

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1022

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-16-84
DATE FOR REVIEW 4-25-84
DATE DUE 4-30-84

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved april 26, 1984 mjc Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 4.17.84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed see SR.

✓ Order Adopting 4.12.84 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 5.2.83.

_____ Order for rulemaking not submitted
_____ date of Hearing

_____ Certificate of Board's Authorizing Resolution not submitted.

✓ Notice of rulemaking (as mailed, identical to SR)
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
12.28-30.83 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
12.26.83 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

N/A Agency's Findings of Fact — no changes

✓ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

Office Memorandum

TO: Judith Wehrwein
Administration
Attorney General

DATE: April 16, 1984

FROM: John A. Breviu
Special Assistant
Attorney General

PHONE: 341-7272

SUBJECT: In the Matter of the Proposed Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the use of Examinations and the Citizenship Requirements for those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

Pursuant to 1 MCAR § 1.203, please find enclosed for your review and approval:

1. Rule as adopted (original and three copies);
2. Order Adopting Rule (original and one copy);
3. Certificate of Board's Resolution;
4. Notice of Intent to Solicit Outside Opinion;
5. Certificate of Board's Authorizing Resolution;
6. Notice of Intent to adopt a Rule Without Public Hearing;
7. Affidavit of Mailing;
8. Mailing List Certificate;
9. Rule as Proposed;
10. Statement of Need and Reasonableness;
11. Certificate of Compliance with Rulemaking Procedures;
12. Affidavit.

If you have any questions, please feel free to call me.

JAB:jrm

Attachments

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO Arthur W. Poore
Executive Secretary, Board of Medical Examiners

DATE: April 26, 1984

ATTN: John A. Breviu, Special Assistant
Attorney General

FROM : Martha J. Casserly, Special Assistant
Attorney General MJC

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the Use of Examinations and the Citizenship Requirements for Those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

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. Please 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 stamps of the Attorney General and Secretary of State;

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

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

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

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

MJC:cb

AG copy

State Board of Medical Examiners

Adopted Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the Use of Examinations and the Citizenship Requirements, for Those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

Rules as Adopted

7 MCAR S 4.002 Application for licensure to practice medicine and surgery.

A. Filing; date and place of examination. An application for admission to a licensing examination as provided in Minnesota Statutes, section 147.02 shall be filed with the board as hereinafter prescribed. If the board finds that the application is complete and that all of the requirements of Minnesota Statutes, section 147.02 and of these rules have been met, it shall advise the applicant of the date and place of the examination.

B. Form and content. The application must be submitted on forms prepared by the board and must include the following information:

1. If the applicant is a graduate of a medical or osteopathic college approved by the board, an original or certified copy of the diploma from the medical or osteopathic college, indicating that the applicant has satisfactorily completed a course of study acceptable to the board and that he or she has received from the college the degree of Doctor of Medicine or Doctor of Osteopathy.

2. If the applicant is currently enrolled in the final year of study at an approved medical or osteopathic college, a transcript of his or her credits, together with evidence, satisfactory to the board, that the applicant has satisfactorily completed the course of study prior to the final year at an approved medical or osteopathic college. Prior to admission to the licensing examination, the applicant shall file with the board the original or certified copy of a diploma from a medical

or osteopathic college approved by the board indicating that the applicant has satisfactorily completed a course of study acceptable to the board and that he or she has received from the college the degree of Doctor of Medicine or Doctor of Osteopathy.

3. A certificate of good moral character signed by two persons licensed to practice medicine and surgery by a recognized and accredited licensing authority within the United States or Canada.

4. An unmounted recent photograph of the applicant with an affidavit on the reverse side of it made by the applicant that the photograph is that of the applicant.

5. Other information as the board deems necessary to evaluate the qualifications of the applicant.

C. Additional evidence. An applicant who has passed the examination prepared and graded by either the Federation of State Medical Boards or the National Board of Medical Examiners shall include in the application, in addition to the information required under B., evidence satisfactory to the board that within three years before or five years after being granted the degree of Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.), the applicant satisfactorily passed an examination prepared and graded according to Minnesota Statutes, section 147.02.

D. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for examination shall be notified of this determination and the grounds for it and may be granted a hearing on this determination under ME 63 by filing a statement of issues with the board within 20 days after receipt of the notice from the board. After the hearing the board shall notify the applicant in writing of its decision.

In the S.R., this was shown as stricken

E. Evidence of training. An applicant who has satisfactorily completed the licensing examination, and who has fulfilled all the requirements of Minnesota Statutes, chapter 147, and these rules, shall be considered by the board for licensure to practice medicine and surgery upon submitting to

the board evidence satisfactory to the board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the board or other graduate training approved by the board.

F. Filing deadline. Applications for examination must be fully completed and forwarded to the secretary of the board, postmarked not later than 30 days before the date of examination.

7 MCAR S 4.004 License by reciprocity to practice medicine and surgery.

A. Who may apply. An application for a license to practice medicine and surgery without written examination according to Minnesota Statutes, section 147.03, may be made by a physician licensed by an accredited state licensing board or agency.

B. Submission and contents of application. The application must be submitted on forms prepared by the board and must include the following information:

1. An original or certified copy of the applicant's then current license originally obtained by examination, together with evidence at the time of submission that the license is in good standing. If the applicant is a graduate of a foreign medical school, he or she shall also submit the information required by 7 MCAR S 4.007 A.4. and 5., and the original or a certified copy of a birth certificate.

2. An original or certified copy of a diploma from a medical or osteopathic college accredited by the board, indicating that the applicant has satisfactorily completed a course of study acceptable to the board, and that he or she has received from the college the degree of Doctor of Medicine or Doctor of Osteopathy. If the applicant is a graduate of a foreign medical school, he or she shall submit instead the information required by 7 MCAR S 4.007 A.2.

3. Evidence satisfactory to the board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the board, or

other graduate training approved by the board.

4. If the applicant is a graduate of a foreign medical school, evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education and passage of the ECFMG English test and the ECFMG examination. This evidence is not required if the applicant: (a) was licensed by examination in a state which at the time of applicant's licensure in the state did not require that he or she had been awarded a certificate by the Education Council for Foreign Medical Graduates, or (b) is a diplomate of a medical specialty board approved by the American Medical Association.

5. The information required by 7 MCAR S 4.002 B.3., 4., and 5.

C. Passing grade. A FLEX weighted average of 75.0 or a grade average of 75.0 on examinations other than FLEX shall be the passing grade on all examinations graded by the board. If the applicant fails the examination, he or she shall repeat the entire examination. An applicant may take the test not more than five times, at which point he or she is no longer eligible to take the examination. An applicant who has failed the examination five times is not eligible for licensure by the board.

7 MCAR S 4.005 License by endorsement without examination to practice medicine and surgery.

A. Who may apply. An application for a license to practice medicine and surgery by endorsement without written examination may be made by an applicant who is a diplomate of the National Board of Medical Examiners or of the National Board of Examiners for Osteopathic Physicians and Surgeons, or who has passed a licensing examination given by the appropriate board or agency of a state which the board determines acceptable as provided in Minnesota Statutes, section 147.03; provided however, that the board may require the applicant to be examined in subjects which, in the opinion of the board, have not been satisfactorily covered.

B. Submission and contents of application. The application must be submitted on forms prepared by the board and must include the following information:

1. The information required by 7 MCAR S 4.002 B.3., 4., and 5.

2. An original or certified copy of the certificate or diploma from the appropriate national or state board or agency, as referred to in A., evidencing satisfactory completion of the licensing examination referred to in A.

3. If the applicant is a graduate of a foreign medical school: (a) evidence satisfactory to the board that the applicant has been awarded a certificate by the Education Council for Foreign Medical Graduates, certifying to the applicant's formal education and passage of the ECFMG English test and the ECFMG examination, (b) an original or certified copy of a birth certificate, and (c) the information required by 7 MCAR S 4.007 A.4. and A.5. The evidence required in clause (a) is not required if the applicant is a diplomate of a medical specialty board approved by the American Medical Association.

4. Evidence satisfactory to the board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the board, or other graduate training approved by the board.

C. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for licensure shall be notified of this determination and the grounds for it and may be granted a hearing on this determination according to ME 63 by filing a statement of issues with the board within 20 days after receipt of this notice from the board. After the hearing the board shall notify the applicant in writing of its decision.

7 MCAR S 4.006 Temporary permits to practice medicine and temporary certificates for graduate training.

A. Form and content of application for permit. Applications for a temporary permit to practice medicine, under Minnesota

Statutes, section 147.02 must be submitted on forms prepared by the board and must include the information required in 7 MCAR S 4.004 B.

B. Form and content of application for certificate. An application for a temporary certificate for graduate training under Minnesota Statutes, section 147.16 may be issued only to a graduate of a foreign medical school. The application must be submitted on forms prepared by the board, which must include the following information:

1. An original or certified copy of a birth certificate.

2. Evidence of good moral character satisfactory to the board.

3. Evidence satisfactory to the board that the applicant is a graduate of a foreign medical school approved by the licensing authority of the jurisdiction or country in which such medical school is located and is the holder of an approved diploma or degree recognized by the board as evidencing a level of training from said approved foreign medical school commensurate with medical training required by approved medical schools in the United States.

4. If the applicant is licensed to practice medicine and surgery in a foreign country, the original or a certified copy of his or her then current license to practice medicine and surgery in the foreign country, issued by the school from which he or she graduated or by the appropriate licensing body of the country in which he or she was originally licensed. If applicant is not so licensed, evidence satisfactory to the board that the applicant has passed an examination, or is eligible therefor, which is substantially equivalent to the examination given by the board to applicants for a license to practice medicine in all of its branches in Minnesota.

5. Evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education and passage of the ECFMG English test and the ECFMG examination.

6. The name and location of the institution at which such graduate training will be taken, and evidence that the institution has accepted the applicant for training.

7. In the case of an applicant for residency training, evidence satisfactory to the board that the applicant has completed at least 12 months of hospital training as an intern in a hospital acceptable to the board.

8. The information required by 7 MCAR S 4.002 B.4. and 5.

C. Postgraduate training. Upon issuance of a temporary certificate for graduate training, the holder may take postgraduate training in a teaching institution within the state of Minnesota approved for resident training by the board.

D. Services allowed. The holder of a temporary certificate may perform those services incident to the training prescribed by the approved institution while acting under the direction of a person licensed to practice medicine and surgery in this state; provided, however, that no fee or remuneration of any kind shall be collected by the holder of a certificate from any patients treated by the holder; and, provided, further, that the holder of the certificate shall confine his or her training and practice to the institution or group of institutions designated in the orginal or amended application.

E. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for a temporary permit or certificate shall be notified of this determination and the grounds for it and may be granted a hearing on this determination according to ME 63 by filing a statement of issues with the board within 20 days after receipt of the notice from the board. After the hearing, the board shall notify the applicant in writing of its decision.

7 MCAR S 4.007 Licensure of foreign graduates in medicine and surgery.

A. Who may apply. A graduate of a foreign medical school may apply for admission to a licensing examination in accordance with Minnesota Statutes, section 147.02, by filing with the board an application on forms provided by the board, which forms

must include the following information:

1. The information required by 7 MCAR S 4.002 B.3., 4., and 5.

2. Evidence satisfactory to the board that the applicant is a graduate of a foreign medical school and is the holder of an approved diploma or degree recognized by the board as evidencing a level of training from the approved foreign medical school commensurate with the medical training required by approved medical schools in the United States.

3. An original or certified copy of a birth certificate.

4. If the applicant is licensed to practice medicine and surgery in a foreign country, the original or a certified copy of the license to practice medicine and surgery in the foreign country, issued by the school from which he or she graduated or by the appropriate licensing body of the country in which he or she was originally licensed. If the applicant is not so licensed, evidence satisfactory to the board that the applicant has passed an examination, or is eligible for it, which is substantially equivalent to the examination given by the board to applicants for a license to practice medicine in all of its branches in Minnesota.

5. Evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education and passage of the ECFMG English test and the ECFMG examination.

6. The name and location of the institution at which the graduate training will be taken, and evidence that the institution has accepted the applicant for training.

7. (a) Evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education and passage of the ECFMG English test and the ECFMG examination, and (b) evidence satisfactory to the board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United

States or Canada approved for internship or graduate training by the board, or other graduate training approved by the board. The evidence required in clause (a) is not required if the applicant is a diplomate of a medical specialty board approved by the American Medical Association, or if the applicant has sucessfully completed the licensure examination prepared and graded by the Federation of State Medical Boards of the United States.

B. Definition. As used herein, the term "foreign medical school" means a medical school located outside the United States and Canada.

C. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for examination shall be notified of this determination and the grounds for it and may be granted a hearing on this determination under ME 63 by filing a statement of issues with the board within 20 days after receipt of the notice from the board. After the hearing the board shall notify the applicant in writing of its decision.

D. Filing deadline. All applications for examination must be fully completed and forwarded to the secretary of the board, postmarked not later than 30 days before the date of the examination.

7 MCAR S 4.008 Licensure to practice medicine and surgery by persons licensed to practice osteopathy.

A. Who may apply. Any person licensed to practice osteopathy in this state under Minnesota Statutes, sections 148.11 to 148.16 may apply to this board for admission to a licensing examination to practice medicine and surgery by filing with the board an application as prescribed in this rule.

B. Form and content of application. The application must be submitted on forms prepared by the board and must include the following information:

1. An original or certified copy of diploma from an osteopathic college, accredited by the board, indicating that the applicant has satisfactorily completed a course of study

acceptable to the board, and that he or she has received from such college the degree of Doctor of Osteopathy.

2. An original or certified copy of the applicant's then current license to practice osteopathy in this state.

3. The information required by 7 MCAR S 4.002 B.3., 4., and 5.

4. The applicant's statement as to the locations at which he or she has practiced osteopathy from the date of licensure, showing the beginning and ending dates for each location.

C. Required passage of examination. The applicant, prior to licensure to practice medicine and surgery, shall satisfactorily pass an examination prepared and graded by the Federation of State Medical Boards of the United States.

D. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for examination shall be notified of this determination and the grounds for it and may be granted a hearing on this determination under ME 63 by filing a statement of issues with the board within 20 days after receipt of the notice from the board. After the hearing the board shall notify the applicant in writing of its decision.

E. Filing deadline. All applications for examinations must be fully completed and forwarded to the secretary of the board, postmarked not later than 30 days before the date of the examination.

APPROVED AS TO FORM AND LEGALITY,

April 26 1984

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Martha J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 27 1984
Joan Anderson Growe
Secretary of State
12:00 PM

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF MEDICAL EXAMINERS

In the Matter of the Proposed Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the Use of Examinations and the Citizenship Requirements for Those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

ORDER ADOPTING RULE

Notice of the Minnesota Board of Medical Examiner's intent to adopt the above-entitled rule without a public hearing was published in the State Register on December 26, 1983, and was sent by United States mail to all persons on the list maintained by the Minnesota Board of Medical Examiners, pursuant to Minn. Stat. § 14.4, subd. 1a (Supp. 1983), on December 23, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving no requests for a public hearing within the 30-day comment period, and determining the need for the reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that the rule identified as Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the Use of Examinations and the Citizenship Requirements for Those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota is adopted this 12th day of April, 1984, pursuant to authority vested in me by Minn. Stat. § 147.02 (1982) and by resolution of the Minnesota Board of Medical Examiners duly adopted at a meeting of the said Board on the 10th day of March, 1984.

STATE OF MINNESOTA

BOARD OF MEDICAL EXAMINERS

Arthur W. Poore

ARTHUR W. POORE
Executive Secretary

State Board of Investment
Investment Advisory Council

Notice of Regular Meetings

The State Board of Investment will meet on Friday, May 13, 1983 at 8:30 a.m. in Conference Room "D", Fifth Floor, Veterans Service Building, 20 West Twelfth Street, Saint Paul.

The Investment Advisory Council will meet at 7:30 a.m. on Thursday, May 12, 1983 in the MEA Building Conference Room, 41 Sherburne, Saint Paul.

✓ State Board of Medical Examiners

Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Regarding the Citizenship Requirement for those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

Notice is hereby given that the Minnesota Board of Medical Examiners is considering the adoption of a rule which would eliminate the existing rule that a physician or osteopath applying for licensure to practice medicine in Minnesota must have United States or Canadian citizenship, must be a lawful permanent resident of the United States and have made a declaration of intent to become a United States citizen, or have a preference visa approved by the Department of Justice which will allow the applicant to remain in the United States and to become eligible for lawful permanent status. Requirements placed upon the applicant who has a lawful permanent status or has a preference visa in order to remain eligible after licensure, are also eliminated. These requirements apply to physicians and osteopaths seeking licensure under general application, reciprocity, endorsement, temporary permit and certification, and foreign graduation.

The proposal rule is authorized by Minnesota Statute § 147.02, which establishes authority for the Board of Medical Examiners to license physicians and osteopaths, which includes establishing licensure requirements which are deemed to be in the interest and protection of the public, and to eliminate those licensure requirements that are no longer felt to be in the best interest and protection of the public.

All interested or affected persons or groups may submit information on this subject. The rule may be revised on the basis of comments received. Any written material received will become part of the record of any rule hearings held on this subject. Written or oral information and comments should be addressed to:

Arthur W. Poore, Executive Secretary
Minnesota Board of Medical Examiners
717 S.E. Delaware Street, Suite 352
Minneapolis, Minnesota 55414

All statements of information and comments must be received by

Arthur W. Poore
Executive Secretary

✓ Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Regarding the Use of the Examinations for those Physicians and Osteopaths Seeking Licensure to Practice in Minnesota

Notice is hereby given that the Minnesota Board of Medical Examiners is considering the adoption of a rule which would eliminate the existing rule which would fail an applicant who failed two or more sections of the examination for licensure, even if the applicant had an overall average score which was passing. However, according to this proposed rule an applicant failing the examination must retake the entire examination, not just those sections which were failed, and the test may be retaken only five times. These requirements apply to physicians and osteopaths seeking licensure under general application and reciprocity.

The proposed rule is authorized by Minnesota Statute § 147.02, which establishes authority for the Board of Medical Examiners to license physicians and osteopaths, which includes establishing licensure requirements which are deemed to be in the interest and protection of the public.

All interested or affected persons or groups may submit information on this subject. The rule may be revised on the basis of comments received. Any written material received will become part of the record of any rule hearings held on this subject. Written or oral information and comments should be addressed to:

Arthur W. Poore, Executive Secretary
Minnesota Board of Medical Examiners
717 S.E. Delaware Street, Suite 352
Minneapolis, Minnesota 55414

All statements of information and comments must be received by July 1, 1983.

Arthur W. Poore
Executive Secretary

Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Regarding the Practice of Physical Therapy

Notice is hereby given that the Minnesota Board of Medical Examiners is considering the adoption of a rule for the regulation of the practice of physical therapy which will modify the information required on the application form, change the requirements for registration without examination, establish registration requirements for foreign-trained applicants, establishes the legal supervisory and delegatory relationship of the physical therapist with the physical therapist assistant and the physical therapy aide, establishes the Professional Examination Service examination for physical therapists or comparable tests as the examinations for registration, changes in the requirements for the physical therapist to retain records of prescriptions, elimination of the time limits placed upon prescriptions for physical therapists and the establishment of appointment guidelines for the Physical Therapy Council.

This proposed rule is authorized by Minnesota Statute § 148.70, which established authority for the Board of Medical Examiners with the advice and assistance of the Physical Therapy Council to regulate the practice of physical therapy in the interest and protection of the public.

All interested or affected persons or groups may submit information on this subject. The rule may be revised on the basis of comments received. Any written material received will become part of the record of any rule hearings held on this subject. Written or oral information and comments should be addressed to:

Arthur W. Poore, Executive Secretary
Minnesota Board of Medical Examiners
717 S.E. Delaware Street, Suite 352
Minneapolis, Minnesota 55414

All statements of information and comments must be received by July 1, 1983.

Arthur W. Poore
Executive Secretary

Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Regarding Changes in the Continuing Medical Education Requirements Necessary for Physicians and Osteopaths to Retain their Licenses to Practice Medicine

Notice is hereby given that the Minnesota Board of Medical Examiners is considering the adoption of a rule which will lower the overall continuing medical education requirement, necessary for relicensure, from 150 hours to 75 hours, modify the maximum and/or minimum level of the five CME categories for which the physician or osteopath may obtain credit, and exempt those physicians or osteopaths under the emeritus registration from the CME requirement.

This proposed rule is authorized by Minnesota Statute § 214.12, which establishes the authority for health manpower regulatory authorities to implement Continuing Medical Education requirements as a means of improving the professional skills of the licensees or registrants on an ongoing basis.

All interested or affected persons or groups may submit information on this subject. The rule may be revised on the basis of comments received. Any written material received will become part of the record of any rule hearings held on this subject. Written or oral information and comments should be addressed to:

Arthur W. Poore, Executive Secretary
Minnesota Board of Medical Examiners
717 S.E. Delaware Street, Suite 352
Minneapolis, Minnesota 55414

All statements of information and comments must be received by July 1, 1983.

Arthur W. Poore
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF MEDICAL EXAMINERS

In the Matter of the Proposed Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the Use of Examinations and the Citizenship Requirements for Those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

AFFIDAVIT

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Arthur W. Poore, being first duly sworn upon oath, deposes and says:

1. That on December 26, 1983, a Notice of Intent to Adopt Rules Without a Public Hearing was published in the State Register and on December 28-30, 1983, the same Notice was mailed to persons who have requested to be informed of rulemaking activity by the Minnesota Board of Medical Examiners;

2. That to date, no one has requested a rule hearing nor has anyone requested to be informed of submission of the rule to the Attorney General's Office for review as to form and legality.

FURTHER AFFIANT SAYETH NOT.

Dated: April 12, 1984.

Arthur W. Poore

ARTHUR W. POORE
Executive Secretary

Subscribed and sworn to before me
this 12th day of April, 1984

Alice D. Hummer

ALICE D. HUMMER
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 18, 1988

STATE OF MINNESOTA

COUNTY OF HENNEPIN

CERTIFICATE

In the Matter of the Proposed Rule
Regarding Changes in the Initial
Licensure Requirements, Specifically
Regarding the Use of Examinations and
the Citizenship Requirements for Those
Physicians and Osteopaths Seeking
Licensure to Practice Medicine
in Minnesota

I hereby certify that the attached list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, subd. 1a (Supp. 1983), that their names be placed on file with and maintained by the Minnesota Board of Medical Examiners for the purpose of receiving notice of the proposed adoption of rules by this Board is accurate and complete as of 4:30 PM, the 23rd day of December, 1983.

Arthur W. Poore

ARTHUR W. POORE
Executive Secretary

CITIZENS RECEIVING INFORMATION ON ALL THE RULES

Kathy Meyerle
Minnesota Medical Association
2221 University Avenue SE #400
Minneapolis, MN 55414

Lynn Gruber
Hennepin County Medical Society
2221 University Avenue SE #423
Minneapolis, MN 55414

Frundt, Frundt, & Johnson
Attorneys at Law
117 West 5th Street
Blue Earth, MN 56013

Broeker Hartfeldt Hedges & Grant
Attorneys at Law
2850 Metro Drive - Suite 800
Minneapolis, MN 55420

Dorsey Windhorst Hannaford Whitney
& Halladay
2300 First National Bank Bldg
Minneapolis, MN 55402

Minnesota State Pharmaceutical
Association
2469 University Avenue
St. Paul, MN 5511
Attn: Donald A. Dee, Exec. Dir.

Thomas M. Polt
Attorney at Law
McCarthy Bldg.
Eyota,MN 55934

Peterson Popovich Knutson & Flynn
Professional Association
314 Minnesota Bldg.
St. Paul, MN 55101

Minnesota Association of Health Care
Facilities
Attn: Rick Carter
2850 Metro Drive, Suite 429
Minneapolis, MN 55420

Minnesota Board of Optometry
Executive Secretary
717 Delaware Street SE
Minneapolis, MN 55414

Minnesota Board on Aging
204 Metro Square Building
St. Paul, MN 55101

Board of Psychology
Executive Secretary
717 Delaware Street SE #343
Minneapolis, MN 55414

Department of Professional Regulation
Complaint Analysis Section
2009 Apalachee Parkway
Tallahassee, FL 32301

All other health licensing boards were sent notices, although the notices were not requested.

C. Continuing education requirements not applicable. The continuing medical education requirements of 7 MCAR § 4.012 are not applicable to emeritus registration.

D. Change to active status. A registrant who desires to change to active status may do so by providing the following materials, pending the approval of these materials by the board:

1. completion of a form prepared by the board which includes name, basic medical education, medical license number, duration of medical licensure, date of emeritus registration, membership in medical societies, information on the applicant's physical and mental health, and information on any disciplinary action taken against the physician in regards to his or her medical practice;

2. complying with the continuing medical education requirements for the time period in which one's license was in inactive status and under the emeritus registration pursuant to 7 MCAR § 4.012 A. This requirement must be fulfilled prior to submission of the application;

3. submission of all back licensure fees while one's license was under inactive status and the emeritus registration;

4. submission of references by two physicians licensed to practice medicine in Minnesota verifying that the registrant has the capacity to practice medicine; and

5. submission of a notarized, completed, and signed information release form, listing all schools attended, hospitals and clinics served at, and branch of military served in.

E. Documentation of status. A physician granted emeritus registration shall, upon payment of a fee, receive a document certifying that he or she has been registered as emeritus and has completed his or her active professional career licensed in good standing with the Minnesota Board of Medical Examiners. The fee for such a document shall be $5. The document fee shall not be a prerequisite for consideration of an application for emeritus registration.

F. Renewal cycle or fees not applicable. Being registered as emeritus will not subject a person to the annual renewal cycle or renewal fees.

State Board of Medical Examiners

Proposed Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the Use of Examinations and the Citizenship Requirements, for Those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Medical Examiners proposes to adopt the above entitled rules without a public hearing. The Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982).

Minnesota Statute section 147.02 establishes the authority for the Board of Medical Examiners to license physicians and osteopaths, which includes establishing licensure requirements which are deemed to be in the interest and protection of the public. The Board has promulgated rules which provide five alternative means of licensure which fulfill the intent of 147.02. However, through the administration of the licensure rules the Board developed these revisions to the rules based upon the Board's experience with the rules. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the proposed rules has been prepared and is available for inspection by the public during regular business hours or a copy may be provided upon request, at the address below.

Persons interested shall have 30 days, specifically until January 25, 1984, to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for

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review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written request to the address below.

Unless seven (7) or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes 14.13-14.20 (1982). The agency asks that persons requesting public hearing identify the particular provisions objected to, the suggested modifications to the proposed rules, and the reasons or data relied on to support the suggested modifications.

Please be advised that Minn. Stat. chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. § 10A.01. subdivision 11 defines a lobbyist as an 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 travel expenses or membership dues, in any year, for the purpose of attempting to influence legislative 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, St. Paul, Minnesota 55155, telephone (612) 296-5615.

A copy of the proposed rule follows this notice. Additional copies may be obtained at the address below.

Persons who wish to submit comments or a written request for a public hearing or who wish to receive a copy of the final rule or to be informed when the rule is submitted to the Attorney General, should submit such comments to:

Arthur W. Poore, Executive Secretary
Minnesota Board of Medical Examiners
717 Delaware Street SE, Suite #352
Minneapolis, MN 55414

Rules as Proposed

~~ME~~ 2 7 MCAR § 4.002 Application for licensure to practice medicine and surgery.

~~(a)~~ A. Filing; date and place of examination. An application for admission to a licensing examination as provided in ~~MSA~~ Minnesota Statutes, section 147.02 shall be filed with the board as hereinafter prescribed. If the board finds that the application is complete and that all of the requirements of ~~MSA~~ Minnesota Statutes, section 147.02~~,~~ and of these ~~regulations~~ rules have been met, it shall advise the applicant of the date and place of the examination.

~~(b)~~ ~~Such~~ B. Form and content. The application ~~shall~~ must be submitted on forms prepared by the board and ~~shall~~ must include the following information:

~~(1)~~ 1. If the applicant is a graduate of a medical or osteopathic college approved by the board, an original or certified copy of the diploma from ~~such~~ the medical or osteopathic college, ~~as the case may be,~~ indicating that the applicant has satisfactorily completed a course of study acceptable to the board and that he or she has received from ~~such~~ the college the degree of Doctor of Medicine or Doctor of Osteopathy.

~~(2)~~ 2. If the applicant is currently enrolled in the final year of study at an approved medical or osteopathic college, a transcript of his or her credits, together with evidence, satisfactory to the board, that the applicant has satisfactorily completed the course of study prior to ~~such~~ the final year at an approved medical or osteopathic college. Prior to admission to the licensing examination, the applicant shall file with the board the original or certified copy of a diploma from a medical or osteopathic college approved by the board indicating that the applicant has satisfactorily completed a course of study acceptable to the board and that he or she has received from ~~such~~ the college the degree of Doctor of Medicine or Doctor of Osteopathy.

~~(3) Evidence satisfactory to the board of the applicant's United States or Canadian citizenship. In the event applicant is not a citizen of the United States or Canada, he shall submit, with his application, evidence that he is a lawful permanent resident of the United States and has made a declaration of intent to become a citizen of the United States. In the event applicant is not legally authorized to make a declaration of intent to become a citizen of the United States, he shall submit, with his application, evidence that the Immigration and Naturalization Service of the United States Department of Justice has approved his petition for a preference visa and granted permission to him to remain in the United States until further notice, awaiting the issue to him of an immigrant visa, which would make him eligible for adjustment of his status to that of a lawful permanent resident.~~

~~(4)~~ 3. A certificate of good moral character signed by two persons licensed to practice medicine and surgery by ~~any~~ a recognized and accredited licensing authority within the United States or Canada.

~~(5)~~ 4. An unmounted recent photograph of the applicant with an affidavit on the reverse side ~~thereof~~ of it made by the applicant that the photograph is that of the applicant.

~~(6) Such~~ 5. Other information as the board ~~shall from time to time, deem~~ deems necessary ~~in order~~ to evaluate the qualifications of the applicant.

~~(c)~~ C. Additional evidence. An applicant who has passed the examination prepared and graded by either the Federation of State Medical Boards or the National Board of Medical Examiners shall include in ~~his~~ the application, in addition to the information required under ~~ME 2(b)~~ B., evidence satisfactory to the board that within three years before or five years after being granted the degree of Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.), the applicant satisfactorily passed an examination prepared and graded ~~in accordance with the provisions of Minn. Stat.~~ according to Minnesota Statutes, section 147.02.

~~(d)~~ D. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for examination shall be notified of ~~such~~ this determination and the grounds ~~therefore~~ for it and may be granted a hearing ~~there on accordance with the provisions of~~ on this determination under ME~~,~~ 63~~, by filing a statement of issues with the board within twenty (20) days after receipt of such~~ the notice from the board. After ~~such~~ the hearing the board shall notify the applicant in writing of its decision ~~thereon~~.

~~(e)~~ E. Evidence of training. An applicant who has satisfactorily completed the licensing examination, and who has fulfilled all the requirements of ~~MSA~~ Minnesota Statutes, chapter 147, and ~~of~~ these rules ~~and regulations~~, shall be considered by the board for licensure to practice medicine and surgery upon submitting to the board evidence satisfactory to the board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the board or other graduate training approved by the board.

~~(f) All~~ F. Filing deadline. Applications for examination must be fully completed and forwarded to the secretary of the board,"or postmarked not later than ~~thirty (30)~~ days before the date of examination.

~~(g) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of a lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States, as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.~~

~~ME~~-4 7 MCAR § 4.004 License by reciprocity to practice medicine and surgery.

~~(a)~~ A. Who may apply. An application for a license to practice medicine and surgery without written examination~~, in accordance with MSA~~ according to Minnesota Statutes, section 147.03, may be made by ~~any~~ a physician ~~duly~~ licensed by an accredited state licensing board or agency.

~~(b) Such~~ B. Submission and contents of application. The application ~~shall~~ must be submitted on forms prepared by the board and ~~shall~~ must include the following information:

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~~(1)~~ 1. An original or certified copy of the applicant's then current license originally obtained by examination, together with evidence at the time of submission that the ~~same~~ license is in good standing. If the applicant is a graduate of a foreign medical school, he or she shall also submit the information required by ~~ME 7(a)(4), ME 7(a)(5)~~ 7 MCAR § 4.007 A.4. and 5., and the original or a certified copy of a birth certificate.

~~(2)~~ 2. An original or certified copy of a diploma from a medical or osteopathic college~~, as the case may be, duly~~ accredited by the board, indicating that the applicant has satisfactorily completed a course of study acceptable to the board, and that he or she has received from ~~such~~ the college the degree of Doctor of Medicine~~,~~ or Doctor of Osteopathy. If the applicant is a graduate of a foreign medical school, he or she shall submit ~~in lieu thereof~~ instead the information required by ~~ME 7(a)(2)~~ 7 MCAR § 4.007 A.2.

~~(3)~~ 3. Evidence satisfactory to the board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the board, or other graduate training approved by the board.

~~(4)~~ 4. If the applicant is a graduate of a foreign medical school, evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education~~, his having passed~~ and passage of the ECFMG English test and ~~his having passed~~ the ECFMG~~,~~ examination. ~~Such~~ This evidence ~~shall~~ is not ~~be~~ required~~, however,~~ if the applicant: (a) was licensed by examination in a state which at the time of applicant's licensure ~~therein~~ in the state did not require that he or she had been awarded a certificate by the Education Council for Foreign Medical Graduates, or (b) is a diplomate of a medical specialty board approved by the American Medical Association.

~~(5)~~ 5. The information required by ~~ME 2(b)(3), ME 2(b)(4), ME 2(b)(5), and ME 2(b)(6)~~ 7 MCAR § 4.002 B.3., 4., and 5.

~~(c)~~ C. Passing grade. A FLEX weighted average of 75.0 or a grade average of 75.0 on examinations other than FLEX shall be the passing grade on all examinations graded by the board. ~~A minimum general average of 75 in all subjects shall constitute a grade satisfactory for licensure. An applicant may fall below 75 in one subject and still be licensed by the board. If an applicant falls below 75 in more than two subjects, it shall constitute a failure and require that the applicant retake the entire examination with passing grades in order to be eligible for licensure. An applicant failing two subjects may retake the two subjects at the next examination and upon receiving a minimum grade of 75 in each may be eligible for licensure.~~

~~(d) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as authorized by the statutes of the United States, and if he fails, neglects or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect~~ If the applicant fails the examination, he or she shall repeat the entire examination. An applicant may take the test not more than five times, at which point he or she is no longer eligible to take the examination. An applicant who has failed the examination five times is not eligible for licensure by the board.

~~ME~~ 5 MCAR § 4.005 License by endorsement without examination to practice medicine and surgery.

~~(a)~~ A. Who may apply. An application for a license to practice medicine and surgery by endorsement without written examination~~,~~ may be made by ~~any~~ an applicant who is a diplomate of the National Board of Medical Examiners or of the

National Board of Examiners for Osteopathic Physicians and Surgeons, or who has passed a licensing examination given by the appropriate board or agency of ~~any~~ a state which the board ~~may from time to time determine to be~~ determines acceptable~~,~~ as provided in ~~MSA~~ Minnesota Statutes, section 147.03; provided however, that the board may require the applicant to be examined in ~~such~~ subjects which, in the opinion of the board, have not been satisfactorily covered.

~~(b) Such~~ B. Submission and contents of application. The application ~~shall~~ must be submitted on forms prepared by the board and ~~shall~~ must include the following information:

~~(1)~~ 1. The information required by ~~ME 2(b)(3), ME 2(b)(4), ME 2(b)(5), ME 2(b)(6) and ME 4(b)(2)~~ 7 MCAR § 4.002 B.3., 4., and 5..

~~(2)~~ 2. An original or certified copy of the certificate or diploma from the appropriate national or state board or agency, as referred to in ~~ME 5(a)~~ A., evidencing satisfactory completion of the licensing examination ~~therein~~ referred to in A.

~~(3)~~ 3. If the applicant is a graduate of a foreign medical school: (a) evidence satisfactory to the board that the applicant has been awarded a certificate by the Education Council for Foreign Medical Graduates, certifying to the applicant's formal education~~, his having passed~~ and passage of the ECFMG English test and ~~his having passed~~ the ECFMG examination, (b) an original or certified copy of a birth certificate, and (c) the information required by ~~ME 7(a)(4)~~ 7 MCAR § 4.007 A.4. and ~~ME 7(a)(5)~~ A.5. The evidence required in clause (a) ~~hereof shall~~ is not ~~be~~ required~~, however,~~ if the applicant is a diplomate of a medical specialty board approved by the American Medical Association.

~~(4)~~ 4. Evidence satisfactory to the board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the board, or other graduate training approved by the board.

~~(c)~~ C. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for licensure shall be notified of ~~such~~ this determination and the grounds ~~therefor~~ for it and may be granted a hearing ~~thereon in accordance with the provisions of~~ on this determination according to ME 63~~,~~ by filing a statement of issues with the board within ~~twenty (20)~~ days after receipt of ~~such~~ this notice from the board. After ~~such~~ the hearing the board shall notify the applicant~~,~~ in writing~~,~~ of its decision ~~thereon~~.

~~(d) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States, and to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.~~

~~ME 6~~ 7 MCAR § 4.006 Temporary permits to practice medicine and temporary certificates for graduate training.

~~(a)~~ A. Form and content of application for permit. Applications for a temporary permit to practice medicine, ~~pursuant to the~~

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~~provisions, of MSA~~ under Minnesota Statutes, section 147.02~~, shall~~ must be submitted on forms prepared by the board and ~~shall~~ must include the information required in ~~ME 4(b)~~ 7 MCAR § 4.004 B.

~~(b)~~ B. Form and content of application for certificate. An application for a temporary certificate for graduate training~~, pursuant to the provisions of MSA~~ under Minnesota Statutes, section 147.16~~,~~ may be issued only to a graduate of a foreign medical school. ~~Such~~ The application ~~shall~~ must be submitted on forms prepared by the board, which ~~shall~~ must include the following information:

~~(1)~~ 1. An original or certified copy of a birth certificate.

~~(2)~~ 2. Evidence of good moral character satisfactory to the board.

~~(3)~~ 3. Evidence satisfactory to the board that the applicant is a graduate of a foreign medical school approved by the licensing authority of the jurisdiction or country in which such medical school is located and is the holder of an approved diploma or degree recognized by the board as evidencing a level of training from said approved foreign medical school commensurate with medical training required by approved medical schools in the United States.

~~(4)~~ 4. If the applicant is licensed to practice medicine and surgery in a foreign country, the original or a certified copy of his or her then current license to practice medicine and surgery in ~~such~~ the foreign country, issued by the school from which he or she graduated or by the appropriate licensing body of the country in which he or she was originally licensed. If applicant is not so licensed, evidence satisfactory to the board that the applicant has passed an examination, or is eligible therefor, which is substantially equivalent to the examination given by the board to applicants for a license to practice medicine in all of its branches in Minnesota.

~~(5)~~ 5. Evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education~~, his having passed~~ and passage of the ECFMG English test and ~~his having passed~~ the ECFMG examination.

~~(6)~~ 6. The name and location of the institution at which such graduate training will be taken, and evidence that the institution has accepted the applicant for training.

~~(7)~~ 7. In the case of an applicant for residency training, evidence satisfactory to the board that ~~said~~ the applicant has completed at least ~~twelve (12)~~ months of hospital training as an intern in a hospital acceptable to the board.

~~(8)~~ 8. The information required by ~~ME 2(b)(5) and ME 2(b)(6)~~ 7 MCAR § 4.002 B.4. and 5.

~~(c)~~ C. Postgraduate training. Upon issuance of a temporary certificate for graduate training, the holder may take postgraduate training in a teaching institution within the state of Minnesota approved for resident training by the board.

~~(d)~~ D. Services allowed. The holder of ~~such~~ a temporary certificate may perform those services incident to the training prescribed by the approved institution while acting under the direction of a person licensed to practice medicine and surgery in this state; provided, however, that no fee or remuneration of any kind shall be collected by the holder of ~~such certificates~~ a certificate from any patients treated by ~~him~~ the holder; and, provided, further, that ~~said~~ the holder of the certificate shall confine his or her training and practice to the institution or group of institutions designated in ~~his~~ the original or amended application.

~~(e)~~ E. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for ~~such~~ a temporary permit or certificate shall be notified of ~~such~~ this determination and the grounds ~~therefor~~ for it and may be granted a hearing ~~thereon in accordance with the provisions of~~ on this determination according to ME 63~~,~~ by filing a statement of issues with the board within ~~twenty (20)~~ days after receipt of ~~such~~ the notice from the board. After ~~such~~ the hearing, the board shall notify the applicant in writing~~,~~ of its decision ~~thereon~~.

~~(f) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects, or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph~~

becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.

ME 7 7 MCAR § 4.007 Licensure of foreign graduates in medicine and surgery.

(a) A. Who may apply. A graduate of a foreign medical school may apply for admission to a licensing examination in accordance with MSA Minnesota Statutes, section 147.02, by filing with the board an application on forms provided by the board, which forms shall must include the following information:

(1) 1. The information required by ME 2(b)(3); ME 2(b)(5); and ME 2(b)(6) 7 MCAR § 4.002 B.3., 4., and 5.

(2) 2. Evidence satisfactory to the board that the applicant is a graduage of a foreign medical school and is the holder of an approved diploma or degree recognized by the board as evidencing a level of training from said the approved foreign medical school commensurate with the medical training required by approved medical schools in the United States.

(3) 3. An original or certified copy of a birth certificate.

(4) 4. If the applicant is licensed to practice medicine and surgery in a foreign country, the original or a certified copy of his the license to practice medicine and surgery in such the foreign country, issued by the school from which he or she graduated or by the appropriate licensing body of the country in which he or she was originally licensed. If the applicant is not so licensed, evidence satisfactory to the board that the applicant has passed an examination, or is eligible therefor for it, which is substantially equivalent to the examination given by the board to applicants for a license to practice medicine in all of its branches in Minnesota.

(5) 5. Evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education, his having passed and passage of the ECFMG English test and his having passed the ECFMG examination.

(6) 6. The name and location of the institution at which such the graduate training will be taken, and evidence that the institution has accepted the applicant for training.

(7) 7. (a) Evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education, his having passed and passage of the ECFMG English test, and his having passed the ECFMG examination, and (b) evidence satisfactory to the board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the board, or other graduate training approved by the board. The evidence required in clause (a) hereof shall is not be required, however, if the applicant is a diplomate of a medical specialty board, approved by the American Medical Association, or if the applicant has successfully completed the licensure examination prepared and graded by the Federation of State Medical Boards of the United States.

(b) B. Definition. As used herein, the term "foreign medical school" shall mean means a medical school located outside the United States and Canada.

(c) C. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for examination shall be notified of such this determination and the grounds therefor for it and may be granted a hearing thereon in accordance with the provisions of on this determination under ME 63, by filing a statement of issues with the board within twenty (20) days after receipt of such the notice from the board. After such the hearing the board shall notify the applicant, in writing, of its decision thereon.

(d) D. Filing deadline. All applications for examination must be fully completed and forwarded to the secretary of the board, postmarked not later than thirty (30) days before the date of the examination.

(e) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or

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~~country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.~~

~~ME 8~~ 7 MCAR § 4.008 Licensure to practice medicine and surgery by persons licensed to practice osteopathy.

~~(a)~~ A. Who may apply. Any person licensed to practice osteopathy in this state under ~~MSA~~ Minnesota Statutes, sections 148.11 to 148.16~~, inclusive,~~ may apply to this board for admission to a licensing examination to practice medicine and surgery by filing with the board an application as ~~hereinafter~~ prescribed in this rule.

~~(b)Such~~ B. Form and content of application. The application ~~shall~~ must be submitted on forms prepared by the board and ~~shall~~ must include the following information:

~~(1)~~ 1. An original or certified copy of diploma from an osteopathic college, ~~duly~~ accredited by the board, indicating that the applicant has satisfactorily completed a course of study acceptable to the board, and that he or she has received from such college the degree of Doctor of Osteopathy.

~~(2)~~ 2. An original or certified copy of the applicant's then current license to practice osteopathy in this state.

~~(3)~~ 3. The information required by ~~ME 2(b)(3); ME 2(b)(4); ME 2(b)(5); and ME 2(b)(6)~~ 7 MCAR § 4.002 B.3., 4., and 5.

~~(4)~~ 4. The applicant's statement as to the locations at which he or she has practiced osteopathy from the date of ~~his~~ licensure, showing the beginning and ending dates for each ~~such~~ location.

~~(c)~~ C. Required passage of examination. The applicant, prior to licensure to practice medicine and surgery, shall ~~be required to~~ satisfactorily pass an examination prepared and graded by the Federation of State Medical Boards of the United States.

~~(d)~~ D. Ineligible applicants. An applicant whose credentials are determined by the board to indicate ineligibility for examination shall be notified of ~~such~~ this determination and the grounds ~~therefor~~ for it and may be granted a hearing ~~thereon in accordance with the provisions of~~ on this determination under ME 63~~,~~ by filing a statement of issues with the board within ~~twenty (20)~~ days after receipt of ~~such~~ the notice from the board. After ~~such~~ the hearing the board shall notify the applicant~~,~~ in writing~~,~~ of its decision ~~thereon~~.

~~(e)~~ E. Filing deadline. All applications for examinations must be fully completed and forwarded to the secretary of the board, postmarked not later than ~~thirty (30)~~ days before the date of the examination.

~~(f) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalizatuon as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects, or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United states as above set forth, the board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States~~

~~and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.~~

State Board of Medical Examiners

Proposed Rule Regarding the Practice of Physical Therapy

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Medical Examiners proposes to adopt the above entitled rules without a public hearing. The Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982).

Minnesota Statutes section 148.70 establishes the authority for the Board of Medical Examiners, with the advice and the assistance of the Physical Therapy Examining Advisory Council (whose existence and role is stipulated by statute) to regulate the practice of physical therapy in the interest and protection of the state. The Board has promulgated rules regulating the practice of physical therapy which fulfills the requirements of 148.70. However, through the administration of the existing physical therapy rules and with the assistance of the Physical Therapy Examining Advisory Council, the Board has developed new rules based upon the Board's experience in regulating physical therapy rules. Additionally, a statement of need and reasonableness that describes the need and reasonableness of the proposed rules has been prepared and is available for inspection by the public during regular business hours or a copy may be provided upon request, at the address below.

Persons interested shall have 30 days, specifically until January 25, 1984, to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written request to the address below.

Unless seven (7) or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota statutes 14.13-14.20 (1982). The agency asks that persons requesting a public hearing identify the particular provisions objected to, the suggested modifications to the proposed rules, and the reasons or data relied on to support the suggested modifications.

Please be advised that Minn. Stat. chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. § 10A.01, subdivision 11 defines a lobbyist as an 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 travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative administrative action by communicating or urging others to communicate with public officials. The statute provides certain exeptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

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CERTIFICATE OF BOARD'S

ADOPTION OF RULES RESOLUTION

I, Arthur W. Poore, do hereby certify that I am the Executive Secretary of the Minnesota Board of Medical Examiners, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of the resolution adopted at a meeting of the said Board of Medical Examiners duly and properly called and held on the 10th day of March, 1984; that a quorum was presented 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 rules relating to medical licensure requirements identified as 7 MCAR §§ 4.002 and 4.004-4.008 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. §§ 147.01, subd. 3 (1982) and that Arthur W. Poore, Executive Secretary of the Minnesota Board of Medical Examiners, be and hereby is authorized to sign an order adopting those rules."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 15th, day of April, 1984.

STATE OF MINNESOTA

BOARD OF MEDICAL EXAMINERS

Arthur W. Poore

ARTHUR W. POORE
Executive Secretary

CITIZENSHIP AND EXAMINATION PASSING SCORE RULES

STATEMENT OF NEED AND REASONABLENESS

Minnesota rules 7MCAR § 4.002, 4.004, 4.005, 4.006, 4.007 and 4.008 establish the licensure requirements for the practice of medicine in the state of Minnesota. Over the last several decades these rules have served as the regulative standards for administering the Medical Practices Act, Minnesota Statute § 147.01 et. seq.

Two rule changes are being proposed at this time. The citizenship requirements in the existing rules are being deleted because of a series of court decisions and legal opinions throughout the country holding such restrictions to be unconstitutional. The other change concerns the passing score for the licensure examinations used by the Board to license physicians and osteopaths. A change is being made to keep Minnesota standards for medical licensure equivalent to other states. This document will go deeper into need and reasonableness for the changes.

In preparing this draft for public hearing the revisor's office made minor changes to the rule. The changes consist of adding titles to the sub-sections, grammatical changes (changing "shall" to "must", "thereof" to "of it", etc.), updating gender (changing "he" to "he or she"), and spelling out abbreviations (changing "MSA" to "Minnesota Statutes", "M.D." to "medical doctor", "30" to "thirty", etc.). While these changes clarify and update the rule, they do not change the intent or thrust of the rule. Therefore these minor changes will not be covered in this text.

7 MCAR § 4.002 APPLICATION FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY

A. No change

B. No change

C. No Change

D. No Change

E. No Change

F. No Change

G. THIS ENTIRE SUB-SECTION HAS BEEN DELETED.

It is the opinion of the Attorney General's office that this provision, based upon legal interpretation and existing court precedents, would not stand up to the "equal protection clause" of the 14th Ammendment to the U.S. Constitution. The 14th Ammendment requires that "No State shall...deny to any person within its jurisdiction the equal protection of the law." Since this rule would prevent residents of Minnesota, who are not citizens of the United States or Canada, from being able to meet the same criterea for medical licensure as U.S. citizens, it is apparent that this particular rule is not constitutional. Because the rule is unconstitutional, the Board has not enforced the citizenship requirements since shortly after being advised by the Attorney General's office that the rule is unenforceable. A copy of a letter from the Attorney General's Office to the Medical Board regarding this rule has been enclosed in the appendix.

7 MCAR § 4.004 LICENSE BY RECIPROCITY TO PRACTICE MEDICINE AND SURGERY

A. No Change

B. No Change

C. PASSING GRADE. A FLEX WEIGHTED AVERAGE OF 75.0 OR A GRADE AVERAGE OF 75.0 ON EXAMINATION OTHER THAN FLEX SHALL BE THE PASSING GRADE ON ALL EXAMINATIONS GRADED BY THE BOARD. ~~A-MINIMUM-GENERAL-AVERAGE-OF-75-IN-ALL-SUBJECTS-SHALL-CONSTITUTE-A-GRADE-SATISFACTORY-FOR-LICENSURE.--AN-APPLICANT-MAY-FALL-BELOW-75-IN-ONE-SUBJECT-AND-STILL-BE-LICENSED-BY-THE-BOARD.--IF-AN-APPLICANT-FALLS-BELOW-75-IN-MORE-THAN-TWO-SUBJECTS,-IT-SHALL-CONSTITUTE-A-FAILURE-AND-REQUIRE-THAT-THE-APPLICANT-RETAKE-THE-ENTIRE-EXAMINATION-WITH-PASSING-GRADES-IN-ORDER-TO-BE-ELIGIBLE-FOR-LICENSURE.-AN-APPLICANT-FAILING-TWO-SUBJECTS-MAY-RETAKE-THE-TWO-SUBJECTS-AT-THE-NEXT-EXAMINATION-AND-UPON-RECEIVING-A-MINIMUM-GRADE-OF-75-IN-EACH-MAY-BE-ELIGIBLE-FOR-LICENSURE.~~ IF THE APPLICANT FAILS THE EXAMINATION HE OR SHE SHALL REPEAT THE ENTIRE EXAMINATION. AN APPLICANT MAY TAKE THE TEST NO MORE THAN FIVE TIMES, AT WHICH POINT HE OR SHE IS NO LONGER ELIGIBLE TO TAKE THE EXAMINATION. AN APPLICANT WHO HAS FAILED THE EXAMINATION FIVE TIMES IS NOT ELIGIBLE FOR LICENSURE BY THE BOARD.

The changes in the passing grade for the examinations required for medical licensure, stipulated in this particular rule, represents an upgrading of Minnesota's standards so that it will equivalent to most other states. Although the change in the passing score from an average of 75 to an average of 75.0 seems rather insignificant, it does represent a change in the actual passing score. An average of 75.0 would yield a lowest possible score of 74.51, in actuality this represents a change of almost one-half point. This change in the passing test score requirement is not an unreasonable increase in that medical licensure in almsot every other state requires compliance with this standard. No appreciable shortage of physicians has resulted. While this score is reasonably attainable, it is sufficiently high to assure that only competent individuals pass the examination and are licensed to practice medicine in Minnesota. This change will assist in processing reciprocity applications and will provide Minnesota residents with medical standards equivalent to other states.

The rule is also being changed to prohibit an individual from taking the examination more than five times as well as to prohibit licensure of an applicant who took the examination more than five times outside of Minnesota. It is the Board's view that failure to pass the examination after a number of attempts reflects on the competence of the individual. If an applicant fails the examination more than give times, any subsequent passing score may reflect that the applicant has learned how to take the examination rather than proving that the applicant has become competent to practice medicine. A competent medical graduate has ample opportunity to prove his or her ability over the course of five examinations. If the applicant fails each of these times, the Board is justified in concluding that the applicant should not practice medicine in Minnesota.

The setting of a limit on the number of times a person may take a licensure examination is not unusual. Most graduates of American medical schools take an examination administered by the National Board of Medical Examiners to enable them to become licensed in Minnesota. The National Board cannot limit the number of times a medical student takes the examination because it is administered by the medical schools. However, the National Board refuses to recognize any score obtained by a medical student who has failed the examination four times. (The National Board allows an applicant to take the examination three times, with an extra opportunity based upon petition.) Thus the National Board has set a limit of four times on the number of times a student may take its examination and have his or her score certified to the state licensing authority. The Board's licensing examination is primarily administered to foreign medical graduates. By allowing FLEX applicants unlimited opportunities to take the FLEX the applicant would have an unreasonable advantage, over American trained physicians, an advantage which might cover-up medical liabilities.

The final sentense of the proposed rule is necessary for reasons of fairness when an applicant seeks licensure by reciprocity. Since no one will be able to take the FLEX examination more than five times in Minnesota, it would be unfair to license by reciprocity an applicant who took the examination more than five times in another state. The provision will prohibit licensure under these circumstances.

D. THIS ENTIRE SUB-SECTION HAS BEEN DELETED.

This rule is a citizenship requirement identical to 7MCAR 4.002.G. The need and reasonableness for deleting this rule would be same as the arguement presented in that section.

7 MCAR 4.005 LICENSURE BY ENDORSEMENT WITHOUT EXAMINATION TO PRACTICE MEDICINE AND SURGERY.

A. No Change

B. No Change

C. No Change

D. THIS ENTIRE SUB-SECTION HAS BEEN DELETED.

This rule is a citizenship requirement identical to 7MCAR 4.002.G.

The need and reasonableness for deleting this rule would be the same as the

arguement presented in that section.

7 MCAR § 4.006 TEMPORARY PERMITS TO PRACTICE MEDICINE AND TEMPORARY CERTIFICATES FOR GRADUATE TRAINING.

A. No change

B. No change

C. No change

D. No change

E. No change

F. THIS ENTIRE SUB-SECTION HAS BEEN DELETED.

This rule is a citizenship requirement identical to 7 MCAR § 4.002.G. The need and reasonableness for deleting this rule would be the same as the arguement presented in that section.

7 MCAR § 4.007 LICENSURE OF FOREIGN GRADUATES IN MEDICINE AND SURGERY.

A. No change

B. No change

C. No change

D. No change

E. THIS ENTIRE SUB-SECTION HAS BEEN DELETED

This rule is a citizenship requirement identical to 7 MCAR § 4.002.G. The need and reasonableness for deleting this rule would be the same as the arguement presented in that section.

7 MCAR § 4.008 LICENSURE TO PRACTICE MEDICINE AND SURGERY BY PERSONS LICENSED TO PRACTICE OSTEOPATHY.

A. No change

B. No change

C. No change

D. No change

E. No change

F. THIS ENTIRE SUB-SECTION HAS BEEN DELETED.

This rule is a citizenship requirement identical to 7 MCAR § 4.002.G. The need and reasonableness for deleting this rule would be the same as the arguement presented in that section.

RESOLUTION

"RESOLVED, that the rules relating to medical licensure requirements identified as 7 MCAR §§ 4.002 and 4.004-4.008 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. § 147.01, subd. 3 (1982) and that Arthur W. Poore, Executive Secretary of the Minnesota Board of Medical Examiners, be and hereby is authorized to sign an order adopting those rules."

Passed on 3/10/84

STATE OF MINNESOTA BEFORE THE MINNESOTA

COUNTY OF HENNEPIN BOARD OF MEDICAL EXAMINERS

In the Matter of the Proposed Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the Use of Examinations and the Citizenship Requirements for Those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

CERTIFICATE OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General John A. Breviu, do hereby declare that I have examined the above-captioned and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed without any exceptions.

Dated: April 16, 1984

John A. Breviu

JOHN A. BREVIU
Special Assistant
Attorney General

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of the Proposed Rule Regarding Changes in the Initial Licensure Requirements, Specifically Regarding the Use of Examinations and the Citizenship Requirements for Those Physicians and Osteopaths Seeking Licensure to Practice Medicine in Minnesota

AFFIDAVIT OF MAILING

Barbara DeLong, being first duly sworn, deposes and says:

That between the 28th and 30th days of December, 1983, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without a Public 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 who have requested that their names be placed on file with the Minnesota Board of Medical Examiners for the purpose of receiving notice of the proposed adoption of rules by the Minnesota Board of Medical Examiners.

Barbara DeLong
BARBARA DeLONG

Subscribed and sworn to before me
this 12th day of April, 1984.

Alice D. Hummer

ALICE D. HUMMER
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 18, 1988