


# Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1112

# RULE REVIEW CHECKLIST

DATE RULE RECEIVED 11-29-84
DATE FOR REVIEW 12-8-84
DATE DUE 12-13-84

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

Approved 12/13/84 (CDS) Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 12-14-84 Revisor approved _____ disapproved _____

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✓ Rule as Adopted

✓ Rule as Proposed see SR.

✓ Order Adopting 11.14.84 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 5.21.84 + comment

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency fails to comply with AG rule, 2000.0400, subp. 2, G.

✓ Affidavit (Concerning) of Mailing Notice or rulemaking – affidavit of no list
N/A At least 30 days prior to hearing/adoption

N/A Mailing list Certificate

✓ Publication in State Register
10.1.84 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

Agency's Findings of Fact

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-00066-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

# Office Memorandum

TO: J. Michael Miles
Assistant Attorney General
Administration/Finance Division

DATE: November 26, 1984

FROM: Catherine E. Avina
Special Assistant
Attorney General

PHONE: 341-7272

SUBJECT: In the Matter of Proposed Amendments to Board of Optometry Rules Governing Continuing Education and Licensure.

Pursuant to Minn. Stat. § 14.26, the attached documents in support of the above-referenced rule amendments are submitted to your office for approval as to the legality of the adopted amendments:

1. A copy of the Notice of Intent to Solicit Information or Opinions from Nonagency Sources on Rule Revisions, published May 21, 1984, at 8 S.R. 2482 and a photocopy of the cited State Register page.

2. Written comment received: Letter of June 6, 1984, from Roger Pabst, OD, President, Minnesota Optometric Association.

3. Certificate of Board's Authorizing Resolution, executed August 9, 1984, directing the executive secretary of the Board to publish a notice of intent to adopt rules without a public hearing.

4. Order for Notice of Intent to Adopt Rules Without Public Hearing, executed August 8, 1984.

5. Notice of Intent to Adopt Rules Without a Public Hearing, executed August 8, 1984.

6. A photocopy of the relevant pages of the October 1, 1984, State Register, in which the Notice and proposed amendments referenced in number 4 above were published (9 S.R. 690).

7. Statement of Need For and Facts Establishing Reasonableness of Amendments.

8. Affidavit concerning mailing of Notice of Intent to Adopt Rules.

9. Affidavit setting forth that the Board received no requests for notice of submission of the rule to the attorney general.

10. Certificate of Board's Resolution Adopting Rules, executed November 14, 1984.

RECEIVED
NOV 29 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

11. Order Adopting Noncontroversial Rules, executed November 14, 1984.

12. The original and three copies of the amended rule as adopted.

13. Statement of Compliance with Rulemaking Procedures.

Please call me if you have any questions concerning the attached documents or the procedures followed by the Board.

CEA:lb

Attachments

cc: Burt Skuza, OD

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

# Office Memorandum

TO: Burton H. Skuza, O.D.
Executive Secretary, Board of Optometry

DATE: 12/14/84

ATTN: Catherine Avina

FROM: Special Assistant Attorney General
Larry D. Starns LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Amendment and Adoption of Rules of the Minnesota Board of Optometry

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.

LDS:sz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Board of Optometry

Adopted Rules Governing Continuing Education and Licensure

Rules as Adopted

6500.0900 REQUIRED CONTINUING EDUCATION.

All optometrists now or hereafter licensed in this state are and shall be required, as a prerequisite to license renewal, to attend within a three-year period courses totaling at least 45 clock hours of study of educational optometric programs approved by the board under parts 6500.0900 to 6500.1700. If an optometrist becomes ineligible for license renewal for failure to comply with continuing education requirements, he shall be suspended from further practice. The board shall reinstate any such suspended license upon receipt of satisfactory proof that the suspended licensee has made up the deficient hours of study.

6500.1000 STUDY COMPLIANCE YEAR.

The optometric study compliance period must begin on January 1 and encompass three calendar years, concluding on December 31 of the third year. No credit for attendance shall be given unless the board determines that an educational program complied with the criteria in part 6500.1200.

6500.1100 CONTINUING EDUCATION PROGRAMS.

A program sponsor requesting approval by the board must submit a program, schedule, and course description to the board executive secretary not less than 45 days prior to the date of the program. The board shall respond to all applications within a reasonable time. The board may, upon application of any licensee and for good cause shown, waive the requirement for the submission of advance information and request for prior approval. Nothing herein shall permit the board to approve of an educational program which has not complied with the criteria in part 6500.1200. Courses not eligible for credit shall be so identified by the program sponsor.

6500.1500 CREDIT HOURS.

The board reserves the right to determine the number of hours credit for any course or program under part 6500.1100.

Credit shall not be given for more than six hours' attendance in courses of office management or administration, or more than nine hours of home study courses, in the three-year compliance period.

6500.1600 EXEMPTIONS FROM REQUIRED ATTENDANCE.

The following licensees shall be exempt from the requirements of this part:

A. any licensee serving in the regular armed forces of the United States during any part of the 12 months immediately preceding the annual license renewal date; and

B. those licensees as the board, in its discretion, determines were unable to attend sufficient hours of continuing education courses because of illness, incapacity, or other unavoidable circumstances.

Any licensee first licensed by examination or reciprocity is exempt for the calendar year in which the license is issued, but is responsible proportionately for the remainder of the compliance period as follows: one year, 15 hours; two years, 30 hours.

6500.2000 INDIVIDUAL ANNUAL LICENSE RENEWAL.

Subpart 1. Fee. On or before January 1 of each year, the board shall receive a license renewal fee of $65 from every licensed optometrist who desires to continue to be entitled to practice in this state.

Subparts 2 to 5. [Unchanged.]

6500.2100 RECIPROCITY.

Subpart 1. Good cause defined. To determine whether an applicant for licensure by reciprocity is required to take a practical examination, the term "good cause" under Minnesota Statutes, section 148.57, subdivision 2, means that the applicant:

A. has not regularly practiced for the three-year

period immediately preceding the application;

B. has not attended at least 45 hours of continuing education during the same period;

C. suffers from a physical or mental condition which could affect the applicant's fitness to practice;

D. has previously been denied or has failed to maintain licensure in Minnesota;

E. is not in good standing in any state in which the applicant is licensed; or

F. has been convicted of a crime reasonably related to the practice of optometry during the three-year period immediately preceding the application.

The applicant must show by sworn statement that none of the circumstances listed exists.

Subp. 2. Equivalency of state requirements. In accordance with Minnesota Statutes, section 148.57, subdivision 2, another state's licensure requirements shall be deemed to be equivalent to Minnesota's if the state requires that each applicant:

A. be of good moral character;

B. be a graduate of an optometry school which requires at least two academic years of preprofessional training for admittance and which is approved by the board;

C. pass a practical clinical demonstration which thoroughly tests the applicant's fitness to practice; and

D. pass the written competence examination required of new licensees under Minnesota Statutes, section 148.57, subdivision 1. This item applies only to licensure granted in the other state after July 31, 1973.

Applicants granted licensure by reciprocity are not authorized to purchase, possess, or administer topical ocular drugs in this state. Requirements for these practices are set forth in Minnesota Statutes, section 148.573.

A fee of $50 shall accompany every application for licensure by reciprocity.

6500.2300 CLINICAL PRACTICAL DEMONSTRATION.

A clinical practical demonstration must be given in

sections covering pathology, contact lenses, refraction, and any other sections the board deems necessary. The board shall give written notice to the applicant of the sections on which he or she will be examined. No applicant will be required to be examined on a subject on which other applicants are not examined. All sections must be equally weighted in value. A score of less than 75 percent of the total number of section points constitutes failure of the entire clinical demonstration. A single score of less than 65 percent of any single section constitutes failure of the entire demonstration.

6500.2400 JURISPRUDENCE TEST.

A test on Minnesota optometric jurisprudence shall be given and must be passed with a grade of 65 percent or better. An applicant who fails the Minnesota jurisprudence test and passes the clinical practical demonstration sections may repeat the jurisprudence test only. If the clinical practical demonstration portion is failed, the entire demonstration must be retaken, including the Minnesota jurisprudence test.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 14 1984
Joan Anderson Growe
Secretary of State
3:30 PM

APPROVED AS TO LEGALITY
December 13, 1984
HUBERT H. HUMPHREY III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

PROPERTY OF
ATTORNEY GENERAL LIBRARY
SEP 28 1984

ATTORNEY GENERAL'S OFFICE
HEALTH DIVISION
136 University Park Plaza Bldg.
2829 University Ave. S. E.
MINNEAPOLIS, MINN. 55414

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MINNEAPOLIS, MINN. 55414

# STATE REGISTER

STATE OF MINNESOTA

OCT 1984
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ATTORNEY
GENERAL
HEALTH



VOLUME 9, NUMBER 14

October 1, 1984

Pages 685-716

# PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Board of Optometry

### Proposed Rules Governing Continuing Education and Licensure

#### Notice of Intent to Adopt Rules and to Amend Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Board of Optometry (hereinafter "Board") proposes to adopt the following rules: parts 6500.2300 and 6500.2400.

NOTICE IS ALSO GIVEN that the Board proposes to amend the following rules: parts 6500.0900, 6500.1000, 6500.1100, 6500.1500, 6500.1600, 6500.2000, and 6500.2100. A copy of the proposed new rules and amendments are attached to this Notice.

The Board has determined that the proposed new rules and amendments will be noncontroversial in nature and has elected to follow the provisions of Minn. Stat. §§ 14.21-14.28 (1982). Sections 14.21-14.28 provide for an expedited process for the adoption of noncontroverted administrative rule changes without the holding of a public hearing.

THE PUBLIC IS HEREBY ADVISED that:

1. There is a 30-day period in which to submit comment in support of or in opposition to the proposed rules and amendments and comment is encouraged:

2. Each comment should identify the portion of the proposed rule or amendments addressed, the reason for the comment, and any change proposed;

3. If twenty-five or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held;

4. All comments and any written requests for a public hearing shall be submitted to Burton H. Skuza, OD, Executive Secretary, Minnesota Board of Optometry, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414.

5. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule or amendment addressed, the reason for the request, and any change proposed;

6. The proposed rules and amendments may be modified if modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language;

7. Under this expedited procedure, the Board must submit any action on its rules to the attorney general for review of the form and legality of the rule change. If a hearing is not required, notice of the date of submission of the proposed rules to the attorney general for review will be mailed to any person who requests to receive the notice. Requests to receive notice must be submitted to Burton H. Skuza, OD, at the above address;

8. Authority for the adoption and amendment of these rules is contained in Minnesota Statutes, sections 148.53, 148.57, 148.59, 214.06, and 214.12 (1982). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and amendments has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Burton H. Skuza, OD, at the above address;

9. If twenty-five or more persons request a public hearing on this matter, notice of any such hearing will be published in the *State Register*;

10. Any rule change made pursuant to this proceeding shall be effective five days after publication in the *State Register* of notice of the adoption of the change.

August 8, 1984

Burton H. Skuza, O.D.
Executive Secretary

## Rules as Proposed

### 6500.0900 REQUIRED CONTINUING EDUCATION.

All optometrists now or hereafter licensed in this state are and shall be required, as a prerequisite to license renewal, to attend ~~annually~~ within a three-year period courses totaling at least ~~12~~ 45 clock hours of study of educational optometric programs ~~as may be~~ approved by the board under ~~the provisions of~~ parts 6500.0900 to 6500.1700. ~~In the event~~ If an optometrist becomes ineligible for license renewal for failure to comply with continuing education requirements, he shall be suspended from further practice. The board shall reinstate any such suspended license upon receipt of satisfactory proof that ~~such~~ the suspended licensee has made up the deficient hours of study.

### 6500.1000 STUDY COMPLIANCE YAR.

The optometric study compliance ~~year shall extend from January 1 through December 31. Courses attended during that period will be credited to the current license renewal year. Credit for approved courses attended between January 1 and March 31 may be applied to either the current or subsequent license renewal year but not both~~ period must begin on January 1 and encompass three calendar years, concluding on December 31 of the third year. No credit for ~~such~~ attendance shall be given~~, however,~~ unless the board determines that ~~such~~ an educational program complied with the criteria ~~as set forth~~ in part 6500.1200.

### 6500.1100 APPROVED CONTINUING EDUCATION PROGRAMS.

~~Educational programs which are approved as meeting the required standards are indicated below. This approval is and shall be based on continued maintenance of high standards. Courses not eligible for credit shall be so identified by the program sponsor.~~

~~A. Courses on subjects relative to optometry at any board approved school or college of optometry.~~

~~B. Educational meetings of the North Central States Optometric Conference.~~

~~C. Educational meetings of the Minnesota Optometric Association.~~

~~D. Educational meetings of the American Optometric Association.~~

~~E. Educational meetings of the American Academy of Optometry.~~

~~F. Other educational programs approved by the board as meeting the criteria as set forth in part 6500.1200, after submission of~~ A program sponsor requesting approval by the board must submit a program, schedule, and ~~outline~~ course description to the board executive secretary not less than 45 days prior to the date of the program. The board shall respond to all applications within a reasonable time. The board may, upon application of any licensee and for good cause shown, waive the requirement for the submission of advance information and request for prior approval. Nothing herein shall permit the board to approve of an educational program which has not complied with the criteria ~~as set forth~~ in part 6500.1200. Courses not eligible for credit shall be so identified by the program sponsor.

### 6500.1500 CREDIT HOURS.

The board reserves the right to determine the number of hours credit for any course or program under part 6500.1100.

Credit shall not be given for more than ~~two~~ six hours' attendance in courses of office management or administration, or more than nine hours of home study courses, in the three-year compliance period.

### 6500.1600 EXEMPTIONS FROM REQUIRED ATTENDANCE.

The following licensees shall be exempt from the requirements of this part:

A. any licensee serving in the regular armed forces of the United States during any part of the 12 months immediately preceding the annual license renewal date; and

B. those licensees as the board, in its discretion, determines were unable to attend sufficient hours of continuing education courses because of illness, incapacity, or other unavoidable circumstances~~; and~~.

~~C.~~ Any licensee first licensed by examination or reciprocity ~~within the 12 months immediately preceding the annual license renewal date~~ is exempt for the calendar year in which the license is issued, but is responsible proportionately for the remainder of the compliance period as follows: one year, 15 hours; two years, 30 hours.

**6500.2000 INDIVIDUAL ANNUAL LICENSE RENEWAL.**

**Subpart 1. Fee.** On or before ~~March 31~~ January 1 of each year, the board shall receive a license renewal fee of $65 from every licensed optometrist who desires to continue to be entitled to practice in this state. ~~The amount of said fee to be received by the board not later than March 31, 1978, for licensure between April 1, 1978, and March 31, 1979, shall be $65. Thereafter, subject to the approval of the state commissioner of finance under Minnesota Statutes, sections 16A.128 and 214.06, subdivision 1, the amount of said fee shall be as determined by the board at open meetings for which not less than 30 days advance notice is published in the State Register and at which meetings any affected persons shall be given an opportunity to present pertinent oral or written statements. No renewal fee determined by the board pursuant to this subpart for licensure subsequent to March 31, 1979, shall exceed 115 percent of the renewal fee of the immediately preceding licensure year nor, in conjunction with all other authorized board fees, result in the collection of amounts not approximately equal to anticipated board expenditures. Such anticipated expenditures may include only reasonable or required costs associated with the board's necessary purchase of or payment for those services and staff required by Minnesota Statutes, section 214.04, authorized board member compensation, and the economical administration of the act.~~

**Subparts 2 to 5.** [Unchanged.]

**6500.2100 RECIPROCITY.**

**Subpart 1. Good cause defined.** To determine whether an applicant for licensure by reciprocity is required to take a practical examination, the term "good cause" under Minnesota Statutes, section 148.57, subdivision 2, means that the applicant:

A. has not regularly practiced for the three-year period immediately preceding the application;

B. has not attended at least 45 hours of continuing education during the same period;

C. suffers from a physical or mental condition which could affect the applicant's fitness to practice;

D. has previously been denied or has failed to maintain licensure in Minnesota;

E. is not in good standing in any state in which the applicant is licensed; or

F. convicted of a crime reasonably related to the practice of optometry during the three-year period immediately preceding the application.

The applicant must show by sworn statement that none of the circumstances listed exists.

**Subp. 2. Equivalency of state requirements.** In accordance with Minnesota Statutes, section 148.57, subdivision 2, another state's licensure requirements shall be deemed to be equivalent to Minnesota's if the state requires that each applicant:

A. be of good moral character;

B. be a graduate of an optometry school which requires at least two academic years of preprofessional training for admittance and which is approved by the board;

C. pass a practical clinical demonstration which thoroughly tests the applicant's fitness to practice; and

D. written competence examination required of new licensees under Minnesota Statutes, section 148.57, subdivision 1. This item applies only to licensure granted in the other state after July 31, 1973.

Applicants granted licensure by reciprocity are not authorized to purchase, possess, or administer topical ocular drugs in this state. Requirements for these practices are set forth in Minnesota Statutes, section 148.573.

A fee of ~~$100~~ $50 shall accompany every application for licensure by reciprocity.

**6500.2300 CLINICAL PRACTICAL DEMONSTRATION.**

A clinical practical demonstration must be given in sections covering pathology, contact lenses, refraction, and any other sections the board deems necessary. The board shall give written notice to the applicant of the sections on which he or she will be examined. No applicant will be required to be examined on a subject on which other applicants are not examined. All sections must be equally weighted in value. A score of less than 75 percent of the total number of section points constitutes failure of the entire clinical demonstration. A single score of less than 65 percent of any single section constitutes failure of the entire demonstration.

**6500.2400 JURISPRUDENCE TEST.**

A test on Minnesota optometric jurisprudence shall be given and must be passed with a grade of 65 percent or better. An applicant who fails the Minnesota jurisprudence test and passes the clinical practical demonstration sections may repeat the jurisprudence test only. If the clinical practical demonstration portion is failed, the entire demonstration must be retaken, including the Minnesota jurisprudence test.

# ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

## Board of Accountancy

### Adopted Rules Governing Annual License Fees

The rule proposed and published at *State Register*, Volume 8, Number 52, page 2764, June 25, 1984 (8 S.R. 2764) is adopted as proposed.

## Department of Agriculture Agronomy Services Division

### Adopted Rules Amending Agricultural Seed Labeling and Inspection Requirements

The rules proposed and published at *State Register*, Volume 9, Number 3, pages 133-150, July 16, 1984 (9 S.R. 133) are adopted as proposed.

## Department of Agriculture Food Inspection Division

### Adopted Rules Governing Dyeing of Fish and Fish Products

The rule proposed and published at *State Register*, Volume 9, Number 3, pages 150-151, July 16, 1984 (9 S.R. 150) is adopted as proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Amendment and
Adoption of Rules of the
Minnesota State Board
of Optometry

ORDER ADOPTING
NONCONTROVERSIAL
RULES

Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on October 1, 1984. No person or entity has registered with the Board for receiving a copy of the notice pursuant to Minn. Stat. §§ 14.14 and 14.22. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Board of Optometry Governing Continuing Education and Licensure, parts 6500.0900 through 6500.2400 are adopted this 14th day of November, 1984, pursuant to authority vested in the Board by Minnesota Statutes, section 214.06, 214.12, 148.53, 148.57, and 148.59 and pursuant to a resolution of the Board passed on November 14, 1984.

Burton H. Skuza OD

BURTON H. SKUZA, OD
Executive Secretary
Minnesota Board of Optometry

# Minnesota Teachers Retirement Association

## Meeting Notice of Board of Trustees

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Tuesday, June 5, 1984, at 8:
a.m. in Room 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly com
before the Board.

# Department of Natural Resources Minerals Division

## Outside Opinion Sought Regarding Proposed Adoption of Rules Governing Peatland Reclamation

Notice is hereby given that the Minnesota Department of Natural Resources is seeking information or opinions from source
outside the agency in preparing to promulgate rules governing the reclamation of peatlands in order to control possible adver
environmental affects of mining.

The promulgation of these rules is authorized by Minnesota Statutes 1983 Supp., sec. 93.44 and sec. 93.461, which permit th
agency to adopt rules and regulations relating to reclamation of lands subjected to the mining of peat.

The Minnesota Department of Natural Resources requests information and comments concerning the subject matter of th
proposed rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing
Written statements shall be addressed to:

Cindy Buttleman
Division of Minerals
Department of Natural Resources
Box 45
Centennial Office Building
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-4807 and in person at the above
address.

All statements of information and comment will be accepted until June 30, 1984. Any written material received by the
Minnesota Department of Natural Resources shall become part of the record in the event that the rules are promulgated.

Steven G. Thorne, Deputy Commissioner
Department of Natural Resources

# Board of Optometry

## Outside Opinion Sought in Preparing New Rules Governing Clinical Practical Demonstrations and Jurisprudence Testing

Pursuant to Minn. Stat. § 14.10 (1982), notice is hereby given that the Minnesota State Board of Optometry is seeking
information or opinions from persons outside the Board in preparing to promulgate new rules governing clinical practical
demonstrations and jurisprudence testing as authorized by Minn. Stat. § 148.53 (1982); to amend a rule governing continuing
education requirements as authorized by Minn. Stat. §§ 148.53 and 214.12 (1982); to amend a rule governing individual annual
license renewal as authorized by Minn. Stat. §§ 148.53, 148.59, and 214.06 (1982); and to amend a rule governing licensure by
reciprocity as authorized by Minn. Stat. §§ 148.53, and 148.57, subd. 2 (1982).

The Minnesota State Board of Optometry requests information and comments concerning the subject matter of these rules.
Interested or affected persons or groups may submit statements of information or comment to: Dr. Burton Skuza, Executive
Secretary, Room 342, 717 Delaware Street Southeast, P.O. Box 9441, Minneapolis, Minnesota 55440, phone: (612) 623-5544

All statements of information and comment will be accepted until June 20, 1984. Any written material received by the Minnesota State Board of Optometry will become part of the record in the event that the rules are promulgated.

May 10, 1984

Burton H. Skuza, O.D.
Executive Secretary
Minnesota Board of Optometry

# Pollution Control Agency

## Notice of Meeting

The Minnesota Pollution Control Agency will hold a public meeting on Thursday, May 24, 1984 at 9:00 a.m. in the Agency Board room of the Minnesota Pollution Control Agency at 1935 W. County Road B-2, Roseville, Minnesota.

Subject matter to be discussed at the meeting will include:

9:00 a.m. Air Quality Permit Fees
10:00 a.m. Administration of Permit Fee Program
10:30 a.m. Water Quality Permit Fees

Copies of the draft Permit Fee Rule may be obtained by writing or calling:

Mary Kimlinger
Minnesota Pollution Control Agency
Division of Water Quality
1935 W. County Road B-2
Roseville, Minnesota 55113
(612) 296-7232

Written comments concerning the draft rules may also be submitted to the above person.

May 14, 1984

Jay M. Heffern
Deputy Executive Director

# State Planning Agency

## Announcement of First Meeting of Institutional Care and Economic Impact Planning Board

The first meeting of the Institutional Care and Economic Impact Planning Board will be held on June 8, 1984, in the Capitol Square Building, first floor, Conference Rooms A and B, from 10:00 a.m.-12:00 noon. This Board was established by Minnesota Laws 1984 Chapter 654 § 19.

The Planning Board consists of the Commissioners of the departments of Public Welfare, Administration, Employee Relations, Economic Security, Energy and Economic Development, and Finance. The Director of the State Planning Agency serves as Chair.

For additional information, contact:

Colleen Wieck, Executive Director
Developmental Disabilities Program
(612) 296-9964.

# Department of Transportation

## Consolidated Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed Under Minn. Stat. § 169.825

Whereas, the Commissioner of Transportation by Order No. 67790, dated May 27, 1983, which order has been amended by Orders Nos. 68172, 68273, 68362, 68509, 68621, and 68836 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825, and

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the Proposed Amendment and Adoption of Rules of the Minnesota State Board of Optometry

NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION AND INFORMATION

Pursuant to Minn. Stat. § 14.10 (1982), notice is hereby given that the Minnesota State Board of Optometry is seeking information or opinions from persons outside the Board in preparing to promulgate new rules governing clinical practical demonstrations and jurisprudence testing as authorized by Minn. Stat. § 148.53 (1982); to amend a rule governing continuing education requirements as authorized by Minn. Stat. §§ 148.53 and 214.12 (1982); to amend a rule governing individual annual license renewal as authorized by Minn. Stat. §§ 148.53, 148.59, and 214.06 (1982); and to amend a rule governing licensure by reciprocity as authorized by Minn. Stat. §§ 148.53, and 148.57, subd. 2 (1982).

The Minnesota State Board of Optometry requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment to: Dr. Burton Skuza, Executive Secretary, Room 342, 717 Delaware Street Southeast, P.O. Box 9441, Minneapolis, Minnesota 55440, phone: (612) 623-5544.

All statements of information and comment will be accepted until June 20, 1984. Any written material received by the Minnesota State

Board of Optometry will become part of the record in the event that the rules are promulgated.

Dated: April 10, 1984

Burton H. Skuza, O.D.

BURTON H. SKUZA, O.D.
Executive Secretary
Minnesota Board of Optometry

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Amendment and
Adoption of Rules of
the Minnesota State
Board of Optometry

ORDER FOR NOTICE OF
INTENT TO AMEND AND TO
ADOPT RULES WITHOUT A
PUBLIC HEARING

IT IS ORDERED this 8 day of August, 1984, that a Notice of Intent to Adopt Rules and to Amend Rules Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Board of Optometry for that purpose and be published in the State Register.

STATE OF MINNESOTA

Burton H. Skuza, OD

BURTON H. SKUZA, OD
Executive Secretary
Board of Optometry

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Amendment and
Adoption of Rules of
the Minnesota State
Board of Optometry

CERTIFICATE OF
BOARD'S AUTHORIZING
RESOLUTION

I, Harry C. Smith, OD, do hereby certify that I am a member and the President of the Board of Optometry, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Optometry duly and properly called and held on the 11th day of July, 1984, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that Burton H. Skuza, OD, Executive Secretary of the Board of Optometry, be and he hereby is granted the authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to adopt without a public hearing rules governing continuing education requirements, individual annual license renewal, and licensure by reciprocity, to sign the Notice thereof, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, he hereby is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 9th day of August, 1984.

Harry C. Smith OD

HARRY C. SMITH, OD
President

Attested

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Amendment and
Adoption of Rules of
the Minnesota State
Board of Optometry

NOTICE OF INTENT TO
ADOPT RULES AND TO
AMEND RULES WITHOUT
A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Optometry (hereinafter "Board") proposes to adopt the following rules: parts 6500.2300 and 6500.2400.

NOTICE IS ALSO GIVEN that the Board proposes to amend the following rules: parts 6500.0900, 6500.1000, 6500.1100, 6500.1500, 6500.1600, 6500.2000, and 6500.2100. A copy of the proposed new rules and amendments are attached to this Notice.

The Board has determined that the proposed new rules and amendments will be noncontroversial in nature and has elected to follow the provisions of Minn. Stat. §§ 14.21-14.28 (1982). Sections 14.21-14.28 provide for an expedited process for the adoption of noncontroverted administrative rule changes without the holding of a public hearing.

THE PUBLIC IS HEREBY ADVISED that:

1. There is a 30-day period in which to submit comment in support of or in opposition to the proposed rules and amendments and comment is encouraged;

2. Each comment should identify the portion of the proposed rule or amendments addressed, the reason for the comment, and any change proposed;

3. If twenty-five or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held;

4. All comments and any written requests for a public hearing shall be submitted to Burton H. Skuza, OD, Executive Secretary, Minnesota Board of Optometry, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414.

5. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule or amendment addressed, the reason for the request, and any change proposed;

6. The proposed rules and amendments may be modified if modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language;

7. Under this expedited procedure, the Board must submit any action on its rules to the attorney general for review of the form and legality of the rule change. If a hearing is not required, notice of the date of submission of the proposed rules to the attorney general for review will be mailed to any person who requests to receive the notice. Requests to receive notice must be submitted to Burton H. Skuza, OD, at the above address;

8. Authority for the adoption and amendment of these rules is contained in Minnesota Statutes, sections 148.53, 148.57, 148.59, 214.06, and 214.12 (1982). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and amendments has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Burton H. Skuza, OD, at the above address;

9. If twenty-five or more persons request a public hearing on this matter, notice of any such hearing will be published in the State Register;

10. Any rule change made pursuant to this proceeding shall be effective five days after publication in the State Register of notice of the adoption of the change.

Dated: August 8, 1984

STATE OF MINNESOTA

BOARD OF OPTOMETRY

Burton H. Skuza-OD

BURTON H. SKUZA, OD
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Amendment and
Adoption of Rules of the
Minnesota State Board
of Optometry

AFFIDAVIT CONCERNING
MAILING OF NOTICE OF
INTENT TO ADOPT RULES

State of Minnesota )
) ss.
County of Hennepin )

Burton H. Skuza, OD, being first duly sworn, deposes and says:

1. That he is the Executive Secretary of the Minnesota Board of Optometry;

2. He is aware that Minn. Stat. § 14.22 requires the Board to give notice of its intention to adopt a rule without a public hearing by United States mail to all persons who have registered their names with the agency pursuant to section 14.14, subdivision 1a;

3. No person or entity has registered with the Board for the purpose of receiving such notice.

Burton H. Skuza OD

Subscribed and sworn to before me
this 14th day of November, 1984.

Alice D. Hummer

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

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Amendment and
Adoption of Rules of the
Minnesota State Board
of Optometry

CERTIFICATE OF
BOARD'S RESOLUTION
ADOPTING RULES

I, Harry C. Smith, OD, do hereby certify that I am a member and the President of the Board of Optometry, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Optometry duly and properly called and held on the 14th day of November, 1984, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "Resolved, that pursuant to authority vested in us by Minnesota Statutes, sections 214.06, 214.12, 148.53, 148.57, and 148.59, amendments to existing rules and adoption of new rules relating to continuing education requirements, individual annual license renewal, and licensure by reciprocity be and they hereby are approved and adopted as published in the State Register on October 1, 1984, at 9 S.R. 690; and that Burton H. Skuza, OD, executive secretary of the Board of Optometry, be and he hereby is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of November, 1984.

Harry C. Smith OD.
HARRY C. SMITH, OD
President

Mary K. Lacosse O.D.
Attest, Board Member

ROOM 342
717 DELAWARE ST. S.E.
P.O. BOX 9441
MINNEAPOLIS, MINNESOTA 55440
(612) 623-5544

STATE OF MINNESOTA

BOARD OF OPTOMETRY

DRAFT #3

# STATEMENT OF NEED AND REASONABLENESS

The Minnesota Board of Optometry is attempting to promugate four rules through the non-controversial process. These four rules relate to continuing education, examination standards, reciprocity requirements and changes in the individual license renewal. Under the non-controversial process, no public hearing would be necessary, if during the thirty days following publication of rules fewer than seven objections were received, the rule would become law.

## INTRODUCTION

This statement is submitted and would be duly filed by the Minnesota Board of Optometric Examiners (hereinafter cited as "Board") in accordance with Minn. Stat. 14.23 and 9 MCAR 2.104 and 2.105. Its purpose is to present justification for the Board's adoption of the above subject rule provisions. Included are citations to the Board's pertinent rulemaking authority, statements respecting the underlying need for the provisions, and a section-by-section presentations of the Board's supporting rationale.

## I. CONTINUING EDUCATION

### A. NEED

The Board's adoption of a rule change regarding continuing education is necessary to implement 6500.0900 to 16500.1700. Further, as it is set forth in greater detail below, the adoption of the particular provisions are considered necessary at this time to update existing mandatory continuing optometric education require-

ments. Moreoever, its is the position of the Board that it is obligated to the consumer of optometric health care services to seek and insure the competence of optometrists in this State and that mandated continuing education is an appropriate and reasonable means of achieving this end.

B. SUPPORTING RATIONALE

In considering the requirements to be imposed by this rule, the Board was concerned with the following points:

1. To deliberate the previously referred need to protect the health and welfare of the citizens of the State of Minnesota by insuring that optometrists practicing in this State are qualified not only by initial licensure but that they also maintain their competence by continuing education.
2. To insure that continuing optometric education programs are of satisfactory quality to provide significant learning experience.
3. To provide programs which are cost effective to the provider of optometric services and to avoid adopting a rule which could be counterproductive because its requirements are too demanding.

Specifically, the Board's justification for the promulgation of this proposed rule change 6500.0900 to 6500.1700 is as follows:

1. There now exists a Board rule relative to required continuing education . At present, it addresses twelve hours of continuing education each year. Continuing education is being directed to more in depth study programs, constituing a more meaingful learing experience to the professional. This can result in a greater benefit

to the public. To achieve this end, it is proposed that the portion of 6500.0900 to be amended by changing:

a. That the optometrist attend, within a three year period, courses totaling at least 45 clock hours of continuing education.

The change from the compliance of 12 clock hours annually of continuing education to 45 clock hours over a three year period would expand the number of hours required for license renewal. The Board feels the expandsion of continuing education hours is necessary and consistent with the rapidly changing technology in the profession of optometry. The Board also feels that the practioner could participate in programs of longer duration which would not add to the inconvenience or expense to the practioner. Many programs of continuing education exceed the presently required 12 hours for annual license renewal. Therefore, expanding the requirements to 45 clock hours within a three year period would provide the practioner the opportunity to accumulate more hours of specific continuing education programs.

b. It is proposed that compliance period begin in January and encompass three calendar years, concluding on December 31 of the third year.

This change in the compliance period would provide the practioner sufficient flexibility of time. It is reasonable to assume that the practioner

would participate in programs of greater educational depth. This educational experience could result in better health care services to the public.

Additionally, the Board is responsible for the enforcement of optometric standards in this State. The Board is acutely aware of these responsibilities and believe the public would benefit by the proposed rule change to continuing education. Changing philosophies by the schools and colleges of optometry suggest the increasing need for ongoing education in areas such as glaucoma detection, low vision, contact lenses and the diagnosis of visual problems which impede the learning abilities of many children.

The 45 hour figure over a three year compliance period was determined based on the following factor; examination of continuing education requirements of other states indicate that a 45 hour figure over a three year compliance period would fall approximately within the middle to upper range of course hour requirements nationwide.

Although there is question whether optometric continuing educationa can demonstrate that competence has been maintained or improved, it is the Board's view that more likely than not such continuing education requirement does enchance the quality of service and prevent the erosion of the practioner's skills. The proposed change is consistent with the requirements mandated by most of the State's health related licensing boards. The State Legislature has clearly registered its belief in the necessity of required health care

related continuing education by the passage of Minnesota Statutes 148. (1972).

C. CREDIT HOURS 6500.1500

Not more than six hours of office management or administration shall be allowed in each three year compliance period. It is the Board's view that this area of continuing education does not contribute as significantly to the enhancement of the professional's knowledge and, therefore, does not have the same benefit to the public as courses that relate to the clinical practice of optometry.

Not more than nine hours of home study courses shall be allowed in each compliance period. Various optometric educational institutions are presenting high quality programs which are relevant to the optometric practioner. Most programs of home study have a testing mechanism which helps assess the benefits and helps determine the compentence of the licensee. The Board would utilize the same program approval criteria as set forth in 6500.1100. It is also necessary to assess the cost effectiveness of programs of continuing education to the practioner. Half of the optometrists of this State are required to travel in excess of 50 miles to acquire the necessary number of clock hours of continuing education for license renewal each year. If the practioner could participate in programs of home study, it would result in considerable saving to the optometrist.

D. APPROVED PROGRAMS 6500.1100

This section authorizes advance approval of continuing education programs presented by various organizations. The specified organizations mentioned in this rule have been granted advance approval of continuing education programs since the passage of the law requiring continuing education was passed by the Minnesota State Legislature. The specific organizations names in the part of the rule were selected on the basis of continued maintenance of specific standards. It is also recognized that other organizations presenting programs, in addition to those mentioned in the rule, are granted approval when the same cirteria has been met. In the past, such programs have been typically new, only infrequently sceduled, and less well known to the Board. However, in more recent years, the number of programs presented by other organizations other than those mentioned in the rule, have presented programs of significant educational value and have consistently met the standards for approval as set forth by the Board. Programs of continuing education presented by organizations other than those identified in the rules far outnumber those organizations with advance approval.

Therefore, it would be prudent to authorize advance approval of continuing education to other organizations who consistently meet the criteria as set forth by the Board.

Since the programs approved for continuing education number some 60 or more in each compliance period, it may be totally impractical to include each organization in the rule. Therefore, it is proposed that all organizations with authorized advance approval for programs of continuing education be deleted from the rule. The Board would

therefore require all organizations to apply for evaluation of continuing education programs.

The proposed change in rule 6500.1100, deletion of all organizations, would not constitute a significant additional work load to the Executive Secretary of the Board.

It is the view of the Board that the proposed change is justified and equitable and would not remove the essential purpose of continuing education; namely, the provision of reasonable assurance to the public that the practioner's skill and knowledge are at least being maintained.

II. RECIPROCITY 6500.2100

The purpose of this proposed rule change is to impart meaning to the boundaries of competence of an applicant seeking to acuire a license by reciprocity to practice optometry in the State of Minnesota. In order to determine some objective measure of competence, it is reasonable that areas of competence should be defined. It is possible to define competency through education, training or experience. These factors are often used to determine if the applicant qualifies. To maintain standars of competency necessary to assure the licensee has proficiency to practice optometry in the State of Minnesota, the Board has set forth specific requirements to determine whether an applicant qualifies for licensure by reciprocity. The Board, in its judgement, does not feel these standards are unreasonable or too stringent. The specified requirements are in essence equal to what is required to acquire and retain a license to practice optometry in the State of Minnesota.

The rule is necessary to clarify and give express notice of requirement to attain a license of reciprocity in the State of Minnesota. It would cover certain currently undefined terms used in the Optometric Practice Act 148.57, Subd. 2.

This rule would determine whether an applicant for licensure by reciprocity shall be required to pass a clinical practical demonstration. The term "good cause" under Minn. Stat. 148.57, Subd. 2, would mean that the applicant:

1. Would have practiced his professional skills three years immediately preceding his application for licensure by reciprocity. This section is needed

to assure the public that the practioner has maintained his skills by practicing his profession consistently without a lapse in time.

2. Has maintained an equivalent of continuing education required by rule 6500.0900 as other currently licensed optometrists. There is need that he comply with this requirement since continuing education measures a level of competence. It is only reasonable to define continuing education in terms of proficiency gained through education as a factor used to determine whether an applicant meets the requirements for licensure.

3. That an applicant by reciprocity does not suffer from a physical or mental condition which could affect his fitness to practice. There is need to evaluate the fitness of the applicant to determine his ability to provide appropriate health care services to the citizens of the State of Minnesota.

4. That an applicant has previously been denied a license to practice in the State of Minnesota because the applicant did not meet the statuary requirements as set forth by the Board under Minn. Stat. 148.57, Subd. 1 and 2. If applicant has failed to maintain his license, it is reasonable to assume that applicant does not anticipate practicing in this State, since every licensee is given adequate notice for renewal of license.

5. Has demonstrated violations in the respective state where he now retains a license to practice. It is reasonable to assume that the people of the State of Minnesota would not be well served by a practioner who has violated the statutes of his respective state.
6. Committed a crime reasonably related to the practice optometry, which could constitute a lack of moral character. There is need to determine the seriousness of the crime which could be reasonable grounds to deny the applicant licensure in the State of Minnesota.

Equivalency of state requirements.

In accordance with Minnesota Statutes, section 148.57, subd. 2, another state's licensure requirements shall be deemed to be equivalent to Minnesota's if the state requires that each applicant:

A. be of good moral character;
B. be a graduate of an optometry school which requires at least two academic years of pre-professional training for admittance and which is approved by the Board;
C. pass a practical clinical demonstration which thoroughly test's the applicant's fitness to practice; and
D. pass the written competence examination required of new licensees under Minn. Stat. 148.57, subd. 1. This item applies only to licensure granted in the other state after July 31, 1973.

The purpose of this section of the proposed rule change, licensees by reciprocity, would exempt the applicant from meeting the equivalency of Minn. Stat. 148.57, subd. 2, pertaining to the satisfactory passage of the National Board of Examiners in Optometry. This would apply only if the applicant has completed their educational process prior to July 31, 1983.

This waiver is reasonable since prior to July 31, 1983, passage of the National Board of Examiners in Optometry examination was not a prerequiste for applicants taking the Minnesota Board of Optometry examination.

Use of Topical Ocular Drugs

Subject to the provisions of section 148.57, subd. 3 and 148.574, any applicant by reciprocity desiring to use topical ocular drugs in the State of Minnesota would be required to meet all the pre-requisite for drug usage as set forth under 148.573, subd. 1. Should the applicant comply with Minn. Stat. 148.573, subd. 2, having graduated from an accredited school of optometry within two years prior to August 2, 1982, and completed a satisfactory course in pharmacology, he would meet that portion of the requirement. It is therefore reasonable to require the applicant for licensure by reciprocity to meet all of the above requirements to demonstrate his competence to use topical ocular drugs as a safeguard to the public.

Reciprocity Fee

The fee change this rule presents relates to an equalization of fee between the applicant by examination and the applicant by

reciprocity. The time and cost of processing applicants by examination or reciprocity is essentially the same. Therefore, it is reasonable that the fee charged all applicants be fair and equitable. This proposed fee change would not represent an appreciable fianancial loss to the Board.

III. INDIVIDUAL ANNUAL LICENSE RENEWAL 6500.2000

It is the position of the Board that the existing rules require updating. Thus, the proposed rule change would merely represent a revision and repeal of the existing Board rule 6500.2000. This would delete several unnecessary clauses pertaining to license renewal, deleting most of paragraph of subpart 1, except the first sentence which specifies the annual renewal date and the license renewal fee. The deletion would no longer be applicable. Since the compliance date for continuing education is proposed to be changed from March 31 of each year to January 1 of each year, it is only reasonable that consistency should prevail and therefore annual license renewal should also occur on or before January 1 of each year. The executive secretary would assume the responsibility for notification of licensees at least 90 days prior to January 1 of each respective year.

IV. CLINICAL PRACTICAL DEMONSTRATION 6500.2300

The proposed change in licensing, Minnesota Statutes §148.57 states the requirements for licensure, but does not specify the subject matter nor does it state the criteria for passing the Board's examination. The Board feels this should be clearly defined to the applicant seeking licensure by examination or reciprocity. The proposed change in examination under Minn. Stat. 148.57, subd. 1, Examination, is fully in compliance with Minn. Stat. 148.47, which states the requirements for licensure in the State of Minnesota. In regards to the practical clinical demonstration, the Board prepares, administers and grades the demonstration presented to the candidate. The proposed change would give notice to the applicants of standards and establish consistency and avoid arbitrary action by the Board. This change would identify the areas in which the candidate would be tested. Most of the provisions are a restatement of existing explicit requirements. The board may prepare, administer and grade the examination itself or may recognize and approve in whole or in part a similar examination prepare, administered and graded by the National Board of Examiners in Optometry or may administer a recognized and approved examination prepared and graded by or under the direction of the National Board of Examiners in Optometry. The proposed change in 6500.2300, clinical practical demonstration, would identify the areas in which the candidate would be tested. In addition, the limits placed on the number of sections to be tested provides the applicant and clear and precise understanding of requirements as set forth by the Board. It is reasonable to assume this change in procedure would thoroughly evaluate the

the candidate's competency since each section would be equally weighted in value. In fact, the rationale for education requirements for licensure in the law is assurance that a person engaging in the practice of his or her profession is competent to do so. It is reasonable to require the applicant for licensure to achieve a minimum passing score on the total of all sections of the examination.. Also, it is reasonable to assume that the applicant who has not demonstrated competence should therefore be required to repeat the entire examination. At the time the applicant applies to the Board for examination, he or she would be so informed of the passing score to be achieved. Also, the applicant would be informed of what consititutes failure of the examination. At the conclusion and evaluation of the examining process, the candidate for licensure would be provided a report with grade scores on the result of the examination.

Clinical Practical Demonstration - Score

A score of less than 75% on the total number of section points would constitute failure of the entire clinical practical demonstration. The score of 75% on the clinical practical demonstration would be equally weighted as the written examination presented by the National Board of Examiners in Optometry.

This statement is reasonable because it provides some guarantee that the applicant for licensure has shown proficiency in all requirements as set forth by the Board.

V. JURISPRUDENCE TEST 6500.2400

A test on jurisprudence shall be given and must be passed by a grade of 65% or better. The Board feels this is an important element of the evaluation of the candidate seeking licensure in the State of Minnesota, since this test would determine how well the applicant understands his responsibility as a health care provider in this State.

Since a candidate can acquire a passing score of 65% on a single section of the clinical practical demonstration and pass the demonstration, it is, therefore, reasonable that consistency should prevail in all sections of the applicant's evaluation to attain a license to practice in the State of Minnesota.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Amendment and
Adoption of Rules of the
Minnesota State Board
of Optometry

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Catherine E. Avina, do hereby declare that I have examined the rules 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.

Catherine E. Avina

CATHERINE E. AVINA
Special Assistant
Attorney General

Dated: November 19, 1984

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Amendment and
Adoption of Rules of the
Minnesota State Board
of Optometry

AFFIDAVIT CONCERNING
MAILING NOTICE OF
SUBMISSION TO THE
ATTORNEY GENERAL

State of Minnesota )
) ss.
County of Hennepin )

Burton H. Skuza, OD, being first duly sworn, deposes and says:

That subsequent to the Board of Optometry's publication in the State Register of October 1, 1984, at 9 S.R. 690, of a Notice of Intent to Adopt Rules Without a Public Hearing, in which the public were advised to submit to the Board requests to receive notice of submission of the rules to the Attorney General, no requests for such notice were received.

Burton H. Skuza OD

Subscribed and sworn to before me
this 14th day of November, 1984.

Alice D. Hummer

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