

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

Our File No. 1255 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 12.26.85 mjc 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 with 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 with 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

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

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

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

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-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT: ATTORNEY GENERAL

TO: DALE J. FORSETH, Executive Secretary
Board of Dentistry

ATTN: RICHARD A. WEXLER
Assistant Attorney General

DATE: 12-27-85

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of Proposed Amendments to Dentistry Rules Relating to Dental Auxiliary Personnel and Services, Parts 3100.8400, 3100.8500, 3100.8700; and repealing part 3100.8400, subpart 2

The above-referenced rule has been approved as to its legality by the Attorney General on December 26, 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.

MJC:pmf

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR#1235

DEC 1985 RECEIVED DENTISTRY BOARD

AG copy

Board of Dentistry

Adopted Rules Relating to Dental Hygienists

Rules as Adopted

3100.8400 ASSISTANTS.

Subpart 1. **Permissible duties.** Assistants may: perform all those duties not directly related with performing dental treatment or services on patients; retract a patient's cheek, tongue, or other parts of tissue during a dental operation; assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation; remove such debris as is normally created or accumulated during the course of treatment being rendered by a licensed dentist during or after operative procedures by the dentist by the use of vacuum devices, compressed air, mouthwash, and water; provide any assistance, including the placement of articles and topical medication in a patient's oral cavity, in response to a specific direction to do so by a licensed dentist who is then and there actually engaged in performing a dental operation as defined in the act and who is then actually in a position to give personal supervision to the rendition of this assistance; and aid dental hygienists and registered dental assistants in the performance of their duties as defined in subpart 2 and parts 3100.8600 and 3100.8700.

Subp. 2. [See repealer.]

Subp. 3. [Unchanged.]

3100.8500 REGISTERED DENTAL ASSISTANTS.

Subpart 1. **Permissible duties.** Registered dental assistants in addition to services performed by the assistant may perform the following services under the indirect supervision of a dentist:

A. to D. [Unchanged.]

E. remove excess cement from inlays, crowns, bridges,

APPROVED IN THE REVISOR OF STATUTES OFFICE BY: DSN

and orthodontic appliances with hand instruments only;

F. perform mechanical polishing to clinical crowns not including instrumentation. Removal of calculus by instrumentation must be done by the dentist or dental hygienist prior to performance of mechanical polishing; FF

G. to K. [Unchanged.]

Subp. 2. [Unchanged.]

Subp. 3. **Limited registration.** A dental assistant, who by virtue of academic achievement which is equal to or greater than that of a registered dental assistant, and is currently qualified in Minnesota in an allied health profession may take dental radiographs under the indirect supervision of a dentist if the person complies with the requirements of this subpart. The person shall file with the board a completed application on a form furnished by the board and the fee prescribed in part 3100.2000, subpart 7. In addition, the person shall submit evidence of the successful completion of a course on dental radiographs and of passing an examination. The course must be board-approved. The course shall be equivalent to the dental radiograph courses offered by dental assisting courses approved by the board under part 3100.1300, item B. The examination must be the radiograph part of the examination which is required of registered dental assistant applicants.

3100.8700 DENTAL HYGIENISTS.

Subpart 1. **Permissible duties.** Dental hygienists may perform the following services under the general supervision of a dentist:

A. [Unchanged.]

B. complete prophylaxis to include scaling, root planing, soft tissue curettage, polishing of restorations, and temporary replacement of restorations;

C. [Unchanged.]

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

E. application of pit and fissure sealants.

Subp. 2. **Other duties.** Dental hygienists, under the

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

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.

RENUMBER. In Minnesota Rules, part 3100.2000, subpart 7 renumber part 3100.8400, subpart 2 as part 3100.8500, subpart 3.

REPEALER. Minnesota Rules, ~~part~~ parts 3100.8400, subpart 2, and 3100.8600 ~~is~~ are repealed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

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
December 26 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed

3100.8400 ASSISTANTS.

Subpart 1. **Permissible duties.** Assistants may: perform all those duties not directly related with performing dental treatment or services on patients; retract a patient's cheek, tongue, or other parts of tissue during a dental operation; assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation; remove such debris as is normally created or accumulated during the course of treatment being rendered by a licensed dentist during or after operative procedures by the dentist by the use of vacuum devices, compressed air, mouthwash, and water; ~~and~~ provide any assistance, including the placement of articles and topical medication in a patient's oral cavity, in response to a specific direction to do so by a licensed dentist who is then and there actually engaged in performing a dental operation as defined in the act and who is then actually in a position to give personal supervision to the rendition of ~~such~~ this assistance~~:~~

~~In addition, assistants may~~; and aid dental hygienists and registered dental assistants in the performance of their duties as defined in subpart 2 and parts 3100.8600 and 3100.8700.

Subp. 2. [See repealer.]

Subp. 3. [Unchanged.]

3100.8500 REGISTERED DENTAL ASSISTANTS.

Subpart 1. **Permissible duties.** Registered dental assistants in addition to services performed by the assistant may perform the following services under the indirect supervision of a dentist:

A. to D. [Unchanged.]

E. remove excess cement from inlays, crowns, bridges, and orthodontic ~~bands~~ appliances with hand instruments only;

F. perform mechanical polishing to clinical crowns ~~only and~~ not ~~to include any~~ including instrumentation~~:--prior~~

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

~~examination for~~. Removal of calculus ~~and~~ by instrumentation must be done by the dentist or dental hygienist;

G. to K. [Unchanged.]

Subp. 2. [Unchanged.]

Subp. 3. **Limited registration.** A dental assistant, who by virtue of academic achievement which is equal to or greater than that of a registered dental assistant, and is currently qualified in Minnesota in an allied health profession may take dental radiographs under the indirect supervision of a dentist if the person complies with the requirements of this subpart. The person shall file with the board a completed application on a form furnished by the board and the fee prescribed in part 3100.2000, subpart 7. In addition, the person shall submit evidence of the successful completion of a course on dental radiographs and of passing an examination. The course must be board-approved. The course shall be equivalent to the dental radiograph courses offered by dental assisting courses approved by the board under part 3100.1300, item B. The examination must be the radiograph part of the examination which is required of registered dental assistant applicants.

3100.8700 DENTAL HYGIENISTS.

Subpart 1. **Permissible duties.** Dental hygienists may perform the following services under the general supervision of a dentist:

A. [Unchanged.]

B. complete prophylaxis to include scaling, root planing, soft tissue curettage, polishing of ~~fillings~~ restorations, and temporary replacement of restorations;

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~~

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

~~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.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD780

Agency: Board of Dentistry

Division:

Agency Contact: Dale Forseth

Minnesota Rules: Parts 3100.8400; 3100.8500; 3100.8700

Title: Proposed Rules Relating to Dental Hygienists

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: July 3, 1985

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendments to Dentistry Rules Relating to Dental Auxiliary Personnel and Services, parts 3100.2000, subpart 7, 3100.8400, 3100.8500, 3100.8700; and repealing parts 3100.8400, subpart 2, and 3100.8600

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 received one request for a public hearing. Therefore, the Board did not receive 25 or more requests for a hearing which would mandate the holding of a hearing pursuant to Minn. Stat. § 14.25 (1984).

No requests for notice of submission to the attorney general were received by the agency. Three letters of comment on the rule were received.

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

1. Dr. Phillip J. Sheridan suggested that the Board consider deleting soft tissue curettage from the list of permissible duties for dental hygienists as contained in Minn. Rules pt. 3100.8700B. The question of soft tissue curettage was not raised in the amendments currently proposed and thus cannot be considered at this time.

2. Dr. Dennis A. Johnson addressed the proposed amendment to Minn. Rules pt. 3100.8500, subp. 1F. The rule, as it currently reads, authorizes registered dental assistants to "perform mechnical polishing to clinical crowns only and not to include any instrumentation: prior examination for calculus and instrumentation must be done by the dentist or hygienist." The amendment, as proposed, would remove the requirement that the instrumentation to remove the calculus be done before the registered dental assistant mechanically polishes the clinical crowns.

Dr. Johnson stated that he believed it was a mistake to remove the requirement that calculus be removed by the dentist or dental hygienist prior to the mechnical polishing of clinical crowns as it could lead to the result of patients having their clinical crowns polished before the calculus was removed. Such a result would not benefit the patient. The Board agrees with Dr. Johnson's observations and notes that the change was inadvertent. Accordingly, the Board adopts the rule in the following form, "Perform mechnical polishing to clinical crowns not including instrumentation. Removal of calculus by instrumentation must be done by the dentist or dental hygienist <u>prior to performance of mechanical polishing</u>." (The new language added by the Board as a result of Dr. Johnson's suggestion is underlined.)

The change made by the Board is nonsubstantive. The Board's original intent in proposing the amendmendment to subpart 1F was to make editorial changes only. See Statement of Need and Reasonableness at page 7, paragraph VB2a(3). In making the editorial changes the Board inadvertently created a wording which could arguably have resulted in a substantive change. Such a change would not have been

consistent with acceptable dental practices. The rule, as hereby adopted, assures that the meaning of the rule remains unchanged.

3. The Board also received comments from its attorney suggesting two editorial changes which, if made, would avoid the creation of internal inconsistencies in the rules. The Board adopts the changes as follows:

a. Minn. Rules pt. 3100.8600 is repealed. That rule establishes the standard of "indirect supervision" by dentists of dental assistants who are authorized to take dental radiographs and of registered dental assistants as they perform their authorized duties. The proposed amendments, however, have inserted the "indirect supervision" standard in the specific rules relating to those subjects. See amendments to Minn. Rules pt. 3100.8500, subps. 1 and 3. As a consequence, part 3100.8600 is duplicative and should be repealed. The repeal is nonsubstantive as the substance of the rule has been transferred to other rules.

b. Minn. Rules pt. 3100.2000, subp. 7, is modified to correct a citation. This subpart establishes the application fee which will be charged a person applying for permission to take X rays pursuant to Minn. Rules pt. 3100.8400, subp. 2. That subpart, however, is proposed for repeal and is being repromulgated as Minn. Rules pt. 3100.8500, subp. 3. Accordingly, the reference in part 3100.2000, subp. 7, to part 3100.8400, subp. 2, needs to be changed to instead refer to part 3100.8500, subp. 3. Part 3100.2000, subpart 7, is thus changed to read: **"Application for permission to take dental X rays.** A person applying for permission to take dental X rays pursuant to part ~~3100.8400,~~ 3100.8500, subp. ~~2~~ 3, shall submit with an application a fee in the amount of $10." The change is nonsubstantive and editorial only.

4. The above-captioned rule amendments, with the modifications noted herein, 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. 3100.2000, subp. 7, 3100.8400, 3100.8500, and 3100.8700 are adopted and Minn. Rules pts. 3100.8400, subp. 2, and 3100.8600 are repealed this 9th day of ~~November,~~ December 1985, pursuant to authority vested in the Board by Minn. Stat. §§ 150A.04, subd. 5, and 150A.10, subds. 1 and 2 (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

In the Matter of Proposed Amendments to Dentistry Rules Relating to Dental Auxiliary Personnel and Services, parts 3100.2000, subpart 7, 3100.8400, 3100.8500, 3100.8700; and repealing parts 3100.8400, subpart 2, and 3100.8600

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 received one request for a public hearing. Therefore, the Board did not receive 25 or more requests for a hearing which would mandate the holding of a hearing pursuant to Minn. Stat. § 14.25 (1984).

No requests for notice of submission to the attorney general were received by the agency. Three letters of comment on the rule were received.

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

1. Dr. Phillip J. Sheridan suggested that the Board consider deleting soft tissue curettage from the list of permissible duties for dental hygienists as contained in Minn. Rules pt. 3100.8700B. The question of soft tissue curettage was not raised in the amendments currently proposed and thus cannot be considered at this time.

2. Dr. Dennis A. Johnson addressed the proposed amendment to Minn. Rules pt. 3100.8500, subp. 1F. The rule, as it currently reads, authorizes registered dental assistants to "perform mechnical polishing to clinical crowns only and not to include any instrumentation: prior examination for calculus and instrumentation must be done by the dentist or hygienist." The amendment, as proposed, would remove the requirement that the instrumentation to remove the calculus be done before the registered dental assistant mechanically polishes the clinical crowns.

Dr. Johnson stated that he believed it was a mistake to remove the requirement that calculus be removed by the dentist or dental hygienist prior to the mechnical polishing of clinical crowns as it could lead to the result of patients having their clinical crowns polished before the calculus was removed. Such a result would not benefit the patient. The Board agrees with Dr. Johnson's observations and notes that the change was inadvertent. Accordingly, the Board adopts the rule in the following form, "Perform mechnical polishing to clinical crowns not including instrumentation. Removal of calculus by instrumentation must be done by the dentist or dental hygienist <u>prior to performance of mechanical polishing</u>." (The new language added by the Board as a result of Dr. Johnson's suggestion is underlined.)

The change made by the Board is nonsubstantive. The Board's original intent in proposing the amendmendment to subpart 1F was to make editorial changes only. See Statement of Need and Reasonableness at page 7, paragraph VB2a(3). In making the editorial changes the Board inadvertently created a wording which could arguably have resulted in a substantive change. Such a change would not have been

consistent with acceptable dental practices. The rule, as hereby adopted, assures that the meaning of the rule remains unchanged.

3. The Board also received comments from its attorney suggesting two editorial changes which, if made, would avoid the creation of internal inconsistencies in the rules. The Board adopts the changes as follows:

a. Minn. Rules pt. 3100.8600 is repealed. That rule establishes the standard of "indirect supervision" by dentists of dental assistants who are authorized to take dental radiographs and of registered dental assistants as they perform their authorized duties. The proposed amendments, however, have inserted the "indirect supervision" standard in the specific rules relating to those subjects. See amendments to Minn. Rules pt. 3100.8500, subps. 1 and 3. As a consequence, part 3100.8600 is duplicative and should be repealed. The repeal is nonsubstantive as the substance of the rule has been transferred to other rules.

b. Minn. Rules pt. 3100.2000, subp. 7, is modified to correct a citation. This subpart establishes the application fee which will be charged a person applying for permission to take X rays pursuant to Minn. Rules pt. 3100.8400, subp. 2. That subpart, however, is proposed for repeal and is being repromulgated as Minn. Rules pt. 3100.8500, subp. 3. Accordingly, the reference in part 3100.2000, subp. 7, to part 3100.8400, subp. 2, needs to be changed to instead refer to part 3100.8500, subp. 3. Part 3100.2000, subpart 7, is thus changed to read: **"Application for permission to take dental X rays.** A person applying for permission to take dental X rays pursuant to part ~~3100.8400,~~ 3100.8500, subp. ~~2~~ 3, shall submit with an application a fee in the amount of $10." The change is nonsubstantive and editorial only.

4. The above-captioned rule amendments, with the modifications noted herein, 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. 3100.2000, subp. 7, 3100.8400, 3100.8500, and 3100.8700 are adopted and Minn. Rules pts. 3100.8400, subp. 2, and 3100.8600 are repealed this 9th day of ~~November,~~ December 1985, pursuant to authority vested in the Board by Minn. Stat. §§ 150A.04, subd. 5, and 150A.10, subds. 1 and 2 (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

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 Dental Auxiliary Personnel and Services parts 3100.8400, 3100.8500 3100.8700; and repealing part 3100.8400, subpart 2

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 and publish and (sic) order and a notice of intent to adopt amendments to the Board's rules relating to dental auxiliary personnel and services and repeal of Minn. Rules pt. 3100.8400, subp. 2, such notice to be in the alternative specifying the Board's intent to adopt the amendments without a public 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; and (4) 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

ALTERNATIVE NOTICES

In the Matter of Proposed Amendments to Dentistry Rules Relating to Dental Auxiliary Personnel and Services, parts 3100.8400, 3100.8500 3100.8700; and Repealing part 3100.8400, subpart 2

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; and 150A.10, subds. 1 and 2 (1984).

If adopted, the proposed amendments would: (1) clarify the permissible duties of registered dental assistants; (2) provide for the limited registration of persons in allied health professions with qualification regarding the taking of X rays to be authorized to take dental radiographs upon successful completion of a specified course and examination; (3) adds to the specific services a dental hygienist can perform. The removal of marginal overhangs under the indirect supervision of a dentist; (4) prohibits hygienists from performing any other dental treatments or procedures not authorized by these rules; and (5) make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.8400, 3100.8500, and 3100.8700; and would repeal Minn. Rules pt. 3100.8400, subp. 2. 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 would: (1) clarify the permissible duties of registered dental assistants; (2) provide for the limited registration of persons in allied health professions with qualification regarding the taking of X rays to be authorized to take dental radiographs upon successful completion of a specified course and examination; (3) adds to the specific services a dental hygienist can perform. The removal of marginal overhangs under the indirect supervision of a dentist; (4) prohibits

hygienists from performing any other dental treatments or procedures not authorized by these rules; and (5) make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.8400, 3100.8500, and 3100.8700; and would repeal Minn. Rules pt. 3100.8400, subp. 2. 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; and 150A.10, subds. 1 and 2 (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 Dental Auxiliary
Personnel and Services,
parts 3100.8400, 3100.8500,
3100.8700; and repealing
part 3100.8400, subpart 2

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
NOTARY PUBLIC
HENNEPIN COUNTY, MN
MY COMMISSION EXPIRES
APRIL 14, 1987

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendments to Dentistry Rules Relating to Dental Auxiliary Personnel and Services, parts 3100.8400, 3100.8500 3100.8700; and Repealing part 3100.8400, subpart 2

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; and 150A.10, subds. 1 and 2 (1984).

If adopted, the proposed amendments would: (1) clarify the permissible duties of registered dental assistants; (2) provide for the limited registration of persons in allied health professions with qualification regarding the taking of X rays to be authorized to take dental radiographs upon successful completion of a specified course and examination; (3) adds to the specific services a dental hygienist can perform. The removal of marginal overhangs under the indirect supervision of a dentist; (4) prohibits hygienists from performing any other dental treatments or procedures not authorized by these rules; and (5) make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.8400, 3100.8500, and 3100.8700; and would repeal Minn. Rules pt. 3100.8400, subp. 2. 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 would: (1) clarify the permissible duties of registered dental assistants; (2) provide for the limited registration of persons in allied health professions with qualification regarding the taking of X rays to be authorized to take dental radiographs upon successful completion of a specified course and examination; (3) adds to the specific services a dental hygienist can perform. The removal of marginal overhangs under the indirect supervision of a dentist; (4) prohibits

hygienists from performing any other dental treatments or procedures not authorized by these rules; and (5) make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.8400, 3100.8500, and 3100.8700; and would repeal Minn. Rules pt. 3100.8400, subp. 2. 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; and 150A.10, subds. 1 and 2 (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 9, 1985

DALE J. FORSETH
Executive Secretary
Board of Dentistry

Rules as Proposed

3100.8400 ASSISTANTS.

Subpart 1. **Permissible duties.** Assistants may: perform all those duties not directly related with performing dental treatment or services on patients; retract a patient's cheek, tongue, or other parts of tissue during a dental operation; assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation; remove such debris as is normally created or accumulated during the course of treatment being rendered by a licensed dentist during or after operative procedures by the dentist by the use of vacuum devices, compressed air, mouthwash, and water; and provide any assistance, including the placement of articles and topical medication in a patient's oral cavity, in response to a specific direction to do so by a licensed dentist who is then and there actually engaged in performing a dental operation as defined in the act and who is then actually in a position to give personal supervision to the rendition of ~~such~~ this assistance~~.~~

~~In addition, assistants may~~; and aid dental hygienists and registered dental assistants in the performance of their duties as defined in subpart 2 and parts 3100.8600 and 3100.8700.

Subp. 2. [See repealer.]

Subp. 3. [Unchanged.]

3100.8500 REGISTERED DENTAL ASSISTANTS.

Subpart 1. **Permissible duties.** Registered dental assistants in addition to services performed by the assistant may perform the following services under the indirect supervision of a dentist:

A. to D. [Unchanged.]

E. remove excess cement from inlays, crowns, bridges, and orthodontic ~~bands~~ appliances with hand instruments only;

F. perform mechanical polishing to clinical crowns ~~only and~~ not ~~to include any~~ including instrumentation~~.--prior~~

APPROVED IN THE REVISOR OF STATUTES OFFICE BY

~~examination for~~. Removal of calculus ~~and~~ by instrumentation must be done by the dentist or dental hygienist;

G. to K. [Unchanged.]

Subp. 2. [Unchanged.]

Subp. 3. **Limited registration.** A dental assistant, who by virtue of academic achievement which is equal to or greater than that of a registered dental assistant, and is currently qualified in Minnesota in an allied health profession may take dental radiographs under the indirect supervision of a dentist if the person complies with the requirements of this subpart. The person shall file with the board a completed application on a form furnished by the board and the fee prescribed in part 3100.2000, subpart 7. In addition, the person shall submit evidence of the successful completion of a course on dental radiographs and of passing an examination. The course must be board-approved. The course shall be equivalent to the dental radiograph courses offered by dental assisting courses approved by the board under part 3100.1300, item B. The examination must be the radiograph part of the examination which is required of registered dental assistant applicants.

3100.8700 DENTAL HYGIENISTS.

Subpart 1. **Permissible duties.** Dental hygienists may perform the following services under the general supervision of a dentist:

A. [Unchanged.]

B. complete prophylaxis to include scaling, root planing, soft tissue curettage, polishing of ~~fillings~~ restorations, and temporary replacement of restorations;

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~~

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

~~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.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD780

Agency: Board of Dentistry

Division:

Agency Contact: Dale Forseth

Minnesota Rules: Parts 3100.8400; 3100.8500; 3100.8700

Title: Proposed Rules Relating to Dental Hygienists

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: July 3, 1985

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of Proposed
Amendments to Dentistry Rules
Relating to Dental Auxiliary
Personnel and Services,
parts 3100.8400, 3100.8500,
3100.8700; and repealing
part 3100.8400, subpart 2

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
NOTARY PUBLIC
HENNEPIN COUNTY, MN
MY COMMISSION EXPIRES
APRIL 14, 1987

Dental Assisting Schools
Discretionary

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

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

Dr. Robert Fonda, Director
MANKATO STATE UNIVERSITY
Dental Assisting Program
P.O. Box 81
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 SOCIE
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 SOCIE
4706 Banning Avenue
White Bear Lake, MN 55110

Rolf I. Lindquist, D.D.S.
Secretary-Treasurer
West Central District Den. Soc.
Box 107

Personnel - Discretionary

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

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

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

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

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

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

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

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

Dr. James R. Jensen
UNIVERSITY OF MINNESOTA
School of Dentistry
Moos Tower, Room 15-234
Minneapolis, MN 55455

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

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

Dr. Robert Bender
BRAINERD VO-TECH INSTITUTE
Dental Assisting Program
300 Quince
Brainerd, MN 56401

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

Dental Hygiene Officers
Discretionary

Kathy Newall, D.H., Acting
Director, D.H. Department
U of M School of Dentistry
Moos Tower, Room 5-164
Minneapolis, MN 55455

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

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

Ms. Joan Farkas
NORMANDLAE COMMUNITY COLLEGE
Dental Hygiene Department
9700 France Avenue So.
Bloomington, MN 55431

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

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

Associations
Discretionary

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

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

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

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

MN DENTAL ASSISTANTS' ASSOC.
Discretionary

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

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

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

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

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.
Duluth, MN 55802

Barbara Fossum, D.H.
4230 Juneau Lane
Plymouth, MN 55446

Dr. D. Lawrence Harris
3021 Lyndale Avenue So.
Minneapolis, MN 55408

A. J. Hill, D.D.S.
May Clinic
Rochester, MN 55901

130 Hickory Street
Mahtomedi, MN 55115

Dr. Walter G. Iverson
5538 Chicago Avenue So.
Minneapolis, MN 55417

Brad Hoffman
City of Brooklyn Park
6301 Shingle Creek Parkway
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
1201 Lagoon Avenue
Minneapolis, MN 55408

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

Dr. Clark F. LaChapelle &
Robert E. Derr
201 W. Burnsville Parkway #138
Burnsville, MN 55437

Ellen Lyons, D.H.
10020 Windsor Lake Lane
Minnetonka, MN 55343

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

Susan J. Ladwig
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
St. Cloud, MN 56301

Harriet Pexsa, RDA
P.O. Box 374
Alexandria, MN 56308

Dr. R. E. Nordby
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

Interested Persons
Discretionary

BEMIDJI PROFESSIONAL BUILDING
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 Dental Auxiliary
Personnel and Services,
parts 3100.8400, 3100.8500,
3100.8700; and repealing
part 3100.8400, subpart 2

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 REPOR
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 Boar
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

Board of Dentistry

Proposed Rules Relating to Dental Hygienists

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.10, subds. 1 and 2 (1984).

If adopted, the proposed amendments would: (1) clarify the permissible duties of registered dental assistants; (2) provide for the limited registration of persons in allied health professions with qualification regarding the taking of X rays to be authorized to take dental radiographs upon successful completion of a specified course and examination; (3) adds to the specific services a dental hygienist can perform. The removal of marginal overhangs under the indirect supervision of a dentist; (4) prohibits hygienists from performing any other dental treatments or procedures not authorized by these rules; and (5) make certain editorial changes. The

proposed changes would amend Minn. Rules pts. 3100.8400, 3100.8500, and 3100.8700; and would repeal Minn. Rules pt. 3100.8400, subd. 2.

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 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) clarify the permissible duties of registered dental assistants; (2) provide for the limited registration of persons in allied health professions with qualification regarding the taking of X rays to be authorized to take dental radiographs upon successful completion

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.

of a specified course and examination; (3) adds to the specific services a dental hygienist can perform. The removal of marginal overhangs under the indirect supervision of a dentist; (4) prohibits hygienists from performing any other dental treatments or procedures not authorized by these rules; and (5) make certain editorial changes. The proposed changes would amend Minn. Rules pts. 3100.8400, 3100.8500, and 3100.8700; and would repeal Minn. Rules pt. 3100.8400, subp. 2.

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.10, subds. 1 and 2 (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

3100.8400 ASSISTANTS.

Subpart 1. Permissible duties. Assistants may: perform all those duties not directly related with performing dental treatment or services on patients; retract a patient's cheek, tongue, or other parts of tissue during a dental operation; assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation; remove such debris as is normally created or accumulated during the course of treatment being rendered by a licensed dentist during or after operative procedures by the dentist by the use of vacuum devices, compressed air, mouthwash, and water; ~~and~~ provide any assistance, including the placement of articles and topical medication in a patient's oral cavity, in response to a specific direction to do so by a licensed dentist who is then and there actually engaged in performing a dental operation as defined in the act and who is then actually in a position to give personal supervision to the rendition of ~~such~~ this assistance~~.~~

~~In addition, assistants may;~~ and aid dental hygienists and registered dental assistants in the performance of their duties as defined in subpart 2 and parts 3100.8600 and 3100.8700.

Subp. 2 [See repealer.]

Subp. 3. [Unchanged.]

3100.8500 REGISTERED DENTAL ASSISTANTS.

Subpart 1. Permissible duties. Registered dental assistants in addition to services performed by the assistant may perform the following services under the indirect supervision of a dentist:

A. to D. [Unchanged.]

E. remove excess cement from inlays, crowns, bridges, and orthodontic ~~bands~~ appliances with hand instruments only;

F. perform mechanical polishing to clinical crowns ~~only and~~ not ~~to include any~~ including instrumentation~~: prior examination for~~. Removal of calculus ~~and~~ by instrumentation must be done by the dentist or dental hygienist;

G. to K. [Unchanged.]

Subp. 2. [Unchanged.]

Subp. 3. Limited registration. A dental assistant, who by virtue of academic achievement which is equal to or greater than that of a registered dental assistant, and is currently qualified in Minnesota in an allied health profession may take dental radiographs under the indirect supervision of a dentist if the person complies with the requirements of this subpart. The person shall file with the board a completed application on a form furnished by the board and the fee prescribed in part 3100.2000, subpart 7. In addition, the person shall submit evidence of the successful completion of a course on dental radiographs and of passing an examination. The course must be board-approved. The course shall be equivalent to the dental radiograph courses offered by dental assisting courses approved by the board under part 3100.1300, item B. The examination must be the radiograph part of the examination which is required of registered dental assistant applicants.

3100.8700 DENTAL HYGIENISTS.

Subpart 1. Permissible duties. Dental hygienists may perform the following services under the general supervision of a dentist:

A. [Unchanged.]

B. complete prophylaxis to include scaling, root planing, soft tissue curettage, polishing of ~~fillings~~ restorations, and temporary replacement of restorations;

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.

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.

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 dental auxiliary personnel and services and repeal of Minn. Rules pts. 3100.8400, subp. 2, and 3100.8600 (1983) be and hereby are approved and adopted, pursuant to authority vested in us by Minn. Stat. §§ 150A.04, subd. 5, and 150A.10, subds. 1 and 2 (1984) and that Dale J. Forseth, Executive Director of the Board of Dentistry, be and hereby is authorized to sign an order adopting these changes and any other required documents and is further authorized to perform the necessary acts to provide that these rule changes 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 Dental Auxiliary
Personnel and Services,
parts 3100.8400, 3100.8500,
3100.8700; and repealing
part 3100.8400, subpart 2

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 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 150A.12." In addition, Minn. Stat. § 150A.10, subds. 1 and 2 (1984) specifically authorize the Board to set forth the different services or acts which dental hygienists and

registered dental assistants may perform. The Board is also authorized to permit different levels of dental assisting.

III. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

A. Requirements in General

The Board has determined that the above captioned 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 for adopting rules after a hearing as specified in Minn. Stat. §§ 14.131 to 14.20 (1984) and in Minn. Rules pt. 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. Rules pt. 1400.0500, the Board has prepared this Statement of Need and Reasonableness which is available to the public. It contains the verbatim affirmative presesntation 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 rasonableness 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 with a pubic 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 $100,000.00 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 to the business aspects. This is graphically illustrated in recent dealing 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 in its list of examples nursing homes and hospitals.

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 rules governing the services which dental auxiliary personnel may perform. These rules do not contain reporting requirements, compliance schedules or deadlines, or design or operational standards. The establishment of less stringent compliance requirements has no relevance to dental auxiliary personnel. The method which might arguably be applicable, 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 REASONABLESS OF THE PROPOSED AMENDMENTS

A. General Need for and Reasonableness of the Proposed Amendments

The above-captioned amendments are primarily a result of a Board review of its rules which began in 1982. The purpose of the review was to determine which rules needed to be updated and otherwise improved. That is the main reason behind the proposed amendments.

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

B. Rule by Rule Justification

1. Part 3100.8400-Assistants (formerly 7 MCAR §§ 3.031 and 3.032B)

a. Subpart 1. The amendments to subpart 1 are nonsubstantive and editorial in nature only.

b. Subpart 2. This subpart is being repealed. However, in reality, the substance of this subpart is merely being transferred to part 3100.8500, subpart 3. The changes in the rule and the reason for the transfer are contained in paragraph 2b below.

2. Part 3100.8500-Registered Dental Assistants (formerly 7 MCAR § 3.032 A and C)

a. Subpart 1.

(1) The standard of indirect supervision which a dentist must exercise over the services performed by a registered dental assistant which is added to the lead-in language of the subpart is merely a transfer of the existing standard from part 3100.8600.

(2) The use of the words "orthodontic bands" in subpart 1E limits excess cement removal to bands only. There are other types of orthodontic appliances that are now in use; therefore, the Board proposes that part 3100.8500, subpart 1E be amended to permit registered dental assistants to remove excess cement from orthodontic appliances rather than from just the bands.

(3) The proposed amendments to part 3100.8500, subpart 1F are nonsubstantive, editorial changes only.

b. Subpart 3. The substance of this subpart was originally contained in Board rules 7 MCAR § 3.032B which pertained to registered dental assistants. When the Revisor's Office reorganized and republished state agency rules in the 1983 publication of Minnesota Rules, the Revisor transferred this section to part 3100.8400 which pertains to assistants.

The Revisor's transfer was inappropriate. The Board does not mandate that assistants have any training or approval of the Board in order to work in a dentist office; and, accordingly, the duties they may perform are essentially limited to assisting the dentist, dental hygienist, or registered dental assistant in the actual performance of their work. There is no independent work that an assistant may perform on a patient. Registered dental assistants, on the other hand, must take Board-approved courses and a registration examination before they can perform the services authorized by Board rule. Likewise, allied health professionals who qualify to take dental radiographs under subpart 3 must take a Board-approved course and examination before they may take the dental x rays. Thus, these people receive a limited registration and thus the regulatory provisions relating to them should be placed under the parts pertaining to registered dental assistants.

This limited registration is in keeping with Minn. Stat. § 150A.10, subd. 2 (1984) which permits the Board to authorize differing levels of dental assistance. The amendments propose that an applicant for a limited registration for the purpose of being authorized to take dental radiographs pass a Board-approved examination and submit an application fee in addition to the existing requirements that they submit an application and take a Board-approved course, all of which is statutorily permitted by Minn. Stat. § 150A.06, subd. 2a (1984). The proposed amendments specify exactly what type of course and examination must be taken. Registration of people to perform a technical function potentially harmful to patients is meaningless without requiring appropriate education and examination in that area to assure the Board, and thus the public, that the applicant is fit to perform the function for the safety of the public and to conform to the proposed federal radiation guidelines as contained in the Standards of Accreditation of Educational Programs for and the Credentialing of Radiologic Personnel, 48 Fed. Reg. 31,966 (1983). To require that applicants for limited registration take a course equivalent to, and an

examination identical to, that taken by registered dental assistant applicants with respect to dental radiographs is both logical and reasonable because the function being authorized is the same, i.e., the taking of dental radiographs.

Aside from the foregoing changes, the rule is essentially the same in content as existing part 3100.8400, subpart 2, and part 3100.8600. The remaining modifications are editorial in nature only. Part 3100.8600 just states the standard of supervision that a dentist must exercise over a limited registrant. That standard is restated in proposed part 3100.8500, subpart 3.

3. Part 3100.8700-Dental Hygienists (formerly 7 MCAR § 3.034)

The existing rule lists six functions that may be performed by dental hygienists under the "general supervision" of a dentist. The Board is proposing another function, which is explained below, that may be performed under the "indirect supervision" of a dentist. Therefore, it is recommended that the six functions in the existing rule become subpart 1. and that the new function with its different level of supervision be placed in subpart 2. For consistency with part 3100.8500, it is recommended that subpart 1 be entitled "permissible duties" and subpart 2 entitled "other duties."

The proposed amendment in part 3100.8700 B changes the word "filling" to "restoration" since that is the word most commonly used in the dental profession. Fillings pertain to only one type of restoration. Using the term "restoration" would also include crowns on which dental hygienists are certainly capable of performing a prophylaxis and a scaling.

The Board also proposes that existing part 3100.8700 E be deleted since that function is permitted under part 3100.8700 A. The Board further proposes that the final statement in existing 3100.8700 be repealed because the substance of the rule has been moved to other places within the part. The statement regarding the level of supervision has been moved, for clarity purposes, to the lead-in paragraph of the rule. The substance

of the examination and diagnosis statement is included within the prohibition of proposed part 3100.8700, subpart 3. In addition, Minn. Stat. § 150A.10, subd. 1 (1984) already prohibits a dental hygienist from establishing a final diagnosis or treatment plan.

Additionally, the Board proposes that subpart 2 be added to permit dental hygienists to remove marginal overhangs under the indirect supervision of a dentist. A dental hygienist can be trained to remove some marginal overhangs without adverse effect to the public. However, in some instances, the situation must be assessed by the dentist to determine whether the marginal overhangs could be removed or another procedure employed. The indirect level of supervision, with the dentist authorizing the procedure and being available while the procedure is being performed, allows for the appropriate involvement of both dentist and dental hygienist.

Proposed part 3100.8700, subpart 3, is to make it clear that dental hygienists may not perform any service except those authorized by Board rules. The Board's authority to adopt this rule is contained in Minn. Stat. §§ 150A.04, subd. 5, and 150A.10, subd. 1 (1984), the latter which permits dental hygienists to perform only those services authorized by the Board.

Dated: August 6, 1985.

STATE OF MINNESOTA

BOARD OF DENTISTRY

By: _____

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 Dental Auxiliary
Personnel and Services,
parts 3100.2000, subpart 7,
3100.8400, 3100.8500,3100.8700;
and repealing parts 3100.8400,
subpart 2, and 3100.8600

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

RICHARD A. WEXLER
Assistant Attorney General

Dated: Dec 13, 1985

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL - Health

PHONE : 341-7272

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 Dental Auxiliary Personnel and Services, parts 3100.2000, subpart 7, 3100.8400, 3100.8500, 3100.8700; and repealing parts 3100.8400, subpart 2, and 3100.8600

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 copies with the Revisor of Statutes' stamp of approval).

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. 516, 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. Written comments received during the 30 day comment period. Also, one request for a hearing was received as part of one of the comments. No hearing was held because pursuant to Minn. Stat. § 14.25 (1984), 25 requests must be received before a hearing must be held.

16. Certificate of Compliance With Rulemaking Procedures.

Please be aware that 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