

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ATTORNEY GENERAL

January 3, 1989

DAVID E. HOMSTROM
Executive Director

JACQUELYN E. ALBRIGHT
Special Assistant
Attorney General

6-9715

In the Matter of the Adopted Rule Relating to
License Renewal and Reciprocity Fees

The above-referenced rule has been approved as to its legality by the Attorney General on December 22, 1988.

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.

JEA:rer
Enclosures

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

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

MINNESOTA BOARD OF PHARMACY

An Equal Opportunity Employer

2700 University Ave. W., #107 • St. Paul, MN 55114-1079 • Telephone: (612) 642-0541

December 13, 1988

Office of the Attorney General
Public Finance Division
515 Transportation Bldg.
John Ireland Boulevard
St. Paul, MN 55155

Attention: Martha J. Casserly

RE: In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Pharmacy Governing Fees for Licensure of Pharmacists Renewals and Reciprocity and Mail Order Sales

Dear Ms. Casserly:

Herewith submitted for your review under Minn. Stat. Subd. 14.26 and Minn. Rules pt. 2010.0300 are the following noncontroversial rulemaking documents of the Minnesota Board of Pharmacy in the above subject matter:

1. certificate of Board's authorizing resolution;

2. proposed rules with a certificate of approval as to form by the revisor of statutes;

3. notice of proposed adoption of rules without a public hearing;

4. statement of need and reasonableness in support of the proposed rules;

5. affidavit of mailing the notice of proposed adoption of rules without a public hearing along with the certificate of mailing list;

6. photocopy of the notice of proposed adoption of the rules without a public hearing as published in the State Register;

7. four copies of the rules as adopted;

8. certificate of Board's resolution adopting the rules;

9. findings of fact, conclusions, and order adopting the rules;

10. copy of written comment (None); and

11. statement of compliance with rulemaking procedures (Declaration of Counsel).

In connection with the foregoing, please note that Minn. Rules pts. 2010.0300 A, B, N and O are not applicable to this proceeding. Also, there were no requests for a public hearing, and the Board adopted the rule changes in precisely the form published in the State Register.

Finally, due to a certain urgency relating to the fee increase it is requested that your review of the instant rule changes be completed at the earliest permissible date. Likewise, if there are any questions about this submission please notify me as soon as possible.

Very truly yours,

David Holmstrom

David E. Holmstrom
Executive Director

DEH:pe

Enc. (11)

JEA

File No. 1548 ____ Docket N 05.0009.0484

DATE RECEIVED 12/13/88 ADOPTED W/O HEARING ∅

REVIEW DATE 12/22/88 EMERGENCY RULE ____

DUE DATE 12/27/88 REVISOR APPROVED ____

APPROVED JEA 12/22/88 REVISOR DISAPPROVED ____

DISAPPROVED ____ FILED W/SEC. OF STATE ____

WITHDRAWN ____ RETURNED TO AGENCY ____

✓ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion (if applicable)~~

~~Date published in State Register~~

~~Comments~~

~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution

11/30/88 Date adopted

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

214.06
151.06 subd 1(7)+(9) Statutory Authority

yes Small Business Statement

yes Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement

yes Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

9/26/88 Date (30)/25 days before adoption

OK Notice attached

~~Copy of rule or summary attached~~

✓ Publication in State Register

9/26/88 Date (30)/25 days before adoption

____ 180-day deadline from:

10/26/88 end of comment period (§ 14.26) (rules without hearing)

____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting

11/30/88 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

12/1/88 Date

____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney

Robert Holley Name of SAAG representing agency

____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

Board of Pharmacy

Adopted Permanent Rules Relating to License Renewal and Reciprocity Fees

Rules as Adopted

6800.1150 ANNUAL RENEWAL, FEES, AND POSTING.

Each pharmacist license shall expire on March 1 of each year and shall be renewed annually by filing an application for license renewal on or before February 1 of each year, together with a fee of $65. Any pharmacist license renewal application submitted after March 1 shall be subject to a late filing fee of $25 in addition to the renewal fee.

Each pharmacist shall post his or her license or renewal in a conspicuous place within the pharmacy in which he or she is practicing his or her profession. For community pharmacies, this place shall be a place which is readily visible to the public.

6800.1300 RECIPROCITY.

Subpart 1. **Applications.** Applications for reciprocal licensure (licensure as a pharmacist on the basis of licensure as a pharmacist in another state) together with a fee of $165 shall be filed with the secretary of the board at least 30 days before the date the application is to be considered by the board. The board will consider applications for reciprocity in at least January and June of each calendar year.

Subp. 2. **Eligibility.** To be found eligible for consideration by the board:

A. Applicant must have practiced in the profession for at least one year after licensure in another state which is an active member of the National Association of Boards of Pharmacy before the applicant will be deemed eligible to reciprocate to Minnesota.

B. Applicant, if examined and licensed before January 1, 1973, shall show that he or she has acquired 2,080 hours of

practical pharmacy experience under the instruction of a licensed pharmacist.

C. Applicant, if examined and licensed after January 1, 1973, shall show that the applicant has acquired 1,500 hours of practical pharmacy experience under the instruction of a licensed pharmacist; said 1,500 hours to be acquired after the successful completion of the third year of the standard five-year pharmacy curriculum, 400 hours of which may be acquired: concurrently with college attendance, in clinical pharmacy programs, or in demonstration projects which have been approved by the Tripartite Committee on Internship and the board of the active member state from which the applicant applies.

Subp. 3. **Substitution for internship.** Defects in internship experience will not preclude an applicant from being deemed eligible provided that the applicant shall have practiced as a licensed pharmacist for one year, plus one week at 40 hours per week for each week or portion thereof that the applicant is deficient in internship experience, (for example, the number of weeks in excess of one year the applicant has practiced as a licensed pharmacist before applying for reciprocity must be equal to or greater than the number of weeks or portions thereof that the applicant is deficient in internship experience).

Subp. 4. to 6. [Unchanged.]

REPEALER. Minnesota Rules, part 6800.2800, is repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 27 1988
Joan Anderson Growe
Secretary of State

4:30 PM

APPROVED AS TO FORM AND LEGALITY
Dec. 22 19 88
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Jacquelyn E. Albright
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PHARMACY

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Pharmacy Governing Fees for Licensure of Pharmacists, Pharmacist Renewals and Reciprocity and to Mail Order Sales

CERTIFICATE OF THE MINNESOTA BOARD OF PHARMACY RESOLUTION ADOPTING THE RULE

I, Henry Capiz, do hereby certify that I am a member and the Vice-President of the Minnesota Board of Pharmacy, 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 30th day of November, 1988, 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 rule changes relating to fees for licensure of pharmacists, pharmacist renewals and reciprocity and to mail order sales be and hereby are approved and adopted pursuant to authority vested in us by Minnesota Statutes 151.06 Subdivision 1 (9) and that David E. Holmstrom, Executive Director of the Board of Pharmacy, be and hereby is authorized to sign the Findings of Fact, Conclusion, and Order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the Attorney General and is authorized to perform the necessary acts to provide that these rule changes will have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 30th day of November, 1988.

Henry T. Capiz
Vice-President of the Board

Patricia L. Gail
Attest by one other Board member

Board of Pharmacy

Proposed Permanent Rules Relating to License Renewal and Reciprocity Fees

Rules as Proposed

6800.1150 ANNUAL RENEWAL, FEES, AND POSTING.

Each pharmacist license shall expire on March 1 of each year and shall be renewed annually by filing an application for license renewal on or before February 1 of each year, together with a fee of ~~$50~~ $65. Any pharmacist license renewal application submitted after March 1 shall be subject to a late filing fee of $25 in addition to the renewal fee.

Each pharmacist shall post his or her license or renewal ~~thereof~~ in a conspicuous place within the pharmacy in which he or she is practicing his or her profession. For community pharmacies, this place shall be a place which is readily visible to the public.

6800.1300 RECIPROCITY.

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B. Applicant, if examined and licensed ~~prior to~~

Approved by Revisor

before January 1, 1973, shall show that he or she has acquired 2,080 hours of practical pharmacy experience under the instruction of a licensed pharmacist.

C. Applicant, if examined and licensed after January 1, 1973, shall show that ~~he~~ the applicant has acquired 1,500 hours of practical pharmacy experience under the instruction of a licensed pharmacist; said 1,500 hours to be acquired after the successful completion of the third year of the standard five-year pharmacy curriculum, 400 hours of which may be acquired: concurrently with college attendance, in clinical pharmacy programs, or in demonstration projects which have been approved by the Tripartite Committee on Internship and the board of the active member state from which ~~he~~ the applicant applies.

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Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to License Renewal and Reciprocity Fees

AGENCY: Board of Pharmacy

MINNESOTA RULES: Chapter 6800

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PHARMACY

In the Matter of the Proposed Rule Amendment Relating to Fees for Licensure of Pharmacists, Reciprocity and to Mail Order Sales

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Board of Pharmacy (hereinafter "Board") proposes to amend Minn. Rules pts. 6800.1150, 6800.1300 and 6800.2800. A copy of the proposed amendments is attached to this Notice. One additional free copy is available from the Board upon request. Procedures for the adoption of noncontroversial rules found in Minn. Stat. 14.22 to 14.28 (1986) will be used.

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 amendments, and comment is encouraged.

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

3. 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 amendment.

4. All comments, including requests for a public hearing, shall be submitted to David E. Holmstrom, Executive Director, Minnesota Board of Pharmacy, Room 107, Colonial Office Building, 2700 University Avenue West, St. Paul, Minnesota 55114-1079.

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

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

7. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rule amendment or a portion thereof within 30 days of this notice. If a hearing is required, it will be held in accordance with the provisions of Minn. Stat. 14.131 to 14.20 (1986).

8. Under the procedure for adopting noncontroversial rules, the Board must submit any action on its rules to the Attorney General for review of the form and legality of the rule change. Notice of the date of submission of the proposed amendments to the Attorney General for review will be mailed to any person requesting to receive the notice. Requests to receive notice must be submitted to Mr. Holmstrom at the above address.

9. Authority to amend Minn. Rules pts. 6800.1150, 6800.1300 and 6800.2800 is contained in Minn. Stat. sections 151.06 sub. 1 (7) and (9), and 214.06. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed amendments has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Mr. Holmstrom at the above address.

10. The approval of the Commissioner of Finance for amendments or rules relating to fees is required by Minn. Stat. section 214.06, subd. 1. A document entitled "Commissioner of Finance Approval" in which the Commissioner has approved the proposed amendments to Minn. Rules pt. 6800.1150 and 6800.1300 is available. Anyone wishing to receive a copy of this document may contact Mr. Holmstrom at the above address.

11. Promulgation of the proposed fee changes will not result in the expenditure of public monies by local public bodies and will not affect agricultural land in the state. Likewise, it is not believed that the changes will have a quantitative or qualitative impact on any small business. Persons representing small businesses are nevertheless invited to participate in the rulemaking process.

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

September 13, 1988

DAVID E. HOLMSTROM
Executive Director

Board of Pharmacy

Proposed Permanent Rules Relating to License Renewal and Reciprocity Fees

Rules as Proposed

6800.1150 ANNUAL RENEWAL, FEES, AND POSTING.

Each pharmacist license shall expire on March 1 of each year and shall be renewed annually by filing an application for license renewal on or before February 1 of each year, together with a fee of ~~$50~~ $65. Any pharmacist license renewal application submitted after March 1 shall be subject to a late filing fee of $25 in addition to the renewal fee.

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Approved by Revisor

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Subp. 4. to 6. [Unchanged.]

REPEALER. Minnesota Rules, part 6800.2800, is repealed.

Approved by Revisor _____

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PHARMACY

In the Matter of the Proposed Rule Amendment Relating to Fees for Licensure of Pharmacists, Pharmacist Renewals and Reciprocity, and to Mail Order Sales

STATEMENT OF NEED AND REASONABLENESS

The Minnesota Board of Pharmacy (Board), pursuant to Minn. Stat. section 14.22, and 14.23 and Minn. Rules part 1400.0500 hereby affirmatively presents the needs for and facts establishing the reasonableness of the above-captioned proposed amendments to portions of the Board's rule. The statutory authority for these proposed rule changes is contained in Minn. Stat. section 214.06, which requires the Board adjust fees so that the total fees collected "....will as closely as possible equal anticipated expenditures during the fiscal biennium" and Minn. Stat. section 151.06, subdivision 1 (9), which authorizes the Board to make and publish uniform rules and regulations to enforce the provisions of the statute.

The rules captioned above are being adopted according to the procedures set forth in Minn. Stat. section 16A.128. A copy of the approval of the Commissioner of Finance relative to the proposed fees is incorporated herein.

Minnesota rules part 6800.1150 is the Board's current rule addressing pharmacist renewal and licensure fees. Minnesota rules part 6800.1300 is the Board's current rule on reciprocity fees. Minnesota rules part 6800.2800 is the Board's current rule on mail order sale.

The Board is proposing to amend the rules relating to fees in order to establish fees that will ensure that the Board generates sufficient revenue to cover its expenditures over each biennium as is required by Chapter 214.06.

It has been determined that Minn. Stat. Section 14.11 does not apply to this proposed rule, therefore, the Statement of Need and Reasonableness does not address the topic referenced in that statute.

The last time that pharmacist renewal fees were increased was in 1985. At that time the fee was increased to its present level of $50. Since the Board's total number of licensees in all catgories has remained relatively constant the rising costs of operation of the Board has necessitated this fee increase.

General Board expenses associated with the operation of the Board are paid for through appropriations from the legislature. During each biennium, the Board is required to establish its fees in such a manner that the revenues received from licensing fees will, as closely as possible, approximate the appropriation granted the Board by the legislature. In Fiscal Year 88 the Board came very close to a zero balance when comparing expenditures with receipts. It is anticipated that, unless fees are increased a deficit will occur in Fiscal Year 89, which is the second year of the present biennium, and on into the future.

The table below indicates the amount of additional revenue anticipated from the proposed fee increases.

TABLE 1

FEE TITLE	PRESENT FEE	PROPOSED FEE	# PAYING FEE	ADD'TNL REVENUE GENERATED
Original Licensure Fee	$50	$65	117	$1,755
Pharmacist Renewal	$50	$65	4,364	$65,460
Reciprocity Fee	$150	$165	78	$1,170

It should be noted that the Board is proposing no increase in the money generated due to late renewal of licenses. This is due partly to the small number of licensees paying late and partly due to the fact that the fee for late payment is intended as a deterrant to late payments rather than as a revenue producer.

Minn. Rule 6800.2800 is being proposed for repeal upon advice of the Board's legal counsel. The rule, as it presently exists, addresses the issue of mail order sales by regulating advertising of mail order services by Minnesota licensed pharmacists. The Board has been advised that Minn. Rule 6800.2800, which bans advertising of mail order sales of prescription drugs poses both first amendment and anti-trust difficulties.

The rule would not be subject to anti-trust challenge if the Board's enabling statute authorizes the Board to impose such restraints. A review of the enabling statute (Minn. Stat. Section 151.06, subdivision 1) leads to the observation that nowhere in that section are mail order sales or advertising specifically mentioned. Various subsections, however, allow license revocation for violation of Board regulations, section 151.06, subdivision 1 (6) (i), and for conduct endangering public health, 151.06, sub. 1 (6) (e); and allow the Board to regulate the practice of pharmacy, section 151.06, sub. 1 (1). Such broad, non-specific statutory authority

does not sufficiently express legislative authorization to make potentially anti-competitive Board rules immune as state action. It is hence unlikely that the portion of the rule dealing with advertising and mail order sales are exempt from the anti-trust laws.

The first amendment to the US Constitution has been interpreted as protecting some commercial speach. Specifically, states cannot forbid truthful advertising relating to lawful activities. It is for these reasons that the Board now takes the position that Minn. Rule 6800.2800 must be repealed.

Whenever an agency proposes a new rule or seeks to amend an existing rule, Minn. Stat. Section 14.115 requires the agency to consider whether the rule change will have an impact on small businesses. If the agency determines that they will, the agency must consider whether certain methods, set forth in subdivision 2 of the statute, could be adopted to reduce the impact of the rule changes on small businesses. The statute requires the agency to document in its statement of need and reasonableness how it considered these methods and the feasibility of adopting any of the specific methods.

In addition to the licensure of pharmacists, the Board licenses pharmacies, drug manufacturers, and drug wholesalers. The Board has reviewed the impact, if any, its proposed rule changes would have on such business. Since virtually all of the pharmacies in Minnesota qualify under the statutes as "small business" almost everything that the Board does impacts on "small business".

Minn. Stat. Section 14.115, subdivision 2, enumerates the following five methods an agency must consider to reduce the impact of the rules on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small business;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small business;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule, and;

(e) exemption of small businesses from any or all requirements.

The provisions in the proposed rules relating to licensure fees do not impact on small business in that they address license fees of pharmacists personally as opposed to license fees applicable to the business. The Board's proposed rule relating to mail order sales does impact on small business but there are no compliance or reporting requirements attached to the Board's proposal and for that reason items (a) through (e) are not applicable in the instant case.

In summary, the Board believes its proposed fee change is needed and reasonable in order to meet the statutory requirement of balancing income and expenditures and believes that the repeal of Minn. Rule 6800.2800 is both needed and reasonable in view of the seemingly anticompetitive nature

of the rule and of the constitutional protections against infringement of commercial free speech.

Attached is a copy of the approval of the fee increase from the Department of Finance.

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : MINNESOTA BOARD OF PHARMACY

DATE : June 14, 1988

TO : Bruce T. Reddemann, Director
Budget Operations & Support
Department of Finance

FROM : David E. Holmstrom
Executive Director

PHONE : 642-0541

SUBJECT : Approval of Fee Increase

A request is hereby made for approval of a fee increase as follows:

	PRESENT	PROPOSED
Original Pharmacist Licensure	$50.00	$65.00
Pharmacist Renewal	$50.00	$65.00

The fee increase is needed to cover an anticipated FY 1989 shortfall in receipts. We currently anticipate approximately a $10,000 shortfall for FY88 and a shortfall of approximately $20-25,000 for FY89 unless fees are raised.

It is anticipated that the proposed fee increase will generate approxiately $60,000. The Board considered a smaller increase at this time but then would be faced with another increase in a year or two. They opted, instead, to go with a larger increase in one step. This increase should preclude the necessity of another increase during the FY 90-91 biennium. The last increase in this fee was in 1985.

Enclosed is a copy of a memo to John Schorn, Executive Budget Officer, wherein the need for and commitment to this proposed increase was previously discussed.

The Board's total fee structure will now be as follows:

Source Code	Fee Title	Present Fee	#	$ Generated	New Fee	#	New $ Generated
000001	Pharmacist Renewal	50.00	4364	$218200.	65.00	4364	$283660.
000002	Pharmacy License (New)	100.00	110	$ 11000.			
000002	Pharmacy Renewal	100.00	11026	$102600.			
000003	Wholesaler Renewal	100.00	240	$ 24000.			
000004	Manufacturer Renewal	100.00	152	$ 15200.			

000007	Exam Fee	200.00	134	$ 26800.			
000007	Partial Exam Fee	100.00	18	$ 1800.			
000008	Original Licensure Fee	50.00	117	$ 5850.	65.00	117	$ 7605.
000009	Reciprocity Fee	150.00	78	$ 11700.	165.00	78	$ 12870.
000010	Internship Registration	20.00	137	$ 2740.			

Total increase of
($15 x 4364 = 65460, $15 x 117 = 1755 and $15 x 78 = $1170): $68,385.

FY88 Receipts: $420,000.

Total Anticipated Receipts (FY 89): $488,385.

Since approval of this request must be included as part of the Statement of Need and Reasonableness required for adoption of a new rule your prompt attention to this request for approval would be greatly appreciated.

Thank you for your assistance.

DEH:pe

APPROVED _____ DATED 7-12-88

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PHARMACY

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Pharmacy Relating to Fees for Reciprocity and to Mail Order Sales

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATION OF MAILING LIST

Patricia Eggers, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Board of Pharmacy rulemaking mailing list is accurate, complete, and current as of this 23th day of September, 1988.

That on the 26th day of September, 1988, at the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule Without a Public Hearing by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Patricia Eggers

Subscribed and sworn to before me
this 26th day of September, 1988.

Alice D. Hummer

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

Board of Pharmacy

Proposed Permanent Rules Relating to License Renewal and Reciprocity Fees

Notice of Intent to Amend Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Pharmacy (hereinafter "Board") proposes to amend *Minnesota Rules* pts. 6800.1150, 6800.1300 and 6800.2800. A copy of the proposed amendments is attached to this Notice. One additional free copy is available from the Board upon request. Procedures for the adoption of noncontroversial rules found in *Minnesota Statutes* 14.22 to 14.28 (1986) will be used.

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

3. 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 amendment.

4. All comments, including requests for a public hearing, shall be submitted to David E. Holmstrom, Executive Director, Minnesota Board of Pharmacy, Room 107, Colonial Office Building, 2700 University Avenue West, St. Paul, Minnesota 55114-1079.

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

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

7. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rule amendment or a portion thereof within 30 days of this notice. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* 14.131 to 14.20 (1986).

8. Under the procedure for adopting noncontroversial rules, the Board must submit any action on its rules to the Attorney General for review of the form and legality of the rule change. Notice of the date of submission of the proposed amendments to the Attorney General for review will be mailed to any person requesting to receive the notice. Requests to receive notice must be submitted to Mr. Holmstrom at the above address.

9. Authority to amend *Minnesota Rules* pts. 6800.1150, 6800.1300 and 6800.2800 is contained in *Minnesota Statutes* sections 151.06 sub. 1 (7) and (9), and 214.06. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed amendments has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Mr. Holmstrom at the above address.

10. The approval of the Commissioner of Finance for amendments or rules relating to fees is required by *Minnesota Statutes* section 214.06, subd. 1. A document entitled "Commissioner of Finance Approval" in which the Commissioner has approved the proposed amendments to *Minnesota Rules* pt. 6800.1150 and 6800.1300 is available. Anyone wishing to receive a copy of this document may contact Mr. Holmstrom at the above address.

11. Promulgation of the proposed fee changes will not result in the expenditure of public monies by local public bodies and will not affect agricultural land in the state. Likewise, it is not believed that the changes will have a quantitative or qualitative impact on any small business. Persons representing small businesses are nevertheless invited to participate in the rulemaking process.

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

Dated: 13 September 1988

David E. Holmstrom
Executive Director

Rules as Proposed

6800.1150 ANNUAL RENEWAL, FEES, AND POSTING.

Each pharmacist license shall expire on March 1 of each year and shall be renewed annually by filing an application for license renewal on or before February 1 of each year, together with a fee of ~~$50~~ $65. Any pharmacist license renewal application submitted after March 1 shall be subject to a late filing fee of $25 in addition to the renewal fee.

Each pharmacist shall post his or her license or renewal ~~thereof~~ in a conspicuous place within the pharmacy in which he or she is practicing his or her profession. For community pharmacies, this place shall be a place which is readily visible to the public.

6800.1300 RECIPROCITY.

Subpart 1. **Applications.** Applications for reciprocal licensure (licensure as a pharmacist on the basis of licensure as a pharmacist in another state) together with a fee of ~~$150~~ $165 shall be filed with the secretary of the board at least 30 days ~~prior to~~ before the date ~~said~~ the application is to be considered by the board. The board will consider applications for reciprocity in at least January and June of each calendar year.

Subp. 2. **Eligibility.** To be found eligible for consideration by the board:

A. Applicant must have practiced in the profession for at least one year after licensure in another state which is an active member of the National Association of Boards of Pharmacy before ~~he~~ the applicant will be deemed eligible to reciprocate to Minnesota.

B. Applicant, if examined and licensed ~~prior to~~ before January 1, 1973, shall show that he or she has acquired 2,080 hours of practical pharmacy experience under the instruction of a licensed pharmacist.

C. Applicant, if examined and licensed after January 1, 1973, shall show that ~~he~~ the applicant has acquired 1,500 hours of practical pharmacy experience under the instruction of a licensed pharmacist; said 1,500 hours to be acquired after the successful completion of the third year of the standard five-year pharmacy curriculum, 400 hours of which may be acquired: concurrently with college attendance, in clinical pharmacy programs, or in demonstration projects which have been approved by the Tripartite Committee on Internship and the board of the active member state from which ~~he~~ the applicant applies.

Subp. 3. **Substitution for internship.** Defects in internship experience will not preclude an applicant from being deemed eligible provided that ~~said~~ the applicant shall have practiced as a licensed pharmacist for one year, plus one week at 40 hours per week for each week or portion thereof that ~~he~~ the applicant is deficient in internship experience, (~~i.e.~~ for example, the number of weeks in excess of one year the applicant has practiced as a licensed pharmacist ~~prior to~~ before applying for reciprocity must be equal to or greater than the number of weeks or portions thereof that ~~he is are~~ the applicant is deficient in internship experience).

Subp. 4. to 6. [Unchanged.]

REPEALER. Minnesota Rules, part 6800.2800, is repealed.

Department of Public Safety

Proposed Permanent Rules Relating to School Bus Driver Endorsement

Notice of Intent to Adopt Rules Without a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in *Minnesota Statutes* Sections 14.22 through 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Public comments are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are requested. Any person requesting a public hearing should state his or her name and address. In the event a public hearing is required, the department will proceed according to the provisions of *Minnesota Statutes* Sections 14.131 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

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

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, Henry Capiz, do hereby certify that I am a member and the Vice-President of the Minnesota Board of Pharmacy, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of resolutions adopted at a meeting of the Board of Pharmacy, duly and properly called and held on the 23th day of September, 1987 and the 18th day of May, 1988, that a quorum was present at said meetings, that a majority of those present voted for the resolutions, and that said resolutions are set forth in the minutes of said meetings and have not been rescinded or modified.

September, 23, 1987

> "RESOLVED, that David E. Holmstrom, Executive Director of the Minnesota Board of Pharmacy, be and hereby is granted the authority and is directed to sign and publish an Order and Notice of Intent to adopt rules without a public hearing for the purpose of amending existing Board rules relating to mail order sales. If the statutorily required number of persons requests a hearing in response to the notice, Mr. Holmstrom is also granted the authority and is directed to call such a hearing and to perform any and all acts incidental thereto, including requesting the appointment of an administrative law judge, and complying with all applicable provisions of the Minnesota Administrative Procedures Act and the rules of the Office of Administrative Hearings."

May 18, 1988

> "RESOLVED, that David E. Holmstrom, Executive Director of the Minnesota Board of Pharmacy, be and hereby is granted the authority and is directed to sign and publish an Notice of Intent to Adopt Rules Without a Public Hearing for the purpose of amending existing Board rules relating to Pharmacist licensure fees. If the statutorily required number of persons request a hearing in response to the notice, Mr. Holmstrom is also granted

the authority and is directed to call such a hearing and to perform any and all acts incidental thereto, including the requesting of the appointment of an administrative law judge, and complying with all the applicable provisions of the Minnesota Administrative Procedures Act and the Rules of the Office of Administrative Hearings."

IN WITNESS WHEREOF, I have hereunto subscribed me name this 30th day of November, 1988.

STATE OF MINNESOTA

BOARD OF PHARMACY

Henry D. Capiz

HENRY CAPIZ
Vice-President

Attest:

Patricia L. Zink

Board Member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PHARMACY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Board of Pharmacy Governing Fees for Licensure of Pharmacists, Pharmacist Renewals and Reciprocity, and to Mail Order Sales

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

Notice of the Board's intent to adopt the above-entitled rule was published in the State Register on September 26, 1988 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 September 26, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule 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 rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency.

No submissions or comment on the rule was 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 rule as amended is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Relating to Fees for Licensure of Pharmacists, Pharmacist Renewals and Reciprocity, and to Mail Order Sales is adopted this 1st day of December, 1988, pursuant to authority vested in the Board by Minnesota Statutes, section 151.06.

David E. Holmstrom

Executive Director
Minnesota Board of Pharmacy

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PHARMACY

In the Matter of an Adoption of the Rule of the Minnesota Board of Pharmacy Governing Fees for Licensure of Pharmacists, Pharmacist Renewals and Reciprocity, and to Mail Order Sales

DECLARATION OF COUNSEL

I, Robert T. Holley, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedures Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0484.

Robert T. Holley

Robert T. Holley
Special Assistant
Attorney General

Dated: December 13, 1988