 1/1/77 by Location of Nursing Program

LOCATION OF NURSING PROGRAM	Number Writing	FIRST WRITING				Number Writing	REPEATED WRITINGS			
		Passed		Failed			Passed		Failed	
		No.	%	No.	%		No.	%	No.	%
Minnesota	4445	4190	94	255	6	344	151	44	193	56
Other U.S. Jurisdictions	205	192	94	13	6	24	8	33	16	67
Other Countries	6	4	67	2	33	1	0	0	1	100
Endorsements	22	11	50	11	50	5	2	40	3	60
TOTALS	4678	4397	94	281	6	374	161	43	213	57

EXHIBIT C

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Amendments Relating to Application, Renewal, and Verification Fees, Licensure Examinations, Renewals, Delinquencies and Name Change for Professional Nurses and Practical Nurses

DEPARTMENT OF FINANCE APPROVAL

Minn. Stat. §§ 148.211, 148.231, 148.291 and 148.294 (1976) authorize the Board of Nursing to establish fees for licensure applicants, and licensees renewing registration. Minn. Stat. § 214.06 subd. 1 (1976) states in relevant part that:

> . . . health related licensing boards . . . may by rule, with the approval of the commissioner of finance, adjust any fee which the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures. Examination fees, if any, shall be set by rule so that the total amount of annual examination fee income approximately meets anticipated costs of administering examinations.

The following proposed amendments specify fees for professional nurses:

1. 7 MCAR § 5.1002 specifies an application fee for licensure of sixty dollars ($60.00).

2. 7 MCAR § 5.1030 specifies a renewal fee of fifteen dollars ($15.00) for renewals on August 1, 1978 and thereafter.

3. 7 MCAR §§ 5.1032 and 5.1033 specify delinquency fees of four dollars ($4.00) per year up to a maximum of forty dollars ($40.00) and a penalty fee of four dollars ($4.00).

4. 7 MCAR § 5.1035 specifies a replacement license fee of five dollars ($5.00) and a verification of current registration renewal fee of three dollars ($3.00).

5. 7 MCAR § 5.1036 specifies a verification of licensure fee of five dollars ($5.00) and a transcript copy fee of three dollars ($3.00).

Proposed amendments to rules of the Minnesota Board of Nursing with regard to fees assessed for practical nurses are as follows:

1. 7 MCAR § 5.2002 specifies an application fee of forty dollars ($40.00).

2. 7 MCAR § 5.2030 specifies a renewal fee of seven dollars ($7.00) effective in 1978.

3. 7 MCAR § 5.2031 specifies a penalty fee of four dollars ($4.00).

4. 7 MCAR §§ 5.2032 and 5.2033 specify a delinquency fee of four dollars ($4.00) per year up to a maximum of forty dollars ($40.00).

5. 7 MCAR § 5.2035 specifies a replacement license fee of five dollars ($5.00) and a verification of current registration renewal fee of three dollars ($3.00).

6. 7 MCAR § 5.2036 specifies a verification of licensure fee of five dollars ($5.00) and a transcript copy fee of three dollars ($3.00).

Upon review of the supporting information justifying the need, reasonableness and amount of the fees listed hereinabove, and pursuant to the authority vested in the Minnesota Department of Finance by Minn. Stat. § 214.06 subd. 1 (1976) and Minn. Stat. §§ 16A.04 subd. 3 and 16A.07 subd. 4 (1976), the fees proposed in the above rules of the Board of Nursing rules are hereby approved.

GERALD W. CHRISTENSON
Commissioner

Dated: August 24, 1977

By _____
ALLEN A. YOZAMP
Budget, Planning and Control
Acting Director

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees

STATEMENT OF FACTS ESTABLISHING REASONABLENESS OF AMENDMENTS

The Minnesota Board of Nursing (hereinafter "Board"), pursuant to Minn. Stat. § 15.0412 subd. 4 (1976), hereby affirmatively presents facts establishing the reasonableness and justifying the adoption of the above-captioned amendments to the Board's rules. The need and statutory authority for the proposed amendments are set forth in the Statement of Need. Terms used throughout the Statement attached hereto will have the definitions given them in proposed 7 MCAR § 5.1030B.

Dated: October 20, 1977

STATE OF MINNESOTA

BOARD OF NURSING

Joyce M. Schowalter

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

MINNESOTA BOARD OF NURSING

Statement of Evidence

These rules are being promulgated in order to establish procedures and minimum requirements for continuing education activities and standards for satisfactory evidence of compliance with Board rules.

§ 5.1010 Qualifications

C. This rule is necessary to establish continuing education requirements a licensee must meet for licensure in Minnesota by interstate endorsement. These rules uniformly apply continuing education requirements on all licensees seeking active licensure status in Minnesota.

C.1 This rule is necessary for a uniform interpretation of what is required of a nurse applying for licensure by interstate endorsement before August 1, 1980. The rule provides flexibility in the ways a Registered Nurse may comply with this requirement. The present requirement is made more specific and new options are added based on experience over the past two years.

C.2 This rule is necessary for a uniform interpretation of what is required of a nurse applying for licensure by interstate endorsement after August 1, 1980. It is reasonable to apply the same standards to nurses from other states as are applied to Minnesota educated and licensed nurses. This rule enables continuing education offerings taken in other states without pre-approval by the Board to be considered when submitting evidence of continuing education for endorsement to Minnesota. While it is recognized that licensure of a few may be delayed until continuing education requirements are met, the six month permit is sufficient to accommodate these nurses with no loss of income or serious threat to the public safety.

§ 5.1011 Applications

This rule is changed only in that submission of a notarized evidence form is required to document required continuing education participation for endorsement to Minnesota. Notarization is needed to discourage fraud or deceit.

§ 5.1030 Introduction and Definitions

A. This rule exists so that the licensee may have a reasonable summary of the content found in the proposed rules.

B. The purpose of the fifteen separate definitions of terms is to provide uniform application and interpretation of the rules.

B.1 Because of the diverse types of continuing education offerings, it is necessary to establish a term which refers to learning experiences that are acceptable to the Board and the conditions under which the continuing education activities are acceptable to the Board.

B.2 This definition provides a reasonable shorthand reference to the Minnesota Board of Nursing

B.3 It is necessary for the licensee and Board to know what standard unit of time measure will be used to compute continuing education totals. Prevailing standards use the contact hour as a unit of measure upon which

continuing education units or point systems are based. The California Board of Nursing and the Kansas Board of Nursing express continuing education requirements in contact hours. The Florida Board of Nursing, in its proposed rules for mandatory continuing education for nurses, expresses continuing education in contact hours. By using the contact hour as the basic unit of the time measurement interstate endorsement will be facilitated.

A fifty minute contact hour is consistent with prevailing standards for states with mandatory and voluntary continuing education programs as published in "The American Journal of Nursing," March 1977.

The National University Extension Association in its publication "The Continuing Education Unit" defines a contact hour as a typical fifty minute classroom instructional session or its equivalent.

B.4 A majority of those attending statewide public meetings held by the Board's Advisory Task Force on Registration in 1976 to gain input from the concerned public recommended multi-year periods for acquiring continuing education activities. A multi-year continuing education participation period would provide flexibility to the licensee in completing continuing education activities and allow for potential difficulties when the location of the offerings, travel time during unpredictable weather, extended illness, pregnancy and the frequency of appropriate offerings made it difficult to obtain the needed continuing education activities in one year.

The Task Force considered a continuing education participation period longer than two years but felt it would lead to confusion among licensees as to their continuing education record keeping.

California's and Kansas's mandatory nursing continuing education rules and Florida's proposed mandatory nursing continuing education rules require the gathering of contact hours during a two year period.

Because the knowledge of nursing and techniques of nursing are changing, it is believed that, in order to remain current in the field of nursing, the continuing education should be taken within the two years preceding the renewal deadline. The growth of knowledge and techniques in providing nursing and health care is on-going and increasing, so a need for continuing education to keep current with such development is an on-going and continuing matter.

A typographical error exists in the proposed rules as published in the State Register. This rule should state the renewal deadline, not the renewal date. Making this typographical correction will make this proposed rule and statement of evidence consistent with the rest of these documents.

B.5 This form is necessary for the Board to receive similar information from licensees regarding continuing education activities submitted for renewal, so that all licensees may receive a uniform review of their application.

B.6 It is necessary to apply a term uniformly to learning situations and to specify that continuing education does not require a person to be present to conduct the continuing education activity. This definition includes independent learning experiences, such as individualized learning packets and self-study units similar to those found in "The American Journal of Nursing" as well as those continuing education activities with a teacher present.

B.7 A definition of this term is necessary to effect a uniform interpretation of the term. This usage is consistent with existing use by the Board.

B.8 A definition of this term and process is necessary to indicate the activities of the Board and provide for a uniform interpretation of the term. This usage is consistent with existing use by the Board.

B.9 This term is necessary to clarify that physical attendance at a continuing education offering is not the only way a licensee may comply with these rules. Instructionally sound programmed instruction and self-study instruction, similar to those found in "The American Journal of Nursing" are available.

B.10 A definition of this term and process is necessary to effect a uniform interpretation of the term. This usage is consistent with existing use by the Board.

B.11 A definition of this term is necessary to indicate when a renewal period begins and the length of time a renewal period covers.

The Task Force recommendation of a two year renewal period is consistent with continuing education rules in California and Kansas, both with mandatory continuing education for nurses, thus enhancing interstate mobility.

B.12 A definition of this term is necessary to effect a uniform interpretation of the term. This usage is consistent with existing use by the Board.

B.13 In order for the Board to determine whether or not a registration should be renewed, the Board must obtain and review the necessary renewal material. The consequence to a licensee who fails to re-register is that he/she is delinquent and may not practice nursing. Therefore, it is to the advantage of the Board in meeting its responsibilities and is to the advantage of the licensee to know whether or not his/her renewal materials are acceptable.

Having a deadline preceding the renewal date also enables the Board to return renewal materials that are in noncompliance, incorrect or incomplete for resubmission. Accurate resubmission before the renewal date allows a licensee to avoid delinquency status.

B.14 This term is necessary to identify the document that states a licensee has met registration renewal requirements and to provide a licensee with tangible evidence of compliance with the renewal requirements. This usage is consistent with existing use by the Board.

B.15 This rule is necessary to define a term which designates the first day of a renewal period.

The deleted rules are either no longer necessary or have been retained and reordered for consistency of the section.

§ 5.1031 Registration Renewal
The deleted rules have been reordered for consistency of this section.

A.1 A registered nurse is entitled to know the beginning of his/her continuing education period with which he/she must comply. This date is the first day of the first 24 month continuing education participation period.

A.2 In order to meaningfully carry out regulatory procedures, truthful information is needed to determine compliance. The grounds for disciplinary action against a licensee should be clearly evident in the rules.

A.3 Having an application and fee submitted to the Board represents existing procedures for renewal 7 MCAR § 5.1030. The requirement of a completed evidence form stating compliance with these rules is needed to obtain satisfactory proof of participation in continuing education without which compliance could not be determined. Having deadlines and consequences for not meeting them exist in present Board rules, such as 7 MCAR § 5.1031 and 5.1032.

In order to correctly process a licensee's application, accurate and complete information is needed. Each licensee should be allowed an opportunity to resubmit renewal material if it was originally incomplete or incorrect so they can comply with these rules and the Board's action can be based upon complete and accurate information.

A.4 This rule is necessary to establish the registration renewal fee. This rule is merely a re-ordering of an existing rule. For further justification see Statement of Justification dated 8/77.

A.5 This rule is necessary to inform licensees of the conditions under which the penalty fee will be imposed and the amount of that fee. This procedure is presently covered by rule 7 MCAR § 5.1031.

The proposed increase in the penalty fee is reasonable because it will cover a two year renewal period and allows the Board to recover the cost of special handling when processing applications postmarked after the deadline. In addition, a penalty fee should act somewhat as a deterrent to submitting a late application. For further information see Tables 1 and 2 of the Statement of Justification dated 8/77.

A.6 This rule is necessary to inform licensees of requirements pertaining to retention of records. Two years following the end of a renewal period is reasonable because licensees will not be included in the sample described in 7 MCAR § 5.1031 B.8 after two years.

In order for meaningful regulation to occur, true and accurate information and records need to be maintained.

A.7 Since the Board does not have specific authority to regulate continuing education providers, the system proposed reinforces the Board's clear authority to set continuing education requirements which licensees must meet. The Board believes that by being specific in what constitutes an acceptable continuing education activity and not requiring Board approval of a course before it is offered, administrative costs will be kept down. The Forida Nurses' Association in "Preparing for Mandatory Continuing Education", June 1976, projected the annual cost to the Florida Board of Nursing for program review and approval to be $98,268. Costs such as these would inevitably be borne by licensees and through them nursing care recipients.

By not incurring the cost associated with program approval by the Board, a program provider may find it economically feasible to develop continuing education activities for specific nursing groups with small numbers of potential students. This would provide a chance for a more diverse offerings which meet the specific educational needs of more nurses.

By not requiring Minnesota Board of Nursing program approval it will also be possible for licensees to maintain their Minnesota license while in other states or countries. This can be done by taking educational offerings in geographic locations other than Minnesota, the licensee determining if the criteria for continuing education activities are met.

The proposed requirements are consistent with those established by Minnesota Nurses' Association and American Nurses' Association, both of which approve continuing education programs and/or providers.

A.7a This proposed rule is needed to set the criteria for the types of continuing education which will be found acceptable. Since Minn. Stat. § 214.12 (1976) states that the ". . .requirements of continuing professional education or training shall be designed solely to improve professional skills. . ." it is reasonable to use the definition of the practice of professional found in Minn. Stat. § 148.171 (3) (1976) as the criteria. Since an individual is licensed to perform the functions as defined in statute, it is logical that a licensee be judged against the same criteria at the time of registration renewal. The use of any other definition or interpretation of the statutes would appear to go beyond authority of a licensing Board. While it is true that nurses advance beyond the knowledge and skills originally held at the time of licensure and that they may specialize in practice, they all continue to practice under the authority of the same general professional nurse license.

A.7b This proposed rule would provide consistency between states with mandatory continuing education. Participation in educational activities of less than 50 minutes is not a sound way of improving one's knowledge and/or skill.

A.7c Without educational objectives, it is difficult for the potential student to determine the direction an educational offering will take.

The Board believes that this is the best method for the licensee to determine if a continuing education activity is designed to improve his/her professional skills. By stating objectives in measurable terms,

the licensee knows what the continuing education activity will cover. The licensee may then select continuing education activities that meet his/her specific needs.

A.7d The Board believes it is reasonable that the qualifications of the instructor be stated so that a licensee can determine if the instructor is capable of providing a continuing education activity designed to improve his/her professional skills.

The American Nurses' Association in its publication "Accreditation of Education in Nursing" calls for instructors with expertise and competence in the course content. The National University Extension Association in its booklet "The Continuing Education Unit" calls for qualified instructors.

A.7e Without an evaluation of learning it is difficult for the student and instructor to judge whether or not the educational objectives for which the course was designed were actually reached and what, if any, learning occurred. Therefore, the Board believes it is necessary for continuing education activities to utilize a method of determining if learning has occurred. The American Nurses' Association advocates continuing education having a tangible plan for evaluating expected outcomes. The method should be in written form in order to facilitate communication and to provide documentation of participation.

A.7f Because of the need to be aware of current developments taking place in the body of nursing knowledge and new techniques in nursing care, it is reasonable to require current continuing education. By limiting the time during which specific continuing education activity may be applied to renewal requirements the Board is attempting to simplify the administration of the program and thereby keep costs to a minimum.

A.7g It would be of little assistance to a licensee to repeat a continuing education activity when the concept behind continuing education is to learn new information and remain current with developments in nursing.

A.7h This rule is needed to assure that licensees have participated in the continuing education activity, not merely paid any fees. Since the proposed compliance program is based on assumption that licensees are professionals and capable of planning for their own educational needs a written statement is sufficient documentation. However, since licensees are human and some may try to find methods of circumventing the rules, at least this minimal requirement is necessary.

A fee statement does not verify participation in a continuing education activity, only payment for it.

A.7i The Board believes that it is reasonable to request the licensee to substantiate obtaining a successful grade in courses granting grades. To allow a licensee to apply contact hours from courses not successfully completed would appear to be in conflict with legislative intent in Minn. Stat § 148.231, subd. 1 (1976).

Since a qualified instructor is best equipped to establish a definition of successful completion for continuing education activities, the Board should rely on the instructor's judgment.

The Board believes that by creating its own standards of successful completion, it would unnecessarily complicate the matter or confuse licensees and providers.

A.8 The licensee has a right to know requirements he/she must meet for registration renewal. All proposed requirements are in use to some degree in educational activity currently available. The requirements are simple and can easily be used by licensees when considering whether or not to participate in a given continuing education activity. Each requirement may be compared with literature published by providers in advance of programs. The Board believes that this mechanism will provide a reasonably sound, simple, low cost system while not burdening program providers nor confusing licensees.

A.8a When considering the amount of continuing education to be required, the Task Force determined that difficulties might be encountered in requiring the full amount of contact hours during the first renewal period. This rule would allow the Board to establish a reasonable first step of a two step increase in the number of required contact hours.

A.8b This rule is reasonable since it generally reflects opinions expressed by registered nurses at the regional meetings held by the Board for the purpose of obtaining ideas for the rules. Nurses said that 12-15 contact hours per year were reasonable and sufficient to keep current in nursing.

The total of 30 contact hours per two years is well below the 50 clock hour maximum stated in Minn. Stat. § 214.12. It is also consistent with California's requirement and Florida's proposal.

A 30 contact hour requirement over a two year period equals an average one hour and 15 minutes of continuing education per month. This average is similar to the Minnesota State Board of Dentistry's requirement of 75 hours of continuing education over a five year period, for an average of one hour and 15 minutes per month.

A.8c The nature of the practice of professional nursing requires the performance of functions, not only the acquisition of knowledge. Therefore the continuing education requirements would be incomplete if they did not include evidence that the licensee continues to possess skill "to do" as well as facts "to know". A rule such as this requires active rather than passive participation on the part of the learner. It further is a small move in the direction of competency-based registration renewal. The state of the art in competency testing in nursing is not advanced enough to require more than one activity of this nature in 1986. The Board recognizes that some educational methods may need to be changed to assist licensees to meet this rule. However, the Board believes that nine years is a sufficient period of time in which to prepare.

A.9 This rule is needed to clarify the situation of the instructor who is also a registered nurse. It is reasonable to provide this clarification since an acceptable continuing education activity must meet all portions of proposed § 5.1031 A7. The teaching to an activity per se would not have measurable objectives, only the activity would. The teaching would not include a written method to determine whether or not the teacher learned.

B.1 Each licensee is entitled to be notified of Board actions affecting his/her license status. However, it is reasonable to expect a licensee to provide his/her current address to the Board so that the Board may effectively and efficiently conduct business.

Because many nurses are highly mobile, it would be possible for them to escape compliance with these rules by claiming failure of notification.

The rule clearly states the responsibilities of the Board and the licensee and provides that valid service requires both parties to carry out their responsibilities.

B.2 By mailing a renewal application and evidence form 120 days before the licensee's renewal date, the licensee who has not obtained sufficient contact hours will have a reasonable opportunity to obtain additional contact hours. The inclusion of the obligation of the licensee is necessary in order to publicize requirements.

B.3 This rule is needed to ensure that licensees know the procedure to be followed when materials are received late.

B.4 Presently, if renewal documents are postmarked following a specific date, a license becomes delinquent. When establishing a new renewal date the statute provides that such status be continued. It would be difficult to enforce such a deadline in the absence of a penalty fee, in as much as the Board would lack an enforcement mechanism and the licensee would lack the motivation to act in a timely manner.

B.5 The rule is proposed in order to obtain and maintain accurate records regarding the continuing education activities submitted for registration renewal. The Board believes it is necessary to know the identity of the licensee submitting the information and of the continuing education activities being submitted to meet all the criteria specified in Rule § 5.1031 A. It is also reasonable to ask a licensee to sign, date and notarize the evidence form which requires the information provided to be correct to the best of the licensee's knowledge. Such requirements are designed to discourage fraud or deceit.

B.6 It is reasonable for the Board to return all documents for resubmission in order to allow a licensee to correct any errors or oversights in submission and submit acceptable documents. The 30 calendar days are reasonable since this period would allow licensees to participate in additional continuing education activities.

B.7 This rule will eliminate the existing situation when a person is licensed near the end of a renewal period and is shortly thereafter required to renew the recently received license. The licensure fee is based on the assumption of about one quarter of the licensees will fall within this period.

It is believed to be unfair for a licensee to pay a full renewal fee for a small part of a renewal period. For example, a person licensed for the first time two days before a renewal deadline presently pays a substantial fee ($60). The person is then expected to pay a full renewal fee ($15) for the next renewal period.

B.8 A rule of this type is needed as a mechanism to ensure compliance with the requirements and procedures established by the Board. The use of a sample instead of each of the approximately 32,000 currently renewed registered nurses is designed to let licensees know the enforcement of rules will be carried out and yet is cost effective. This proposed rule is permissive in order to allow the Board time to initiate the entire renewal system before applying a procedure for checking on the veracity of licensees. Data submitted should be in writing so that all licensees are treated uniformly and as objectively as possible.

B.8a The Board believes materials received by a licensee from an instructor or provider would be reasonable verification of information sworn to on the evidence form.

B.8b Because the continuing education activity is to be related to the definition of professional nursing, the Board believes that a review of a continuing education activity's objective would provide a reasonable and efficient method to determine the relationship between the activity's content and nursing as defined in these rules.

B.8c Because a break is normally allowed during a four hour instructional period, it is reasonable not to count non-instruction periods such as coffee breaks and lunch when computing contact hours.

B.8d Because no pre-program approval is required, it is necessary to request documentation of an instructor's qualifications from those licensees sampled. It is recognized that no specific qualifications are set, therefore a liberal judgment will need to be made when reviewing submitted materials.

B.8e Without evaluation it is difficult to know whether or not the educational objectives for which the course was designed were actually reached. Since it is recognized that a licensee may not have GAINED new knowledge, merely refreshed his/her mind, it is not appropriate to require more than utilization of a mechanism.

The American Nurses' Association advocates such a requirement.

B.8f It is believed that an instructor is the most credible person to verify a licensee's participation in a continuing education activity. Written documentation is needed to provide uniform review of all licensees' materials.

This rule clearly places the responsibility for compliance where it should be, i.e., with the licensee not the provider.

B.8g The Board believes that it is necessary for licensees to identify the content area to which they believe a continuing education activity is related in order to determine compliance with these rules. Since no specific standards are proposed, review will be carried out in an objective yet lenient manner.

B.8h In order to enforce and effectively implement the rule it is necessary to obtain information verifying compliance or noncompliance. This merely applies a rule specifically to the sample.

B.8i If information submitted to the Board is insufficient to determine compliance, the Board believes it reasonable to assist such a licensee by requesting additional information. Recognizing that no new requirement may be set, it may be necessary to obtain further information to judge the truthfulness of a licensee.

B.9 The Board believes that this rule is necessary in order for a nurse who has erred in selection of a continuing education activity to continue to practice. Some flexibility is reasonable when new rules are established.

B.10 This proposed rule is needed in order to provide closer than average surveillance over a licensee previously found to be in noncompliance with the two major rules or requirements. The use of this rule is appropriate as a relatively sound, inexpensive method of scrutiny.

B.11 Because of the addition of a new requirement to obtain a renewal certificate, it is believed that a one-time exception would be fair to the licensee. This rule should prevent a licensee from continually circumventing the rules by contact hours to subsequent renewal periods.

§ 5.1032 Delinquent Status

A. This rule is necessary to define who is delinquent for uniform interpretation by the licensee. This rule differs from previous 7 MCAR § 5.1032 practice only that it would now provide noncompliance with continuing education requirements as grounds for delinquent status. The deleted portion is reordered.

B. This rule provides reasonable notice to a licensee of his/her status change with the Board and notification of the requirement for re-establishing active status so that licensees are aware of requirements. The deleted portion is reordered.

C. This rule is reasonable in order to notify the licensee as to what constitutes unethical conduct and in order that he/she may conduct his/her affairs with full knowledge of possible consequences.

Since licensure to practice is mandatory, such a method is needed to take definitive action against licensees who no longer maintain an active license or are on the nonpracticing list.

D. This rule is merely a reordering and clarification of old Rule § 5.1032. It was heard September 8, 1977. For further justification, see the Statement of Justification dated 8/77.

E. This rule is necessary in order to have these rules reflect the establishment of continuing education requirements and provide continuity between the various licensure statuses.

E.1 To ensure uniform record keeping, it is necessary for a licensee to notify the Board of his/her desire to renew registration on the forms provided by the Board. A signature is needed for accurate identification.

E.2 This rule merely continues an existing rule and fee.

E.3 This rule is necessary in order to have similar continuing education requirements for a person changing to active registration renewal from delinquent status as for a licensee continuing an active registration. In addition, it is designed to prevent persons from circumventing the intent of the rules by utilizing an administrative maneuver.

§ 5.1033 Nonpracticing

A. This rule is intended to keep administrative costs to a minimum and will not hinder an active licensee moving to nonpracticing license status. It is an existing rule which has been reordered. The deleted material appears elsewhere.

B. Because licensees whose licenses ~~is~~ ARE in the nonpracticing status are not authorized to practice nursing, there is no public need for the licensee to meet continuing education requirements until he/she returns to practice. The deleted portions are reordered.

C. This rule is necessary to define the responsibilities of a licensee who is applying for renewal from delinquent status and for placement on nonpracticing status. It is an existing rule. The deleted portion is reordered.

D. This rule is merely a reordering and clarification of an existing rule. It was heard September 8, 1977. For further information see the Statement of Justification dated 8/77.

E. This rule is necessary to maintain consistent continuing education requirements for a licensee to maintain active status the same as those for a licensee changing his/her license to active status.

E.1 It is necessary for a licensee to notify the Board of his/her desire to renew his/her registration on the forms provided by the Board for uniform record keeping. A signature is needed for accurate identification.

E.2 This payment covers handling and processing of an application. This fee is the same fee charged all licensees renewing a registration.

E.3 This rule is necessary in order to uniformly apply the continuing education requirements to all licensees seeking registration renewal.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Robert C Swanson, being duly sworn upon oath, deposes and says:

1. That he is an employee of the Minnesota Board of Nursing.

2. That on the 7 day of October, 1977, he called the Minnesota Secretary of State's office and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules or amendments thereto pursuant to Minn. Stat. § 15.0412 subd. 4 (1976).

3. That on the 7 day of October, 1977, in response to the above request, the Secretary of State provided he with such a list, a photocopy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Robert C Swanson

Subscribed and sworn to before me

this 7th day of October, 1977.

Christine Grinsteinner

CHRISTINE GRINSTEINNER
Notary Public, Dakota Co., Minn.
My Commission Expires
Dec. 5, 1981

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of the Proposed
Adoption of Rules Relating to
Continuing Education Requirements
for Registered Nurses.

AFFIDAVIT OF
MAILING

Robert Swanson, being first duly sworn, deposes and says:

That on the 25 day of Feb, 1976, at the City of Minneapolis, County of Hennepin, State of Minnesota, he served the attached Notice of Intent to Obtain Information on Proposed Rules from Non-agency Sources by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the Certificate of the Secretary of State attached and made a part hereof as Exhibit A, to all persons and associations at the addresses listed on Exhibit B, attached and made a part hereof.

Robert Swanson

Subscribed and sworn to before
me this 25th day of Feb., 1976.

Mildred Olson

MILDRETH OLSON
Notary Public, Ramsey Co. Mn.
MY COMMISION EXPIRES
October 31, 1980

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Nursing relating to continuing education requirements for registered nurses.

NOTICE OF INTENT TO OBTAIN INFORMATION ON PROPOSED RULES FROM NON-AGENCY SOURCES

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Minn. Stat. § 15.0412 subd. 6 (1975), that the Minnesota Board of Nursing will develop and propose the adoption of new rules relating to continuing education requirements for registered nurses.

All interested parties desiring to submit data or views relating to the proposed adoption of such rules should address their comments, either written or oral to Ms. Sandra J. MacKenzie, Assistant Director, Minnesota Board of Nursing, 717 Delaware Street S.E., Minneapolis, Minnesota 55414; telephone 612/296-5493. Any data or views submitted for consideration should be pertinent to these rules to be developed concerning requirements of continuing education for nurses.

Any written materials submitted shall be reviewed and considered by the Board of Nursing and its advisory task force on registration during the preparation of the proposed rules and will become part of the hearing record. Notice of the public hearing shall be given to all interested parties in accordance with the provisions of the Administrative Procedures Act.

Under the provisions of Minn. Stat. § 10A.01 subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at Room 401, State Office Building, Saint Paul, Minnesota 55155.

Dated: February 25, 1976

STATE OF MINNESOTA

BOARD OF NURSING

JOYCE M. SCHOWALTER
Executive Director

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL

Address Reply to:
OFFICE OF ATTORNEY GENERAL
Minnesota Department Of Health Building
717 Delaware Street S.E.
Minneapolis, Minnesota 55440
Telephone (612) 296-5294

December 12, 1977

Mr. George Beck
Hearing Examiner
Office of Hearing Examiners
Room 300 - 1745 University Avenue
St. Paul, Minnesota 55104

Re: In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Endorsement and an Amendment Relating to Penalty Fees

Dear Mr. Beck:

This letter is written on behalf of the Board of Nursing and submitted to your office in support of the above-referenced rules.

Two issues of potential legal relevance were raised during the promulgation process of the above-referenced rules:

a. In proposed rule 7 MCAR § 5.1031 A 7(a), the incorporation of the statutory definition of professional nursing found in Minn. Stat. § 148.171(3).

b. The specified locations for the public hearings to be held with regard to the above-referenced rules.

With regard to the Board of Nursing duplicating statutory language in proposed 7 MCAR § 5.1031 A 7(a), the Board believes the duplication of this language is crucial to the ability of a nurse to comprehend the meaning and effect of the rules. Firstly, the rules put the onus on each individual nurse to determine whether or not a continuing education activity complies with the rules. As a first requirement, a nurse must be able to substantiate that the content of his/her activity related to one of the components of professional nursing specified in the statute. In the absence of clearly specifying in rules the precise statutory components of nursing, an individual licensee would have difficulty in knowing whether or not the course [s] he chooses falls within the statutory subdivisions. By listing and breaking down the components of the statutory definition, the nurse is provided with a convenient and integrated check list by which [s] he can

immediately determine whether or not the activities [s] he is investigating complies with this rule. A nurse should not have to refer to other materials in order to determine whether or not the content is related to the statutory definition of nursing. Indeed, to delete the statutory definition from these rules would create a hardship upon the licensee by requiring him/her to refer to sources not contained in the rules to determine whether or not an activity falls within the scope of the rules. Furthermore, proposed 7 MCAR § 5.1031 purports to list all the criteria which an individual nurse must compare with the activity [s] he may take. In the continuing education rules, [s] he should be able to find a complete and thorough inventory of all those matters with which [s] he should be concerned. Secondly, unlike other boards, the nursing board is not approving the courses per se. Those boards which approve actual education courses may assume that the institutions offering such courses have ready access to statutes and to counsel, etc., who can advise them as to whether or not the course which is being developed falls within the perimeters of the enabling legislation as well as the rules. Inasmuch as the nurse is essentially on his/her own in determining which courses qualify, it should be recognized that [s] he may not have ready access to the statutory definition of nursing and should be able to refer to one integrated document to determine whether or not the course [s] he proposes to take qualifies under the rules.

Some concern was expressed at the public hearings and through the materials submitted in writing subsequent to the public hearings that the Board of Nursing should have held more hearings in other parts of the State. Any time that an agency chooses to conduct public hearings in locations outside of the seven county metropolitan area, some reasonable selection of locations must be made resulting in the exclusion of others. In determining that the three sites for holding public hearings with regard to these rules would be the Twin Cities, Duluth and Rochester, the Board attempted to locate hearings in those areas where most of the nursing public reside. According to the most current data available, based upon 1972 figures, the following demographic data should be noted: 56% of all active registered nurses reside in Ramsey County and the three counties wherein the hearings were held, Hennepin, St. Louis and Olmsted; 63% of all active registered nurses reside in the seven county metropolitan area of the Twin Cities, St. Louis County and Olmsted County; 70% of all active registered nurses reside in the planning areas encompassing the seven metropolitan counties of the Twin City area, the counties associated with St. Louis County and those with Olmsted County. Considering the large number of registered nurses throughout the state, since the Board held its hearings in areas easily accessible to 70% of its licensees, it acted

reasonably in setting the location of its hearings. To have set further hearings would have been inconsistent with financial responsibility. It should not be ignored that the task force statutorily created to develop these rules held open meetings in ten cities around the state during late April and through mid-May of 1976. These meetings were attended by roughly 1,000 persons who offered information with regard to these rules. Furthermore, the task force and the Board staff in responding to requests spoke about these rules at approximately 20 sites throughout the state. Of course, licensees have had an opportunity to respond to these rules in writing regardless of whether or not they attended any of the public hearings held with regard to the adoption of these rules. Therefore, the Board strongly believes that the sites selected for public hearings were reasonable and that the process in terms of the development and the promulgation of these rules has been open and available to all interested parties throughout.

As a final comment, a witness stated at the Minneapolis hearing (in the Minneapolis transcript at page 56, lines 9 through 15) that the Minnesota League of Nursing did not receive notice of the hearings and the rules in time to inform its members. For informational purposes only, the Board would respectfully point out that the Minnesota League for Nursing was contacted to provide the names of people who might sit on the task force designed to develop these rules. The Minnesota League for Nursing submitted the name of a Nancy Kern of Wright County, a coordinator of Community Nursing Services, as its representative to the task force. Ms. Kern was appointed to the task force and served on the task force throughout its entire term. The Board feels that the Minnesota League for Nursing has had adequate notice concerning these rules throughout the developmental and promulgation process.

I hope this letter adequately addresses any concerns which you may have. If you have any questions or desire further information, please do not hesitate to contact me immediately. Thank you.

Very truly yours,

TERRY P. O'BRIEN
Special Assistant
Attorney General

TPO:ss
cc: Joyce M. Schowalter, R.N.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules
Relating to Continuing Education
Requirements for Registered Nurses
and Registered Nurse Applicants for
Licensure by Interstate Endorsement and
an Amendment Relating to Penalty Fee

SUPPLEMENTAL STATEMENT
OF EVIDENCE

§ 5.1010 Qualifications

The use of clock hours instead of contact hours is reasonable since this rule is one of the rules for original licensure, not registration renewal and the chapter pertaining to licensure does not include a set of definitions.

The requirement that the form on which evidence is submitted shall be notarized is consistent with the procedure proposed for various registration renewal procedures. The rationale for the requirement applies to each instance in which notarization is mentioned. The proposed system of verifying a licensee's compliance with the continuing education requirements is designed to parallel the initial licensure procedure wherever applicable and applicants are required to submit a notarized application form. The proposed system is procedurally simple and highly dependent on the honesty and integrity of licensees rather than a detailed reporting system with a series of cross-checks to verify documents. While it is recognized that licensees are professionals, that fact alone does not justify blind trust.

The cost to licensees would be minimal and would occur only once every two years. Over 85% of employed registered nurses in Minnesota work in hospitals, nursing homes, community nursing services or schools of nursing, all agencies which have notary publics on their staffs, usually in the business office or department of administration, and provide the service at no cost.

It has come to the Board's attention that this definition could be considered as in conflict with § 5.1031 A.9. Since this was not the intent, the Board suggests that the definition be clarified by changing it to read: "Participation" means attendance at or in any manner other than teaching taking part in an acceptable continuing education activity documentation of which is submitted as part of the application for registration renewal.

§ 5.1031 A.2

While it may appear that this proposed rule authorizes falsification of evidence or failure to comply one time and only considers multiple failure or non-compliance, that is not the case. Two separate ideas are included in the rule. Falsification of any evidence even once, if proven should and will according to the proposed rule provide grounds for disciplinary action. However, it is reasonable to allow all persons one error and expect they would have to add the hours for the activities in question to the next period as provided in § 5.1031 B.9 and 11. The second portion of the rule "failure to comply. . .for any two. . .periods" provides such an allowance. Since such persons will be included in the sample and they will be under close scrutiny, the Board will be adequately carrying out its public protection mandate, yet assuring individuals their rights.

The use of the statutory definition of professional nursing as the basis for continuing education is reasonable because that definition is the only presently existent, universally accepted statement of the functions which the public expect professional nurses to be able to perform. The Board recognizes that it is imprecise and open to a certain amount of variance in interpretation, but believes that all nurses are able to make reasonable judgments as to its meaning. Further latitude in interpretation of the continuing education activities which will be acceptable is the use of the words "related to" in the stem of the rule. The result of this inclusion is that course work taken as part of a program toward an advanced nursing degree, courses supportive to the application of nursing services and training in programs preparing a nurse to become or continue to practice as anesthetist will apply.

The Board is aware of the fact that many nurses hold active nursing licenses, yet have jobs in related fields. In those cases, the nurse's professional nursing education and/or experience either was considered important at the time of employment or is considered vital to adequate job performance on a continuing basis. In cases of the first type a non-practicing license probably is appropriate. In the second type, the person can best demonstrate his/her currency by meeting the continuing education requirements for holding an active license.

Since the definition is by law the only one which authorizes all types of nursing practice, it is broad enough to accommodate the advanced educational needs of all--from new graduates to advanced nurse researchers. The requirements do not restrict the breadth or depth of education as long as it falls within the scope of nursing practice as defined. This approach is viewed by the Board as a means of accommodating all licensees.

If a licensee in the sample submits evidence which is not clearly related to one of the components additional information will be sought. This information will be reviewed by a Registered Nurse on the staff. Since the rules do not provide specific criteria for rejecting the evidence, those continuing education activities in which the staff does not see the relationship to the components will be referred to a Board Review Panel including at least one other Registered Nurse. If after review by the Panel the relationship is still unclear, the activity will be rejected and the hours added to the next renewal period. Of course, a hearing would be held at the appropriate juncture. This procedure is fair, public and by the very fact that no other criteria for rejection have been proposed, it operates in the licensee's favor.

§ 5.1031 A.7.c and 5.1031 B.8.b

This rule is needed as a measure of quality control on the educational offerings licensees use for registration renewal. Any person who has graduated from high school, much less a professional nursing program, may be expected to read an objective and determine whether or not it states what he/she as the learner can expect to learn when participating in the activity. Furthermore, high school graduates and professional nurses may be expected to judge whether or not the objective used words which indicate measurement, e.g., "perform", "write", "state". An example of an objective of the type stated is:

> The participant will be able to name three community resources for persons with kidney disease.

Although the writing of learning objectives can be very complex, the Board is not expecting objectives which include elaborate detail. It is not necessary to include the conditions under which the licensee would be expected to demonstrate his/her knowledge or skill nor the degree of proficiency one could expect to obtain. The rule as proposed is simple,

and it is reasonable to expect that any person who assumes the responsibility of teaching another person for the purpose of assisting that person maintain a license to practice should have the knowledge to write an objective as required.

§ 5.1031 A.7.d and 5.1031 B.8.d

The Board has not proposed qualifications for instructors since licensees will be participating in a variety of types of educational activities. In some cases the appropriate qualification might be a doctoral degree, in others a license as a registered nurse, pharmacist or other health professional and in still others experience as a recipient of health care may be the best. This rule is proposed as a means of encouraging the licensee to know what the instructors qualifications are so that he/she may judge whether or not to participate in the activity. Since there are no grounds to reject an activity on this basis, all submitted evidence will be accepted. The Board will not be judging whether or not the instructor is qualified (the licensee is expected to do that). The Board will be judging only whether or not the qualifications were printed on some document.

§ 5.1031 A.7.e. and 5.1031 B.8.e.

The intent of this proposed rule is to assist the licensee to determine whether or not he/she learned what the activity purported to teach. Since it is not the Board's intent to require licensees to take tests from instructors, the proposed rule should be amended to read:

> The method utilized by the learner to determine whether or not learning occurred was in written form.

This change would clarify the intent of allowing self-evaluation check lists and other methods in which only the learner knows the results of the method utilized. This approach is consistent with theories on

adult education.

§ 5.1031 A.7.g.

The intent of this rule is to prohibit a licensee from applying participation in the same activity more than once during any registration renewal cycle. It is recognized that some persons need to repeat courses in order to learn the content. In such cases it is reasonable to exclude the activities prior to the one during which they finally "got it". However, the Board has no means of judging the learning speed of licensees, therefore, it is reasonable to allow credit only once for the same activity.

If two courses are offerred on the same topic, but the approach is different, the objectives would reflect this difference and, therefore, not be identical. Similar objectives will be acceptable. Perhaps the proposed rule should be clarified by a restatement as follows:

> The continuing education activity submitted shall not have objectives all of which are identical to all objectives for another continuing education activity submitted during the same continuing education participation period.

§ 5.1031 A.7.h. and 5.1031 B.8.f.

This rule is reasonable because it does not require any documentation different from that currently provided by colleges, professional associations and businesses which sponsor continuing education. It will be simple for inservice education departments of hospitals and other employment settings to supply the attendees with a piece of paper verifying participation. Since the instructor may designate another signature, the documents could be prepared in advance and carry a printed signature of the person responsible for organizing the program.

§ 5.1031 A.8.c.

This rule is necessary as a means of moving toward competency assessment. If the Board waits until that approach to education is universally available one could argue that it is not necessary to create a rule. The Board has a certain amount of responsibility for encouraging the type of continuing education it believes is necessary for professional nurses in order to carry out its public protection mandate. The alternative would be a situation where the Board established the testing system, this method being both costly and less likely to be diverse in techniques utilized and approach to individual practice fields. Unless this rule or a similar replacement remains, the entire proposed system will fail to accomplish more than assuring the public that nurses have participated in some activities of their choosing and made a private determination that they have or have not learned something as a result. We believe the forward-reaching step which this rule takes is justified and attainable.

If the Board finds in a few years that the implementation date should be revised or more details should be added, those changes can be promulgated.

§ 5.1031 A.9.

The issue of whether or not to allow registered nurses who teach continuing education courses or guide various types of continuing education activities to apply the hours of teaching or guidance toward their own licensure renewal may be viewed from several perspectives. First, it can be seen by reading the definition of professional nursing practice [Minn. Stat. § 148.171 (3)(1976)] that, with one exception, each listed component of nursing involves a nurse and a patient/client.

The exception, supervising nursing personnel, appearing as an example of the function "provide(s) nursing care supportive to or restorative of life," requires a third party (patient/client) to make the function meaningful. This necessity for inclusion of a patient/client is not a part of teaching nursing students before they are licensed nor teaching registered nurses who continue their education. Therefore, the remoteness of the application of the components of nursing to patients is one reason not to allow credit for teaching per se.

Secondly, the purpose of requiring continuing education is to assure the public that persons holding licenses which authorize them to practice nursing at any time have been keeping their practice knowledge and skills, not their teaching knowledge and skill, current. The argument can be made that if an audience is allowed to receive credit for participating in a course taught by a nurse instructor, the nurse has been considered by the attendees to be a qualified instructor. Therefore, the instructor's knowledge should be recognized and credit granted. However, the counter view is that many practicing nurses are currently safe, effective, up-to-date practitioners and should not be expected to meet the continuing education requirements. The problem seems to be how the Board is able to fairly judge who has sufficient knowledge and skills and who does not. Instructors who have not been involved in clinical practice for several years may be more out-dated than the registered nurses they "teach". We believe it simply is unfair to the thousands of licensed nurses who are competent but cannot get credit for their satisfactory work experience to allow instructors to get credit for a portion of their work experience.

Thirdly, if credit for instruction were to be allowed it would need controls. As persons who testified indicated, teaching the subject for the first time only should be allowed, because preparation time is assumed. However, it is very rare to have an instructor prepare a class for a group of registered nurses which he/she has not previously taught to nursing students or which is not on the topic of his/her usual work assignment or research project. An instructor usually spends the most time preparing for classes to nursing students, a part of his/her employment. If a panel of instructors teaches a continuing education activity how should the credit each receives be determined? Some instructors utilize small group discussions. Should the instructor receive credit for that period of time?

In summary, the Board considered this issue at great length before proposing the rule and determined that they would be acting in the best interests of the public and the vast majority of licensees by prohibiting instructors from applying credit for teaching continuing education activities.

§ 5.1031 B.8.c

This rule appears to be grammatically incorrect, since the intent was that the Board would only receive schedules for those activities which extended over a meal period. It should be revised to read:

> c. verification received by the licensee of the number of contact hours and, for activities lasting four or more clock hours, a schedule listing time periods;

In summary, the Board recognizes the difference between requiring continuing education and assessing competency. We believe that the proposed system of requirements and procedures is sound yet simple, fair yet economical. We do not believe that the imposition of a more complicated or costly system such as advanced program approval or computerized

record keeping is justified as a means of greater public protection. The proposed system should be authorized so the Board can implement and study it. If changes are needed we will again utilize the rule-making process to propose revisions.

MINNESOTA BOARD OF NURSING

December 12, 1977

JOYCE M. SCHOWALTER, RN
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules Relating to Continuing Education Requirements for Registered Nurses and Registered Nurse Applicants for Licensure by Interstate Endorsement and an Amendment Relating to Penalty Fees

FINDINGS OF FACT, CONCLUSIONS AND ADOPTION RESOLUTION

The above-entitled matter came on for hearing at 9:30 a.m. on November 14, 1977, in the auditorium of the Rochester Methodist Hospital at 201 West Center Street, Rochester, Minnesota; the hearing was subsequently convened on November 16, 1977, at 9:30 a.m. in the auditorium of the Museum of Natural History at the University of Minnesota, Minneapolis, Minnesota; the final hearing session was convened on November 18, 1977, at 9:30 a.m. in the auditorium of St. Luke's Hospital at 915 East First Street in Duluth, Minnesota. On January 24, 1978, the Board of Nursing (hereinafter "Board") received the Report of the Hearing Examiner, submitted by George A. Beck, Hearing Examiner, which report was dated January 18, 1978.

Based upon all the testimony, exhibits and written comments, and the Report of the Hearing Examiner, the Board now makes the following:

FINDINGS OF FACT

The Board adopts as its own, the findings of fact contained in the Report of Hearing Examiner of January 18, 1978, said report being fully incorporated into and made a part of these findings as if set forth by the Board, except that the Board does not adopt such findings of fact to the extent they are inconsistent with the following:

A. In accordance with the recommendation of the Hearing Examiner in finding of fact number 10 of the Report of the Hearing Examiner, dated January 18, 1978 [hereinafter "Report"], which states in part ". . . the Board should consider adding to or modifying the definition to make it clear that written programmed instruction comes within the definition . . .", the definition of "Instructor" found in proposed section 5.1030(B) is amended by adding the following sentence to the end of the definition:

Written programmed instruction comes within this definition.

B. In accordance with the statement in finding of fact number 11 of the Report which states in part ". . . the Board may well wish to consider rearranging the requirements section if it can be done in such a way as to clarify the sequence of events involved in registration renewal and the relationships of the various dates. . .", the proposed sections of 5.1031(A) are rearranged in the following manner:

Proposed section 5.1031(A)(1) remains (A)(1)
(A)(8)(a) becomes (A)(2)
(A)(8)(b) becomes (A)(3)
(A)(8)(c) becomes (A)(4)
(A)(4) becomes (A)(5)
(A)(3) becomes (A)(6)
(A)(5) becomes (A)(7)
(A)(7) becomes (A)(8)
(A)(9) remains (A)(9)
(A)(2) becomes (A)(10)
(A)(6) becomes (A)(11), and the heading of (A)(8) is deleted. As a result, the section citation in proposed section 5.1031 (B)(8)(h) become section 5.1031(A)(4) and in section 5.1031(B)(10) becomes section 5.1031(A)(2), (3), (4) and (8).

C. In accordance with finding of fact number 12 of the Report which states in part "The rule should either be reworded or punctuated so as to make it clear that a single instance of falsification is grounds for suspension or revocation of a license," the second sentence of proposed section 5.1031(A)(2) is revised to read:

> Falsification of any evidence for any registration renewal period and/or failure to comply with these rules for any two registration renewal periods shall constitute unethical conduct and provide grounds for suspension or revocation of a license.

D. In accordance with finding of fact number 13 of the Report the word "notarized" is deleted from proposed section 5.1031(A)(3).

E. In accordance with finding of fact number 13 of the Report which states in part "If the Board's intent is merely to authorize resubmission of an incomplete or incorrect application, the sentence could be reworded to more clearly state that" and to clarify the intent of the Board, the last sentence of proposed section 5.1031(A)(3) is revised to read:

> Resubmission of a previously incomplete or incorrect application form, evidence form and renewal fee postmarked on or before May 31, shall constitute timely submission.

F. In accordance with finding of fact number 18 of the Report proposed section 5.1031(A)(7)(b) is clarified by inserting "of the activity" between the words "duration" and "was."

G. In order to clarify the intent of proposed section 5.1031(A)(7)(b) the following is added to finding of fact number 18 of the report:

> While it is true that a single college class period may be less than 50 consecutive minutes, a single class period is not synonymous with a continuing education "activity." The entire course becomes the activity and its length will qualify.

H. In accordance with findings of fact number 20 of the Report which states in part "the Board might well consider at least stating in the rule that qualifications such as education and experience should be stated," proposed section 5.1031(A)(7)(d) is revised to read:

> The instructor's qualifications in the subject, such as education and experience, shall be stated in written form.

I. In accordance with finding of fact number 21 of the Report which states in part "The Board might well wish to consider whether or not giving examples of acceptable methods in the rule might make the rule more understandable," proposed section 5.1031(A)(7)(e) is amended by adding the following sentence:

> Acceptable methods may include but need not be limited to self-evaluation check lists or tests.

J. In accordance with finding of fact number 23 of the Report which states in part "If (the Board's stated objective of prohibiting a licensee from applying participation in the same activity more than once during any registration renewal cycle), is indeed the Board's intent, it should simply prohibit credit for submission of the same program . . ." and to clarify the intent of the Board, proposed section 5.1031(A)(7)(g) is revised by replacing the proposed rule with the following rule:

> Credit shall not be granted for identical continuing education activities submitted during any single continuing education participation period.

K. In accordance with finding of fact number 24 of the Report which states in part "The Board might wish to consider clarifying the fact that the instructor should provide the statement where this is possible," proposed section 5.1031(A)(7)(h) is revised by inserting the words "provided by the instructor or a designee" between the words "participation" and "following."

L. In accordance with finding of fact number 26 of the Report that the Board may wish to consider including the dates of the participation periods, proposed section 5.1031(A)(8)(a) is revised by adding the following sentence:

> Contact hours shall be accrued during the continuing education participation periods of June 1, 1978 through May 31, 1980 or June 1, 1979 through May 31, 1981.

M. Section 5.1031(A)(8)(c) requires that, beginning with the 1984-1986 participation period, one of the acceptable activities shall require each nurse to show evidence that he or she successfully demonstrated to an instructor skill in performing a professional nursing function. The Board believes that since professional nursing requires performance of functions as well as acquisition of knowledge, continuing education should include evidence that the licensee possess such skills. Several comments received evidenced a concern about the cost of this type of one-on-one instruction and expressed the belief that there are too many nurses in the State to permit accomplishing this requirement. (Exs. D; I,P; R, p.2; II, p.2) Several comments stated that the rule simply did not provide enough guidance to licensees or instructors as to what is required in showing evidence of

successful performance of a nursing function. (Ex. KK, p. 2) Some comments pointed out that demonstration of a basic skill or a repetitive skill or perhaps even a skill which is unrelated to the nurses' field of practice would not add to the continuing education program. (Exs. I; Z, p. 1)

The Board acknowledged that this was a move in the direction of competency based registration renewal, but that the practice of skill testing in continuing nursing education was not common enough to require more than one activity of this nature even in 1986. One comment stated that such testing may not be far enough along by 1986, and that this rule should wait until testing is developed. (Ex. X, p. 3) However, performance testing has been an integral part of the education of nurses since the beginning of organized nursing education. Traditionally schools have had nursing arts laboratories where students learned and were tested on their ability to perform such skills as providing numerous aspects of personal hygiene, performing injections, and making detailed observations. Such testing continues today in each of the 24 nursing programs throughout Minnesota which prepare professional nurses for licensure, sometimes in laboratories and often in a clinical setting. Since the number of faculty members in such program (approx. 200) and inservice educators in hospitals (approx. 400), totals (approx. 600), there is no lack of trained persons to perform such testing.

If the Board were to sponsor the testing system, the cost to licensees via increased registration renewal fees would be greater than if the testing is included as a part of a continuing education activity. Likewise if the Board conducted the testing system, the cost of carrying out a variety of testing situations located close to licensees would greatly increase renewal fees. However, if the instructor of each activity includes testing specifically to the content of the activity, the cost will be small and included in the overall cost of the activity.

The Board recognizes that improvement to the rule may be made as experience with the proposed rule is gained. Further it is recognized that many existing continuing education activities do not include performance testing,

however the Board believes that nine years is a sufficient period of time in which to prepare.

It appears that the rule is needed in order to provide some assurance of competency beyond passive attendance at activities. It cannot be said that the Board has attempted to accomplish this goal in an unreasonable manner.

N. Section 5.1031(a)(9) provides that a continuing education activity taught by the licensee cannot be used to meet his or her continuing education requirements. The Board stated that teaching of an activity would not have measurable objectives and would not include a written method to determine whether or not the teacher learned. This rule subsection drew approximately 17 comments. With the exception of one comment (Ex. KK, p.2) the belief was expressed that it was unfair not to allow at least some credit for teaching a continuing education activity since preparing for a presentation is a superior learning experience. (Tr. II, p. 50; T. III, p. 72; Exs. A; GG) Many comments stated that the instructor should receive credit for only the first presentation of a program. (Exs. R, p.2; B; VV, p.2) One comment pointed out that section 5.1031(A)(7)(g) would likely allow use of the program presentation only once anyway. (Ex. II, p.2) There was also support expressed for the proposition that credit for teaching continuing education activities should be limited to one-third or some other fraction of the total number of contact hours required in a two-year participation period. (T. I, pp. 35-36; Ex. JJ) Several comments pointed out that there are good policy reasons for allowing some credit to instructors, since proper preparation is crucial to the success of a continuing education program and should be rewarded. (Ex. U) Allowing credit would encourage knowledgeable and experienced nurses to be instructors. (Ex. HH)

The Board pointed out that teaching an activity is remote from the nursing/patient relationship which is central to nursing. The Board believes that it is unfair to the thousands of licensed nurses who are competent, but cannot get credit for their satisfactory work experience to allow instructors to get credit for a

portion of their work experience. The purpose of requiring continuing education is to assure the public that persons holding licenses which authorize them to practice at any time have been keeping their practice knowledge and skills, not their teaching knowledge and skills, current. If the Board accepts the work experience of instructors teaching continuing education activities as being consistent with this purpose but does not accept the work experience of the thousands of nurses who are satisfactorily employed as instructors in generic nursing programs, nursing administrators, supervisors, head nurses, general staff nurses, nurse clinicians, nurse specialists, and nurse practitioners, it may well be accused of unjustifiable discrimination.

Based on the record, the Board finds the rule needed and reasonable as proposed.

O. In accordance with finding of fact number 33 of the Report proposed section 5.1031(B)(5)(d) is revised by deleting "; and" and placing a period after the word "signed" and deleting proposed section 5.1031(B)(5)(e).

P. In accordance with finding of fact number 34 of the Report which states in part "The rule is reasonable as proposed, but could be clarified by the MANA addition," proposed section 5.1031(B)(6) is revised by inserting the words "to the licensee" between the words "returned" and "within."

Q. In accordance with finding of fact number 35 of the Report which states in part "The rule . . . might be clarified to make it obvious that the rule is speaking about initial licensure" and in accordance with the definition of license proposed in section 5.1030(B)(7), proposed section 5.1031(B)(7) is revised by deleting the word "licensed" and inserting in its place the words "granted a Minnesota license."

R. In accordance with finding of fact number 37 of the Report which states in part that the proposed rule ". . . could be more specific," and because the specific materials required are listed in parts (b) through (i), proposed section 5.1031(B)(8) is revised in the following manner:

Before the colon which appears at the end of the stem of section 5.1031(B)(8) the words "which verifies the information on the evidence form" are inserted.

Part (a) is deleted.

Parts (b) through (i) are re-lettered to become parts (a) through (h), the ordering to remain unchanged.

S. In accordance with finding of fact number 39 of the Report, proposed section 5.1031(B)(8)(c) is adopted but is amended in the following language:

> Verification received by the licensee of the number of contact hours and, for activities lasting four or more clock hours, a schedule listing time periods;

T. In accordance with finding of fact number 40 of the Report, proposed section 5.1031(B)(8)(d) is revised by inserting the following before the semi-colon: ", such as education and experience."

U. In accordance with finding of fact number 41 of the Report, proposed section 5.1031(B)(8)(e) is revised to read:

> e. evidence that the licensee used the mechanism which was provided to determine if learning occurred. Acceptable methods may include but need not be limited to self-evaluation check lists or tests;

V. In accordance with finding of fact number 42 of the Report, proposed section 5.1031(B)(8)(f) is revised by changing the words "signed" to "provided" and "his/her" to "a."

W. In accordance with finding of fact number 47 of the Report which states in part ". . . the rule is somewhat confusing as it is written . . ." and because the Board intends to automatically require an audit of a nurse who has been found in a previous audit to be in non-compliance with the rules, proposed section 5.1031(B)(10) is revised by adding the following sentence:

> By this rule an audit shall be automatic for a nurse who has been found in an audit of the immediately preceding continuing education participation period to be in non-compliance with the rules.

X. In accordance with finding of fact number 48 of the Report which states in part "The Board should consider including this rule subsection along with section 5.1031(B)(9) for clarity . . ." proposed section 5.1031(B)(11) is deleted and proposed section 5.1031(B)(9) is amended by adding the following sentence:

This rule may be applied once for any one licensee.

Y. In accordance with finding of fact number 52 of the Report, proposed section 5.1010(C)(1), second sentence, is revised by changing "submitted on a notarized form" to "submitted on an affidavit" and proposed section 5.1011(A)(6) is revised by changing "A notarized evidence form" to "An affidavit."

Z. The Board finds that several revisions of the proposed rules are needed to provide additional clarity and to provide consistency in carrying out registration renewal procedures in accordance with hearing examiner findings and therefore the following revisions are made:

Proposed section 5.1031(A)(7)(e) The words "to be" are inserted between the words "method" and "utilized."

Proposed section 5.1031(A)(8)(b) The sentence "Contact hours shall be accrued during a continuing education participation period beginning June 1, 1980 or any June 1 thereafter" is added.

Proposed section 5.1031(B)(8)(b) the word "objective" is changed to "objective(s)."

Proposed section 5.1032(D)(3) In the second sentence ", submitted on a notarized form," is removed.

Proposed section 5.1032(E)(3) The word "notarized" is removed.

Proposed section 5.1033(D)(3) In the second sentence ", submitted on a notarized form," is removed.

Proposed section 5.1033(E)(3) The word "notarized" is removed.

CONCLUSIONS OF LAW

The Board adopts as its own, the conclusions contained in the Report of the Hearing Examiner of January 18, 1978, said conclusions being fully incorporated into and made a part of the Board's conclusions as if set forth by the Board.

Whereas the Board has entered its Findings and Conclusions herein based upon the entire record,

Now, therefore, the Board enters the following:

RESOLUTION

The rules relating to continuing education requirements for registered nurses and registered nurse applicants for licensure by interstate endorsement and an amendment relating to penalty fees identified as 7 MCAR § 5.1031(A)(5) as modified in accordance with the non-substantial changes as are set forth in the Board's Findings are found to be reasonable, necessary and supported by the evidence contained in the record and are hereby approved and adopted pursuant to authority vested in us by Minn. Stat. §§ 148.191 subd. 2, 148.231, and 214.12 and that Joyce M. Schowalter be and she hereby is authorized to sign an order adopting those rules.

Dated: April 28, 1978

MINNESOTA BOARD OF NURSING

By: Lilja Snyder
LILJA SNYDER
President

Attest: Joyce M. Schowalter
JOYCE M. SCHOWALTER, R.N.
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of Proposed Rules
Relating to Continuing Education
Requirements for Registered Nurses
and Registered Nurse Applicants
for Licensure by Interested
Endorsement and an Amendment
Relating to Penalty Fees

ORDER ADOPTING RULES

The above-entitled matter came on for hearing at 9:30 a.m. on November 14, 1977, in the Auditorium of the Rochester Methodist Hospital at 207 West Center Street, Rochester, Minnesota; the hearing was subsequently convened on November 16, 1977, at 9:30 a.m. in the Auditorium of the Museum of Natural History at the University of Minnesota, Minneapolis, Minnesota; the final hearing session was convened on November 18, 1977, at 9:30 a.m., in the Auditorium of St. Luke's Hospital at 915 East First Street in Duluth, Minnesota, after proper notice required by Minn. Stat. § 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose and after publication of the proposed rules in the State Register.

After affording interested persons an opportunity to present written and oral data, statements and arguments, and having heard and considered all of the testimony and evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules, and having received the report of the Hearing Examiner, dated January 18, 1978, and after the issuance by the Minnesota Board of Nursing of the Findings of Fact, Conclusions of law and adoption resolution, dated April 28, 1978, and

having reviewed the report of the Chief Hearing Examiner, dated June 8, 1978, wherein it was found that the rules proposed for adoption are not substantially different from those proposed at the public hearing.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 7 MCAR §§ 5.1010, 5.1011, 5.1030, 5.1031, 5.1032, 5.1033, and the title of Chapter four §§ 5.1030-5.1036, relating to continuing education requirments for registered nurses and registered nurse applicants for licensure by interstate endorsement and an amendment relating to penalty fees are adopted this 21st day of August, 1978, pursuant to authority vested in me by Minn. Stat. § 214.04 subd. 3 (1976), and by resolution of the Minnesota Board of Nursing duly adopted at a meeting of the said Board on the 6th day of April, 1978.

STATE OF MINNESOTA

BOARD OF NURSING

Joyce M. Schowalter

JOYCE M. SCHOWALTER, R.N.
Executive Secretary

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Terry P. O'Brien, do hereby declare that I have examined the proposed rules relating to continuing education requirements for registered nurses and registered nurse applicants for licensure by examination and all related documents and that, based on such examinations and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Dated: 29 August, 1978

TERRY P. O'BRIEN
Special Assistant
Attorney General