

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. ~~1232~~ 05.0009.0479

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12-16-85
DATE FOR REVIEW 12-26-85
DATE DUE 12-30-85

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

Approved 12/30/85 Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State _____ Revisor approved 12.18.85 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 12.9.85 Date combined w/ FF

✓ Notice of Intent to Solicit Outside Opinion SR. 2.1.82 + comments

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

✓ Affidavit of Discretionary Mailing

✓ Mailing list Certificate

✓ Publication in State Register
8.26.85 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 combined w/ Order Adopting

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness includes small biz statement - not applicable.

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

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO: DICK WEXLER
Assistant Attorney General

DATE: 1/28/86

FROM: JUDITH V. WEHRWEIN JVW
Legal Assistant

PHONE: 297-3471

SUBJECT: Board of Dentistry Rules, return of originals

In accordance with your January 17 request, please find enclosed the originals of documents relating to five sets of Board of Dentistry rules. The copies sent January 17 have been placed in our files.

Please note, we cannot return our file copy of the rules as adopted as submitted on December 16, 1985; we must retain this copy because it is stamped approved by the Attorney General and filed by the Secretary of State.

Only our file on dental auxiliary rules contained copies of comments received by the Board. These are also enclosed. I am told that all other comments were returned to Dale Forseth.

Please call if you have any questions about this.

JVW:pmf

SF-00006-04

DEPARTMENT : ATTORNEY GENERAL - Health

PHONE : 341-7272

DATE : January 17, 1986

TO : Judith Wehrwein
204 Administration Building
50 Sherburne Avenue

FROM : Richard A. Wexler
Assistant Attorney General

STATE OF MINNESOTA

Office Memorandum

SUBJECT : Board of Dentistry Rules

Attached pursuant to our telephone conversation of January 16, 1986, are copies of all the documents relating to the five sets of Board of Dentistry rules which your office recently approved. Please return the originals of these documents to me.

Also, I did not receive from your office with the memoranda of approval the comments received by the Board, in response to the notice of intent to solicit outside information or during the 30 day comment period for the continuing dental education rules and the dental auxiliary rules. Please return them to me.

Thanks for your help.

RAW:dsc

Enclosure

RECEIVED
JAN 24 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

DALE J. FORSETH, Executive Director
Board of Dentistry

TO :
ATTN: RICHARD A. WEXLER
Assistant Attorney General

DATE: 12/31/85

FROM : J. MICHAEL MILES JMM
Assistant Attorney General

PHONE: 296-6555

SUBJECT: In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing part 3100.0100 subparts 12 and 19

The above-referenced rule has been approved as to its legality by the Attorney General on December 30, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

JMM:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1232

AG copy

Board of Dentistry RULE AMENDMENTS AS ADOPTED

Adopted Rules Relating to General Licensing Provisions of the Board of Dentistry

Rules as Adopted

3100.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of these rules and unless the context otherwise requires, the terms in subparts 2 to 21 have the meanings given them.

Subp. 2. to 9. [Unchanged.]

Subp. 9a. **Dental hygienist.** "Dental hygienist" means a person holding a license as a dental hygienist issued by the board pursuant to the act.

Subp. 10. and 11. [Unchanged.]

Subp. 12. [See repealer.]

Subp. 13. to 18. [Unchanged.]

Subp. 19. [See repealer.]

Subp. 20. and 21. [Unchanged.]

3100.3100 CONDUCT OF EXAMINATIONS.

The following rules govern the conduct of examinations given to those applicants for licensure as a dentist or dental hygienist or for registration as a registered dental assistant and must be strictly adhered to throughout the entire examination. An examinee who violates any of the rules or instructions applicable may be declared by the board to have failed the examination.

A. to M. [Unchanged.]

3100.3200 CLINICAL EXAMINATIONS.

Every dentist and dental hygienist applicant shall give a demonstration of skill in those operations appropriate for his level of licensure or registration prescribed by the board. Registered dental assistant applicants may also be so examined. All operations shall be performed in the presence of a board member qualified for the particular examination being given or

consultant appointed by the board for that purpose.

3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.

"Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant or conduct contrary to the best interests of the public," as used in Minnesota Statutes, section 150A.08, subdivision 1, clause (6), shall include the act of a dentist, dental hygienist, registered dental assistant, or applicant in:

A. to G. [Unchanged.]

H. falsifying records relating to payment for services rendered, participation in a CDE course; or other records with respect to licensure, registration, CDE, and the practice of dentistry;

I. perpetrating fraud upon patients, third party payers, or others relating to the practice of dentistry;

J. failing to cooperate with the board, its agents, or those working on behalf of the board as required by part 3100.6300; and

K. failing to maintain adequate safety and sanitary conditions for a dental office as specified in part 3100.6300.

3100.6325 VOLUNTARY TERMINATION OF LICENSURE OR REGISTRATION.

The board may refuse to accept a licensee's or registrant's voluntary termination of license or registration if the board has reason to believe that the licensee or registrant has violated any of the provisions of Minnesota Statutes, chapter 150A or board rules, and has determined that allegations are serious enough to warrant resolution other than by voluntary termination.

3100.6350 REQUIRED COOPERATION.

Any licensee, registrant, or applicant who is the subject of an investigation or proceeding under these parts or under Minnesota Statutes, sections 150A.08 and 214.10 shall cooperate with the board, its agents, or those working on behalf of the board by complying with any reasonable request including requests to:

A. furnish designated papers, documents, or tangible objects;

B. furnish in writing a full and complete explanation covering the matter under consideration;

C. appear for conferences and hearings at the time and places designated.

Violation of this part is conduct unbecoming a licensee or registrant or conduct contrary to the best interests of the public. Good faith challenges to requests of the board will not be deemed a failure to cooperate. These challenges shall be brought before the appropriate agency or court.

3100.9100 ANNUAL REPORTS.

Annual reports of professional corporations organized under Minnesota Statutes, sections 319A.01 to 319A.22, inclusive, must be submitted upon forms furnished by the board and must require submission of the following information under oath:

A. and B. [Unchanged.]

C. name and address of each director, officer, and shareholder, and the corporate title of each officer; and

D. a certification as to the licensure status of each shareholder, director, officer, employee, and agent as required by Minnesota Statutes, section 319A.21, paragraph (b).

3100.9200 REVIEW OF ANNUAL REPORT.

The board will review its licensure records and conduct such further investigation as it may deem necessary and, if it finds that the annual report does not conform to the requirements of the Minnesota Professional Corporations Act and the rules promulgated thereunder, it shall inform the applicant of the necessary requirements for conformity.

The board may delegate the review and investigation of annual reports to the executive secretary so that annual reports will be acted upon in a timely manner in the intervals between meetings of the board. Any annual reports which are not approved by the executive secretary must be considered by the full board at its next meeting.

3100.9300 REVOCATION OF REGISTRATION.

The board shall revoke or, if appropriate, refuse to renew the registration of any corporation which no longer meets all the requirements of the Minnesota Professional Corporations Act. The corporation's eligibility to be registered or to continue registration must be adjudicated under the applicable provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500.

3100.9500 CORPORATE NAMES.

The names of professional corporations are governed by Minnesota Statutes, section 319A.07 and part 3100.6400.

REPEALER. Minnesota Rules, part 3100.0100, subparts 12 and 19, are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 31 1985
Joan Anderson Growe
Secretary of State

10:15 AM

APPROVED AS TO FORM AND LEGALITY

12/30 1985

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

Rules as Proposed

3100.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of these rules and unless the context otherwise requires, the terms in subparts 2 to 21 have the meanings given them.

Subp. 2. to 9. [Unchanged.]

Subp. 9a. **Dental hygienist.** "Dental hygienist" means a person holding a license as a dental hygienist issued by the board pursuant to the act.

Subp. 10. and 11. [Unchanged.]

Subp. 12. [See repealer.]

Subp. 13. to 18. [Unchanged.]

Subp. 19. [See repealer.]

Subp. 20. and 21. [Unchanged.]

3100.3100 CONDUCT OF EXAMINATIONS.

The following rules govern the conduct of examinations given to those applicants for licensure as a dentist or dental hygienist or for registration as a registered dental assistant and must be strictly adhered to throughout the entire examination. An examinee who violates any of the rules or instructions applicable may be declared by the board to have failed the examination.

A. to M. [Unchanged.]

3100.3200 CLINICAL EXAMINATIONS.

Every dentist and dental hygienist applicant shall give a demonstration of skill in those operations appropriate for his level of licensure or registration prescribed by the board. Registered dental assistant applicants may also be so examined. All operations shall be performed in the presence of a board member qualified for the particular examination being given or consultant appointed by the board for that purpose.

3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.

"Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant or conduct

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

contrary to the best interests of the public," as used in Minnesota Statutes, section 150A.08, subdivision 1, clause ~~(5)~~ ~~of the act~~ (6), shall include ~~the indiscriminate and repeated prescribing or dispensing of any drug which under the circumstances has no therapeutic value; the failure to maintain adequate safety and sanitary conditions for a dental office; and~~ the act of a dentist, dental hygienist, ~~or~~ registered dental assistant, or applicant in:

A. to G. [Unchanged.]

H. falsifying records relating to payment for services rendered, participation in a CDE course; or other records with respect to licensure, registration, CDE, and the practice of dentistry; ~~and~~

I. perpetrating fraud upon patients, third party payers, or others relating to the practice of dentistry;

J. failing to cooperate with the board, its agents, or those working on behalf of the board as required by part 3100.6300; and

K. failing to maintain adequate safety and sanitary conditions for a dental office as specified in part 3100.6300.

3100.6325 VOLUNTARY TERMINATION OF LICENSURE OR REGISTRATION.

The board may refuse to accept a licensee's or registrant's voluntary termination of license or registration if the board has reason to believe that the licensee or registrant has violated any of the provisions of Minnesota Statutes, chapter 150A or board rules, and has determined that allegations are serious enough to warrant resolution other than by voluntary termination.

3100.6350 REQUIRED COOPERATION.

Any licensee, registrant, or applicant who is the subject of an investigation or proceeding under these parts or under Minnesota Statutes, sections 150A.08 and 214.10 shall cooperate with the board, its agents, or those working on behalf of the board by complying with any reasonable request including requests to:

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

A. furnish designated papers, documents, or tangible objects;

B. furnish in writing a full and complete explanation covering the matter under consideration;

C. appear for conferences and hearings at the time and places designated.

Violation of this part is conduct unbecoming a licensee or registrant or conduct contrary to the best interests of the public. Good faith challenges to requests of the board will not be deemed a failure to cooperate. These challenges shall be brought before the appropriate agency or court.

3100.9100 ANNUAL REPORTS.

Annual reports of professional corporations organized under ~~the provisions of~~ Minnesota Statutes, sections 319A.01 to 319A.22, inclusive, ~~shall~~ must be submitted upon forms furnished by the board and ~~shall~~ must require submission of the following information under oath:

A. and B. [Unchanged.]

C. name and address of each director, officer, and shareholder, and the corporate title of each officer; and

D. a certification as to the licensure status of each shareholder, director, officer, employee, and agent as required by Minnesota Statutes, section 319A.21, paragraph (b); ~~and~~

~~E. A filing fee of $100 for the first such annual report and a filing fee of $25 for each such annual report thereafter.~~

3100.9200 ~~CERTIFICATE OF REGISTRATION~~ REVIEW OF ANNUAL REPORT.

The board ~~shall~~ will review its licensure records and conduct such further investigation as it may deem necessary and, if it finds that the annual report ~~conforms~~ does not conform to the requirements of the Minnesota Professional Corporations Act and the rules promulgated thereunder, it shall ~~issue a certificate of registration to~~ inform the applicant of the necessary requirements for conformity.

The board may delegate the review and investigation of

APPROVED IN THE [illegible] OF STATUTES [illegible] BY:

annual reports ~~and-the-issuance-of-certificates-of-registration~~ to the ~~secretary-treasurer~~ executive secretary so that annual reports will be acted upon in a timely manner in the intervals between meetings of the ~~full~~ board. Any annual reports which are not approved by the ~~secretary-treasurer-shall~~ executive secretary must be considered by the full board at its ~~first~~ next meeting ~~following-such-disapproval~~.

3100.9300 REVOCATION OF ~~CERTIFICATE~~ REGISTRATION.

The board shall revoke or, if appropriate, refuse to renew the ~~certificate-of~~ registration of any corporation which no longer meets all the requirements of the Minnesota Professional Corporations Act. The corporation's eligibility to ~~receive~~ be registered or to continue ~~to-hold-a-certificate-of~~ registration ~~shall~~ must be adjudicated under the applicable provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500.

3100.9500 CORPORATE NAMES.

~~After-July-1,-1981,~~ The names of professional corporations ~~shall-be~~ are governed by Minnesota Statutes, section 319A.07 and part 3100.6400.

REPEALER. Minnesota Rules, part 3100.0100, subparts 12 and 19, are repealed.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD783

Agency: Board of Dentistry

Division:

Agency Contact: Dale Forseth

Minnesota Rules: Parts 3100.0100; 3100.3100; 3100.3200; 3100.6200; 3100.6325; 3100.6350; 3100.9100; 3100.9200; 3100.9300; and 3100.9500

Title: Proposed Rules Relating to General Licensing Provisions of the Board of Dentistry

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

David S. Niss
Assistant Revisor
Phone: 296-0948

Date: July 17, 1985

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions, parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing part 3100.0100, subparts 12 and 19

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE AMENDMENTS WITHOUT A PUBLIC HEARING

Notice of the Board's intent to adopt the above-entitled rule changes without a public hearing was published in the State Register on August 26, 1985, and was sent by United States mail on August 21, 1985, to all persons on the list maintained by the agency pursuant to Minn. Stat. §§ 14.14, subd. 1a, and 14.22 (1984), and to others whom the Board believed might have an interest in the proposed amendments.

All persons were given the opportunity to submit comment on the rule for at least 30 days after notice of proposed rulemaking without a public hearing was published and mailed. The Board did not receive any requests for a public hearing.

No submissions or comments on the rule or requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record, the Board finds the following:

The above-captioned rule amendments are needed and reasonable as documented in the Statement of Need and Reasonableness.

NOW, THEREFORE, IT IS HEREBY ORDERED that these rule changes identified as Minn. Rules pts. 3100.0100, 3100.3100, 3100.3200, 3100.6200, 3100.6325, 3100.6350, 3100.9100, 3100.9200, 3100.9300, and 3100.9500, are adopted and Minn.

Rules pt. 3100.0100, subps. 12 and 19, are repealed this 9th day of ~~November~~ December, 1985, pursuant to authority vested in the Board by Minn. Stat. §§ 150A.04, subd. 5; 150A.08, subd. 1(6), and 319A.18 (1984).

This Order is executed pursuant to the Board's Resolution Adopting Rules approved by the Board on November 16, 1985.

STATE OF MINNESOTA

BOARD OF DENTISTRY

DALE J. FORSETH
Executive Director

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

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Rules pt. 3100.0100, subps. 12 and 19, are repealed this 4th day of ~~November~~ December, 1985, pursuant to authority vested in the Board by Minn. Stat. §§ 150A.04, subd. 5; 150A.08, subd. 1(6), and 319A.18 (1984).

This Order is executed pursuant to the Board's Resolution Adopting Rules approved by the Board on November 16, 1985.

STATE OF MINNESOTA

BOARD OF DENTISTRY

DALE J. FORSETH
Executive Director

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration State Register & Public Documents Division

Notice of Publication of the 1982-83 *Minnesota Guidebook to State Agency Services*

The *Minnesota Guidebook to State Agency Services* 1982-83 is now available in a new, revised edition. The 4th edition of the *Guidebook*, almost 750 pages, guides readers through requirements, forms and fees, applications and complaint filing, and tells the length of waiting time for obtaining services.

A new section on agency rulemaking and administrative law gives a clear explanation of the process that directs agencies to set rules of procedure that have the force and effect of law.

The *Guidebook* tells how to obtain grants, scholarships, assistance programs, information services, maps, guides and studies. It lists statewide emergency numbers, hotlines, crisis shelters and information-referral services. The *Guidebook* gives direct access to all state agencies and explains what each agency does, how it is organized, who is in charge and why it was established.

The *Guidebook* also has the only complete listing of licenses and permits required in Minnesota, for the professions and occupations as well as recreation and vehicles. The book tells where to obtain them, how much they cost, what applications to fill out and how to renew them.

The legislative and judicial branches of state government are described along with legislative and judicial commissions, law board admission requirements, professional standards for lawyers and judges, and legislative committees and their chairpersons.

Copies of the *Guidebook* are available through the Minnesota State Documents Center and cost $9.00 plus 45¢. *State Register* subscribers no longer receive a free copy of the *Guidebook*. All orders must be prepaid and purchase orders cannot be accepted. For more information, call 297-3000. Send orders to the Minnesota State Documents Center, 117 University Avenue, St. Paul, MN 55155.

Board of Dentistry

Notice of Intent to Solicit Information or Opinions from Non-agency Sources on Rule Revisions

Notice is hereby given, pursuant to Minn. Stat. § 15.0412, subd. 6, that the Minnesota Board of Dentistry (hereinafter "board") is reviewing its rules to determine if any amendments are needed. Accordingly, the board is soliciting information and opinions from sources outside the agency for the purpose of revising board rules.

All interested or affected persons or groups desiring to submit information and comments relating to the adoption, amendment or revision of board rules should address their comments (either written or oral) to Mr. Dale Forseth, Executive

Secretary, Minnesota Board of Dentistry, Minnesota Department of Health Building, Room 339, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414, telephone (612) 296-5313. Any written material received by the board shall become part of the record in the event that the board decides to amend its rules and proceeds with institution of the rule-making process.

Any materials submitted shall be reviewed and considered by the board during the preparation of the proposed rules. Notice of a public hearing on proposed rules shall be published in the *State Register* and given to all interested parties who have registered with the Board in accordance with the provisions of the Administrative Procedure Act.

January 18, 1982

Dale J. Forseth, Executive Secretary

Department of Education
Vocational-Technical Education Division

Notice of Public Hearing on Revisions of 1982 Area Vocational-Technical Institute Aid Distribution Levels

This is to announce that a public hearing will be held on Monday, February 8, at 1:00 p.m. in Room 716 of the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on the recommended revisions of the Fiscal Year 1982 area vocational-technical institute aid distribution levels.

Office of the Governor

Notice of Appointment of Department Head

In accordance with Minnesota Statute § 15.06, subd. 2, notice is hereby given of the appointment of Allan L. Rudell as Commissioner of the Minnesota Department of Finance on January 21, 1982.

Metropolitan Council
Metropolitan Health Board

Public Hearing for the Joint Consideration of I. Proposed 1982 Health Systems Plan for the Metropolitan Area and Health Guide Chapter of the Metropolitan Development Guide; 1982 Annual Implementation Plan; and Application for Renewal of HSA Designation

The Metropolitan Council and Metropolitan Health Board will jointly hold a public hearing on Thursday, February 25, 1982, at 7 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, Saint Paul, Minnesota 55101 for the purpose of receiving written and oral comments on the proposed 1982 Health Systems Plan and Health Guide Chapter of the Metropolitan Development Guide; 1982 Annual Implementation Plan and 1982 Application for Renewal of the Metropolitan Council/Metropolitan Health Board's HSA Designation. Copies of the Health Systems Plan and Health Guide Chapter, Annual Implementation Plan, and the 1982 HSA Application are available for public inspection beginning January 25, 1982, at the following locations:

Metropolitan Council Library
300 Metro Square Building
St. Paul, Mn. 55101

Minneapolis Public Library
Government Document Room
300 Nicollet Mall
Minneapolis, Mn. 55401

St. Paul Public Library
Science and Industry Room
90 West Fourth Street
St. Paul, Mn. 55102

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions, parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing part 3100.0100, subparts 12 and 19

ORDER FOR NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING, NOTICE OF INTENT TO AMEND RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

IT IS HEREBY ORDERED with respect to the above captioned matter that a Notice of Intent to Amend Rules Without a Public Hearing, Notice of Intent to Amend Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing be given to all persons who have registered their names with the Minnesota Board of Dentistry for that purpose pursuant to Minn. Stat. § 14.14, subd. 1.a (1984) and that said Notice be published in the State Register.

IT IS FURTHER ORDERED that if less than 25 persons request a hearing pursuant to the Notice referenced in the preceding paragraph, the hearing shall be cancelled and all remaining procedures for the amending of rules without a public hearing shall be followed.

IT IS FURTHER ORDERED .that if 25 or more persons request a public hearing, the hearing shall be held in Room 118B, Minnesota Department of Health

Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414, on October 8, 1985, commencing at 9:30 AM, and continuing until all interested or affected persons have had an opportunity to participate.

Dated: August 8, 1985

STATE OF MINNESOTA

BOARD OF DENTISTRY

DALE J. FORSETH
Executive Secretary

CERTIFICATE OF BOARD OF DENTISTRY

AUTHORIZING RESOLUTION

I, Dale J. Forseth, do hereby certify that I am the Executive Secretary of the Minnesota Board of Dentistry, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board duly and properly called and held on the 22nd day of June, 1985, that a quorum was present at the meeting, that a majority of those present voted for the resolution and that the resolution is set forth in the minutes of the meeting and has not been rescinded or modified:

> Resolved, that Dale J. Forseth, Executive Secretary of the Minnesota Board of Dentistry, be and hereby is granted the authority and directed: (1) to sign the statement of need and reasonableness and to sign and publish an order and a notice of intent to adopt amendments or to repeal certain of the Board's rules relating to definitions, grounds for disciplinary actions, Board rejection of voluntary termination of licenses and registrations, required cooperation in investigations and disciplinary proceedings, professional corporations, clarification and reorganization of existing rules and repeal of Minn. Rules, pt. 3100.0100, subps. 12 and 19, such notice to be in the alternative specifying the Board's intent to adopt the amendments without a public hearing and if the statutorily required number of persons request a hearing, providing notice of the hearing; (2) to proceed with a hearing if the statutorily required number of persons request a hearing in response to the notice; (3) to cancel the hearing and proceed by noncontroversial rulemaking if less than the statutorily required number of persons request a hearing; (4) to take whatever action is necesary, should the Office of Administrative Hearings or the Attorney General's Office have objections to the alternative notice specified above, to satisfy the objections and to proceed either without a public hearing or with a hearing as the situation dictates and as necessary to proceed as quickly as possible; and (5) to perform any and all acts incidental to the foregoing, including requesting the appointment of an administrative law judge, and complying with all applicable provisions of the Minnesota Administrative Procedure Act and the rules of the Office of Administrative Hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of August, 1985.

STATE OF MINNESOTA

BOARD OF DENTISTRY

DALE J. FORSETH
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions, parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing part 3100.0100, subparts 12 and 19

ALTERNATIVE NOTICES

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING, NOTICE OF INTENT TO AMEND RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Board of Dentistry is hereby giving notice of its intent to amend rules without a public hearing under the noncontroversial rulemaking procedure of Minn. Stat. §§ 14.22 to 14.28 (1984). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minn. Stat. § 14.25 (1984), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rule amendments pursuant to Minn. Stat. §§ 14.131 to 14.20 (1984). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. With the comment period closing on September 25, 1985, there will be 13 days before the scheduled hearing date. This 13-day period will give interested persons ample time to contact the Board to find out whether the hearing will be cancelled and to plan accordingly.

II.

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry proposes to adopt the above captioned rule changes without a public hearing unless 25 or more persons

submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 to 14.28 (1984).

Interested persons shall have 30 days from the date this Notice is published in the State Register to submit comments in support of or in opposition to the proposed rule amendments. The 30 days will expire on September 25, 1985. Comment is encouraged. Each comment should identify the portion of the proposed amendment being addressed, the reason for the comment, and any change proposed to the amendment by the comment. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-comment period that a hearing be held on the proposed rule amendments. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any changes they want made to the proposed amendments. If a person desires that a hearing be held on only a portion of the proposed amendments, it is requested that the Board be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed amendments or a portion thereof by September 25, 1985. If a hearing is required, it will be held in accordance with the provisions of Minn. Stat. §§ 14.131 to 14.20 (1984) and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Dale J. Forseth
Executive Secretary
Minnesota Board of Dentistry
717 Delaware Street Southeast
Minneapolis, Minnesota 55414
Telephone: (612) 623-5313

The statutory authority of the Board of Dentistry to make the proposed rule changes is contained in Minn. Stat. §§ 150A.04, subd. 5; 150A.08, subd. 1(b); and 319A.18 (1984).

If adopted, the proposed amendments: (1) would allow the Board to refuse to accept a licensee's or registrant's voluntary termination of license or registration if the Board has reason to believe that the licensee or registrant has violated laws or rules enforced by the Board and has determined that the allegations are serious enough to warrant resolution by means other than voluntary termination; (2) would require licensees, registrants, or applicants who are the subject of an investigation or proceeding of the Board to cooperate with the Board, its agents, or those working on behalf of the Board and make failure to do so a separate grounds for disciplinary action; (3) would require professional corporations to include in their annual reports to the Board the corporate title of each officer; (4) would eliminate the issuance of certificates of registration to professional corporations; and (5) would make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.0100, 3100.3100, 3100.3200, 3100.6200, 3100.9100, 3100.9200, 3100.9300, and 3100.9500; would add new rules 3100.6325, and 3100.6350; and would repeal Minn. Rules pt. 3100.0100, subps. 12 and 19. The proposed rule amendments will be published in the State Register issue of August 26, 1985, and a free copy of them may be obtained from the Board by writing or telephoning Dale Forseth at the address or telephone number listed above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed changes and identifies the data and

information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning Dale Forseth at the address or telephone number listed above.

Promulgation of the proposed rule changes will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore no further information need be provided under Minn. Stat. § 14.11 (1984).

It is the position of the Board that it is not subject to Minn. Stat. § 14.115 (1984) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1984), for reducing the impact of the proposed amendments, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

Upon adoption of the proposed amendments without a public hearing, the amendments as proposed, this Notice, the Statement of Need and Reasonableness, all written comments received, the amendments as adopted, and a statement explaining any differences between the amendments as proposed and 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 amendments as adopted, should submit a written request to Dale J. Forseth at the address listed above.

III.

NOTICE OF INTENT TO AMEND RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE CAPTIONED RULE AMENDMENTS WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON OCTOBER 8, 1985, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above captioned matter will be held pursuant to Minn. Stat. §§ 14.131 to 14.20 (1984), in Room 118B of the Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414, on October 8, 1985, commencing at 9:30 AM.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606. Unless a longer period not to exceed 20 calendar days is ordered by the Administrative Law Judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minn. Stat. §§ 14.131 to 14.20 (1984) and by Minn. Rules pts. 1400.0200 to 1400.1200 (1984), as

amended in 9 S.R. 2276 (April 8, 1985), promulgated by the Office of Administrative Hearings. Questions about procedure may be directed to the Administrative Law Judge.

If adopted, the proposed amendments: (1) would allow the Board to refuse to accept a licensee's or registrant's voluntary termination of license or registration if the Board has reason to believe that the licensee or registrant has violated laws or rules enforced by the Board and has determined that the allegations are serious enough to warrant resolution by means other than voluntary termination; (2) would require licensees, registrants, or applicants who are the subject of an investigation or proceeding of the Board to cooperate with the Board, its agents, or those working on behalf of the Board; and make failure to do so a separate grounds for disciplinary action; (3) would require professional corporations to include in their annual reports to theBoard the corporate title of each officer; (4) would eliminate the issuance of certificates of registration to professional corporations; and (5) would make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.0100, 3100.3100, 3100.3200, 3100.6200, 3100.9100, 3100.9200, 3100.9300, and 3100.9500; would add new rules 3100.6325, and 3100.6350; and would repeal Minn. Rules pt. 3100.0100, subps. 12 and 19. The propsoed rule amendments will be published in the State Register issue of August 26, 1985, and a free copy of them may be obtained from the Board by writing or telephoning Dale Forseth at the address or telephone number listed above in Part II of this Notice.

The statutory authority of the Board of Dentistry to make the proposed rule changes is contained in Minn. Stat. §§ 150A.04, subd. 5; 150A.08, subd. 1(b); and 319A.18 (1984).

The proposed rule changes may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed changes are therefore advised to participate in the process.

Please be aware that the Board of Dentistry is giving simultaneous notice of its intent to adopt five separate sets of amendments to its rules, the above captioned amendments being one of them. The hearing on each set has been scheduled for the same date, time, and place. Consequently, it is possible that rule amendments other than those covered by this Notice will also be heard at the same time. It is suggested that any one interested in the rule amendments covered by this Notice should not only ask the Board about whether the hearing on these amendments will be held but, if it will be held, also ask whether any other rules will be heard at the same time. If 25 or more people request a hearing on more than one of the sets of rule amendments being proposed by the Board, an order in which they will be heard will be established and interested persons informed upon request.

Minnesota Statutes ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

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

The statute provices certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone: (612) 296-5615.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Board's offices and at the Office of Administrative Hearings. This Statement of Need and Reasonableness contains the verbatim evidence and

argument which the Board will present at the hearing justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be reviewed at the Board's offices or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Board may not take any final action on the rule amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rule amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rule amendments are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rule amendments with the Secretary of State.

Promulgation of these proposed rule changes will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under Minn. Stat. § 14.11 (1984).

It is the position of the Board that it is not subject to Minn. Stat. § 14.115 (1984) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1984), for reducing the impact of the proposed amendments, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

IV.

NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether the hearing noticed in Part III above will be held, please call the Board before September 26, 1985, and leave your name, address and telephone number. You will be notified after September 26, 1985, if the hearing has been cancelled. You may also call the Board after September 26, 1985, for oral confirmation regarding the scheduled hearing.

Dated: August 8, 1985

DALE J. FORSETH
Executive Secretary
Board of Dentistry

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions, parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing part 3100.0100, subparts 12 and 19

AFFIDAVIT OF MAILING

Dale J. Forseth, being first duly sworn, deposes and says:

That on the 21st day of August, 1985, at the City of Minneapolis, County of Hennepin, State of Minnesota he served the attached rulemaking notices by depositing in the State of Minnesota Central Mail System for United States mailing at the Minnesota Department of Health Building in the said City of Minneapolis one copy each 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 Dentistry pursuant to Minn. Stat. §§ 14.14, subd. 16 and 14.22 (1984), for the purpose of receiving notice of the proposed adoption of rules by the Minnesota Board of Dentistry.

DALE J. FORSETH
Executive Secretary

Subscribed and sworn to before me
this 21st day of August, 1985.

Arlayne J. Nelson

ARLAYNE J. NELSON
NOTARY PUBLIC
HENNEPIN COUNTY, MN
MY COMMISSION EXPIRES
APRIL 14, 1987

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

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NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether the hearing noticed in Part III above will be held, please call the Board before September 26, 1985, and leave your name, address and telephone number. You will be notified after September 26, 1985, if the hearing has been cancelled. You may also call the Board after September 26, 1985, for oral confirmation regarding the scheduled hearing.

Dated: August 8, 1985

DALE J. FORSETH
Executive Secretary
Board of Dentistry

Rules as Proposed

3100.0100 DEFINITIONS.

Subpart 1. Scope. For the purpose of these rules and unless the context otherwise requires, the terms in subparts 2 to 21 have the meanings given them.

Subp. 2. to 9. [Unchanged.]

Subp. 9a. Dental hygienist. "Dental hygienist" means a person holding a license as a dental hygienist issued by the board pursuant to the act.

Subp. 10. and 11. [Unchanged.]

Subp. 12. [See repealer.]

Subp. 13. to 18. [Unchanged.]

Subp. 19. [See repealer.]

Subp. 20. and 21. [Unchanged.]

3100.3100 CONDUCT OF EXAMINATIONS.

The following rules govern the conduct of examinations given to those applicants for licensure as a dentist or dental hygienist or for registration as a registered dental assistant and must be strictly adhered to throughout the entire examination. An examinee who violates any of the rules or instructions applicable may be declared by the board to have failed the examination.

A. to M. [Unchanged.]

3100.3200 CLINICAL EXAMINATIONS.

Every dentist and dental hygienist applicant shall give a demonstration of skill in those operations appropriate for his level of licensure or registration prescribed by the board. Registered dental assistant applicants may also be so examined. All operations shall be performed in the presence of a board member qualified for the particular examination being given or consultant appointed by the board for that purpose.

3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.

"Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant or conduct

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contrary to the best interests of the public," as used in Minnesota Statutes, section 150A.08, subdivision 1, clause ~~(5)~~ ~~of the act~~ (6), shall include ~~the indiscriminate and repeated prescribing or dispensing of any drug which under the circumstances has no therapeutic value; the failure to maintain adequate safety and sanitary conditions for a dental office; and~~ the act of a dentist, dental hygienist, or registered dental assistant, or applicant in:

A. to G. [Unchanged.]

H. falsifying records relating to payment for services rendered, participation in a CDE course; or other records with respect to licensure, registration, CDE, and the practice of dentistry; and

I. perpetrating fraud upon patients, third party payers, or others relating to the practice of dentistry;

J. failing to cooperate with the board, its agents, or those working on behalf of the board as required by part 3100.6300; and

K. failing to maintain adequate safety and sanitary conditions for a dental office as specified in part 3100.6300.

3100.6325 VOLUNTARY TERMINATION OF LICENSURE OR REGISTRATION.

The board may refuse to accept a licensee's or registrant's voluntary termination of license or registration if the board has reason to believe that the licensee or registrant has violated any of the provisions of Minnesota Statutes, chapter 150A or board rules, and has determined that allegations are serious enough to warrant resolution other than by voluntary termination.

3100.6350 REQUIRED COOPERATION.

Any licensee, registrant, or applicant who is the subject of an investigation or proceeding under these parts or under Minnesota Statutes, sections 150A.08 and 214.10 shall cooperate with the board, its agents, or those working on behalf of the board by complying with any reasonable request including requests to:

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A. furnish designated papers, documents, or tangible objects;

B. furnish in writing a full and complete explanation covering the matter under consideration;

C. appear for conferences and hearings at the time and places designated.

Violation of this part is conduct unbecoming a licensee or registrant or conduct contrary to the best interests of the public. Good faith challenges to requests of the board will not be deemed a failure to cooperate. These challenges shall be brought before the appropriate agency or court.

3100.9100 ANNUAL REPORTS.

Annual reports of professional corporations organized under ~~the provisions of~~ Minnesota Statutes, sections 319A.01 to 319A.22, inclusive, ~~shall~~ must be submitted upon forms furnished by the board and ~~shall~~ must require submission of the following information under oath:

A. and B. [Unchanged.]

C. name and address of each director, officer, and shareholder, and the corporate title of each officer; and

D. a certification as to the licensure status of each shareholder, director, officer, employee, and agent as required by Minnesota Statutes, section 319A.21, paragraph (b)~~;~~ ~~and~~

~~E. A filing fee of $100 for the first such annual report and a filing fee of $25 for each such annual report thereafter.~~

3100.9200 ~~CERTIFICATE OF REGISTRATION~~ REVIEW OF ANNUAL REPORT.

The board ~~shall~~ will review its licensure records and conduct such further investigation as it may deem necessary and, if it finds that the annual report ~~conforms~~ does not conform to the requirements of the Minnesota Professional Corporations Act and the rules promulgated thereunder, it shall ~~issue a certificate of registration to~~ inform the applicant of the necessary requirements for conformity.

The board may delegate the review and investigation of

APPROVED IN THE OFFICE OF STATUTES BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD783

Agency: Board of Dentistry

Division:

Agency Contact: Dale Forseth

Minnesota Rules: Parts 3100.0100; 3100.3100; 3100.3200; 3100.6200; 3100.6325; 3100.6350; 3100.9100; 3100.9200; 3100.9300; and 3100.9500

Title: Proposed Rules Relating to General Licensing Provisions of the Board of Dentistry

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

David S. Niss
Assistant Revisor
Phone: 296-0948
Date: July 17, 1985

annual reports ~~and the issuance of certificates of registration~~ to the ~~secretary-treasurer~~ executive secretary so that annual reports will be acted upon in a timely manner in the intervals between meetings of the ~~full~~ board. Any annual reports which are not approved by the ~~secretary-treasurer shall~~ executive secretary must be considered by the full board at its ~~first~~ next meeting ~~following such disapproval~~.

3100.9300 REVOCATION OF ~~CERTIFICATE~~ REGISTRATION.

The board shall revoke or, if appropriate, refuse to renew the ~~certificate of~~ registration of any corporation which no longer meets all the requirements of the Minnesota Professional Corporations Act. The corporation's eligibility to ~~receive~~ be registered or to continue ~~to hold a certificate of~~ registration ~~shall~~ must be adjudicated under the applicable provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500.

3100.9500 CORPORATE NAMES.

~~After July 1, 1981,~~ The names of professional corporations ~~shall be~~ are governed by Minnesota Statutes, section 319A.07 and part 3100.6400.

REPEALER. Minnesota Rules, part 3100.0100, subparts 12 and 19, are repealed.

APPROVED IN THE
REVISOR OF STATUTES
BY:

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions, parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing part 3100.0100, subparts 12 and 19

AFFIDAVIT OF DISCRETIONARY MAILING

Dale J. Forseth, being first duly sworn, deposes and says:

That on the 21st day of August, 1985, at the City of Minneapolis, County of Hennepin, State of Minnesota he served the attached rulemaking notices by depositing in the State of Minnesota Central Mail System for United States mailing at the Minnesota Department of Health Building in the said City of Minneapolis one copy each thereof, properly enveloped, with postage prepaid, to all persons and associations whose name and addresses appear on the attached list. These persons and associations have not requested that their names be placed on file with the Minnesota Board of Dentistry pursuant to Minn. Stat. §§ 14.14, subd. 16 and 14.22 (1984), for the purpose of receiving notice of the proposed adoption of rules by the Board. The Board, however, is sending them the attached notices because they may have an interest in the proposed amendments.

DALE J. FORSETH
Executive Secretary

Subscribed and sworn to before me
this 21st day of August, 1985.

Arlayne J. Nelson

ARLAYNE J. NELSON
NOTARY PUBLIC
HENNEPIN COUNTY, MN
MY COMMISSION EXPIRES
APRIL 14, 1987

Dental Assisting Schools
-Discretionary

(1)

Judith R. Damp, Director
BEMIDJI AREA VO-TECH INST.
Dental Assisting Programs
Roosevelt Rd. & Grant Ave.
Bemidji, MN 56601

LeAnn Lundberg, Director
BRAINERD AREA VO-TECH INST.
Dental Assisting Program
300 Quince
Brainerd, MN 56401

Dr. Roger Ostroot, Director
SOUTHWEST VO-TECH INSTITUTE
CANBY CAMPUS
1011 - 1st Street W.
Canby, MN 56220

Ethel Meyer, Director
HIBBING AREA VO-TECH INST.
Dental Assisting Program
1900 Beltline
Hibbing, MN 55746

Rita Anderson, Director
LAKELAND ACADEMY OF MEDICAL &
DENTAL ASSISTING
1402 W. Lake Street
Minneapolis, MN 55408

Karron Metz, Instructor
MANKATO STATE UNIVERSITY
Dental Assisting Program
P.O. Box 81
Mankato, MN 56001

Diane Maculus, Director
MEDICAL INSTITUTE OF MINNESOTA
2309 Nicollet Avenue
Minneapolis, MN 55404

Kathy Lapham, Director
MINNEAPOLIS TECHNICAL INST.
Dental Assisting Program
1415 Hennepin Avenue
Minneapolis, MN 55403

Shirly Hild, Director D.A.
MINNESOTA INSTITUTE OF MED.
AND DENTAL CAREERS, INC.
2915 Wayzata Blvd.
Minneapolis, MN 55405

Cher Lundeen, Director
HENNEPIN TECHNICAL CENTER
Dental Assisting Program
9000 No. 77th Avenue
Brooklyn Park, MN 55445

MOORHEAD AREA VO-TECH INSTITUTE
Dental Assisting Program
1900 - 28th Avenue So.
Moorhead, MN 56560

Doreen Bruns, Director
916 AREA VO-TECH INSITUTE
Dental Assisting Program
3300 Century Avenue
White Bear Lake, MN 55110

Ruth Martinson, Coordinator
NORMANDALE COMMUNITY COLLEGE
Dental Assisting Program
9700 France Avenue So.
Bloomington, MN 55431

LaVonne Aadland, RDA
Dental Assisting Supervisor
Dental Auxiliaries
NO DAKOTA STATE SCHOOL SCIENCE
Wahpeton, ND 58075

Nancy Post, Director
ROCHESTER AREA VO-TECH INST.
Dental Assisting Program
1926 Second Street S.E.
Rochester, MN 55901

Kathy Brown, Director
ST. CLOUD AREA VO-TECH INST.
Dental Assisting Department
1540 Northway Drive
St. Cloud, MN 56301

Helen Tuchner, RDA
UNIVERSITY OF MINNESOTA
School of Dentistry
Moos Tower, Room 5-164
Minneapolis, MN 55455

Harold Roelike, D.D.S.
704 Third Avenue S.E.
Minneapolis, MN 55414

Rodney J. Casad, D.D.S.
Director, Dental Auxiliaries
NO DAKOTA STATE SCHOOL SCIENCE
Wahpeton, ND 58075

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MANKATO STATE UNIVERSITY
Dental Assisting Program
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Mankato, MN 56001

Dr. Eugene Ley
Dental Hygiene Program
UNIVERSITY OF MINN.-DULUTH
Duluth, MN 55812

Dental Auxiliaries
UNIVERSITY OF MINN.-DULUTH
Room 73 - MWAH
Duluth, MN 55812

Dr. James McCrane
NORMANDALE COMMUNITY COLLEGE
Dental Department
9700 France Avenue So.
Bloomington, MN 55431

MINNESOTA DENTAL ASSOCIATION
Discretionary

Dr. George Winn, President
MINNESOTA DENTAL ASSOCIATION
301 E. Main Street
P.O. Box 187
New Prague, MN 56071

Dr. Wesley J. Streed
Consultant to the Board
MINNESOTA DENTAL ASSOCIATION
1011 - 2nd Street No.
St. Cloud, MN 56301

District Dental Societies
Discretionary

MINNEAPOLIS DISTRICT DENTAL
SOCIETY
220 So. 2nd Street #300
Minneapolis, MN 55401

ST. PAUL DISTRICT DENTAL SOCII
649 Lowry Medical Building
St. Paul, MN 55102

Dale I. Erickson, D.D.S.
Secretary-Treasurer
MPLS DISTRICT DENTAL SOCIETY
5601 Nicollet Avenue So.
Minneapolis, MN 55419

Scot A. Kron, D.D.S.
Secretary-Treasurer
ST. PAUL DISTRICT DENTAL SOCII
4706 Banning Avenue
White Bear Lake, MN 55110

Rolf I. Lindquist, D.D.S.
Secretary-Treasurer
West Central District Den. So
Box 107
Parker's Prairie, MN 56361

Personnel - Discretionary

Eugene T. Altiere, D.D.S.
Secretary-Treasurer
NE District Dental Society
712 Medical Arts Building
Duluth, MN 55802

David J. Fihn, D.D.S.
Secretary-Treasurer
NW District Dental Society
1131 Jackson Avenue
Detroit Lakes, MN 56501

Spencer W. Burrington, D.D.S.
Secretary-Treasurer
SE District Dental Society
823 - 4th Street S.W.
Rochester, MN 55901

Ronald L. Albright, D.D.S.
Secretary-Treasurer
So. District Dental Society
Box 426
New Ulm, MN 56073

Dental Hygiene Officers
Discretionary

Merry Jo Thoele, D.H.
President, MINNESOTA DENTAL
HYGIENISTS' ASSOCIATION
16540 Quartz Street NW
Anoka, MN 55303

Leslee Schmidt, D.H.
Past-President, MINNESOTA
DENTAL HYGIENISTS' ASSOCIATION
4419 Drew Avenue No.
Minneapolis, MN 55422

Carrie Meixner, D.H.
Consultant to Board, MINNESOTA
DENTAL HYGIENISTS' ASSOCIATION
1825 Case
St. Paul, MN 55119

MN DENTAL ASSISTANTS' ASSOC.
Discretionary

Phyllis Gilbert, RDA
President, MINNESOTA DENTAL
ASSISTANTS' ASSOCIATION
3309 W. 55th Street
Edina, MN 55410

Mr. Mike Johnson
UNIVERSITY OF MINNESOTA
Dept. of Health Ecology
Moos Tower 8-536 - Hygiene
Minneapolis, MN 55455

Dean Richard Oliver
UNIVERSITY OF MINNESOTA
School of Dentistry
Moos Tower - Room 15-208
Minneapolis, MN 55455

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UNIVERSITY OF MINNESOTA
School of Dentistry
Moos Tower, Room 15-234
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Ms. Joan Farkas
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Bloomington, MN 55431

Associations
Discretionary

Dr. Daniel Iverson
Academy of General Dentistry
130 - 6th Street
Two Harbors, MN 55616

Dr. Gary Erickson, AMERICAN
ASS'N ORAL/MAXIOLLOFACIAL SURG.
18150 No. Diamond Lake Road
Anoka, MN 55303

AMERICAN DENTAL SOCIETY OF
ANESTHESIA
11441 Osage Street N.W.
Coon Rapids, MN 55433

c/o MAYO CLINIC
200 First Street S.W.
Rochester, MN 55901

MINN ASS'N OF PERIODONTISTS
508 Southdale Medical Bldg.
Minneapolis, MN 55435

MINN ASS'N OF PROSTHODONTICS
1312 - 2nd Street N.E.
Minneapolis, MN 55413
c/o Dr. W. S. Warpeha

MINN D.H. EDUCATION ASS'N
U OF M School of Dentistry
Moos Tower, Room 5-164
Minneapolis, MN 55455

MINN SOCIETY OF ORTHODONTISTS
3359 W. Broadway
Minneapolis, MN 55422

Dr. Walter Parsons
MINN ORTHODONTIC SOCIETY
2233 Hamline Avenue No. #411
Roseville, MN 55113

Dr. Richard Blevins
250 No. Central Avenue #6
Wayzata, MN 55391

Dr. William K. Berger
Professional Building
Onamia, MN 56349

Dr. Frank Blanchard
121 - 7th Avenue E.
Alexandria, MN 56308

Drs. R. D. Baumgartner &
F. C. Eichmiller
Lincoln Arcade Building
Olivia, MN 56277

Dr. L. C. Boehland
3480 Bunker Lake Blvd. N.W.
Anoka, MN 55303

Discretionary (3)

Dr. James F. Bussen
7104 Chicago Avenue So.
Minneapolis, MN 55408

Dr. Dennis Brandstetter
1919 Excelsior Avenue W.
Hopkins, MN 55343

Denise Brown, RDA
7225 Valley Place #3
Crystal, MN 55427

Dr. Peter Cameron
1025 Evergreen Lane
Minneapolis, MN 55441

Dr. William G. Dols

Goodhue, MN 55027

Dr. & Mrs. Clark Eid
P.O. Box 596
Fertile, MN 56540

Conrad M. Fredin, Attorney at Law, Johnson, Et. Al.
811 First National Bank Bldg.
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May Clinic
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130 Hickory Street
Mahtomedi, MN 55115

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Brooklyn Center, MN 55432

Ms. Millie Jackson
MCH - Dept. of Health
Dental Health
Minneapolis, MN 55440

Dr. Dennis A. Johnson
621 Winnetka Avenue No.
Golden Valley, MN 55422

Dr. Ronald L. King
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Minneapolis, MN 55408

William Laney, D.D.S., Chair.
Department of Dentistry
MAYO CLINIC
Rochester, MN 55901

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Robert E. Derr
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Burnsville, MN 55437

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Minnetonka, MN 55343

Long Prairie Dental Clinic
917 - 1st Avenue S.E.
Long Prairie, MN 56347

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Chestnut & Brooks, P.A.
Midland Bank Building #900
Minneapolis, MN 55401

2480 White Bear Avenue
Maplewood, MN 55109

Randolph W. Morris
Messerli, Roe, Balogh & Kramer
6550 York Avenue So. #300
Minneapolis, MN 55435

Dr. Daryl J. Marcus
525 W. 3rd Street
Willmar, MN 56201

Dr. & Mrs. Anthony Michelich
3802 - 3rd Place N.W.
Rochester, MN 55901

Dr. Gregory C. Pappenfus
No. Port Professional Center
1520 Northway Drive #116
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Alexandria, MN 56308

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3943 W. Broadway
Minneapolis, MN 55422

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

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

Bruce T. Rowe, Administrator
Community Health Services Boa
325 Lake Avenue So. #604
Duluth, MN 55802

Beverley J. Rohda, RDA
1694 E. Cottage Avenue
St. Paul, MN 55106

Discretionary

2600 Bemidji Avenue
Bemidji, MN 56601

Holly Rossman
604 Hassan Street
Hutchinson, MN 55350

Dr. Thomas J. Zehren
200 Tini Square Building
Virginia, MN 55792

Dr. Gregory Sheehan
1215 Rice Street
St. Paul, MN 55117

Dr. Kenneth Zimmerman
Box 37
Byron, MN 55920

Karlene Strelow, RDA
c/o Dr. C. M. Ingham
130 Hickory Street
Mahtomedi, MN 55115

Dr. Eugene T. Altiere
712 Medical Arts Building
Duluth, MN 55802

Dr. Robert W. Tjossem
111 No. Broadway
Crookston, MN 56716

Dr. John D. Sawyer
104 W. 7th Street
Blue Earth, MN 56013

Dr. G. R. Williams
9420 Lyndale Avenue So.
Bloomington, MN 55420

Drs. Blair D. Woolsey,
James F. Meyer & Ron Fletcher
4100 Bellaire Avenue
White Bear Lake, MN 55110

Jean Werner, D.H.
c/o Dr. C. M. Ingham
130 Hickory Street
Mahtomedi, MN 55115

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions, parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing part 3100.0100, subparts 12 and 19

CERTIFICATE OF AGENCY'S MAILING LIST

I, Arlayne Nelson of the Minnesota Board of Dentistry, hereby certify that I am responsible for maintaining the list of all persons who register with the Minnesota Board of Dentistry for the purpose of receiving notices of rulemaking, pursuant to Minn. Stat. §§ 14.14, subd. 1b, and 14.22 (1984), and further certify that the list attached hereto and made a part hereof constitutes the complete lists of the persons, associations, and other interested groups who, as of 11 A M this 15th day of August, 1985, have so registered with the Minnesota Board of Dentistry.

STATE OF MINNESOTA

BOARD OF DENTISTRY

Arlayne Nelson

ARLAYNE NELSON

REGISTERED

MINNESOTA GOVERNMENT REPORT
B-12, Press Room, CAPITOL
St. Paul, MN 55155

Zumbro Valley Dental Society
17 Frontage Road N.W.
Box 367
Byron, MN 55920

Dr. Robert A. Harder
MINNESOTA DENTAL ASSOCIATION
2236 Marshall Avenue
St. Paul, MN 55104

Patrick E. Flahaven
SECRETARY OF THE SENATE
231 Capitol Building
St. Paul, MN 55155

Bruce T. Rowe, Administrator
Community Health Services Board
325 Lake Avenue So. #604
Duluth, MN 55801

Mr. Arthur Gillen
402 Drover's Bank Building
633 So. Concord Street
So. St. Paul, MN 55075

MINN BOARD OF PEACE OFFICE
STANDARDS AND TRAINING
500 Metro Square Building
St. Paul, MN 55101

Mr. Don J. Ryan, President
JONATHAN HEALTH SERVICES
Shelard Plaza No. #560
300 So. County Road 18
Minneapolis, MN 55421

Mr. Paul Brakke
MINNESOTA DENTAL ASSOCIATION
2236 Marshall Avenue
St. Paul, MN 55104

Edward A. Burdick, Chief Clerk
House of Representatives
211 Capitol Building
St. Paul, MN 55155

Judith G. Schotzko
Frundt, Frundt & Johnson
117 W. 5th Street
Blue Earth, MN 56013

Eugene T. Altiere, D.D.S.
712 Medical Arts Building
Duluth, MN 55802

MINN BOARD OF CHIROPRACTIC
EXAMINERS
717 S.E. Delaware Street
Minneapolis, MN 55414

MINN DENTAL LAB ASSOCIATION
P.O. Box 151
Lakeland, MN 55043

MINN. BOARD OF NURSING
717 S.E. Delaware Street
Minneapolis, MN 55414

MINN. MEDICAL ASSOCIATION
American National Bank Bldg.
101 E. 5th Street
St. Paul, MN 55101

MINN BOARD OF OPTOMETRY
717 S.E. Delaware Street
Minneapolis, MN 55414

County of Anoka, Community
Health & Social Services
Department
Courthouse, 4th Floor
Anoka, MN 55303

MINN BOARD OF PHARMACY
717 S.E. Delaware Street
Minneapolis, MN 55440

MINN ATTORNEY GENERAL
Anti-Trust Division
2nd Floor, Ford Bldg.
117 University
St. Paul, MN 55155

MINN BOARD OF PSYCHOLOGY
717 S.E. Delaware Street
Minneapolis, MN 55440

Sam Ruhle
OFFICE OF ADMIN. HEARINGS
400 Summit Bank Bldg.
310 So. 4th Avenue
Minneapolis, MN 55415

M.S. Schumacher
MPLS STAR & TRIBUNE
425 Portland Avenue
Minneapolis, MN 55488

LEGISLATIVE REFERENCE LIBRARY
111 Capitol Building
St. Paul, MN 55155

Mr. Robert Proebstle
Accelerated Practice Concepts
7 Robb Farm Road
No. Oaks, MN 55110

C. [Unchanged.]

D. dietary analysis, salivary analysis, and preparation of smears for dental health purposes; and

E. ~~placement and changing of periodontal packs if the dentist is present; and~~

~~F.~~ application of pit and fissure sealants.

~~Procedures in items A, B, C, D, and F may be carried out under the general supervision of a dentist. Examination and diagnosis must be accomplished only by the dentist.~~

Subp. 2. Other duties. Dental hygienists, under the indirect supervision of a licensed dentist, may remove marginal overhangs.

Subp. 3. Other duties prohibited. No dental hygienist may perform any other dental treatment or procedure on patients not authorized by these parts.

REPEALER. Minnesota Rules, part 3100.8400, subpart 2, is repealed.

Board of Dentistry

Proposed Rules Relating to General Licensing Provisions of the Board of Dentistry

ALTERNATIVE NOTICES: Notice of Intent to Amend Rules without a Public Hearing, Notice of Intent to Amend Rules with a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer than 25 Persons Request a Hearing

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Board of Dentistry is hereby giving notice of its intent to amend rules without a public hearing under the noncontroversial rulemaking procedure of Minn. Stat. §§ 14.22 to 14.28 (1984). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minn. Stat. § 14.25 (1984), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rule amendments pursuant to Minn. Stat. §§ 14.131 to 14.20 (1984). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. With the comment period closing on September 25, 1985, there will be 13 days before the scheduled hearing date. This 13-day period will give interested persons ample time to contact the Board to find out whether the hearing will be cancelled and to plan accordingly.

II.

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry proposes to adopt the above captioned rule changes without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 to 14.28 (1984).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rule amendments. The 30 days will expire on September 25, 1985. Comment is encouraged. Each comment should identify the portion of the proposed amendment being addressed, the reason for the comment, and any change proposed to the amendment by the comment. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rule amendments. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any changes they want made to the proposed amendments.

If a person desires that a hearing be held on only a portion of the proposed amendments, it is requested that the Board be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed amendments or a portion thereof by September 25, 1985. If a hearing is required, it will be held in accordance with the provisions of Minn. Stat. §§ 14.131 to 14.20 (1984) and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Dale J. Forseth
Executive Secretary
Minnesota Board of Dentistry
717 Delaware Street Southeast
Minneapolis, Minnesota 55414
Telephone: (612) 623-5313

The statutory authority of the Board of Dentistry to make the proposed rule changes is contained in Minn. Stat. §§ 150A.04, subd. 5; 150A.08, subd. 1(b); and 319A.18 (1984).

If adopted, the proposed amendments:

(1) would allow the Board to refuse to accept a licensee's or registrant's voluntary termination of license or registration if the Board has reason to believe that the licensee or registrant has violated laws or rules enforced by the Board and has determined that the allegations are serious enough to warrant resolution by means other than voluntary termination; (2) would require licensees, registrants, or applicants who are the subject of an investigation or proceeding of the Board to cooperate with the Board, its agents, or those working on behalf of the Board and make failure to do so a separate grounds for disciplinary action;

(3) would require professional corporations to include in their annual reports to the Board the corporate title of each officer; (4) would eliminate the issuance of certificates of registration to professional corporations; and (5) would make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.0100, 3100.3100, 3100.3200, 3100.6200, 3100.9100, 3100.9200, 3100.9300, and 3100.9500; would add new rules 3100.6325, and 3100.6350; and would repeal Minn. Rules pt. 3100.0100, subps. 12 and 19.

The proposed rule amendments will be published in the *State Register* issue of August 26, 1985, and a free copy of them may be obtained from the Board by writing or telephoning Dale Forseth at the address or telephone number listed above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed changes and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning Dale Forseth at the address or telephone number listed above.

Promulgation of the proposed rule changes will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore no further information need be provided under Minn. Stat. § 14.11 (1984).

It is the position of the Board that it is not subject to Minn. Stat. § 14.115 (1984) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1984), for reducing the impact of the proposed amendments, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

Upon adoption of the proposed amendments without a public hearing, the amendments as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, the amendments as adopted, and a statement explaining any differences between the amendments as proposed and 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 amendments as adopted, should submit a written request to Dale J. Forseth at the address listed above.

III.

NOTICE OF INTENT TO AMEND RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE CAPTIONED RULE AMENDMENTS WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON OCTOBER 8, 1985, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above captioned matter will be held pursuant to Minn. Stat. §§ 14.131

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.

to 14.20 (1984), in Room 118B of the Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414, on October 8, 1985, commencing at 9:30 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606.

Unless a longer period not to exceed 20 calendar days is ordered by the Administrative Law Judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period.

This rule hearing procedure is governed by Minn. Stat. §§ 14.131 to 14.20 (1984) and by Minn. Rules pts. 1400.0200 to 1400.1200 (1984), as amended in 9 S.R. 2276 (April 8, 1985), promulgated by the Office of Administrative Hearings. Questions about procedure may be directed to the Administrative Law Judge.

If adopted, the proposed amendments would:

(1) would allow the Board to refuse to accept a licensee's or registrant's voluntary termination of license or registration if the Board has reason to believe that the licensee or registrant has violated laws or rules enforced by the Board and has determined that the allegations are serious enough to warrant resolution by means other than voluntary termination; (2) would require licensees, registrants, or applicants who are the subject of an investigation or proceeding of the Board to cooperate with the Board, its agents, or those working on behalf of the Board; and make failure to do so a separate grounds for disciplinary action;

(3) would require professional corporations to include in their annual reports to the Board the corporate title of each officer; (4) would eliminate the issuance of certificates of registration to professional corporations; and (5) would make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.0100, 3100.3100, 3100.3200, 3100.6200, 3100.9100, 3100.9200, 3100.9300, and 3100.9500; would add new rules 3100.6325, and 3100.6350; and would repeal Minn. Rules pt. 3100.0100, subps. 12 and 19.

The proposed rule amendments will be published in the *State Register* issue of August 26, 1985, and a free copy of them may be obtained from the Board by writing or telephoning Dale Forseth at the address or telephone number listed above in Part II of this notice.

The statutory authority of the Board of Dentistry to make the proposed rule changes is contained in Minn. Stat. §§ 150A.04, subd. 5; 150A.08, subd. 1(b); and 319A.18 (1984).

The proposed rule changes may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed changes are therefore advised to participate in the process.

Please be aware that the Board of Dentistry is giving simultaneous notice of its intent to adopt five separate sets of amendments to its rules, the above captioned amendments being one of them. The hearing on each set has been scheduled for the same date, time, and place. Consequently, it is possible that rule amendments other than those covered by this notice will also be heard at the same time. It is suggested that any one interested in the rule amendments, covered by this notice should not only ask the Board about whether the hearing on these amendments will be held but, if it will be held, also ask whether any other rules will be heard at the same time. If 25 or more people request a hearing on more than one of the sets of rule amendments being proposed by the Board, an order in which they will be heard will be established and interested persons informed upon request.

Minnesota Statutes ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone: (612) 296-5615.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Board's offices and at the Office of Administrative Hearings. This Statement of Need and Reasonableness contains the verbatim evidence and argument which the Board will present at the hearing justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be reviewed at the Board's offices or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Board may not take any final action on the rule amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rule amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rule amendments are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rule amendments with the Secretary of State.

Promulgation of these proposed rule changes will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under Minn. Stat. § 14.11 (1984).

It is the position of the Board that it is not subject to Minn. Stat. § 14.115 (1984) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1984), for reducing the impact of the proposed amendments, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

IV.

NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether the hearing noticed in Part III above will be held, please call the Board before September 26, 1985, and leave your name, address and telephone number. You will be notified after September 26, 1985, if the hearing has been cancelled. You may also call the Board after September 26, 1985, for oral confirmation regarding the scheduled hearing.

August 8, 1985

Dale J. Forseth
Executive Secretary
Board of Dentistry

Rules as Proposed

3100.0100 DEFINITIONS.

Subpart 1. Scope. For the purpose of these rules and unless the context otherwise requires, the terms in subparts 2 to 21 have the meanings given them.

Subp. 2. to 9. [Unchanged.]

Subp. 9a. Dental hygienist. "Dental hygienist" means a person holding a license as a dental hygienist issued by the board pursuant to the act.

Subp. 10. and 11. [Unchanged.]

Subp. 12. [See repealer.]

Subp. 13. to 18. [Unchanged.]

Subp. 19. [See repealer.]

Subp. 20. and 21. [Unchanged.]

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.

3100.3100 CONDUCT OF EXAMINATIONS.

The following rules govern the conduct of examinations given to those applicants for licensure as a dentist or dental hygienist or for registration as a registered dental assistant and must be strictly adhered to throughout the entire examination. An examinee who violates any of the rules or instructions applicable may be declared by the board to have failed the examination.

A. to M. [Unchanged.]

3100.3200 CLINICAL EXAMINATIONS.

Every dentist and dental hygienist applicant shall give a demonstration of skill in those operations appropriate for his level of licensure or registration prescribed by the board. Registered dental assistant applicants may also be so examined. All operations shall be performed in the presence of a board member qualified for the particular examination being given or consultant appointed by the board for that purpose.

3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.

"Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant or conduct contrary to the best interests of the public," as used in Minnesota Statutes, section 150A.08, subdivision 1, clause ~~(5) of the act~~ (6), shall include ~~the indiscriminate and repeated prescribing or dispensing of any drug which under the circumstances has no therapeutic value; the failure to maintain adequate safety and sanitary conditions for a dental office; and~~ the act of a dentist, dental hygienist, ~~or~~ registered dental assistant, or applicant in:

A. to G. [Unchanged.]

H. falsifying records relating to payment for services rendered, participation in a CDE course; or other records with respect to licensure, registration, CDE, and the practice of dentistry; ~~and~~

I. perpetrating fraud upon patients, third party payers, or others relating to the practice of dentistry;

J. failing to cooperate with the board, its agents, or those working on behalf of the board as required by part 3100.6300; and

K. failing to maintain adequate safety and sanitary conditions for a dental office as specified in part 3100.6300.

3100.6325 VOLUNTARY TERMINATION OF LICENSURE OR REGISTRATION.

The board may refuse to accept a licensee's or registrant's voluntary termination of license or registration if the board has reason to believe that the licensee or registrant has violated any of the provisions of Minnesota Statutes, chapter 150A or board rules, and has determined that allegations are serious enough to warrant resolution other than by voluntary termination.

3100.6350 REQUIRED COOPERATION.

Any licensee, registrant, or applicant who is the subject of an investigation or proceeding under these parts or under Minnesota Statutes, sections 150A.08 and 214.10 shall cooperate with the board, its agents, or those working on behalf of the board by complying with any reasonable request including requests to:

A. furnish designated papers, documents, or tangible objects;

B. furnish in writing a full and complete explanation covering the matter under consideration;

C. appear for conferences and hearings at the time and places designated.

Violation of this part is conduct unbecoming a licensee or registrant or conduct contrary to the best interests of the public. Good faith challenges to requests of the board will not be deemed a failure to cooperate. These challenges shall be brought before the appropriate agency or court.

3100.9100 ANNUAL REPORTS.

Annual reports of professional corporations organized under ~~the provisions of~~ Minnesota Statutes, sections 319A.01 to 319A.22, inclusive, ~~shall~~ must be submitted upon forms furnished by the board and ~~shall~~ must require submission of the following information under oath:

A. and B. [Unchanged.]

C. name and address of each director, officer, and shareholder, and the corporate title of each officer; and

D. a certification as to the licensure status of each shareholder, director, officer, employee, and agent as required by Minnesota Statutes, section 319A.21, paragraph (b); ~~and~~

~~E. A filing fee of $100 for the first such annual report and a filing fee of $25 for each such annual report thereafter.~~

3100.9200 ~~CERTIFICATE OF REGISTRATION~~ REVIEW OF ANNUAL REPORT.

The board ~~shall~~ will review its licensure records and conduct such further investigation as it may deem necessary and, if it finds

that the annual report ~~conforms~~ does not conform to the requirements of the Minnesota Professional Corporations Act and the rules promulgated thereunder, it shall ~~issue a certificate of registration to~~ inform the applicant of the necessary requirements for conformity.

The board may delegate the review and investigation of annual reports ~~and the issuance of certificates of registration~~ to the ~~secretary treasurer~~ executive secretary so that annual reports will be acted upon in a timely manner in the intervals between meetings of the ~~full~~ board. Any annual reports which are not approved by the ~~secretary treasurer shall~~ executive secretary must be considered by the full board at its ~~first~~ next meeting ~~following such disapproval~~.

3100.9300 REVOCATION OF ~~CERTIFICATE~~ REGISTRATION.

The board shall revoke or, if appropriate, refuse to renew the ~~certificate of~~ registration of any corporation which no longer meets all the requirements of the Minnesota Professional Corporations Act. The corporation's eligibility to ~~receive~~ be registered or to continue ~~to hold a certificate of~~ registration ~~shall~~ must be adjudicated under the applicable provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500.

3100.9500 CORPORATE NAMES.

~~After July 1, 1985,~~ The names of professional corporations ~~shall be~~ are governed by Minnesota Statutes, section 319A.07 and part 3100.6400.

REPEALER. Minnesota Rules, part 3100.0100, subparts 12 and 19, are repealed.

Board of Dentistry

Proposed Rules Relating to Names and Advertising

ALTERNATIVE NOTICES: Notice of Intent to Amend Rules without a Public Hearing, Notice of Intent to Amend Rules with a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer than 25 Persons Request a Hearing

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Board of Dentistry is hereby giving notice of its intent to amend rules without a public hearing under the noncontroversial rulemaking procedure of Minn. Stat. §§ 14.22 to 14.28 (1984). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minn. Stat. § 14.25 (1984), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rule amendments pursuant to Minn. Stat. §§ 14.131 to 14.20 (1984). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. With the comment period closing on September 25, 1985, there will be 13 days before the scheduled hearing date. This 13-day period will give interested persons ample time to contact the Board to find out whether the hearing will be cancelled and to plan accordingly.

II.

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry proposes to adopt the above captioned rule changes without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 to 14.28 (1984).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rule amendments. The 30 days will expire on September 25, 1985. Comment is encouraged. Each comment should identify the portion of the proposed amendment being addressed, the reason for the comment, and any change proposed to the amendment by the comment. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

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.

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, Dale J. Forseth, do hereby certify that I am the Executive Director of the Minnesota Board of Dentistry, 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 Dentistry, duly and properly called and held on the 16th day of November, 1985, that a quorum was present at the meeting, that a majority of those present voted for the resolution, and that the resolution is set forth in the minutes of the meeting and has not been rescinded or modified:

> RESOLVED, that the rule changes relating to definitions, grounds for disciplinary actions, Board rejection of voluntary termination of licenses and registrations, required cooperation in investigations and disciplinary proceedings, professional corporations, clarification and reorganization of existing rules and repeal of Minn. Rules pt. 3100.0100, subps. 12 and 19 (1983) be and hereby are approved and adopted, pursuant to authority vested in us by Minn. Stat. §§ 150A.04, subd. 5; 150A.08, subd. 1(6); and 319A.18 (1984); and that Dale J. Forseth, Executive Director of the Board of Dentistry, be and hereby is authorized to sign an order adopting these rule changes and any other required documents and further 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 9th day of ~~November,~~ December 1985.

STATE OF MINNESOTA

BOARD OF DENTISTRY

DALE J. FORSETH
Executive Director

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions, Parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, Parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, Part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing Part 3100.0100, subparts 12 and 19

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Minnesota Board of Dentistry (hereinafter "Board"), pursuant to the rulemaking provisions of the Administrative Procedure Act, Minn. Stat. ch. 14 (1984), hereby affirmatively presents the need for and facts establishing the reasonableness of the above captioned proposed amendments to the Board's rules. Terms used in this Statement have the meanings given them in Minn. Rules pt. 3100.0100 (1983).

In order to adopt the proposed amendments, the Board must demonstrate that it has complied with all the procedural and substantive requirements of rulemaking. Those requirements are that: 1) there is statutory authority to adopt the rule; 2) all necessary procedural steps have been taken; 3) any additional requirements imposed by law have been satisfied; 4) the rules are needed; and 5) the rules are reasonable. This Statement demonstrates that the Board has met these requirements.

II. STATUTORY AUTHORITY

The basic authority to adopt the above subject amendments, other than those pertaining to professional corporations, is contained in Minn. Stat. § 150A.04, subd. 5 (1984), which authorizes the Board to "promulgate rules as are necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 15A.12." In addition,

with respect to disciplinary matters, the Board is authorized to define by rule "conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of the public." Minn. Stat. § 150A.08, subd. 1(6) (1984).

With respect to the professional corporation rules, the Board is authorized pursuant to Minn. Stat. § 319A.18 (1984) to "make such rules . . . as are necessary to carry out the provisions of sections 319A.01 to 319A.22," which is The Minnesota Professional Corporations Act.

III. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

A. Requirements in General

The Board has determined that the abovecaptioned amendments are noncontroversial and has elected to follow the procedures set forth in Minn. Stat. §§ 14.05 to 14.12 and 14.22 to 14.28 (1984), which provide for the adoption of noncontroversial rules without the holding of a public hearing. However, if during the 30-day comment period 25 or more people request a hearing, one must be held. In order to expedite the hearing should the requisite number of people request one, the hearing is being noticed at the same time and as part of the same notice by which the Board is announcing its intent to adopt the rules via the noncontroversial process. Therefore, the procedures as specified in Minn. Stat. §§ 14.131 to 14.20 (1984) and in Minn. Rules pts. 1400.0200 to 1400.1200 (1983) as amended in 9 S.R. 2279 (April 8, 1985) will also be met. The hearing, of course, will be cancelled if the Board does not receive a request for one from 25 or more people.

Pursuant to Minn. Stat. §§ 14.131 and 14.23 (1984) and Minn. Rule pt. 1400.0500, the Board has prepared this Statement of Need and Reasonableness which is available to the public. It contains the verbatim affirmative presentation in support of the above-captioned rule amendments pursuant to Minn. Rules pt. 1400.0500, subp. 3

(1983) as amended in 9 S.R. 2279 (April 8, 1985). If a hearing is held, this Statement of Need and Reasonableness will be introduced into the record as an exhibit and copies will be available for review at the hearing. Because the Statement of Need and Reasonableness contains the Board's complete presentation, the Board will not call any witnesses to testify on its behalf. Dr. Robert Hoover and Kathleen Lapham, RDA, the current and former chairpersons of the Board's rules committee, and Dale Forseth, the Board's Executive Secretary, will be present at the hearing to summarize all or portions of this Statement of Need and Reasonableness, if requested by the Administrative Law Judge, to answer questions, and to respond to concerns that may be raised.

The Board will publish in the State Register the proposed amendments and notice of its intention to amend the rules without a public hearing in combination with its notice of intent to amend its rules with a public hearing if 25 or more persons request a hearing. The Board will also mail copies of the combined notices to persons registered with the Board pursuant to Minn. Stat. § 14.14, subd. 1a (1984), as well as to others whom the Board believes will have an interest in the amendments.

These rules will become effective five work days after publication of a notice of adoption in the State Register pursuant to Minn. Stat. §§ 14.18 and 14.27 (1984).

B. Notice of Intent to Solicit Information From Non-Agency Sources

Minn. Stat. § 14.10 (1984) requires an agency which seeks information or opinions from sources outside the agency in preparing to propose the amendment of rules to publish a notice of its action in the State Register and afford all interested persons an opportunity to submit data or comments on the subject of concern in writing or orally. In the State Register issue of Monday, February 1, 1982, at page 1386, the Board published a notice entitled "Notice of Intent to Solicit Information or Opinions from Non-Agency Sources on Rule Revisions."

The Notice stated that the Board was reviewing its rules to determine if there was a need to amend them and was therefore soliciting information and opinions from sources outside the Board. After a series of meetings of the Board's rules Committee, it identified a number of subject areas for potential rule amendment. The Board then held a "Forum" on September 9, 1983, notice of which was sent to everyone on file with the Board who wanted to be informed of Board rulemaking activities pursuant to Minn. Stat. § 14.14, subd. 1a (1984), including the various dental associations, as well as to others who may have had an interest in the rules but who had not filed with the Board. The purpose of the Forum was to give interested persons an opportunity to comment on various proposals, including proposals covered by the above subject amendments.

As a result of the comments received at the Forum, the Board's rule Committee continued to meet. Many of its meetings were attended by representatives of the various dental associations and other interested parties. Written comments were also received during the entire process. Those comments will be placed into the rulemaking record. Drafts of amendments were submitted to the entire Board on several occasions at which interested persons were permitted to comment. Finally, on June 22, 1985, the Board directed that the formal rulemaking proceeding be started with respect to the above captioned rules.

IV. COMPLIANCE WITH OTHER RULEMAKING REQUIREMENTS

A. Miscellaneous Requirements

These rules do not incorporate by reference text from any other law, rule, or available text or book. Minn. Stat. § 14.07, subd. 4 (1984). These rules minimize the duplication of statutory language. Minn. Stat. § 14.07, subd. 3(1) (1984). The adoption of these rules will not require the expenditure of public money by local public bodies of greater than $100,000 in either of the two years following promulgation, nor do the rules have any impact on agricultural land. Minn. Stat. § 14.11 (1984). Finally, a fiscal note

referenced in Minn. Laws 1985, Ex. Sess., ch. 10, §§ 34 to 36 and 38, is not required because these rules do not mandate that a local agency or school district take an action which would force them to incur costs.

B. Small Business Considerations

It is the position of the Board that Minn. Stat. § 14.115 (1984), relating to small business considerations in rulemaking, does not apply to the rules it promulgates. Minn. Stat. § 14.115, subd. 7(b) (1984), states that section 14.115 does not apply to "agency rules that do not affect small businesses directly." The Board's authority relates only to dentists and not to the dental businesses they operate. While someone cannot operate a dental business without being licensed as a dentist by the Board, the license runs primarily to the technical ability to provide dental services and not the business aspects. This is graphically illustrated in recent dealings with non-dentists who are involved with dental franchise offices. The Board has not taken the position that non-dentists can have no involvement in operating a dental business. Instead, its position is that non-dentists may not interfere with or have any control over the dentist when it comes to any aspect of the practice which could affect the providing of professional services to a patient. Thus the Board regulates the provision of dental services and not the dental business per se. As such it is exempt under Minn. Stat. § 14.115, subd. 7(b) (1984).

The Board is also exempt from the provisions of section 14.115 pursuant to its subdivision 7(c) which states that section 14.115 does not apply to "service businesses regulated by government bodies, for standards and costs, such as . . . providers of medical care." Dentists provide medical care and are regulated for standards and costs. The Board regulates the dentists for standards and the Minnesota Department of Human Services for costs.

The question might be raised as to whether the same government body has to regulate the service business for standards and costs in order for the exemption to apply.

The Board's position is that the question should be answered in the negative. First, the provision specifically refers to regulation by "government bodies." Second, and most significantly, some of the examples of service businesses given in the subdivision where the rules governing them would be exempt from the conditions of section 14.115 actually would not qualify for the exemption if the same government body had to regulate for standards and costs. For example, nursing homes and hospitals are regulated by different government bodies for standards and costs. The Minnesota Department of Health regulates them for standards and the Minnesota Department of Human Services for costs. If the legislature had intended to exempt from the scope of section 14.115 only those rules which address service businesses regulated by one government body for standards and costs, then it could not have included nursing homes and hospitals in its list of examples.

Based on the foregoing, it is clear that section 14.115 is not intended to apply to rules promulgated by the Board. However, because there is no determination addressing the issue from a court, the Attorney General's office, or Office of Administrative Hearings, the Board will briefly address the five methods listed in Minn. Stat. § 14.115, subd. 2 (1984) for reducing the impact of rules on small business.

The suggested methods are largely inapplicable to the proposed rule amendments which do not contain compliance schedules or deadlines or design or operational standards. The methods which might arguably be applicable, the establishment of less stringent reporting or compliance requirements and the exemption of small business from any or all requirements of the rules, cannot be incorporated into the proposed amendments. To do so would be contrary to the statutory objectives that are the basis of the proposed rulemaking.

V. NEED FOR AND REASONABLENESS OF THE PROPOSED AMENDMENTS

A. General Need for and Reasonableness of the Proposed Amendments

The above captioned amendments are primarily a result of two events. First, the Board began in 1982 a review of all of its rules to determine which needed to be updated and otherwise improved. Second, the legislature during the 1982 session amended Minn. Stat. ch. 150A in many significant ways, particularly with respect to disciplinary matters by giving the Board expanded powers. Minn. Laws 1983, ch. 70; see especially sections 5 to 10. Furthermore, in winter of 1984-85, the Legislature conducted hearings with respect to the disciplinary activity of another board and thereafter greatly increased its disciplinary activities. This continued interest of the legislature in licensing board disciplinary activity, which started with the 1976 encactment of Minn. Stat. §§ 214.10 and 214.11, gave basis to the Board examining and then proposing new provisions to further improve its ability to investigate complaints filed against licensees, registrants, and applicants and to take disciplinary action thereafter when justified.

The proposed amendments are in keeping with the provisions of Minn. Stat. chs. 150A and 319A (1984), and as the following rule by rule justification will demonstrate, are both needed and reasonable.

B. Rule by Rule Justification

1. Part 3100.0100 Definitions (formerly 7 MCAR § 3.002)

a. Subpart 1. The language added to subpart 1 is routine language for a definition section. There is at least one area in the rules where the proposed language would remove the possibility of a misunderstanding. Subpart 2 defines the word "act" as referring to the Dental Practice Act. However, part 3100.8300 refers to the "act" or "acts" of auxiliary personnel which clearly refers to the conduct of an auxiliary as opposed the Dental Practice Act.

b. Subparts 9a and 12. Subpart 9a is not entirely new language but reorganized from subpart 12 by the addition of the word "dental" to more clearly define the position and to conform with professional, academic and statutory language. Subpart 12 is therefore repealed.

c. Subpart 19. This subpart defines the term "Registry" and relates to the Board's rules on continuing dental education. Up until July 1, 1984, the Board had a cooperative agreement with the American Dental Association's Continuing Education Registry. Licensees and registrants were to send documentation of their attending continuing dental education courses to the Registry. The Registry recorded the information on its computer and periodically sent reports to the Board, licensees, and registrants. In other words, the Registry acted as a recordkeeping agent of the Board with respect to continuing dental education. However, on July 1, 1984, the Board started maintaining all continuing education records in its own offices. Accordingly, the reference to the Registry in the Board's rules relating to continuing education is being repealed thus necessitating and justifying repeal of the definition of the term "Registry."

2. Part 3100.3100 Conduct of Examinations; and Part 3100.3200 Clinical Examinations (formerly 7 MCAR §§ 3.021 and 3.022 respectively)

The only change to these parts is to add the word "dental" before the word "hygienist." The change is to parallel the relevant amendments to the definitions section of the Board rules. The Board is repealing part 3100.0100, subpart 12, the definition of "hygienist," and replacing it with the definition of "dental hygienist" which will be codified in part 3100.0100, subpart 9a. The change to parts 3100.3100 and 3100.3200 is to bring the applicable terms into conformity with the terms as used in the definitions section. See paragraph 1b, supra at 8.

3. Part 3100.6200 Conduct Unbecoming a Licensee or Registrant (formerly 7 MCAR § 3.042)

a. Introductory language. The need to change the statutory citation in the first paragraph in part 3100.6200 arises from 1983 legislative amendments to Minn. Stat. § 150A.08, subd.1 which moved clause 5 to clause 6. See Minn Laws 1983, ch. 70, § 5. The language relating to drugs is deleted because in 1983 the legislature clarified the Board's powers in the area of drugs. The powers regarding the misuse of drugs is now contained in Minn. Stat. § 150A.08, subd. 1(5) (1984).

b. Item J. The proposed amendment in part 3100.6200J requiring cooperation in an investigation is necessary to carry out and make effective the new rule proposed in part 3100.6350. The need and reasonableness for part 3100.6350 is spelled out below in paragraph 5, infra at 11. The justification for part 3100.6350 embodies the support for part 3100.6200J.

c. Item K. The language relating to safety and sanitary conditions is simply moved to item K, thus constituting a nonsubstantive, editorial change.

4. Part 3100.6325 Voluntary Termination of Licensure or Registration (new rule)

The statutory authority to promulgate this rule is contained in Minn. Stat. § 150A.04, subd. 5 (1984) which permits the Board to promulgate rules necessary to carry out the provisions of the statute. Minn. Stat. § 150A.08, subd. 1 (1984), gives the Board express authority to suspend, revoke, limit, or modify by imposing conditions, any license or registration. In order for the Board to adequately carry out its authority to disicipline licensees or registrants (hereinafter "licensee"), the proposed rule is necessary to prevent a licensee from avoiding a disciplinary action by voluntarily relinquishing his license when the Board has reason to believe that the licensee has violated a statute or rule which the Board is empowered to enforce.

In discussing the need for the proposed rule, it is useful to examine how the Minnesota Supreme Court and courts in other states have treated requests by attorneys for voluntary termination of licensure.

In 1976 the Minnesota Supreme Court adopted a rule which requires court approval of any request for resignation from practice. Rule 11, Rules of Lawyers Professional Responsibility. However, even prior to adoption of this rule, the Minnesota Supreme Court had refused to allow an attorney to resign under threat of disciplinary action. The court reasoned that to allow a resignation would not act as a deterrent to legal misconduct. In re Streater, 262 Minn. 538, 115 N.W.2d 729 (1962). In applying this principle, the Court has denied requests for voluntary resignation if the attorney had violated professional duties which would otherwise justify discipline. Matter of Discipline of Peck, 302 N.W.2d 356 (Minn. 1981); and Application of Hetland, 275 N.W.2d 582 (Minn. 1978).

Courts in other jurisdictions have also refused to allow voluntary resignation from the practice of law when the resignation would allow the attorney to evade or forestall disciplinary action. Louisana State Bar Assoc. v. Powell, 196 So.2d 280 (La. 1967); Peter v. State Bar of California, 21 Cal.2d 866, 136 P.2d 561 (1943); Exparte Thompson, 32 Or. 499, 52 P.570 (1898) (voluntary resignation would prevent the court from enforcing the profession's established standards of conduct); see generally Annot., 54 A.L.R.2d 1280 (1957). In addition, some courts have required an admission of culpability as a condition to approval of voluntary resignation from practice. Matter of Nixon, 385 N.Y.S.2d 305, 53 A.D.2d 178 (1976). Other courts have allowed resignation but have conditioned it upon the attorney's agreement not to apply for reinstatement. Application of Harper, 84 So.2d 700 (Fla. 1956).

The issue of a licensing board's authority to reject a voluntary surrender of a license was addressed in Cross v. Colorado State Board of Dental Examiners, 522 P.2d 38

(Colo. 1976). In that case, the court held that a licensee was not entitled to resign or surrender his license as a matter of right during the pendency of a disciplinary proceeding. The court held that the board's authority to accept or reject a licensee's tendered surrender of his license "must be implied" from the board's authority to grant a license. Id. at 41. The court also noted that the board approval for termination of licensure was important to protect the public interest. If a licensee were to resign and then years later reapply for licensure, the board would have a right to consider the reasons for resignation. However, resignation without board approval would preclude the preservation of an adequate record of the alleged unprofessional conduct. Id. at 41. Thus, the board's function of protecting the public through disciplinary proceedings would be defeated.

The Minnesota Board of Dentistry is proposing part 3100.6500 for a similar reason. A rule requiring Board approval for surrender of license would prevent a licensee from avoiding discipline through resignation, would preserve evidence, would protect the public, and would protect the profession by maintaining established standards of conduct.

5. Parts 3100.6200 J and 3100.6350 Required Cooperation (new rules)

The statutory authority to promulgate parts 3100.6200J and 3100.6350 is set forth in Minn. Stat § 150A.04 (1984) which allows the Board to promulgate rules necessary to carry out and make effective the provisions and purposes of the statute. In addition, Minn. Stat. § 214.10, subd. 3 (1984), gives the Board express authority to issue subpoenas, and compel the attendance of witnesses and the production of all necessary papers, books, records, documents and other evidentiary materials in matters related to the Board's regulatory activities.

Each of the provisions of the proposed rules is within the Board's express authority under Minn. Stat. § 214.10, subds. 2 and 3 (1984). Requiring a licensee, registrant, and applicant to furnish designated papers, documents, and tangible objects falls within the Board's subpoena power. Requiring a licensee, registrant, and applicant to

furnish in writing a full and complete explanation of the matter and to appear for conferences and hearings is within the Board's authority to compel the attendance of witnesses and to schedule conferences and hearings under Minn. Stat. § 214.10, subds. 2 and 3 (1984).

Minnesota Statute § 214.10, subd. 3 (1984), not only gives the Board authority to compel witnesses to appear, give testimony and produce records, it also imposes an implied corollary duty on a licensee, registrant, and applicant to appear when requested and give testimony, both written and oral. The existence of such an implied duty was recognized by the United States Supreme Court when it reviewed a similar statute of the Internal Revenue Service (IRS). The Court held that the IRS' authority to examine taxpayers' books and records and summon individuals placed a duty on the taxpayer to appear and testify. U.S. v. Euge, 444 U.S. 707, rehearing denied, 446 U.S. 913 (1980).

The Board is proposing part 3100.6350 to clearly indicate to licensees, registrants and applicants that they have a duty to cooperate with the Board and to delineate the scope of that duty. To make the rule effective, the Board, pursuant to Minn. Stat. § 150A.08, subd. 1(6) (1984), is making the refusal to cooperate a violation of part 3100.6200 and including within the definition of "conduct unbecoming" in part 3100.6200 the failure to cooperate in new subpart J.

This duty to provide information when requested by a responsible authority is well recognized in common law even where no express statutory authority exists. The rationale for the imposition of this duty is based on the public's interest in the effective operation of government. The only exception to such a duty is the presence of a substantial individual interest which would outweigh the public interest. U.S. v. Euge, supra, at 712 citing United States v. Bryan, 339 U.S. 323, 331 (1950). One of the primary individual interests which, if present, could outweigh the public interest in compelling testimony or producing documents is the assertion of the Fifth Amendment privilege

against self-incrimination. Although the Fifth Amendment right against self-incrimination can be invoked in civil cases, the right is not absolute. It can only be invoked when testimony in a civil case would enhance the threat of criminal prosecution such that reasonable grounds exist to comprehend its danger. Parker v. Hennepin County Dist. Ct., 4th Jud. Dist., 386 N.W.2d 81 (Minn. 1979), citing Hoffman v. United States, 341 U.S. 479 (1951). In addition, the mere requirement to appear and respond to a summons does not violate an individual's Fifth Amendment rights since the individual may assert the privilege, if appropriate, when individual questions are asked. In re C.I.R., 216 F. Supp. 90 (D. Mich. 1963). In fact, even requiring individuals to report that they have violated a statute (e.g., requiring a report that a company has discharged oil into public water) does not violate the Fifth Amendment privilege against self-incrimination as long as the report is only used to impose a civil penalty. U.S. v. Ward, 448 U.S. 42, rehearing denied, 448 U.S. 916 (1980).

Even in cases where criminal prosecution could result from compelled testimony in a civil proceeding, an individual may still be compelled to testify or produce records if a statute or the court grants immunity from criminal prosecution. Minnesota State Bar Ass'n v. Divorce Assistance Ass'n, 248 N.W.2d 733, 738 (Minn. 1976). The Minnesota Legislature in 1983 provided just such immunity in the Dental Practices Act. Minnesota Statute § 150A.08, subd. 7 (1984) provides that a person is not excused from attending or testifying at a Board proceeding or from producing any document on the grounds of self-incrimination. This section also allows immunity from criminal prosecution for any crime related to the testimony given or evidence produced if the person first claims the privilege.

A similar rule requiring attorneys to cooperate with an investigation or proceeding of the Board of Professional Responsibility or its staff has been adopted by the Minnesota Supreme Court. Violation of the rule is unprofessional conduct and a ground

for discipline. Rule 25, Rules of Lawyers Professional Responsibility. In fact, part 3100.6350 is patterned after Rule 25. Even before adoption of Rule 25, the Minnesota Supreme Court had long recognized that an attorney must cooperate with disciplinary authorities in their investigation and resolution of complaints. See, Matter of Cartwright, 282 N.W.2d 548, 551 (Minn. 1979).

More recently, the principle as now expressed in Rule 25 has successfully withstood a challenge that it was unconstitutionally void for vagueness. In re Charges of Unprofessional Conduct Against N.P., 361 N.W.2d 386 (Minn. 1985). In upholding the rule, the Court stated that, although not contained within the express wording of the rule, it should be interpreted so as to allow for good faith challenges. The Court also named the district court in which motions could be brought to challenge requests. In view of those modifications to the lawyer's rule, the Board has included within its proposed rule a specific statement recognizing that good faith challenges will not constitute a failure to cooperate and has noted that those challenges shall be brought before the appropriate agency or court. This recognizes that the appropriate jurisdiction with which to raise a challenge will vary based upon the nature of the request and the stage of the proceeding. For example, failure to respond to the request of an investigator would simply be noted at that time and addressed later either in a disciplinary conference before the Board's complaint committee or during a contested case. If the refusal to comply related to a Board issued investigative subpoena, the challenge would be brought in district court pursuant to Minn. Stat. § 214.10, subd. 3 (1984). Challenges raised during a contested case would be decided by the Administrative Law Judge assigned to the matter from the Office of Administrative Hearings. In any event part 3100.6350 comports with the requirements set out by the Minnesota Supreme Court.

Courts in other states have also imposed a duty upon attorneys to cooperate in investigations of alleged professional misconduct. See, In re Draper, 317 A.2d 106 (Del.

1974); In re Talbot, 78 Wash.2d 295, 474 P.2d 88 (1970); In the Matter of Disciplinary Proceedings Against Elliot, 83 Wisc.2d 904, 266 N.W.2d 430 (1978). Some courts, as is now the case in Minnesota pursuant to Rule 25, Rules of Lawyers Professional Responsibility, have adopted rules requiring an attorney who is under investigation to cooperate and providing that failure to do so constitutes a separate act of misconduct. See, e.g., Rule 2.8, Rules for Lawyer Discipline, Washington Court Rules (1983); Rule 21.03(4), Wisconsin Supreme Court Rules (1983). The Washington Supreme Court explained the rationale for a requirement of cooperation in Matter of McMurray, 99 Wash.2d 920, 665 P.2d 1352 (1983) as follows:

> We view such failure to cooperate with the investigation of charges of misconduct as a serious violation of an attorney's duties. The sanctions imposed for such violations must reflect the purpose of attorney discipline: protection of the public and preservation of confidence in the legal system. Public confidence in the legal profession, and the deterrence of misconduct, require thorough and effective investigation of charges of unprofessional conduct. The resources of the profession being limited, such investigations depend upon the cooperation of attorneys. Lack of cooperation can only impede the investigation of complaints and undermine the public's confidence in the profession. Moreover, unless non-cooperation brings severe sanctions, attorneys guilty of unprofessional conduct might be tempted to "stonewall" to prevent serious violations coming to light.

Id. at ____, 665 P.2d at 1357-1358.

The Board is proposing a rule requiring cooperation and making failure to cooperate a basis for discipline for similar reasons. The proposed rule is necessary and reasonable to assist the Board in assuring that only those who are qualified will be licensed or allowed the right to continued full use of their license. In many instances, the information needed to determine whether a licensee should be disciplined is contained in records and in other information in the possession of the licensee. Since the disciplinary process is one of self-regulation to maintain a high standard in the dental profession, cooperation by licensees is necessary to achieve this goal.

6. Part 3100.9100 Annual Reports (formerly 7 MCAR § 3.061)

a. Item C. The authority to adopt rules on professional corporations is contained in Minn. Stat. § 319A.18 (1984). Minn. Stat. § 319A.16 (1984) permits only licensed dentists to be officers of professional dental corporations except that the secretary and treasurer may be someone other than a dentist if the bylaws of the corporation so provide. The amendment to Item C would require that the corporate title of each officer be included on the annual reports to the Board. This amendment is necessary to assist the Board in carrying out its responsibility to assure that the corporation is in compliance with section 319A.16.

b. Item E. Minn. Stat. § 319A.21 (284) specifies the filing fees that professional corporations must submit when filing annual reports with the Board. The Board, therefore, proposes that subpart E be deleted because it is repetitious and therefore unnecessary. Minn. Stat. § 14.07, subd. 3 (1984) requires that duplication of statutory language be minimized in the rules.

c. The remainder of the changes in this part are nonsubstantive, editorial, or stylistic.

7. Part 3100.9200 Cerificate of Registration (formerly 7 MCAR § 3.062)

a. The need to amend this rule arises out of the Board's determination that the issuance of annual certificates of registration to professional corporations is not necessary. There are no statutory requirements for the issuance of certificates, and other health-related licensing boards do not issue them. The Minnesota Secretary of State issues a certificate to do business in the state, which is the only certificate that a corporation is required to have by statute. Further, the Board does not have any requirement to post a certificate or provide evidence of possession of one. Therefore, the issuance of a certificate is an unnecessary burden for the Board, and the elimination of the requirement would reduce Board costs. Because the Board proposes that reference to

the certificate be deleted, it proposes that the title of the part be changed to "Review of Annual Report" to conform with the substance of the rule.

b. Minn. Laws 1976, ch. 222, § 74, removed the position of secretary-treasurer and created the position of executive secretary. The Board proposes to amend the rule to reflect this change.

c. The other changes in the part are nonsubstantive, editorial, or stylistic.

8. Part 3100.9300 Revocation of Certificate (formerly 7 MCAR § 3.065)

Since the Board is proposing an amendment to part 3100.9200 to delete reference to the "certificate of registration," (see paragraph 7a, supra at 16), the proposed amendments to this rule would also delete reference to the "certificate" and make other nonsubstantive, editorial, or stylistic changes.

9. Part 3100.9500 Corporation Names (formerly 7 MCAR § 3.063)

The amendments to this rule are nonsubstantive, editorial, or stylistic.

Dated: August 6, 1985

STATE OF MINNESOTA

BOARD OF DENTISTRY

DALE J. FORSETH
Executive Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendments to Dentistry Rules Relating to Definitions, Parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, Parts 3100.9100 to 3100.9300 and 3100.9500; Adding New Rules Relating to Voluntary Termination of License or Registration, Part 3100.6325, and Cooperation by Those Under Investigation, parts 3100.6200 and 3100.6350; and Repealing Part 3100.0100 subparts 12 and 19

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Assistant Attorney General Richard A. Wexler, 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, and the rules of the Attorney General have been followed without exception.

RICHARD A. WEXLER
Assistant Attorney General

Dated: Dec 13, 1985

DEPARTMENT : ATTORNEY GENERAL - Health

PHONE : 341-7272

STATE OF MINNESOTA

Office Memorandum

DATE : December 16, 1985

TO : Mike Miles
Assistant Attorney General
204 Administration Building

FROM : Richard A. Wexler
Assistant Attorney General

SUBJECT : In the Matter of Proposed Amendments to Dentistry Rules relating to Definitions, parts 3100.0100, 3100.3100, and 3100.3200, and Professional Corporations, parts 3100.9100-9300 and 3100.9500; adding new rules relating to Voluntary Termination of License or Registration, part 3100.6325, and cooperation by those under investigation, parts 3100.6200 and 3100.6350; and repealing part 3100.0100, subparts 12 and 19

The Minnesota Board of Dentistry has adopted the above subject rule amendments following the noncontroversial rule procedures of Minn. Stat. §§ 14.22-28. Pursuant to Minn. Rules pt. 2000.0400 (1985) I am submitting with this memorandum the following rulemaking documents. Based upon information received from your office, only one copy of each of the documents is enclosed except for the Rules as Adopted, in which case four copies are submitted.

1. Rule Amendments as Adopted (four stripped copies from the Revisor's office as there were no changes made by the Board between the proposed amendments and those adopted).

2. Findings of Fact, Conclusions, and Order Adopting Rule Amendments Without a Public Hearing.

3. Certificate of Board's Resolution Adopting Rules.

4. Notice of Intent to Solicit Information or Opinions from Non-Agency Sources on Rule Revisions (copy from the State Register, 6 S.R. 1386, February 1, 1982).

5. Data received by the Board as a result of the Notice referenced in item 4 above.

6. Order for Notice of Intent to Amend Rules Without a Public Hearing, Notice of Intent to Amend Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing.

7. Certificate of Board of Dentistry Authorizing Resolution.

8. Notice of Intent to Amend Rules Without a Public Hearing, Notice of Intent to Amend Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing.

9. Affidavit of Mailing (of notice referenced in item 8 above).

10. Certificate of Agency's Mailing List.

11. Affidavit of Discretionary Mailing (of notice referenced in item 8 above to those whom the Board believes might have an interest in the proposed rule amendments).

12. Rules as proposed and Notice referenced in item 8 above (copy from the State Register, 10 S.R. 520, August 26, 1985).

13. Rule Amendments as Proposed (copy from the Revisor's office with approval as to form).

14. Statement of Need and Reasonableness.

15. Certificate of Compliance With Rulemaking Procedures.

Please be aware that no comments were received during the 30 day comment period nor were there any requests for a hearing. In addition, no one requested to be notified of the date that the Board submitted the rules to the Attorney General's office. Accordingly, a Notice of Submission to the Attorney General and an accompanying affidavit of mailing are not included in the documents submitted to you because they are not necessary.

In addition, because the enclosed documents are the Board's original copies, I would appreciate it if you would return them to me after you have reviewed and acted upon the rules.

I trust that you will find everything in order. If you have any questions, please feel free to contact me.

RAW:dsc

Enclosures

cc: Dale Forseth