

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

 REGULATIONS ADOPTED

(a) Examination dates will be announced by the Board. The examination schedule will establish: time(s), place(s), the amount of the application fee, the final date by which the Board must receive the applicant's ~~written-intention-to-be-examined,~~ completed Application for License form, and other pertinent information and/or instructions.

(b) If an applicant fails to appear for the scheduled examination, he/she will forfeit his/her application fee for the examination so scheduled unless he/she provides the Board within fifteen (15) days with an explanation acceptable to the Board.

(c) Application for any required examination will be denied or deferred if in the Board's judgment, the applicant lacks the required education and/or experience.

(1) If application for examination is denied or deferred, the applicant shall be notified in writing within thirty (30) days after the Board's action, and shall be apprised of the reasons for the Board's action.

(d) The examination will be composed of ~~three (3)~~ two (2) sections:

(1) A written, objective section, and

~~(2) A written, subjective examination, and~~

~~(3)~~ (2) An oral examination conducted by the Board or its duly constituted representative(s).

~~(4)~~ (3) In order to qualify for licensing, the applicant will be required to perform satisfactorily on the ~~three~~ two sections of the examination.

(e) The Board will notify the applicant in writing, as soon as possible, of the results of the examination.

(f) Persons determined by the Board not to have performed satisfactorily on the examination may reapply for the next examination by the Board. The Board may at its discretion, require reexamination on any or all parts of the examination.

APPROVED AS TO FORM AND LEGALITY

JAN 23 1980 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY Joanne Hinderaker

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 23 1980
Joan Anderson Growe
Secretary of State
3:25 PM

Our File #573

Joanne

Permanent Rule X

Temporary Rule

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 1-11-80 DUE DATE 1-31-80

Resubmitted and Received

a. Returned to Agency w/o Filing w/Secretary of State
b. Approved 1-23-80 Date Sent Back to Agency 1-24-80

- -

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 ✓
   Sufficiency ✓
6. Secretary of State's List ✓ (one copy only)
7. Certificate of Acquisition of Secretary of State's List ✓
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓
9. Affidavit of Mailing ✓
   At least 30 days prior to hearing ✓
10. Publication in State Register ✓ not submitted but see H.E report, page 2, ¶3
    At least 30 days prior to hearing ✓
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓
14. Certificate of Board's Resolution Adopting Rules, where applicable ✓
15. Order Adopting ✓
16. Report of Chief Hearing Examiner ✓
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N/A
20. Petition by Public, where applicable N/A

ADMIN 1090 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : HARRIETTE HARTUNG
Executive Secretary
Board of Psychology

DATE: January 24, 1980

Attn: TERRY P. O'BRIEN

FROM : JOANNE E. HINDERAKER
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: Rules as Approved In the Matter of Proposed Amendments to 7 MCAR § 10.006 Relating to Examinations for Licensure of Psychologists and Consulting Psychologists

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JEH/bw
Enclosure
cc: Duane Harves
Susan Robertson

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

Office Memorandum

TO : Joanne Hinderaker
Special Assistant
Attorney General
Department of Administration

DATE: January 9, 1980

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

PHONE: 341-7272

SUBJECT: In the Matter of Proposed Amendments to 7 MCAR § 10.006 Relating to Examinations for Licensure of Psychologists and Consulting Psychologists

Enclosed for your review are three files containing documents in support of the adoption of the above-referenced rules.

As I believe the record demonstrates, the rules are relatively uncontroversial, and no problems have been encountered in the promulgation process. Frankly, not many people object to the deletion of an essay examination as a requirement for licensure. If the rule documents are in order, would you please file a copy of the documents with the Secretary of State and return a copy of the stamped documents to me. Thank you.

If you have any questions, please do not hesitate to contact me.

TPO:sil

Enclosures

RECEIVED
JAN 11 1980
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

PRINTED ON RECYCLED PAPER

Psych 6 Examinations

Proposed

(a) Examination dates will be announced by the Board. The examination schedule will establish: time(s), place(s), the amount of the application fee, the final date by which the Board must receive the applicant's ~~written-intention-to-be-examined,~~ completed Application for License form, and other pertinent information and/or instructions.

(b) If an applicant fails to appear for the scheduled examination, he/she will forfeit his/her application fee for the examination so scheduled unless he/she provides the Board within fifteen (15) days with an explanation acceptable to the Board.

(c) Application for any required examination will be denied or deferred if in the Board's judgment, the applicant lacks the required education and/or experience.

(1) If application for examination is denied or deferred, the applicant shall be notified in writing within thirty (30) days after the Board's action, and shall be apprised of the reasons for the Board's action.

(d) The examination will be composed of ~~three (3)~~ two (2) sections:

(1) A written, objective section, and

~~(2) A written, subjective examination, and~~

~~(3)~~ (2) An oral examination conducted by the Board or its duly constituted representative(s).

~~(4)~~ (3) In order to qualify for licensing, the applicant will be required to perform satisfactorily on the ~~three~~ two sections of the examination.

(e) The Board will notify the applicant in writing, as soon as possible, of the results of the examination.

(f) Persons determined by the Board not to have performed satisfactorily on the examination may reapply for the next examination by the Board. The Board may at its discretion, require reexamination on any or all parts of the examination.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA BOARD OF PSYCHOLOGY

RECEIVED
JAN 3 1980
Attorney Generals Office
Health Division

IN THE MATTER OF PROPOSED)
AMENDMENTS TO 7 MCAR)
§ 10.006 RELATING TO)
EXAMINATION FOR LICENSURE)
OF PSYCHOLOGISTS AND)
CONSULTING PSYCHOLOGISTS.)

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on August 10, 1979, before Natalie L. Gaull, 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 Psychology on September 24, 1979; and

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

WHEREAS, the Board of Psychology has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Board of Psychology has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Order, the Board of Psychology has the responsibility of submitting the complete hearing record and the rules as adopted by the Board to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 29th day
of November, 1979.

Duane R. Harves
DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments to 7 MCAR Sec. 10.006 Relating to Examination for Licensure of Psychologists and Consulting Psychologists.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Natalie L. Gaull, of the State Office of Hearing Examiners, at 9:30 a.m. on Friday, August 10, 1979, at the Minnesota Department of Health Building, Minneapolis, Minnesota.

Appearing for the Minnesota Board of Psychology (hereinafter "the Board") were: Terry P. O'Brien, Special Assistant Attorney General; Mary Craik, Ph.D., Chairperson of the Board; Patricia Lilligren, Ph.D., Vice-Chairperson of the Board; and Hariette Hartung, Executive Secretary of the Board. Six persons attending the hearing signed the hearing register. The hearing continued until all persons had the opportunity to be heard concerning the adoption of the proposed rules. No person from the public, however, made a statement or asked a question at the hearing. Before the close of the hearing record, public comments by letter were received from five interested persons.

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

Thereafter, the Board shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. Sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. 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. Sec. 15.0412 within ten calendar days. The Board will 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.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On June 29, 1979, the Board filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On July 6, 1979, 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 and to all legislators, licensees, and the Minnesota associations representing psychologists and consulting psychologists.

3. On July 9, 1979, a Notice of Hearing and a copy of the proposed rules were published at 4 State Register 23.

4. On July 19, 1979, the Board filed the following documents:

(a) The Notice of Hearing as mailed.
(b) The Order for Hearing and authorizing resolution.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list and other persons and associations.
(e) The Secretary of State's Certificate and list.

5. On July 31, 1979, the Board filed the following documents:

(a) The Statement of Facts Establishing Reasonableness of Amendments.
(b) The Statement of Need.
(c) The Statement of Evidence.

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

7. The record remained open through August 27, 1979, for the receipt of written comments and statements.

Statutory Authority

8. The Board cites Minn. Stat. Sec. 148.90 as authority for the proposed amendments. That statute creates the Board and prescribes its membership. Minn. Stat. Sec. 148.91 authorizes the Board to grant licenses to licensed consulting psychologists and licensed psychologists. Minn. Stat. Sec. 148.91, subd. 2 provides, in relevant part, as follows:

> Subd. 2. Before granting any such license the board shall require every applicant therefor to pass an examination shall be given at least once each year, at such time and place and under such supervision as the board prescribes.

Although that statute does not explicitly authorize the Board to determine the type of examination to be given, such authority may be fairly implied from the statute. The Examiner finds that there is statutory authority to adopt the proposed rules.

Need and Reasonableness

9. The Board's presentation was made in three documents--the Statement of Facts Establishing Reasonableness, the Statement of Need, and the Statement of Evidence. The members of the public present at the hearing were

given an opportunity to review those documents at the hearing. No member of the public present at the hearing desired an oral presentation nor did any member of the public have any comments or questions. Thus, no oral presentation was made at the hearing by the Board.

10. The proposed amendments involve two changes to the existing rules. The first change substitutes the language "the board must receive the applicant's completed Application for License form" for the language "written intention to be examined". The Board indicates that the amendment is intended to clarify for applicants precisely what documents must be received by the Board in order to be examined. The Examiner finds that this amendment is necessary and reasonable as proposed.

11. The second series of amendments deletes the written, subjective portion of the licensing examination. As a result, the examination would have two parts--a written, objective portion and an oral examination. The Board states that it is necessary to amend the rules so that the Board may adopt procedures more similar to those of other states. The Board states that it is reasonable to delete the subjective examination because the intent of the written, subjective questions and of the appropriate answers are open to multiple interpretations. Therefore, it is difficult to empirically find an applicant unqualified for licensure based upon failure of the subjective test. The Board also indicates that the composition of the subjective questions requires the examinee and the examiner to incorporate personal values and judgments. The Board finds that this is not a preferable means of examination because it does not attempt to impose its personal values and judgments upon examinees other than those required consistent with rules of conduct. The Board also notes that the examination grader may also have cherished personal values or biases which may interfere with the fair evaluation of the examinee's response. Finally, the Board notes that the subjective examination is not an effective evaluative tool to determine one's qualification for licensure. The Board states that the nature of the questions and of the responses are not reliable or objectively verifiable in determining ultimate qualifications for licensure.

12. Christopher K. Rich, Ph.D., with the College of St. Scholastica's Psychology Department, submitted a letter to the Hearing Examiner in opposition to the deletion of the written, subjective examination. He contended that: 1) an essay examination is a more relevant means of sampling the applicant's performance in client contact type of situations; 2) psychologists must be able to write clear and intelligent reports; and 3) while the elimination of the written, subjective examination may increase the examination's reliability, it will not thereby increase the examination's validity.

13. Shirley H. Mink, Ph.D., Consulting Clinical Psychologist, submitted a letter objecting to deletion of the written, subjective examination. She indicated that the essay portion of the examination provides an opportunity for people to be examined in the area of their specialties and that psychologists ought to be able to design a valid test.

14. Roger H. Anderson, past president of the Minnesota School Psychologists Association, submitted a letter objecting to deletion of the written, subjective examination. He argued that many school psychologists feel that the current examination does not adequately test their specialty because it emphasizes clinical and industrial psychology and that the existing subjective exam offered the best opportunity to demonstrate their skills.

15. Maria Millilo submitted a letter objecting to deletion of the subjective, written portion of the exam on the grounds that it is an important tool for testing the depth of comprehension in a particular area.

16. The Examiner finds that the proposed amendments are necessary and reasonable.

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

CONCLUSIONS

1. Due, timely and adequate notice of the hearing was properly served and published by the Board. While the Board did not file a document entitled as a Statement of Need and Reasonableness with the Hearing Examiner, as required by 9 MCAR Sec. 2.104, the Board's Statements did substantially comply with that rule. Additionally, while the Board did not file the documents listed above in Finding No. 5 in a timely fashion, as required by 9 MCAR Sec. 2.105, the Board was only four days late and thus substantially complied with that rule. Moreover, as to both procedural matters, no member of the public requested to view the documents and, thus, there was no prejudice to anyone. All other substantive and procedural requirements were met.

2. The Board has statutory authority to adopt the proposed rule changes.

3. The Board has made an affirmative presentation of facts that establishes the need for and reasonableness of its proposed changes to 7 MCAR Sec. 10.006.

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

RECOMMENDATION

That the Board of Psychology adopt the changes it has proposed to 7 MCAR Sec. 10.006.

Dated: September 24, 1979.

Natalie L. Gaull

NATALIE L. GAULL
Hearing Examiner

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments to 7 MCAR § 10.006 Relating to Examinations for Licensure as Psychologists and Consulting Psychologists

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Minnesota Board of Psychology on the 10th day of August, 1979, at 9:30 a.m., in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414, 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 following publication of the rules.

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 and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 7 MCAR § 10.006 relating to Examinations for Licensure as Psychologists and Consulting Psychologists are adopted this 18th day of October, 1979, pursuant to authority vested in me by Resolution of the Board adopted at their meeting on October 6, 1979, and pursuant to Board authority found in Minn. Stat. §§ 148.90 and 148.91.

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments to 7 MCAR § 10.006 Relating to Examinations for Licensure as Psychologists and Consulting Psychologists

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-entitled matter came on for hearing before the Minnesota Board of Psychology on the 10th day of August, 1979, at 9:30 a.m., in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414, 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 following publication of the rules.

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 and reasonableness of the above-captioned rules,

The Board makes and enters the following:

1. The Board adopts the Findings as set forth in the Report of the Hearing Examiner dated September 24, 1979, as its own with the following change:

Whereas Finding No. 8 of the Report misquotes Minn. Stat. § 148.91, subd. 2 by deleting certain words, the quotation in the report is deleted and substituted with the following:

> Before granting any such license the board shall require every applicant therefor to pass an examination in psychology. This examination shall be given at least once each year, at such time and place and under such supervision as the board prescribes.

2. The Board adopts the Conclusions of Law as set forth in the Report of the Hearing Examiner dated September 24, 1979, as its own.

Dated: October 15, 1979

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments
to 7 MCAR § 10.006 Relating to
Examinations for Licensure of
Psychologists and Consulting Psychologists

STATEMENT OF EVIDENCE

The Minnesota Board of Psychology (hereinafter "Board") will introduce the following evidence at the hearing in the above-entitled matter scheduled for Friday, August 10, 1979, commencing at 9:30 a.m. in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota:

1. Documents evidencing the Board's compliance with procedure filings for rule making:

(a) Proposed rules;

(b) Proposed order and notice for hearing;

(c) Statement of number of persons expected to attend and estimated length of time of hearing;

(d) Order for hearing;

(e) Notice of hearing;

(f) Notice of hearing as mailed;

(g) Affidavit of receipt of the Secretary of State's list;

(h) Certificate of the Secretary of State;

(i) Affidavit of mailing of the Notice of Hearing.

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 amendments are as follows:

(a) Statement of need;

(b) Statements of facts establishing reasonableness of rules;

The Board did not have these documents submitted to the Office of Hearing Examiners 25 days prior to the hearing. However, inasmuch as no person requested these documents for review and inasmuch as the written support for these rules have been available prior to the time of the initiation of the rule-making process, the Board asserts that the delay in submitting the above-referenced documents for filing has prejudiced no member of the public. Nonetheless, the Board is willing to seek on its own motion to the Office of Hearing Examiners an extension following the hearing of twenty days, so as to allow any persons who were unable to review the statement of facts supporting the rules time to make response to the Board's statements and the record.

3. The following witnesses will represent the Board at the hearing:

Mary Craik, Ph.D, Licensed Consulting Psychologist, Chairperson, Minnesota Board of Psychology;

Patricia Lilligren, Licensed Psychologist, Vice-Chairperson, Minnesota Board of Psychology.

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 citation to the Board's statutory authority to promulgate the proposed amendment.

Dated: July 18, 1979

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

HARRIETTE HARTUNG
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments to 7 MCAR § 10.006 Relating to Examinations for Licensure as Psychologists and Consulting Psychologists.

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

The number of persons expected to attend the hearing in the above-captioned matter is ten.

It is estimated that the length of the hearing will be one hour.

Dated: June 21, 1979

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments
to 7 MCAR § 10.006 Relating to
Examinations for Licensure of
Psychologists and Consulting Psychologists

STATEMENT OF NEED

The above-captioned amendments to existing rules of the Board of Psychology (hereinafter "Board") address the procedures and requirements relating to licensure of licensed psychologists and licensed consulting psychologists. These rules consist primarily of a repeal of existing rules requiring that applicants for licensure submit to three examinations, one of which is the subjective essay examination. The amendment to these rules would delete the requirement that applicants take a subjective essay examination.

The need to adopt the repeal contained in these amendments arises primarily so as to permit the Board to adopt procedures more similar to those of other states and therefore allow Minnesota to become uniform in its standards for licensure and consonant in its requirements for examinations with those of other state licensing boards.

The legal authority for adopting this repeal is contained in Minn. Stat. § 148.90 (1978).

Dated: June 18, 1979

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments to 7 MCAR § 10.006 Relating to Examinations for Licensure of Psychologists and Consulting Psychologists

STATEMENT OF FACTS ESTABLISHING REASONABLENESS OF AMENDMENTS

The Minnesota Board of Psychology (hereinafter "Board"), pursuant to Minn. Stat. § 15.0412, subd. 4 (1978) hereby affirmatively presents facts establishing the reasonableness and justifying the adoption of the above-captioned amendments to the Board's rules. The need of statutory authority for the proposed amendments is set forth in the Statement of Need.

7 MCAR § 10.006(a) is amended so as to delete reference to an applicant's "written intention to be examined" and substitute therefor a "completed application for license form." The reason for this substitution is to clarify for applicants precisely what documents must be received by the Board in order to be examined. Inasmuch as there has been some confusion in the past on the part of applicants with respect to submission of documents, this rule should alleviate some of this confusion, or at a minimum, clarify possible ambiguity as to what is meant by an intention to be examined.

The Board believes that requirement of a subjective examination should be repealed from the rule for reasons as follows:

a. The intent of the written, subjective questions is open to multiple interpretations. Inasmuch as the Board's determination of the appropriate answer may similarly be open to multiple interpretation, it is difficult to empirically find an applicant is unqualified for licensure based upon failure at the subjective test.

b. The composition of the subjective questions requires the examinee and the examiner to incorporate personal values and judgments. Thus, by definition, there is a range of answers possible, as opposed to the written, objective section of the examination which requires factual rather than opinion response. Inasmuch as the Board does not attempt to impose its personal values and judgments upon examinees, other than those required consistent with rules of conduct, the subjective examination is not a preferable means of examination.

c. In view of the reasons given in paragraphs a and b, hereinabove, the Board recognizes that it is possible that cherished values or personal biases may inadvertently sway the judgment of an examination reader, and conceivably interfere with the fair evaluation of the examinee's response.

d. The Board, in its discretion, and following several years' experience with the subjective examination, finds that it is not an effective evaluative tool to determine one's qualification for licensure. The Board, comprised of psychologists engaged in many various fields of psychology, has found that the nature of the questions in the subjective examination and the nature of the responses elicited are not in the Board's judgment, reliable or objectively verifiable in determining ultimate qualifications for licensure.

Dated: July 18, 1979

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments to 7 MCAR § 10.006 Relating to Examinations for Licensure of Psychologists and Consulting Psychologists

STATEMENT OF SUPPLEMENTAL JUSTIFICATION FOR THE RULE AMENDMENTS

Inasmuch as three licensees have submitted comments with respect to the adoption of the above-referenced rules, the Board would offer the statements herein in response to the licensees' statements.

With respect to opinions concerning the alleged benefits derived from the "depth of comprehension" purportedly dealt with in an essay examination, the Board rules panel finds that the interview portion of the examination does, to some extent, measure a candidate's ability to cope with a question-answer situation which is substantially open-ended and therefore permits further in-depth inquiry into the candidate's knowledge. Furthermore, the panel does not consider the writing of answers to questions in a time-limited setting as equivalent to the thoughtful composition of a detailed written report concerning a client. The panel would assume that the psychologist would have at his/her disposal adequate time to compose the report in private practice without the duress of a time limitation.

With respect to the relationship between reliability and validity, while increasing reliability does not guarantee validity, the validity of a test can be no better than its reliability. There is no substantive data that indicate that the Board essay examination has any predictive validity. If it is assumed that its reliability is low, its predictive validity must be lower. Thus, the quality assurance with respect to the essay examination in predicting competencies or skills for practice is lacking.

The repeal of a rule addressed in these amendments does not purport to address or state an opinion as to whether or not a better essay examination or specialty examination may be composed or desired. Such an issue should be addressed, if at all, in another proposed rules amendment and issues concerning such desirability or necessity is not pertinent to the issues presented herein.

Dated: August 17, 1979

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

HARRIETTE HARTUNG
Executive Secretary

CERTIFICATE OF BOARD'S

ADOPTION OF RULES RESOLUTION

I, Harriette Hartung, do hereby certify that I am the Executive Secretary of the Minnesota Board of Psychology, 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 of Psychology duly and properly called and held on the 6th day of October, 1979; 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 the amendments to the rules relating to Examinations for Licensure as Psychologists and Consulting Psychologists identified as 7 MCAR § 10.006 which were considered at a public hearing held on the 10th day of August, 1979, 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 the Minnesota Board of Psychology by Minn. Stat. §§ 148.90 and 148.91 and that Harriette Hartung, Executive Secretary of the Board, be and hereby is authorized to sign an order adopting those rules.
>
> BE IT FURTHER RESOLVED, that the Report of Hearing Examiner dated September 24, 1979, be and hereby is adopted by the Board of Psychology as its own with the following change:
>
> > Whereas Finding No. 8 of the Report misquotes Minn. Stat. § 148.91, subd. 2 by deleting certain words, the quotation in the report is deleted and substituted with the following:
> >
> > > Before granting any such license the board shall require every applicant therefor to pass an examination in psychology. This examination shall be given at least once each year, at such time and place and under such supervision as the board prescribes.

IN WITNESS WHEREOF, I have hereunto subscribe my name this 18th day of October, 1979.

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
Executive Secretary

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of Proposed Amendments
to 7 MCAR § 10.006 Relating to
Examinations for Licensure as Psychologists
and Consulting Psychologists

CERTIFICATE

I hereby certify that the 324 general labels and ____ page list for the Minnesota Board of Psychology, all of which are attached and made a part hereof, constitute the complete lists of persons, associations, and other interested groups who as of 9:30 o'clock A.m., this 29th day of June, 1979, have requested, pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), 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

By Joan Anderson Growe
Donna Scott

#8

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

BEFORE THE MINNESOTA
BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments
to 7 MCAR § 10.006 Relating to
Examinations for Licensure as Psychologists
and Consulting Psychologists

AFFIDAVIT OF RECEIPT
OF THE SECRETARY
OF STATE'S LIST

Harriette O. Hartung, being first duly sworn upon oath, deposes and says:

1. The I he is an employee of the Minnesota Board of Psychology.

2. That on the 27th day of June, 1979, I 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 (1978).

3. That on the 29th day of June, 1979, in response to the above request, the Secretary of State provided h~~i~~m with such a list, a photocopy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Harriette O. Hartung

Subscribed and sworn to before me
this 11th day of July, 1979.

Alice D. Hummer

ALICE D. HUMMER
Notary Public, Ramsey Co. Minn.
My Commission Expires
Nov. 18, 1981

#9

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of Proposed Amendments
to 7 MCAR § 10.006 Relating to
Examinations for Licensure as Psychologists
and Consulting Psychologists.

AFFIDAVIT
OF MAILING

Harriette O. Hartung, being first duly sworn, deposes and says:

That on the 6th day of July, 1979, at the City of Minneapolis, County of Hennepin, State of Minnesota, I he 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, as well as to all members of the Minnesota Legislature as of the date of mailing.

Harriette O. Hartung

Subscribed and sworn to before
me this 11th day of July, 1979.

Alice D. Hummer

ALICE D. HUMMER
Notary Public, Ramsey Co. Minn.
My Commission Expires
Nov. 18, 1981

CERTIFICATE OF BOARD OF PSYCHOLOGY'S

AUTHORIZING RESOLUTION

I, Harriette Hartung, do hereby certify that I am the Executive Secretary of the Minnesota Board of Psychology, 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 Board duly and properly called and held on the 1st day of June, 1979, 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 Harriette Hartung, Executive Secretary of the Board of Psychology, be and she hereby is granted the authority and directed to call a hearing for the purpose of promulgating rules of the Board of Psychology relating to examinations, 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 complying with the requirements of the State Office of Hearing Examiners.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 21st day of June, 1979.

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
Executive Secretary

Agency Ex 11

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments
to 7 MCAR § 10.006 Relating to
Examinations for Licensure as Psychologists
and Consulting Psychologists

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on August 10, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments to 7 MCAR § 10.006 captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Natalie Gaull, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8114, either before the hearing or within five (5) working days after the close of the hearing or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner at the hearing. 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, 9 MCAR §§ 2.101-2.109.

A copy of the proposed amendments is attached.

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

> NOTICE: The proposed amendments are subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendments to participate in the rule hearing process.

The statutory authority of the Board to promulgate and adopt these amendments is contained in Minn. Stat. § 148.90 (1978).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

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. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

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.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

The promulgation of these proposed amendments will not result in the expenditure of public monies by local government units.

Dated: June 25, 1979.

STATE OF MINNESOTA

BOARD OF PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of Proposed Amendments
to 7 MCAR § 10.006 Relating to
Examinations for Licensure as Psychologists
and Consulting Psychologists.

ORDER FOR HEARING

To effectively implement Minn. Stat. §§ 148.91 and 214.03 (1978), the Minnesota Board of Psychology deems it necessary to consider adoption of the proposed amendments captioned above pursuant to the authority vested in it by Minn. Stat. § 148.90 (1978).

NOW, THEREFORE, IT IS ORDERED this 21st day of June, 1979, that a public hearing on the proposed rules captioned above be held in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Friday, August 10, 1979, commencing at 9:30 a.m., and continuing 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 hearing 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 PSYCHOLOGY

Harriette Hartung

HARRIETTE HARTUNG
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 amendments to rules relating to Examination for Licensure of Psychologists and Consulting Psychologists 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: January 4, 1980

TERRY P. O'BRIEN
Special Assistant
Attorney General