

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1349 Docket No. 05.0009.0483

DATE RECEIVED 2/23
REVIEW DATE 3/4
DUE DATE 3/9/87

APPROVED March 5, 1987-mjc
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion
6/17/85 Date published in State Register
None Comments

~~Petition for Adoption of a Rule~~

✓ Board's Authorizing Resolution

✓ Proposed rule
YES Revisor's Certificate

✓ Notice of Intent to Adopt Rule
148.53 Statutory Authority
NO Small business statement
NO Expenditure of public money statement
YES Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
10/14/86 Date 30/25 days before adoption

✓ Publication in State Register
11/3/86 Date 30/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting
1/29/87 Date

~~Written requests, submissions or comments~~

Declaration of attorney
Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT

ATTORNEY GENERAL

TO:

CATHERINE E. AVINA
Special Assistant
Attorney General

DATE: 3/05/87

FROM:

MARTHA CASSERLY
Special Assistant
Attorney General

PHONE: 6-4692

SUBJECT:

In the Matter of the Adopted Rules Relating to Home Study Programs, Emeritus Registration

The above-referenced rule has been approved as to its legality by the Attorney General on March 5, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth 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:nah

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Board of Optometry

Adopted Permanent Rules Relating to Home Study Programs, Emeritus Registration

Rules as Adopted

6500.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Act.** "Act" means the Minnesota Optometric Practice Act, Minnesota Statutes, sections 148.52 to 148.62.

Subp. 3. **Board.** "Board" means the Minnesota Board of Optometry.

Subp. 4. **Clinical rounds.** "Clinical rounds" means a group of people sponsored by a clinic or a hospital assembled for discussion of information.

Subp. 5. **Contact hour equivalents.** "Contact hour equivalents" means the number of hours of home study equivalent to one hour of continuing education credit.

Subp. 6. **Home study.** "Home study" means the utilization of educational programs and materials outside the classroom setting.

6500.0150 CONTINUING EDUCATION.

Subpart 1. **Home study and contact hours.** Licensees may acquire nine hours of continuing education credits through home study in each three-year compliance period. Licensees may earn continuing education credits through contact hour equivalents. One contact hour is equivalent to one continuing education credit. Contact hour equivalents include:

A. Licensees may utilize self-instruction components presented in vision care periodicals, audio, and audio-visual taped programs, and other program materials specifically designed for self-instruction. All programs must include a self-test. One contact hour may be earned for each hour of self-instruction activity. Contact hours may include both the

instructional and testing activity.

B. The presentation of a lecture before an audience of optometric or other health professionals will result in one contact hour for each hour of presentation. For one time only, the lecturer can also acquire two contact hours for preparation of the lecture for each hour of presentation. A syllabus or lecture manuscript shall be furnished to the board to document the presented program.

C. Licensees may earn continuing education credits for the preparation of articles accepted for publication in optometric journals or other health-related journals and for the preparation of books accepted for publication. A maximum of three hours of continuing education credits will be granted for acceptance and publication of articles in optometric or health-related journals. A maximum of nine hours of continuing education credits will be granted for acceptance and publication of books on optometry-related subjects.

D. Each hour spent in clinical rounds will be granted one contact hour equivalent.

Subp. 2. **Approval of other home study programs.** Upon written request, the board may approve the use of home study methods not listed in subpart 1, and may determine the number of earned contact hours. Board approval will be determined on the following criteria:

A. Whether or not the program is likely to contribute to the advancement and extension of professional skill and knowledge in the practice of optometry.

B. Whether the sponsor or author of the program is recognized by the board as being qualified to design a program of home study in the field of optometry.

C. As a condition of approval of a program of self-instruction, the board may require that the author, sponsor, or licensee furnish the board with copies of instructional materials and testing tools.

6500.2700 OPTOMETRIST EMERITUS REGISTRATION.

Subpart 1. **Application.** Any optometrist duly licensed to practice optometry in Minnesota pursuant to Minnesota Statutes, sections 148.52 to 148.62 who declares that he or she is retired from active practice of optometry may apply to the board for emeritus registration on the annual license renewal form. To qualify, the optometrist must be retired and must not be subject to any disciplinary action or be subject to an order of the board imposing a suspended, conditional, or restricted license to practice optometry.

Subp. 2. **Status of registrant.** The emeritus registration is not a license which permits the registrant to practice optometry as defined in Minnesota Statutes, sections 148.52 to 148.62, and the rules of the board.

Subp. 3. **Continuing education.** The continuing education requirements of part 6500.0900 are not applicable to emeritus registration.

Subp. 4. **Change to active status.** The emeritus optometrist must:

A. apply to the board for reinstatement of his or her active license; and

B. comply with the continuing education requirements for the time period in which the license was in emeritus status. This requirement must be fulfilled prior to petitioning the board for reinstatement of license.

Subp. 5. **Renewal cycle or fees.** Being registered as an emeritus optometrist will not subject the person to the annual license renewal cycle or renewal fee.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR - 6 1987
Joan Anderson Growe
Secretary of State
2:29PM

APPROVED AS TO FORM AND LEGALITY
March 5 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of Proposed
Rules Governing Home Study
Methods of Continuing Education,
Recovery of Costs for
Disciplinary Proceedings,
Licensure Status for Retired
Optometrists, Defining "Prescription"
and "Lenses," and Delegation of Authority.

NOTICE OF SOLICITATION OF
OUTSIDE INFORMATION
OR OPINIONS

Notice is hereby given that the State Board of Optometry is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing Home Study Methods of Continuing Education, Recovery of Costs for Disciplinary Proceedings, Licensure Status for Retired Optometrists, Defining "Prescription" and "Lenses," and Delegation of Authority. The adoption of these rules is authorized by Minnesota Statutes, section 148.53, which permits the agency to make any rules and regulations necessary for the effective enforcement of the Optometric Practice Act, Minnesota Statutes, sections 148.52 to 148.62.

The State Board of Optometry requests information and comments concerning the subject matter of the rules. Interested or affected persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to Burton H. Skuza, OD, Executive Secretary, Room 342, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440.

Oral statements will be received during regular business hours over the telephone at (612) 623-5544 and in person at the above address.

All statements of information and comment will be accepted until 60 days from the date of this notice. Any written material received by the Board of Optometry will become part of the rulemaking record in the event that a rule is adopted.

In addition to considering information and opinions from sources outside the Board concerning the subject matter of the proposed rules, the Board is seeking to establish a task force to assist the Board in developing the proposed rules defining "prescription," "lenses," and concerning delegation of authority. Interested or affected persons or groups who wish to participate on the task force should contact Burton H. Skuza, OD, at the above address or telephone number.

Dated: May 30, 1985

STATE OF MINNESOTA

BOARD OF OPTOMETRY

Burton H. Skuza OD

BURTON H. SKUZA, OD
Executive Secretary

Hennepin County Library—Southdale Branch
7001 York Avenue South
Edina, Minnesota 55435

Ramsey County Library—Roseville Branch
2180 North Hamline Avenue
Roseville, Minnesota 55113

Scott County Library—Shakopee Branch
235 South Lewis Street
Shakopee, Minnesota 55379

Washington County Library—Park Grove Branch
7520 - 80th Street South
Cottage Grove, Minnesota 55106

Sandra S. Gardebring, Chair
Metropolitan Council

Board of Optometry

Outside Opinion Sought Concerning Proposed Rules Governing Home Study Methods of Continuing Education, Recovery of Costs for Disciplinary Proceedings, Licensure Status for Retired Optometrists, Defining "Prescription" and "Lenses," and Delegation of Authority

Notice is hereby given that the State Board of Optometry is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing Home Study Methods of Continuing Education, Recovery of Costs for Disciplinary Proceedings, Licensure Status for Retired Optometrists, Defining "Prescription" and "Lenses," and Delegation of Authority. The adoption of these rules is authorized by Minnesota Statutes, section 148.53, which permits the agency to make any rules and regulations necessary for the effective enforcement of the Optometric Practice Act, Minnesota Statutes, sections 148.52 to 148.62.

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May 30, 1985

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

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinion Sought Regarding Rules for Solid Waste Management

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from sources outside the MPCA for the purpose of revising the State's solid waste rules pursuant to Minnesota Statutes, Section 116.07 as amended by the 1984 legislative session.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the Proposed Permanent Rules of the Minnesota Board of Optometry Governing Home Study Programs and Emeritus Registration

CERTIFICATE OF THE MINNESOTA BOARD OF OPTOMETRY AUTHORIZING RESOLUTION

I, Robert D. Tommey, OD, do hereby certify that I am a member and the president of the Minnesota Board of Optometry, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Board of Optometry duly and properly called and held on the 3 day of October, 1986, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> RESOLVED, that Burton H. Skuza, OD, the executive director of the Minnesota Board of Optometry, is hereby granted the authority and directed to sign and to give the Notice of the Board's Proposed Adoption of a rule without a public hearing governing home study programs and emeritus registration to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 3rd day of October, 1986.

ROBERT D. TOOMEY, OD
President

OD

Attest by one other Board member

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to
Home Study Programs, Emeritus Registration

AGENCY: Board of Optometry

MINNESOTA RULES: Chapter 6500

The attached rules are approved for publication
in the State Register

Paul M. Marinac
Assistant Deputy Revisor

Board of Optometry

Proposed Permanent Rules Relating to Home Study Programs, Emeritus Registration

Rules as Proposed

6500.0100 DEFINITIONS.

Subpart 1. **Scope.** The ~~following~~ terms ~~and expressions~~ ~~when~~ used in ~~these rules shall~~ this chapter have the meanings ~~hereinafter stated~~ given them in this part.

Subp. 2. **Act.** "Act" means the Minnesota Optometric Practice Act, Minnesota Statutes, ~~section~~ sections 148.52 ~~et seq~~ to 148.62.

Subp. 3. **Board.** "Board" means the Minnesota Board of Optometry.

Subp. 4. **Clinical rounds.** "Clinical rounds" means a group of people sponsored by a clinic or a hospital assembled for discussion of information.

Subp. 5. **Contact hour equivalents.** "Contact hour equivalents" means the number of hours of home study equivalent to one hour of continuing education credit.

Subp. 6. **Home study.** "Home study" means the utilization of educational programs and materials outside the classroom setting.

6500.0150 CONTINUING EDUCATION.

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A. Licensees may utilize self-instruction components presented in vision care periodicals, audio, and audio-visual taped programs, and other program materials specifically designed for self-instruction. All programs must include a

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

self-test. One contact hour may be earned for each hour of self-instruction activity. Contact hours may include both the instructional and testing activity.

B. The presentation of a lecture before an audience of optometric or other health professionals will result in one contact hour for each hour of presentation. For one time only, the lecturer can also acquire two contact hours for preparation of the lecture for each hour of presentation. A syllabus or lecture manuscript shall be furnished to the board to document the presented program.

C. Licensees may earn continuing education credits for the preparation of articles accepted for publication in optometric journals or other health-related journals and for the preparation of books accepted for publication. A maximum of three hours of continuing education credits will be granted for acceptance and publication of articles in optometric or health-related journals. A maximum of nine hours of continuing education credits will be granted for acceptance and publication of books on optometry-related subjects.

D. Each hour spent in clinical rounds will be granted one contact hour equivalent.

Subp. 2. **Approval of other home study programs.** Upon written request, the board may approve the use of home study methods not listed in subpart 1, and may determine the number of earned contact hours. Board approval will be determined on the following criteria:

A. Whether or not the program is likely to contribute to the advancement and extension of professional skill and knowledge in the practice of optometry.

B. Whether the sponsor or author of the program is recognized by the board as being qualified to design a program of home study in the field of optometry.

C. As a condition of approval of a program of self-instruction, the board may require that the author, sponsor, or licensee furnish the board with copies of instructional materials and testing tools.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

6500.2700 OPTOMETRIST EMERITUS REGISTRATION.

Subpart 1. **Application.** Any optometrist duly licensed to practice optometry in Minnesota pursuant to Minnesota Statutes, sections 148.52 to 148.62 who declares that he or she is retired from active practice of optometry may apply to the board for emeritus registration on the annual license renewal form. To qualify, the optometrist must be retired and must not be subject to any disciplinary action or be subject to an order of the board imposing a suspended, conditional, or restricted license to practice optometry.

Subp. 2. **Status of registrant.** The emeritus registration is not a license which permits the registrant to practice optometry as defined in Minnesota Statutes, sections 148.52 to 148.62, and the rules of the board.

Subp. 3. **Continuing education.** The continuing education requirements of part 6500.0900 are not applicable to emeritus registration.

Subp. 4. **Change to active status.** The emeritus optometrist must:

A. apply to the board for reinstatement of his or her active license; and

B. comply with the continuing education requirements for the time period in which the license was in emeritus status. This requirement must be fulfilled prior to petitioning the board for reinstatement of license.

Subp. 5. **Renewal cycle or fees.** Being registered as an emeritus optometrist will not subject the person to the annual license renewal cycle or renewal fee.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Permanent
Rules of the Minnesota
Board of Optometry Governing
Home Study Programs and
Emeritus Registration

AMENDED NOTICE OF PROPOSED
ADOPTION OF A RULE WITHOUT
A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Board of Optometry proposes to adopt permanent rules governing home study programs and emeritus registration without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.[1] The statutory authority to adopt the rule is Minnesota Statutes, section 148.53.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged.[2] Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.[3]

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request.[4] Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.[4] If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.[7]

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

Burton H. Skuza, OD
Executive Director
Minnesota Board of Optometry
2700 University Avenue West
Room 103
St. Paul, Minnesota 55114

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice. A free copy of the rule is available upon request from Burton H. Skuza, OD, at the above address.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Burton H. Skuza at the above address.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Burton H. Skuza, OD, at the above address.

Dated: October 3, 1986

MINNESOTA BOARD

OF OPTOMETRY

Burton H. Skuza OD

BURTON H. SKUZA, OD
Executive Director

Copies of this notice and the proposed rule are available and may be obtained by contacting Ms. Smith.

Michael M. Vekich, Chairman
Board of Accountancy

Rules as Proposed

1100.3600 FEES.

Subpart 1. and 2. [Unchanged.]

Subp. 2a. **Annual license late processing fees.** Annual license late processing fees shall be as follows: active individuals, $20; inactive individuals, $10; and partnerships/corporations, $25.

Subp. 2b. **Annual license reinstatement fees.** Annual license reinstatement fees shall be as follows: $50 per year of nonrenewal; and $20 for application for reinstatement after one year of nonrenewal.

Subp. 3. to 5. [Unchanged.]

Rules as Proposed (all new material)

1100.2150 NONRENEWAL OF INDIVIDUAL LICENSE.

Subpart 1. **Late processing fee.** Licensees who renew their annual license, active or inactive, after the license has expired but before January 31 of the renewal year, shall pay a late processing fee in addition to their annual license fee as required in part 1100.3600, subpart 2a.

Subp. 2. **Reinstatement fee.** Licensees who renew their license, active or inactive, after January 31 of the renewal year to the end of the renewal year, shall pay a reinstatement fee in addition to the annual license fee. Licensees who fail to renew within one year of the expiration date of the license shall submit an application for reinstatement of their license. Applicants for reinstatement shall pay an application for reinstatement fee; a reinstatement fee; and annual license fee for each year of nonrenewal as required in part 1100.3600, subpart 2b.

1100.2750 NONRENEWAL OF PARTNERSHIP LICENSE.

Subpart 1. **Late processing fee.** A partnership that renews its annual license after the license has expired but before January 31 of the renewal year shall pay a late processing fee in addition to its annual license fee as required in part 1100.3600, subpart 2a.

Subp. 2. **Reinstatement fee.** A partnership that renews its annual license after January 31 of the renewal year to the end of the renewal year shall pay a reinstatement fee in addition to the annual license fee as required in part 1100.3600, subpart 2a. Partnerships that fail to renew within one year of the expiration date of the license shall submit an application for reinstatement of their license. Applicants for reinstatement shall pay an application for reinstatement fee; a reinstatement fee; and annual license fee for each year of nonrenewal as required in part 1100.3600, subpart 2b.

1100.3250 NONRENEWAL OF CORPORATION LICENSE.

Subpart 1. **Late processing fee.** A corporation that renews its annual license after the license has expired but before January 31 of the renewal year shall pay a late processing fee as required in part 1100.3600, subpart 2a, in addition to the annual report fee required by Minnesota Statutes, section 319A.21.

Subp. 2. **Reinstatement fee.** A corporation that renews its annual license after January 31 of the renewal year to the end of the renewal year shall pay a reinstatement fee in addition to the annual license fee as required in part 1100.3600, subpart 2a. Corporations that fail to renew within one year of the expiration date of the license shall submit an application for reinstatement of their license. Applicants for reinstatement shall pay an application for reinstatement fee; a reinstatement fee; and annual license fee for each year of nonrenewal as required in part 1100.3600, subpart 2b.

Board of Optometry

Proposed Permanent Rules Relating to Home Study Programs, Emeritus Registration

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

Notice is hereby given that the Minnesota Board of Optometry proposes to amend Minn. Rule 6500.0900, Home Study Programs, and adopt proposed rule, Emeritus Registration, as authorized by Minn. Stat. 148.53. A copy of the proposed amendment and proposed rule is attached to this notice.

THE PUBLIC IS HEREBY ADVISED that:

1. They have 30 days in which to submit comment in support of or in opposition to the proposed amendment and proposed rule;

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

3. All comments shall be submitted to Burton H. Skuza, O.D., Executive Director, Minnesota Board of Optometry, 2700 University Avenue West, St. Paul, Minnesota 55114, Telephone (612) 642-0594.

4. Under the procedure for adopting noncontroversial rules, the Board must submit action on its rules to the Attorney General for review of the form and the legality of the change. Notice of the date of submission of the proposed amendment and rule to the Attorney General for review will be mailed to any person requesting to receive the notice. Request to receive such notice must be submitted to Dr. Skuza at the above address.

5. Authority to amend and adopt rules is contained in Minn. Stat. 148.53. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed amendment and rule has been prepared and is now available.

Dated: 7 August 1986

Burton H. Skuza, O.D., Executive Director
Board of Optometry

Rules as Proposed

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Subpart 1. **Scope.** The ~~following~~ terms ~~and expressions when~~ used in ~~these rules shall~~ this chapter have the meanings ~~hereinafter stated~~ given them in this part.

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C. Licensees may earn continuing education credits for the preparation of articles accepted for publication in optometric journals or other health-related journals and for the preparation of books accepted for publication. A maximum of three hours of continuing education credits will be granted for acceptance and publication of articles in optometric or health-related journals. A maximum of nine hours of continuing education credits will be granted for acceptance and publication of books on optometry-related subjects.

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.

D. Each hour spent in clinical rounds will be granted one contact hour equivalent.

Subp. 2. **Approval of other home study programs.** Upon written request, the board may approve the use of home study methods not listed in subpart 1, and may determine the number of earned contact hours. Board approval will be determined on the following criteria:

A. Whether or not the program is likely to contribute to the advancement and extension of professional skill and knowledge in the practice of optometry.

B. Whether the sponsor or author of the program is recognized by the board as being qualified to design a program of home study in the field of optometry.

C. As a condition of approval of a program of self-instruction, the board may require that the author, sponsor, or licensee furnish the board with copies of instructional materials and testing tools.

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Subp. 5. **Renewal cycle or fees.** Being registered as an emeritus optometrist will not subject the person to the annual license renewal cycle or renewal fee.

ADOPTED RULES

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

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

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

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

Office of Administrative Hearings

Adopted Rule Relating to Awards of Expenses and Fees in Contested Cases

The rule proposed and published at *State Register*, Volume 10, Number 50, pages 2446-2448, June 9, 1986 (10 S.R. 2446) is adopted with the following modifications:

MINNESOTA BOARD OF OPTOMETRY

STATEMENT OF NEED AND REASONABLENESS

April 10, 1986

Proposed Rules Relating to Home Study Programs

Pursuant to Minn. Stat. §14.23 (1984) the Minnesota Board of Optometry hereby affirmatively presents the needs and the facts establishing reasonableness of the proposed ammendment to Minnesota Board of Optometry Rules 6500.1500 relating to credit hours of continuing education.

In order to adopt the proposed ammendment, the Board must demonstrate that it has complied with all procedural and substantive requirements of rule making. The requirements are as follows: 1) there is statutory authority to adopt the rule; 2) the rules are needed; 3) the rules are reasonable; 4) all necessary procedural steps have been taken.

1. Statutory Authority

The statutory authority is as follows: Minn. Stat. §148.53 authorizes the Board of Optometry to promulgate rules and regulations necessary to carry out the provisions and purposes of the Minnesota Optometric Practice Act Minn. Stat. §148.52 - 148.62.

2. Statement of Need

In 1985, the Minnesota Board of Optometry promulgated rules changing the continuing education compliance period from a one year period, requiring 12 hours of continuing education credit, to a three year compliance period, requiring 45 hours of continuing education credit. The Board reviewed the past continuing education requirement and determined the

need for additional hours of continuing education for Minnesota licensees. To assist the licensee in obtaining the necessary continuing education credits, the Board provided the option of acquiring 9 hours of continuing education credit by home study.

3. Statement of Reasonableness

The Board realized that additional hours of continuing education could impose substantial cost to the licensee. Therefore, to minimize costs to the licensee, the Board concurred it would be reasonable to allow the licensee to acquire the additional 9 hours through home study, or contact hour equivalents as so described in the proposed rules.

The Board's adoption of proposed rule regarding Home Study or contact hour equivalent is need to implement 6500.0900 - 6500.1700. The adoption of this particular provision is considered necessary to update existing mandatory continuing education requirements. The adoption of this rule would help to insure the competance of the optomtrists in this State and would be an entity of mandated continuing education.

Supporting Rationale

In considering the requirements of this rule, the Board was concerned with the following points:

1. to protect the health and welfare of the citizens of the State of Minnesota by insuring that optometrists practicing in this State are qualified not only by licensure, but that they also maintain their competance by continuing education.

2. to insure that Home Study and contact hour equivalent programs of continuing education are of satisfactory quality and do provide a significant learning experience.

3. Home Study programs are cost effective to the providers of optometric services. This rule would not be counter-productive because its requirements are too demanding.

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

1. There now exists a Board rule relative to required continuing education. At present, the requirement is 45 hours of continuing education over a three year compliance period. The Board feels that Home Study and contact hour equivalents should be a portion of the required 45 hours of continuing education study hours. Home Study and contact hours of continuing education are a meaningful learning experience to the professional and cost effective to the provider, as well as the consumer of his services. Home Study and contact hour equivalent are compatible, necessary and consistent with the changing concepts of continuing education in the profession today.

2. It is proposed that the Home Study and contact hours of continuing education be incorporated into the three year compliance period which began on January 1, 1985 and will terminate on December 31, 1987.

There is sufficient flexibility of time to incorporate Home Study and contact hours into this compliance period. It is reasonable to assume that the practioner would utilize Home Study and contact hour equivalent to meet the required 45 hours of continuing education requirement over the three year period.

The 9 hours of Home Study and contact hour equivalent over the three year compliance period was determined on the following factors: examination of Home Study programs of continuing education presented by accredited institutions; Home Study credits of continuing education accepted by other health care licensing boards. It is the view of the Board that Home Study and contact hour equvalent of continuing education would enhance the practioner's knowledge and improve his professional skills.

The proposed rule on Home Study and contact hours equivalent is consistent with the requirements allowed by other State health related licensing boards.

Various optometric educational institutions are presenting high quality programs which are relevant to the optometric practioner. Most programs of home study have a testing mechanism which helps assess the benefits and helps determine the compentence of the licensee. The Board would utilize the same program approval criteria as set forth in 6500.1100.

It is the view of the Board that the proposed rule on Home Study and contact hour equivalent is justified and equitable and would not remove the essential purpose of continuing education; namely, the provision of reasonable assurance to the public that the skill and knowledge of the practioner are at least being maintained.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Permanent
Rules of the Minnesota
Board of Optometry Governing
Home Study Programs and
Emeritus Registration

AFFIDAVIT OF MAILING THE AMENDED NOTICE OF PROPOSED ADOPTION OF A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

BURTON H. SKUZA, OD, being first duly sworn deposes and says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1.a and 14.22 or 14.30, that their names be placed on the Minnesota Board of Optometry rulemaking mailing list is accurate, complete, and current as of this 14 day of October, 1986.

That on the 14th day of October, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Amended Notice of Proposed Adoption of a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Burton H. Skuza, OD

Subscribed and sworn to before me
this 14th day of October, 1986.

Alice D. Hummer

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

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT BOARD OF OPTOMETRY

Office Memorandum

TO: Catherina Avina, S.A.A.G.

DATE: September 16, 1986



FROM: Burton H. Skuza, O.D.
Executive Director

PHONE: 642-0594

SUBJECT: Interested Parties

As per your request, listed below are the organizations that have requested copies of minutes and other documents from the Board of Optometry.

Marvin Lundin, A.D.
Minnesota Optometric Association
207 S. Griggs Midway Building
St. Paul, MN 55104

Sue Ladwig
Minnesota Association of Optometrists & Opticians
114 Metro Square Building
7th and Robert Streets
St. Paul, MN 55101

Brad Hoven
Midwest Vision Centers
Box 456
East Highway 23
St. Cloud, MN 56302

Joseph Zweber
Pearle Vision Center Divisional Office
10925 Valley View Road
Suite 204
Eden Prairie, MN 55344

Emery Barrette
Minnesota Opticians Society
815 McKusick Road Circle North
Stillwater, MN 55082

Sue Peterson
Vision World
2375 Fairview North
Roseville, MN 55113

Zona DeWitt (Minutes only - no agenda)
State Documents
Legislative Reference Library
645 State Office Building
St. Paul, MN 55155

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT

Office Memorandum

TO: DATE:

FROM: PHONE:

SUBJECT:

Don Knudsen
Minnesota Contact Lens Society
Northwest Eye Clinic Suite 402
3366 Oakdale North
Minneapolis, MN 55422

Joe Sokierka
Minnesota Opticians Society
2500 W. 95th Street
Bloomington, MN 55431

Duane J. Broe
Park Nicollet Clinic
5000 W. 39th Street
Minneapolis, MN 55416

Vickie McCormick (no agenda)
Physicians Health Plan
300 Opus Center
9000 Bren Road East
Minnetonka, MN 55343

Board of Optometry

Proposed Permanent Rules Relating to Home Study Programs, Emeritus Registration

Amended Notice of Proposed Adoption of a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Optometry proposes to adopt permanent rules governing home study programs and emeritus registration without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 148.53.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Burton H. Skuza, OD
Executive Director
Minnesota Board of Optometry
2700 University Avenue West
Room 103
St. Paul, Minnesota 55114

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice. A free copy of the rule is available upon request from Burton H. Skuza, OD, at the above address.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Burton H. Skuza at the above address.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Burton H. Skuza, OD, at the above address.

Dated: 3 October 1986

Burton H. Skuza, OD, Executive Director
Minnesota Board of Optometry

Rules as Proposed

6500.0100 DEFINITIONS.

Subpart 1. **Scope.** The ~~following~~ terms ~~and expressions when~~ used in ~~these rules shall~~ this chapter have the meanings ~~hereinafter stated~~ given them in this part.

Subp. 2. **Act.** "Act" means the Minnesota Optometric Practice Act, Minnesota Statutes, ~~section~~ sections 148.52 ~~et seq~~ to 148.62.

Subp. 3. **Board.** "Board" means the Minnesota Board of Optometry.

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.

Subp. 4. **Clinical rounds.** "Clinical rounds" means a group of people sponsored by a clinic or a hospital assembled for discussion of information.

Subp. 5. **Contact hour equivalents.** "Contact hour equivalents" means the number of hours of home study equivalent to one hour of continuing education credit.

Subp. 6. **Home study.** "Home study" means the utilization of educational programs and materials outside the classroom setting.

6500.0150 CONTINUING EDUCATION.

Subpart 1. **Home study and contact hours.** Licensees may acquire nine hours of continuing education credits through home study in each three-year compliance period. Licensees may earn continuing education credits through contact hour equivalents. One contact hour is equivalent to one continuing education credit. Contact hour equivalents include:

A. Licensees may utilize self-instruction components presented in vision care periodicals, audio, and audio-visual taped programs, and other program materials specifically designed for self-instruction. All programs must include a self-test. One contact hour may be earned for each hour of self-instruction activity. Contact hours may include both the instructional and testing activity.

B. The presentation of a lecture before an audience of optometric or other health professionals will result in one contact hour for each hour of presentation. For one time only, the lecturer can also acquire two contact hours for preparation of the lecture for each hour of presentation. A syllabus or lecture manuscript shall be furnished to the board to document the presented program.

C. Licensees may earn continuing education credits for the preparation of articles accepted for publication in optometric journals or other health-related journals and for the preparation of books accepted for publication. A maximum of three hours of continuing education credits will be granted for acceptance and publication of articles in optometric or health-related journals. A maximum of nine hours of continuing education credits will be granted for acceptance and publication of books on optometry-related subjects.

D. Each hour spent in clinical rounds will be granted one contact hour equivalent.

Subp. 2. **Approval of other home study programs.** Upon written request, the board may approve the use of home study methods not listed in subpart 1, and may determine the number of earned contact hours. Board approval will be determined on the following criteria:

A. Whether or not the program is likely to contribute to the advancement and extension of professional skill and knowledge in the practice of optometry.

B. Whether the sponsor or author of the program is recognized by the board as being qualified to design a program of home study in the field of optometry.

C. As a condition of approval of a program of self-instruction, the board may require that the author, sponsor, or licensee furnish the board with copies of instructional materials and testing tools.

6500.2700 OPTOMETRIST EMERITUS REGISTRATION.

Subpart 1. **Application.** Any optometrist duly licensed to practice optometry in Minnesota pursuant to Minnesota Statutes, sections 148.52 to 148.62 who declares that he or she is retired from active practice of optometry may apply to the board for emeritus registration on the annual license renewal form. To qualify, the optometrist must be retired and must not be subject to any disciplinary action or be subject to an order of the board imposing a suspended, conditional, or restricted license to practice optometry.

Subp. 2. **Status of registrant.** The emeritus registration is not a license which permits the registrant to practice optometry as defined in Minnesota Statutes, sections 148.52 to 148.62, and the rules of the board.

Subp. 3. **Continuing education.** The continuing education requirements of part 6500.0900 are not applicable to emeritus registration.

Subp. 4. **Change to active status.** The emeritus optometrist must:

A. apply to the board for reinstatement of his or her active license; and

B. comply with the continuing education requirements for the time period in which the license was in emeritus status. This requirement must be fulfilled prior to petitioning the board for reinstatement of license.

Subp. 5. **Renewal cycle or fees.** Being registered as an emeritus optometrist will not subject the person to the annual license renewal cycle or renewal fee.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the Proposed
Permanent Rules of the Minnesota
Board of Optometry Governing
Home Study Programs and
Emeritus Registration

CERTIFICATE OF RESOLUTION
ADOPTING THE RULES

I, Robert D. Toomey, OD, do hereby certify that I am a member and the President of the Minnesota Board of Optometry, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board, duly and properly called and held on the 29th day of January, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that the rules relating to Home Study Programs and Emeritus Registration are approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes, section 148.53. Burton H. Skuza, OD, the Executive Director of the Board, is authorized to sign the findings of fact, conclusions, and order adopting the rules, to modify the rules if necessary to obtain the approval of the rules by the attorney general, and to perform the necessary acts to provide that the rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 29th day of January, 1987.

ROBERT D. TOOMEY, OD
President

James J. Hess, OD

Attest by one other Board member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the Proposed
Permanent Rules of the Minnesota
Board of Optometry Governing
Home Study Programs and
Emeritus Registration

FINDINGS OF FACT,
CONCLUSIONS, AND ORDER
ADOPTING RULES WITHOUT
PUBLIC HEARING

Notice of the Board's intent to adopt the above-entitled rules was published in the State Register on November 3, 1987, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on October 14, 1987. The statement of need and reasonableness was prepared before the notice of intent to adopt rules without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rules for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rules were received by the agency. No submissions or comments on the rules were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency I find the following:

The above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Home Study Programs and Emeritus Registration are adopted this 29th day of January, 1987, pursuant to authority vested in the Board by Minnesota Statutes, section 148.53.

Burton H. Skuza, OD

BURTON H. SKUZA, OD
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the Proposed
Permanent Rules of the Minnesota
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Home Study Programs and
Emeritus Registration

DECLARATION OF COUNSEL

I, Catherine E. Avina, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 50.X276.0483.

Catherine E. Avina

CATHERINE E. AVINA
Special Assistant
Attorney General

Dated: 2-25-, 1987

Notice of Intent

148.53 [illegible]

No ~~[illegible]~~ Public Money stmt
NO Small Business Statement

Rule

pg 1 line 26-27 "may acquire"
pg 1 line 28 "may earn"
pg 1 line 32 "may utilize"
pg 2 line 2 "may include"
pg 2 line 7 "can also acquire"
pg 2 line 11 "may earn"

it is the regulated party with the description, s OK

pg 2 line 23 "may approve"
pg 2 " 24 "may determine"

the "may" is bound by the description criteria

p2 line 27 "likely to contribute" - OK, ig
pg 2 line 31 " is recognized by the board
☆ pg 2 line 34 "board may require"
pg 3 line 5 "may apply" - regulated party

Called for Declaration of Council

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL - Health

DATE : February 19, 1987

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

FROM : Catherine E. Avina
Special Assistant
Attorney General

PHONE : 341-7272

RECEIVED
FEB 23 1987
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SUBJECT : Adopted Rules Relating to Home Study Programs and Emeritus Registration

Pursuant to Minn. Stat. 14.26, the attached documents in support of the above referenced rule are submitted to your office for approval:

1. The Notice of Solicitation of Outside Information or Opinions, published June 17, 1985, at 9 S.R. 2706 and a photocopy of the cited State Register page.

2. Proposed Rules, approved by the Revisor's Office.

3. A photocopy of a Notice of Intent to Amend and Adopt Rules Without a Public Hearing, published on August 25, 1986, at 11 S.R. 332. This notice did not comply with Minn. Stat. § 14.22; see item 5 below.

4. Certificate of the Minnesota Board of Optometry Authorizing Resolution, executed October 3, 1986.

5. Amended Notice of Proposed Adoption of A Rule Without a Public Hearing, executed October 3, 1986.

6. A photocopy of 11 S.R. 773, November 3, 1986, where the Amended Notice and proposed amendments referenced in number 5 above were published.

7. Affidavit of Mailing the Amended Notice of Proposed Adoption of a Rule Without a Public Hearing and Certificate of Mailing List, executed October 14, 1986.

8. Statement of Need and Reasonableness.

9. Certificate of Resolution Adopting the Rules, executed January 29, 1987.

10. Findings of Fact, Conclusion, and Order Adopting Rules Without a Public Hearing, executed January 29, 1987.

11. The original and three copies of the rules as adopted.

12. Declaration of Counsel.

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

CEA:dsc

Attachments