

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

jan

RULE REVIEW CHECKLIST

File No. 1582 Docket No. 05-0009.0482

DATE RECEIVED 3-29-89 ADOPTED W/O HEARING X

REVIEW DATE 4-7-89 EMERGENCY RULE _____

DUE DATE 4-12-89 REVISOR APPROVED _____

APPROVED X 4/10/89 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WITHDRAWN _____ RETURNED TO AGENCY _____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)
- 8/4/87 Date published in State Register
- _____ Comments

_____ Petition for Adoption of a Rule (if applicable)

✓ Board's Authorizing Resolution
- ~~2/10/89~~ Date adopted

✓ Proposed Rule
- yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 144A.21, 144A.29, 148 Statutory Authority 214.06, 626.557
- no Small Business Statement
- no Expenditure of public money statement
- yes Signature

✓ Statement of Need and Reasonableness (if applicable)
- no Small Business Statement
- yes Fees - § 16A.128 - ~~not~~ Finance approval attached.

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- 8/17/88 Date (30)/25 days before adoption
- OK Notice attached
- _____ ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 8/29/88 Date (30)/25 days before adoption

_____ 180-day deadline from:
- n/a ~~9/28/88~~ Effective date of law requiring rule (14.12) (both rules)
- 9/28/88 end of comment period (§ 14.26) (rules without hearing)
- _____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting
- 2/10/89 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 3/27/89 Date

✓ Written requests, submissions or comments (46)

✓ Declaration of attorney
- A. Manka Name of SAAG representing agency

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

✓ Aff. of Mailing Notice to Atty. Gen. (if applicable) no

✓ Aff of Mailing Copy of rules to mn House + Sen Fin. Com.

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : April 12, 1989

TO : AUDREY KAISER MANKA
Special Assistant Attorney General

FROM : JULIE A. LEPPINK
Special Assistant Attorney General

PHONE : 6-9422

SUBJECT : In the Matter of the Adopted Permanent Rules Relating to Licensing of Nursing Home Administrators

The above-referenced rule has been approved as to its legality by the Attorney General on April 10, 1989.

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 accoradance 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.

JAL:klk
Enclosures

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

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

Nursing Home Administrator Licensure Board

Adopted Permanent Rules Relating to Licensing of Nursing Home Administrators

Rules as Adopted

6400.0600 LICENSE REQUIREMENTS.

No initial license shall be issued to a person as a nursing home administrator unless the individual:

A. Is at least 18 years of age.

B. Is of sound mental health. For the purposes of this part, mental health means ~~an individual's emotional or intellectual ability to adapt to a changing environment~~ the absence of any mental impairment that would be likely to interfere with the performance of the duties of a nursing home administrator.

C. Is of good moral character and otherwise suitable. For the purposes of this part, moral character means the individual's ability to distinguish between right and wrong and act accordingly.

D. Has furnished satisfactory evidence, as required by the board, that the individual possesses the general administrative abilities needed to satisfactorily administer a nursing home and possesses the ability to relate the administration of a nursing home to the physical, psychological, spiritual, emotional, and social needs of patients and to create a compassionate and helpful environment.

E. Has paid the following licensure and examination fees as established by the board:

(1) an original application fee, not to exceed $100;

(2) a state examination fee, not to exceed $75; and

(3) a national examination fee, not to exceed $125.

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Board adjustments to fees within the ranges noted in the rules will be subject to review and approval by the commissioner of finance each time the fees are adjusted. Information about the exact fees is available from the board office.

F. Has achieved a passing score of at least 75 percent, on all required examinations.

G. Has a baccalaureate or higher degree from an accredited institution and has satisfactorily completed an approved academic course in each of the following areas:

(1) A course in the principles of health care management that delineates the role, function, and process of top level management. This course shall include:

(a) the management process of planning, staffing, organizing, controlling, delegating, and evaluating outcomes;

(b) business technology and theory of application;

(c) executive role of administrator;

(d) the art versus the science of administration; and

(e) board-administrator relationships, functions, and authority.

(2) Both an introductory accounting course and an advanced managerial accounting course that includes accounting analysis and reports for managerial decisions, planning, and controlling of operations.

(3) A course in gerontology identifying the aging process in terms of biological, social, and psychological aspects. This course shall include the following objectives:

(a) knowledge of the physical, social, spiritual, economic, and emotional needs of long-term care residents; and

(b) programs and services necessary to meet the needs of the elderly as a population, and those necessary for specific subpopulations.

(4) A course providing a study of issues and

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trends in long-term health care. This course shall include the following topics:

(a) history of and current trends in long-term health care;

(b) alternative modes for delivery of long-term care services;

(c) consumer issues such as patient rights and the right to die;

(d) corporation relationships; and

(e) health care policy issues such as government and society.

(5) A course in health care law that examines case law and legislation affecting long-term health care facilities. This course shall include the following topics:

(a) guardianship and conservatorship;

(b) professional negligence;

(c) duty to provide appropriate patient care;

(d) biomedical ethics;

(e) concern for confidentiality of information;

(f) corporate responsibility;

(g) patient bill of rights; and

(h) law on the protection of residents from abuse or neglect.

(6) A course studying delivery of all services required by residents of long-term health care facilities. This course shall include the following topics:

(a) function and role of professional and nonprofessional staff and nonemployee staff;

(b) departmental operations and functions;

(c) ethics;

(d) policy development; and

(e) programs necesssary for residents' health and safety.

(7) A human resource or personnel management

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course. This course shall include the following topics:

(a) recruitment, screening, and selection process;

(b) job descriptions and job evaluations;

(c) personnel policies and development of policies;

(d) wage and salary administration;

(e) federal and state regulations on employment and employment opportunities;

(f) group dynamics;

(g) labor relations and negotiations; and

(h) administration of disciplinary policy and procedure.

(8) A course in medical terminology, including a study of commonly accepted medical terms used in long-term care.

(9) A course in the development and application of management information systems. This course shall include the following areas of study:

(a) management of data bases;

(b) computerization of patient records and care plans;

(c) budgeting and spread sheet analysis;

(d) survey of currently available systems;

(e) applications such as integrated software, spreadsheet construction, data structuring, local area network design, networks and installation linkages and options;

(f) security risks; and

(g) data management and automated systems.

This subitem is waived for all applicants who apply for licensure before July 1, 1989. All applicants for whom this subitem is waived between the effective date of this rule and July 1, 1989, must submit evidence of satisfactory completion of the course required by that rule as a condition for relicensure in 1990 pursuant to part 6400.1700. Evidence of satisfactory completion is written verification from the academic institution offering the course. The written verification must state that

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the course was completed with a passing grade and must give the date of completion of the course.

(10) A course in the funding mechanisms and regulatory compliance aspects currently in force for the long-term care industry. This course shall include the following topics:

(a) systems of payment by:

(i) Medicare;

(ii) Medicaid;

(iii) third party payors; and

(iv) private health care coverage;

(b) utilization review;

(c) survey and compliance;

(d) quality assurance and review;

(e) sanitation and food service regulations;

(f) life safety code;

(g) Occupational Safety and Health Administration (OSHA);

(h) Joint Commission on Accreditation of Health Care Organizations;

(i) peer review;

(j) roles of professional and trade organizations; and

(k) regulatory compliance.

(11) A board preapproved practicum course that applies knowledge from required courses to the practice of long-term health care administration. The course shall be a minimum of 400 clock hours and shall be jointly supervised by a licensed nursing home administrator and a faculty member of the approved educational institution. Upon mutual agreement of the educational facility and nursing home preceptor, a licensed nursing home may serve as the practicum site for an applicant who is employed by the nursing home. This course shall include the following topics:

(a) the opportunity to observe the integrative and administrative role of an administrator;

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(b) the study of and involvement in each operating department of the facility;

(c) relationships between the facility and community and other health care providers and organizations;

(d) opportunity to participate in or review the findings and results of past regulatory inspections of a facility; and

(e) a major project study, research paper, or similar report on a topic relevant to the operations of the nursing home.

H. Applicants with a degree in health care administration rather than long-term health care administration need only satisfy the practicum requirement of item G, subitem (11), and satisfactorily complete the courses described in item G, subitems (3) and (6).

6400.0700 WAIVER PROVISIONS.

Subpart 1. **Waiver of degree.** The board shall waive part 6400.0600, items G and H if the applicant submits satisfactory evidence of having actively served full time as the licensed nursing home administrator and chief executive officer of a nursing home in another state for a minimum of two continuous years within the immediate past five licensure years and meets all other licensure requirements.

Subp. 2. **Waiver of practicum course.** The board shall waive part 6400.0600, item G, subitem (11) if the applicant submits evidence of having completed satisfactorily one year continuous, full-time employment in the role of administrator or in a position as an assistant administrator in an acute care, skilled care, or nursing home intermediate care facility, or two years as a director of nursing services in a skilled or nursing home intermediate care facility.

Subp. 3. to 5. [Unchanged.]

6400.0800 APPLICATION.

Subpart 1. **Content; time of submission and validity.** Application for licensure shall be made on forms provided by the

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board and shall be accompanied by all the required supportive information and documents. Completed applications shall be received by the board no less than 45 days in advance of an examination date. Applications become void one year after the application form is filed with the licensure board.

Subp. 2. and 3. [Unchanged.]

Subp. 5. [Unchanged.]

Subp. 6. **Fees not refunded.** A fee paid to the board cannot be refunded.

6400.0900 EXAMINATION.

Subpart 1. **Examination content.** Each examination shall consist of one or more written and/or oral tests and may include such other evaluative techniques as the board may employ. Each examination shall include, but shall not be limited to, the following subjects:

A. applicable standards of environmental health and safety;

B. local health and safety regulations;

C. general administration;

D. psychology of patient care;

E. general principles of medical care;

F. personal and social care; and

G. therapeutic and supportive care and services in long-term care.

Subp. 2. **Applicant examination void.** Examination results are considered void ~~one-year~~ two years after the date the examination is taken if the applicant has not become fully licensed.

Subp. 3. **Examination void.** For holders of a lapsed license, all previous examination results are considered void if the license has been lapsed for ~~one-year~~ two years or longer.

6400.1300 ACTING ADMINISTRATOR.

An applicant for an acting nursing home administrator's license must furnish satisfactory evidence that the applicant:

A. has graduated from high school or holds a general

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education development (GED) certificate of equivalent competency;

B. is at least 18 years of age;

C. is of good moral character and otherwise suitable. For the purposes of this part, moral character means the individual's ability to distinguish between right and wrong and act accordingly; and

D. is suitable and fit to be licensed as an acting nursing home administrator as evidenced by:

(1) absence of any mental impairment that would be likely to interfere with the performance of the duties of a temporary nursing home administrator;

(2) the ability to understand and communicate general and technical information necessary to the temporary administration and operation of a nursing home;

(3) the ability to assume responsibilities for the temporary administration of a nursing home as evidenced by prior activities and prior service in the management of a nursing home;

(4) the ability to relate the physical, psychological, spiritual, emotional, and social needs of the patients to the temporary administration of a nursing home, and to create a climate necessary to meet the needs of the patients; and

(5) the ability to demonstrate adequate knowledge about Minnesota's state health and safety rules by passing the board's state examination based on the Department of Health Nursing and Boarding Care rules and the applicable Life Safety Code regulations with a passing score of at least 75 percent.

6400.1400 RECIPROCITY.

Subpart 1. **General requirements.** The board, subject to the law pertaining to the licensing of nursing home administrators prescribing the qualifications for nursing home administrator license, may endorse, without examination, a nursing home administrator license issued by the proper

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authorities of any other state or political subdivision of the United States provided:

A. that the other state or subdivision of the United States maintains a system and standard of qualification examination for nursing home administrator licensure which is substantially equivalent to those required in Minnesota under parts 6400.0600 and 6400.0700;

B. that the applicant for endorsement is familiar with Minnesota's state and local health and safety regulations related to nursing homes and has successfully passed the board's examination on state rules;

C. that the applicant for endorsement is in good standing as a nursing home administrator in each state or subdivision of the United States from which the applicant has ever received a nursing home administrator license or reciprocal endorsement; and

D. that an applicant who seeks licensure by reciprocity shall pay a service fee, as established by the board not to exceed $75.

Subp. 2. **Reciprocity of revocation.** The board shall have power and after due notice an opportunity to be heard at a formal hearing pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14, to revoke or suspend the endorsement of a nursing home administrator license issued to any person on evidence satisfactory to the board that the duly constituted authorities of any state have lawfully revoked or suspended the nursing home administrator license issued to that person by the state.

6400.1700 RENEWAL OF LICENSE.

Subpart 1. **Forms from board.** Every person who holds a valid license as a nursing home administrator issued by the board shall annually apply to the board on or before June 1, for relicensure and report any information considered pertinent and requested by the board on forms provided for that purpose.

If the application for relicensure has not been received by

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June 30 of each year, the license will lapse and the holder of a lapsed license will be subject to the reinstatement procedure.

A nursing home administrator need not be actively practicing as a nursing home administrator in order to renew a license.

Subp. 1a. **Reinstatement.** A nursing home administrator duly licensed in this state, whose license has not been revoked or suspended, and whose license has lapsed, may apply for reinstatement of a license upon filing with the board an affidavit stating that the license has lapsed. The board may reissue the license if the applicant satisfies all past continuing education relicensure requirements and pays all required fees. A holder of a license that has been lapsed for five years or longer shall be regarded as having forfeited all rights and privileges for reinstatement of the lapsed license.

Subp. 2. **Fees; time for renewal.** Upon making an application for relicensure the licensee shall pay the annual fee as established by the board, not to exceed $150. Relicensure applications received after July 1 shall pay the late filing fees as established by the board not to exceed $50 for the first six months and $75 for the second six months. The applicant shall submit evidence satisfactory to the board that during the annual period immediately preceding the application the applicant has complied with the rules of this board and continues to meet the requirements as established, including, but not limited to, continuing educational requirements for relicensure. Nonacademic continuing education requirements for relicensure shall be completed by May 1 of each year for the ensuing licensure year; however, upon presentation of a written petition, licensees may be granted an extension for an appropriate period of time. Extensions will only be granted in unusual circumstances. Applicants granted extensions are required to make payment of applicable late filing fees.

Subp. 3. **Waiting period.** An applicant whose nursing home administrator license has been revoked is not eligible for licensure again for at least six months.

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6400.1800 CONTINUING EDUCATION REQUIREMENTS.

Licensees, in order to be eligible for consideration for renewal of their license, shall be required to satisfy the following continuing educational requirements:

A. annual attendance at licensure board-approved seminars, institutes, or workshops totaling at least 20 clock hours; and

B. satisfactory completion during each three-year license renewal period of an additional 30 clock hours of board-approved seminars, institutes, or workshops.

6400.1900 SPONSORS FOR CONTINUING EDUCATION.

Subpart 1. [Unchanged.]

Subp. 1a. **In-house educational courses.** An in-house educational course is one sponsored by a single health care facility or corporation or a single federal, state, or local government agency for licensed nursing home administrators who are members or employees of the facility, corporation, or agency. An approved in-house course must meet the following requirements:

A. It must comply with subpart 1 and other applicable board rules.

B. At least 25 percent of the hours of approved instruction must be taught by instructors not employed with the sponsoring facility, corporation, or agency.

C. It must be made available to enough outside licensed nursing home administrators so that the audience may be composed of at least 25 percent participants who are not administrators working in or for the facility, corporation, or agency.

D. Information concerning the course must be adequately communicated to outside administrators so they will have reasonable opportunity to attend.

Subp. 2. [Unchanged.]

6400.2000 DETERMINATION OF CREDIT HOURS FOR CONTINUING EDUCATION.

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Seminars, institutes, or workshops shall be evaluated for clock hour credits on the following dual-level basis:

A. Seminars, institutes, or workshops shall receive full clock hour credit upon meeting the following criteria:

(1) subject matter specifically related to the primary administrator functions and responsibilities of long-term health care;

(2) the seminar is designed specifically for administrators and the development of their administrative skills in long-term health care administration; and

(3) instructors have documented academic background sufficient to demonstrate competence and expertise in involved subject.

B. [Unchanged.]

6400.2200 REVOCATION, SUSPENSION, REFUSAL.

Subpart 1. **Criteria.** The board may suspend or revoke a license or refuse to renew a license of a nursing home administrator after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that the person:

A. has violated any of the provisions of the law pertaining to the licensing of nursing home administrators or the rules of the board pertaining to the licensing of nursing home administrators; or

B. ~~has-been-the-administrator-of-a-facility-during the-time-when-there-have-been-four-or-more-uncorrected violations-of-Minnesota-Department-of-Health-rules,-for-which fines-are-in-the-four-highest-fine-categories-prescribed-in-rule and-a-final-determination-has-been-made-that-the-fines-were properly-assessed~~ is not eligible to be employed as a nursing home administrator under Minnesota Statutes, section 144A.04, subdivision 6;

C. has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license; or

D. is found by the board to be incompetent to

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practice as a nursing home administrator. For purposes of this part, incompetence means that the licensee:

(1) has practiced fraud, deceit, or misrepresentation as a nursing home administrator; or

(2) has committed acts of misconduct in the operation of a nursing home under the licensee's jurisdiction; or

(3) has practiced without annual licensure; or

(4) has wrongfully transmitted or surrendered possession of the licensee's license to any other person, either temporarily or permanently; or

(5) has paid, given, has caused to be paid or given, or offered to pay or give to any person, a commission or other consideration for solicitation or procurement either directly or indirectly for nursing home patronage. Nothing herein shall be construed to limit or restrict commercial advertisement; or

(6) has practiced fraudulent, misleading, or deceptive advertising with respect to the institution of which the licensee has charge; or

(7) has falsely impersonated another licensee of a like or different name; or

(8) has failed to exercise true regard for the safety, health, or life of a patient; or

(9) has wilfully permitted unauthorized disclosure of information relating to a patient or the patient's record; or

(10) has discriminated with respect to patients, employees, or staff on account of age, race, sex, religion, color, national origin, marital status, status with regard to public assistance, or disability; or

(11) has abused or is dependent on habit-forming drugs, including alcohol, a legend drug as defined in Minnesota Statutes, chapter 151, a chemical as defined in Minnesota Statutes, chapter 151, or a controlled substance as defined in Minnesota Statutes, chapter 152, and this abuse or dependency

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has affected the performance of the licensee's duties. In reviewing this disciplinary matter, the board shall consider any attempts the licensee has made toward rehabilitation; or

(12) has failed to comply with Minnesota Statutes, section 626.557.

Subp. 2. [See Repealer.]

6400.2400 PROGRAM APPROVAL.

Subpart 1. **Approval of programs for licensure.** A program of study offered by an accredited educational institution must have prior approval of the board in order to be acceptable for meeting nursing home administrator licensure requirements. The board shall approve programs of study that include courses in the areas described in part 6400.0600, item G, subitems (1) to (7) and (9), upon payment of a service fee as established by the board, not to exceed $50 per program.

Subp. 2. [Unchanged.]

6400.2500 APPLICANT RESPONSIBILITY.

The applicant is responsible for providing to the board all data, reports, or information required by the board for licensure or relicensure.

REPEALER. Minnesota Rules, parts 6400.2100; 6400.2200, subpart 2; 6400.2300; 6400.2700; and 6400.2800 are repealed.

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

APR 12 1989

Joan Anderson Growe
Secretary of State JH

10:10 AM

APPROVED AS TO FORM AND LEGALITY

April 10, 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

Public hearing	June 22, 1987
Public hearing report, findings and conclusions adopted by Metropolitan Significance Review Committee	June 29, 1987
Metropolitan and Community Development Committee: Metropolitan Significance	July 2, 1987
Metropolitan Council: Metropolitan Significance	July 9, 1987
90-day deadline expires for Metropolitan Significance	July 20, 1987

Board of Examiners for Nursing Home Administrators

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Licensure of Nursing Home Administrators

Notice is hereby given that the State Board of Examiners for Nursing Home Administrators is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing licensure of nursing home administrators. The promulgation of these rules is authorized by Minnesota Statutes, sections 144A.24 and 626.557, subd. 16(b) which requires the agency to develop and enforce standards for licensure of nursing home administrators, to take appropriate disciplinary action, and to ensure compliance with the Vulnerable Adult Reporting Act.

The State Board of Examiners for Nursing Home Administrators requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: Phillip C. Newberg, Board of Examiners for Nursing Home Administrators, Suite 104, 2700 University Avenue West, St. Paul, Minnesota 55114. Oral statements will be received during regular business hours over the telephone at (612) 642-0595 and in person at the above address.

All statements of information and comment shall be accepted until September 1, 1987. Any written material received by the State Board of Examiners for Nursing Home Administrators shall become part of the record in the event that the rules are promulgated.

Phillip C. Newberg

Department of Public Safety
Hazardous Substance Advisory Committee/Minnesota State Emergency Response Commission
Local Committee Appointment and Rules Subcommittee

Meeting Notice for May 7, 1987, 9:00 AM

Agenda

1. Election of subcommittee chair
2. Committees
   A. Review Statutory requirements for local appointments
   B. Description of formal appointments process
3. Districts
   A. Review district designations
4. Other

Meeting will be held in Room B-5, State Capitol, St. Paul, Minnesota

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Michael Gibson, do hereby certify that I am a member and the chair, of the Board of Examiners for Nursing Home Administrators, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Examiners for Nursing Home Administrators, duly and properly called and held on the 18th day of September, 1987, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

RESOLVED, that Phillip C. Newberg, executive director of the Board of Examiners for Nursing Home Administrators, be and he hereby is granted the authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to adopt without a public hearing rules governing Licensing of Nursing Home Administrators, to sign the Notice thereof, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, he hereby is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 10 day of February, 1989.

Michael Gibson
MICHAEL GIBSON
Chair of the Board of Examiners
for Nursing Home Administrators

Omar Schmidt
Attest by one other Board Member

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Licensing of Nursing Home Administrators

AGENCY: Nursing Home Administrator Licensure Board

MINNESOTA RULES: Chapter 6400

The attached rules are approved for publication in the State Register

Kathleen M. Traxler
Assistant Revisor

Nursing Home Administrator Licensure Board

Proposed Permanent Rules Relating to Licensing of Nursing Home Administrators

Rules as Proposed

6400.0600 LICENSE REQUIREMENTS.

No initial license shall be issued to a person as a nursing home administrator unless the individual:

A. Is at least 18 years of age~~,~~.

B. Is of sound ~~physical and~~ mental health~~,~~. For the purposes of this part, mental health means an individual's emotional or intellectual ability to adapt to a changing environment.

C. Is of good moral character and otherwise suitable ~~,~~. For the purposes of this part, moral character means the individual's ability to distinguish between right and wrong and act accordingly.

D. Has furnished satisfactory evidence, as required by the board, that ~~he/she~~ the individual possesses the general administrative abilities needed to satisfactorily administer a nursing home and possesses the ability to relate the administration of a nursing home to the physical, psychological, spiritual, emotional, and social needs of patients and to create a compassionate and helpful environment~~,~~.

E. Has paid the following licensure and examination fees as established by the board:

(1) an original application fee, not to exceed ~~$75~~ $100;

(2) a state examination fee, not to exceed ~~$50~~ $75; and

(3) a national examination fee, not to exceed ~~$80~~ $125.

Board adjustments to fees within the ranges noted in the rules will be subject to review and approval by the commissioner

Approved by Revisor

of finance each time the fees are adjusted. Information about the exact fees is available from the board office.

F. Has achieved a passing score~~,-to-be-reasonably established-by-the-board~~ of at least 75 percent, on all required examinations~~,-unless-otherwise-hereinafter-provided~~,.

G. Has a baccalaureate or higher degree from an accredited institution and has satisfactorily completed an approved academic course in each of the following areas:

(1) A course in the principles of ~~organizational management-and-administration-which-delineates-the-role, functions,-and-process-of-management-including-planning, staffing,-organizing,-controlling,-delegating,-and-evaluating outcomes,~~ health care management that delineates the role, function, and process of top level management. This course shall include:

(a) the management process of planning, staffing, organizing, controlling, delegating, and evaluating outcomes;

(b) business technology and theory of application;

(c) executive role of administrator;

(d) the art versus the science of administration; and

(e) board-administrator relationships, functions, and authority.

(2) ~~an-accounting-course-which-provides-an introduction-to-basic-financial-concepts,-financial-statements, definition-of-accounting-terminology,-and-the-recording-and reporting-of-financial-events-including-budgeting,~~ Both an introductory accounting course and an advanced managerial accounting course that includes accounting analysis and reports for managerial decisions, planning, and controlling of operations.

(3) ~~a-course-in-social-gerontology-which-includes the-study-of-the-social-aspects-of-aging-in-our-society-as-they relate-to-services-and-programs-for-the-infirm-or-aged,-or-both,~~

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A course in gerontology identifying the aging process in terms of biological, social, and psychological aspects. This course shall include the following objectives:

(a) knowledge of the physical, social, spiritual, economic, and emotional needs of long-term care residents; and

(b) programs and services necessary to meet the needs of the elderly as a population, and those necessary for specific subpopulations.

~~(4) a course on issues in health care in which there is a study of at least three of the major social, economic, and ethical issues confronting long-term health care which include nontraditional approaches to health care, relationships of life style to health, patients' rights, right to die issues, and dilemmas of health care professionals in terms of morals, ethics, and professional commitments;~~ A course providing a study of issues and trends in long-term health care. This course shall include the following topics:

(a) history of and current trends in long-term health care;

(b) alternative modes for delivery of long-term care services;

(c) consumer issues such as patient rights and the right to die;

(d) corporation relationships; and

(e) health care policy issues such as government and society.

~~(5) a course in health care law which studies common case law and types of legal entities that affect or govern long-term health care organizations including its board and staff and the laws that affect guardianship or conservatorship;~~ A course in health care law that examines case law and legislation affecting long-term health care facilities. This course shall include the following topics:

(a) guardianship and conservatorship;

(b) professional negligence;

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(c) duty to provide appropriate patient care;

(d) biomedical ethics;

(e) concern for confidentiality of information;

(f) corporate responsibility;

(g) patient bill of rights; and

(h) law on the protection of residents from abuse or neglect.

~~(6) a course in the administration of long-term care services and programs which is a study of the function and role of professional and nonprofessional personnel, their services, and organizational programs which are needed to provide therapeutic geriatric services for those requiring long-term health care;~~ A course studying delivery of all services required by residents of long-term health care facilities. This course shall include the following topics:

(a) function and role of professional and nonprofessional staff and nonemployee staff;

(b) departmental operations and functions;

(c) ethics;

(d) policy development; and

(e) programs necesssary for residents' health and safety.

~~(7) a human resource or personnel management course which is a study of recruitment, screening and selection processes, job descriptions, job evaluations, personnel policies affecting management and human resources, including orientation and development of employees, personnel records, wage and salary administration, labor laws, affirmative action planning, and equal employment opportunity legislation;~~ A human resource or personnel management course. This course shall include the following topics:

(a) recruitment, screening, and selection process;

(b) job descriptions and job evaluations;

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(c) personnel policies and development of policies;

(d) wage and salary administration;

(e) federal and state regulations on employment and employment opportunities;

(f) group dynamics;

(g) labor relations and negotiations; and

(h) administration of disciplinary policy and procedure.

(8) A course in medical terminology, including a study of commonly accepted medical terms used in long-term care; and.

~~(9) a-board-preapproved-practicum-course-which relates-knowledge-courses-to-the-practice-of-administration-in long-term-health-care-organizations.--The-course,-which-must-be of-a-minimum-of-300-clock-hours,-must-be-under-the-direction-of a-faculty-person-of-the-educational-institution-coordinating-the course-and-carried-out-by-a-licensed-nursing-home administrator-preceptor.--Upon-mutual-agreement-of-the educational-facility-and-nursing-home-preceptor,-a-licensed nursing-home-may-serve-as-the-practicum-site-for-an-applicant who-is-employed-by-that-nursing-home.~~ A course in the development and application of management information systems. This course shall include the following areas of study:

(a) management of data bases;

(b) computerization of patient records and care plans;

(c) budgeting and spread sheet analysis;

(d) survey of currently available systems;

(e) applications such as integrated software, spreadsheet construction, data structuring, local area network design, networks and installation linkages and options;

(f) security risks; and

(g) data management and automated systems.

This subitem is waived for all applicants who apply for licensure before July 1, 1989. All applicants for whom this

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subitem is waived between the effective date of this rule and July 1, 1989, must submit evidence of satisfactory completion of the course required by that rule as a condition for relicensure in 1990 pursuant to part 6400.1700. Evidence of satisfactory completion is written verification from the academic institution offering the course. The written verification must state that the course was completed with a passing grade and must give the date of completion of the course.

(10) A course in the funding mechanisms and regulatory compliance aspects currently in force for the long-term care industry. This course shall include the following topics:

(a) systems of payment by:

(i) Medicare;

(ii) Medicaid;

(iii) third party payors; and

(iv) private health care coverage;

(b) utilization review;

(c) survey and compliance;

(d) quality assurance and review;

(e) sanitation and food service regulations;

(f) life safety code;

(g) Occupational Safety and Health Administration (OSHA);

(h) Joint Commission on Accreditation of Health Care Organizations;

(i) peer review;

(j) roles of professional and trade organizations; and

(k) regulatory compliance.

(11) A board preapproved practicum course that applies knowledge from required courses to the practice of long-term health care administration. The course shall be a minimum of 400 clock hours and shall be jointly supervised by a licensed nursing home administrator and a faculty member of the approved educational institution. Upon mutual agreement of the

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educational facility and nursing home preceptor, a licensed nursing home may serve as the practicum site for an applicant who is employed by the nursing home. This course shall include the following topics:

(a) the opportunity to observe the integrative and administrative role of an administrator;

(b) the study of and involvement in each operating department of the facility;

(c) relationships between the facility and community and other health care providers and organizations;

(d) opportunity to participate in or review the findings and results of past regulatory inspections of a facility; and

(e) a major project study, research paper, or similar report on a topic relevant to the operations of the nursing home.

H. Applicants with a degree in health care administration rather than long-term health care administration need only satisfy the practicum requirement of item G, subitem ~~(9)~~ (11), and satisfactorily complete the courses described in item G, subitems (3) and (6).

6400.0700 **WAIVER PROVISIONS.**

Subpart 1. **Waiver of degree.** The board shall waive part 6400.0600, items G and H if the applicant submits satisfactory evidence of having actively served full time as ~~a~~ the licensed nursing home administrator and chief executive officer of a nursing home in another state for a minimum ~~period~~ of two continuous years within the immediate past five licensure years and meets all other licensure requirements.

Subp. 2. **Waiver of practicum course.** The board shall waive part 6400.0600, item G, subitem ~~(9)~~ (11) if the applicant submits evidence of having completed satisfactorily one year continuous, ~~full-time as an~~ full-time employment in the role of administrator or in a position as an assistant administrator in an acute care, skilled care, or nursing home intermediate care

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facility, or two years as a director of nursing services ~~or a director of social services~~ in a skilled or nursing home intermediate care facility.

Subp. 3. to 5. [Unchanged.]

6400.0800 APPLICATION.

Subpart 1. **Content; time of submission and validity.** Application for licensure shall be made on forms provided by the board and shall be accompanied by all the required supportive information and documents. Completed applications shall be received by the board no less than 45 days in advance of an examination date. Applications ~~shall~~ become void one year after the application form is filed with the licensure board ~~unless the applicant maintains an active file by either writing the examinations when offered or is enrolled in an approved educational course designed to meet licensure requirements and so notifies the board.~~

Subp. 2. and 3. [Unchanged.]

Subp. 5. [Unchanged.]

Subp. 6. **Fees not refunded.** ~~Any license or examination~~ fees A fee paid to the board cannot be refunded.

6400.0900 **EXAMINATION.**

Subpart 1. **Examination content.** Each examination shall consist of one or more written and/or oral tests and may include such other evaluative techniques as the board may employ. Each examination shall include, but shall not be limited to, the following subjects:

A. applicable standards of environmental health and safety;

B. local health and safety regulations;

C. general administration;

D. psychology of patient care;

E. general principles of medical care;

F. personal and social care; and

G. therapeutic and supportive care and services in long-term care.

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Subp. 2. **Applicant examination void.** Examination results are considered void one year after the date the examination is taken if the applicant has not become fully licensed.

Subp. 3. **Examination void.** For holders of a lapsed license, all previous examination results are considered void if the license has been lapsed for one year or longer.

6400.1300 ACTING ADMINISTRATOR.

~~If a licensed nursing home administrator is removed from his position by death or other unexpected cause, the owner, governing body, or other appropriate authority of the nursing home suffering such removal may designate an acting nursing home administrator who may serve for no more than 180 days. The owner, governing body, or other appropriate authority of the nursing home suffering such removal shall notify the licensure board in writing within 15 days of the termination of service of the administrator as well as the appointment of the new administrator. Upon receipt of notification of a vacancy, the board shall provide, if the designated new administrator is not fully licensed, the appropriate forms for securing an acting license. The board shall expediently process all qualified applicants for acting license. If an application is received after a vacancy occurs, the acting license shall be retroactive to the date the applicant assumed administrative responsibility of the facility.~~

An applicant for an acting nursing home administrator's license must furnish satisfactory evidence that the applicant:

A. has graduated from high school or holds a general education development (GED) certificate of equivalent competency;

B. is at least 18 years of age;

C. is of good moral character; and

D. is suitable and fit to be licensed as an acting nursing home administrator as evidenced by:

(1) absence of any mental impairment that would be likely to interfere with the performance of the duties of a

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temporary nursing home administrator;

(2) the ability to understand and communicate general and technical information necessary to the temporary administration and operation of a nursing home;

(3) the ability to assume responsibilities for the temporary administration of a nursing home as evidenced by prior activities and prior service in the management of a nursing home;

(4) the ability to relate the physical, psychological, spiritual, emotional, and social needs of the patients to the temporary administration of a nursing home, and to create a climate necessary to meet the needs of the patients; and

(5) the ability to demonstrate adequate knowledge about Minnesota's state health and safety rules by passing the board's state examination based on the Department of Health Nursing and Boarding Care rules and the applicable Life Safety Code regulations with a passing score of at least 75 percent.

6400.1400 RECIPROCITY.

Subpart 1. **General requirements.** The board, subject to the law pertaining to the licensing of nursing home administrators prescribing the qualifications for nursing home administrator license, may endorse, without examination, a nursing home administrator license issued by the proper authorities of any other state or political subdivision of the United States provided:

A. that ~~such~~ the other state or subdivision of the United States, maintains a system and standard of qualification examination for nursing home administrator licensure which is substantially equivalent to those required in ~~the state of~~ Minnesota under parts 6400.0600 and 6400.0700;

B. that ~~such~~ the applicant for endorsement is familiar with Minnesota's state and local health and safety regulations related to nursing homes and has successfully passed the board's examination on state rules;

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C. that the applicant for endorsement is in good standing as a nursing home administrator ~~as such~~ in each state or subdivision of the United States from which ~~he or she~~ the applicant has ever received a nursing home administrator license or reciprocal endorsement; and

D. that an applicant who seeks licensure by reciprocity shall pay a service fee, as established by the board not to exceed ~~$50~~ $75.

Subp. 2. **Reciprocity of revocation.** The board shall have power and after due notice an opportunity to be heard at a formal hearing pursuant to the Administrative Procedure Act, Minnesota Statutes ~~1969~~, chapter ~~15~~ 14, to revoke or suspend the endorsement of a nursing home administrator license issued to any person on evidence satisfactory to the board that the duly constituted authorities of any state have lawfully revoked or suspended the nursing home administrator license issued to ~~such~~ that person by ~~such~~ the state.

6400.1700 RENEWAL OF LICENSE.

Subpart 1. **Forms from board.** Every person who holds a valid license as a nursing home administrator issued by the board shall annually apply to the board on or before June 1, ~~to the board for a renewal of the license~~ for relicensure and report any information ~~deemed~~ considered pertinent and requested by the board on forms provided for that purpose.

If the application for relicensure has not been received by June 30 of each year, the license will lapse and the holder of a lapsed license will be subject to the reinstatement procedure.

A nursing home administrator need not be actively practicing as a nursing home administrator in order to renew a license.

Subp. 1a. **Reinstatement.** A nursing home administrator duly licensed in this state, whose license has not been revoked or suspended, and whose license has lapsed, may apply for reinstatement of a license upon filing with the board an affidavit stating that the license has lapsed. The board may

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reissue the license if the applicant satisfies all past continuing education relicensure requirements and pays all required fees. A holder of a license that has been lapsed for five years or longer shall be regarded as having forfeited all rights and privileges for reinstatement of the lapsed license.

Subp. 2. **Fees; time for renewal.** Upon making an application for ~~a renewal of his license such~~ relicensure the licensee shall pay the annual fee as established by the board, not to exceed ~~$125~~ $150. ~~Renewal~~ Relicensure applications received after July 1 shall pay the late filing fees as established by the board not to exceed ~~$30~~ $50 for the first six months and ~~$50~~ $75 for the second six months. The applicant shall submit evidence satisfactory to the board that during the annual period immediately preceding ~~such~~ the application ~~he~~ the applicant has complied with the rules of this board and continues to meet the requirements as established, including, but not limited to, continuing educational requirements for relicensure. Nonacademic continuing education requirements ~~of~~ for relicensure shall be completed by May 1 of each year for the ensuing licensure year; however, upon presentation of a written petition, licensees may be granted an extension for an appropriate period of time. Extensions will only be granted in unusual circumstances. Applicants granted extensions ~~will be~~ are required to make payment of applicable late filing fees.

Subp. 3. **Waiting period.** An applicant whose nursing home administrator license has been revoked is not eligible for licensure again for at least six months.

6400.1800 CONTINUING EDUCATION REQUIREMENTS.

Licensees, in order to be eligible for consideration for renewal of their license, shall be required to satisfy the following continuing educational requirements:

A. annual attendance at licensure board-approved seminars, institutes, or workshops totaling at least 20 clock hours; and

B. satisfactory completion during each three-year

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license renewal period of ~~at least six quarter credit hours or four semester hours in health care courses related to long term health care administration from an educational institution accredited by the appropriate regional accrediting agency or attendance during the same time period at~~ an additional 30 clock hours of board-approved seminars, institutes, or workshops.

6400.1900 SPONSORS FOR CONTINUING EDUCATION.

Subpart 1. [Unchanged.]

Subp. 1a. **In-house educational courses.** An in-house educational course is one sponsored by a single health care facility or corporation or a single federal, state, or local government agency for licensed nursing home administrators who are members or employees of the facility, corporation, or agency. An approved in-house course must meet the following requirements:

A. It must comply with subpart 1 and other applicable board rules.

B. At least 25 percent of the hours of approved instruction must be taught by instructors not employed with the sponsoring facility, corporation, or agency.

C. It must be made available to enough outside licensed nursing home administrators so that the audience may be composed of at least 25 percent participants who are not administrators working in or for the facility, corporation, or agency.

D. Information concerning the course must be adequately communicated to outside administrators so they will have reasonable opportunity to attend.

Subp. 2. [Unchanged.]

6400.2000 DETERMINATION OF CREDIT HOURS FOR CONTINUING EDUCATION.

Seminars, institutes, or workshops shall be evaluated for clock hour credits on the following dual-level basis:

A. Seminars, institutes, or workshops shall receive full clock hour credit upon meeting the following criteria:

(1) subject matter specifically related to the

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primary administrator functions and responsibilities of long-term health care;

(2) ~~subject-matter~~ the seminar is designed specifically for administrators and the development of their administrative skills in long-term health care administration; and

(3) instructors have documented academic background sufficient to demonstrate competence and expertise in involved subject.

B. [Unchanged.]

6400.2200 REVOCATION, SUSPENSION, REFUSAL.

Subpart 1. **Criteria.** The board may suspend or revoke a license or refuse to renew a license of a nursing home administrator after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that ~~such~~ the person:

A. has violated any of the provisions of the law pertaining to the licensing of nursing home administrators or the rules of the board pertaining ~~thereto~~ to the licensing of nursing home administrators; or

B. has ~~wilfully-or-repeatedly-violated-any-of-the provisions-of-the-law,-code,-rules,-or-regulations-of-the licensing-or-supervising-authority-or-agency-of-the-state-or political-subdivision-thereof-having-jurisdiction-over-the operation-and-licensing-of-nursing-homes~~ been the administrator of a facility during the time when there have been four or more uncorrected violations of Minnesota Department of Health rules, for which fines are in the four highest fine categories prescribed in rule and a final determination has been made that the fines were properly assessed;

C. has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license; or

D. is found by the board to be incompetent to practice as a nursing home administrator. For purposes of this part, incompetence means that the licensee:

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(1) has practiced fraud, deceit, or misrepresentation as a nursing home administrator;

(2) has committed acts of misconduct in the operation of a nursing home under the licensee's jurisdiction;

(3) has practiced without annual licensure;

(4) has wrongfully transmitted or surrendered possession of the licensee's license to any other person, either temporarily or permanently;

(5) has paid, given, has caused to be paid or given, or offered to pay or give to any person, a commission or other consideration for solicitation or procurement either directly or indirectly for nursing home patronage;

(6) has practiced fraudulent, misleading, or deceptive advertising with respect to the institution of which the licensee has charge;

(7) has falsely impersonated another licensee of a like or different name;

(8) has failed to exercise true regard for the safety, health, or life of a patient;

(9) has wilfully permitted unauthorized disclosure of information relating to a patient or the patient's record;

(10) has discriminated with respect to patients, employees, or staff on account of age, race, sex, religion, color, national origin, marital status, status with regard to public assistance, or disability;

(11) has abused or is dependent on habit-forming drugs, including alcohol, a legend drug as defined in Minnesota Statutes, chapter 151, a chemical as defined in Minnesota Statutes, chapter 151, or a controlled substance as defined in Minnesota Statutes, chapter 152, and this abuse or dependency has affected the performance of the licensee's duties. In reviewing this disciplinary matter, the board shall consider any attempts the licensee has made toward rehabilitation; or

(12) has failed to comply with Minnesota Statutes, section 626.557.

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Subp. 2. [See Repealer.]

6400.2400 PROGRAM APPROVAL.

Subpart 1. **Approval of programs for licensure.** A program of study offered by an accredited educational institution must have prior approval of the board in order to be acceptable for meeting nursing home administrator licensure requirements. The board shall approve programs of study ~~which~~ that include courses in the areas described in part 6400.0600, item G, subitems (1) to ~~(7)~~ and (9), upon payment of a service fee as established by the board, not to exceed ~~$40~~ $50 per program.

Subp. 2. [Unchanged.]

6400.2500 APPLICANT RESPONSIBILITY.

The ~~applicant shall furnish the board evidence of satisfactory completion of an approved program of study~~ applicant is responsible for providing to the board all data, reports, or information required by the board for licensure or relicensure.

REPEALER. Minnesota Rules, parts 6400.2100; 6400.2200, subpart 2; 6400.2300; 6400.2700; and 6400.2800 are repealed.

Approved
by Revisor _____

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the Proposed
Adoption of the Rule Amendments
of the Board of Examiners for
Nursing Home Administrators
Relating to Licensure Requirements,
Fees, Clarification of Rules and
Conformation of Rules With
State Statutes

NOTICE OF INTENT TO
ADOPT RULE AMENDMENTS
WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Board of Examiners for Nursing Home Administrators (hereinafter "Board") intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1986). The statutory authority to adopt the rule amendments is Minn. Stat. §§ 144A.21, 144A.24, 214.06 and 626.557, subd. 16(b) (1986).

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

Any person may make a written request for a public hearing on the rule amendments 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 in writing. 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 amendments addressed, the

reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1986).

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

Phillip C. Newberg
Executive Director
Minnesota Board of Examiners
for Nursing Home Administrators
Suite 104
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0596

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

The rule amendments proposed for adoption relate to the following matters: licensure requirements, fees, clarification of present rules and to bring present rules into conformity with state statutes. A copy of the proposed rule amendments is attached to this notice.

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

If no hearing is required, upon adoption of the rule amendments, the rule amendments 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 amendments must submit the written request to Phillip C. Newberg at the above address.

Dated: August 16, 1988

Phillip C Newberg

PHILLIP C. NEWBERG
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA
BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the Proposed Amendments to the Board of Examiners for Nursing Home Administrators relating to original licensure requirements, clarifying of present Rules and bring present Rules into conformity with State Statute.

STATEMENT OF NEED FOR AND FACTS ESTABLISHING REASONABLENESS OF PROPOSED AMENDMENTS

Minnesota Board of Examiners for Nursing Home Administrators (Hereinafter "Board"),pursuant to Minn. Stat. 144A.19-144A.29 (1986), hereby affirmatively presents the need for and facts establishing the reasonableness of adopting the above captioned amendments to the Board's rules. The statutory authority for the proposed amendments is set forth in Minn. Stat. 144A.21 & 24 214.06, and 626.557, Subd. 16(6) (1986) which authorizes the Board to make and publish uniform rules and regulations to enforce the provisions of the statutes under which it operates.

The need to adopt these proposed amendments to the Board's existing rules arises from several sources including studies and recommendations done by the Board's special committee on Rules Change; ambiguities in the current language; changes in State Statute; and advances and changes in the nursing home profession which must be addressed. Some of the proposed changes are language changes for clarification purposes only; other changes are editorial changes reorganizing topics presently located in different sections into one section relating to the same topic. These changes do not change the substance of existing rules. The proposed change that is perhaps the most noteworthy is in the academic requirements for original licensure. The rational for all of the proposed changes are more fully explained below.

The Board is proposing in Board Rule 6400.0600-B the deletion of the word "physical". This is reasonable as the Board is of the opinion that no applicant should be ineligible or discriminated against for licensure based upon any physical impairment. It feels physical health does not have a direct bearing on the competency of an applicant. If a physical disability reaches the point that it affects a licensee's ability to practice, appropriate steps can be taken pursuant to Minn. Rule G400.2200.

Also, the Board is proposing in Board Rule 6400.0600-B & C to define "mental health"

& "moral character" so as to provide a more specific and clear meaning of the terms or words. This is needed because the terms have several possible definitions and this rule will assist applicants to better understand the Board's intended usage of the terms.

The Board is proposing in Board Rule 6400.0600-D and other sections of the Board Rules, the deletion of the words "he/she" and the substitution of the term, "the individual" in order to avoid any possible sexual bias and to provide for standardization throughout.

The Board is proposing increasing all of its fees. In Board Rule 6400.0600-E it is proposing increasing its licensure and examination fees. Another fee increase is found in 6400.1700-subp. 2. Minnesota Statute, section 214.06 requires that the Board adjust fees so that the total fees collected"...will as closely as possible equal anticipated expenditures during the fiscal biennium." The proposed fee increases are necessary to provide this balance. Expenditures for fiscal year 1988 is anticipated to be $145,800 and for fiscal year 1989 to be $150,600. The proposed fees are reasonable because they provide for sufficient income, according to the projected number of applicants, to cover the expected fiscal year expenditures.

The Board is proposing in Board Rule 6400.0600-F, deletion of the present wordage, which is vague and non-specific, and insertion of an exact figure of 75%. This is necessary so that applicants for licensure may know the exact passing score on all required examinations. A 75% passing rate has been used for at least five years and thus is a reasonable score to require of individuals taking the examination in the future.

The Board is proposing in Board Rule 6400.0600-G-1-11, the deletion of most of the present language; the substitution of new language and the addition of certain academic courses. Each of the proposed changes is more fully explained below.

In G-1, 3, 4, 5, 6 and 7, the Board proposes to delete the present language which is general in nature; subject to a great variety of interpretation and not specifically long term health care related. The proposed language is needed to provide

specific course parameters and a clearer understanding by potential applicants, academic institutions and the public. Course requirements are further elaborated on by the enumeration of specific sub-topics which serve as a base to clarify and specify exactly what is to be contained in each course. This will reduce misinterpretation and misunderstanding. The increasing complexity and specificity of nursing home administration due to additional and increased government relations, requires more specific and germane academic courses. All of the Board approved academic institutions that provide courses in nursing home administration have reviewed these proposed courses or course changes and can/will offer suitable courses to meet these proposed rules.

In G-2, the Board is proposing an additional course requirement of an advanced managerial accounting course. This is urgently needed in order that administrators have adequate knowledge and experience to prepare increasingly complex and detailed reports to the various state regulatory agencies and also to more competently operate their facility.

It is reasonable that this be an advanced managerial accounting course because applicants will have the prerequisite of an introductory course, but such an introductory course usually does not go into sufficient detail to be of assistance to administrators who must manage the facility and be responsible for the accuracy and completeness of all required reports to state agencies. The Board has received repeated expressions from owners and Boards of nursing homes that new licensees do not have adequate accounting background or training and should have more sophisticated accounting courses, frequently specifying advanced managerial accounting.

In G-9, the Board is proposing a new course dealing with understanding computers and their application. This is reasonable in order to provide administrators with the type of skills considered essential for effective and efficient management in todays increasingly technical and sophisticated world of administration. The Board is also in receipt of requests from the Nursing Home Profession for a course of this nature so that new licensees will have the type of knowledge and skills required for adequate and competent job performance. The components of this course are reasonable in that

they have direct applicability to using computers in nursing homes or similar types of facilities. This subitem is temporarily waived for applicants applying for licensure before July 1, 1989. The reason for this temporary waiver is to allow adequate time for academic institutions to fully develop a course of study specific to the needs or requirements contained in this Rule. In discussion with each of the four academic institutions presently offering approved courses of study, full agreement was reached that this would be adequate time for the development of this specific course.

In G-10, the Board is proposing the structuring of a course specifically dealing with the various funding mechanisms and regulatory compliance requirements for nursing homes. While many of these topics have previously been found addressed in various other courses there has been no systematic or specific focusing in on these requirements. It is felt that a specific course is needed to centralize attention to the increasingly important emphasis being given by the various regulatory agencies to these funding mechanisms or regulations. New topics include third party payors and private health care coverage; Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and role of professional and trade organizations. Third party payor and private health care coverage is very rapidly emerging in the nursing home industry and adequate knowledge of the concepts, trends and services are felt essential. The importance and value of a nursing home being accredited by the JCAHO is increasingly being viewed as an essential indication of the provision of quality care and the meeting of high standards. New licensees need to be aware of the role, function and importance of the JCAHO. Nursing home professional and trade organizations are increasingly being regarded as advocates for any changes felt, by the profession, to be needed. These are organized on both a local and national level and licensees need to be fully aware of the purposes and role each of these organizations fulfill.

In G-11, the Board is basically only restating an existing rule with sub-parts specifying certain conditions which are considered essential for a trainee to experience in a practicum. It is reasonable and necessary to increase the number of hours from 300 to 400 hours to allow students more time in each of the departments of a nursing home.

Many students have expressed to the Board that frequently they felt the time available to them in each department was inadequate. With more emphasis being placed by regulatory agencies on quality of care and "patient-oriented outcomes", additional time for students is considered most essential. Also, it will provide some additional time for the student to devote to the development of the project study. The practicum has been required for many years. Two of the four Board approved schools offering the practicum have had a practicum course of 400 hours for several years.

In 6400.0700 Subp. 1, the Board is proposing a slight change to the present waiver of the degree requirement for original licensure by also requiring the applicant to have been the chief executive officer of a nursing home. Under the present rule a licensee need only have met the requirements for original licensure in another state for two years and need not have practiced in the profession at all. Also, many other states have considerably less stringent original licensure requirements than Minnesota. In Minnesota a nursing home administrator is generally equivalent to a Chief Executive Officer (C.E.O.) and thus the Board is requiring the same equivalency of individuals from other states wishing to obtain a waiver of the degree requirements when they apply for licensure in Minnesota. It is the belief of the Board that a minimum experience of two years functioning in the role of a chief executive officer of a nursing home is needed to develop an administrative competency considered the equivalent of a degree.

In 6400.0700 Subp. 2, the Board is proposing to add the requirement of "employment in the role of" an administrator to clarify the intent of the Board. This requirement is necessary for uniformity but also because the Board believes that only administrators with full time experiences in the role of administrator can be considered to be fully competent for licensure and consequently eligible for the wiaver of the practicum requirement. Later in this section, the term "nursing home" is added to clarify or specify that only experience secured in a nursing home intermediate care facilities is acceptable for waiver of the practicum. The Board feels that broad experience is needed to qualify for waiver and only the breadth and full range of administrative responsibilities and experience can only be found in a nursing home intermediate care facility. Also in the sub-part, the Board proposes to delete the provision that permitted Director of Social Services to be waivered of the practicum requirement.

It is the belief of the Board that with the significantly increased complexities and administrative responsibilities now required of an administrator, Social Service Directors do not have adequate exposure to, or range of experiences considered the equivalent of the experience secured in a practicum.

The proposed rule also increased from one year to two years the length of time an applicant needs to serve as a director of nurses in a facility. This is also reasonable because this period of time is needed in order to adequately secure the full range of experiences and competency, otherwise obtained in the practicum experience.

In 6400.0800 Subp. 1. The elimination of this portion of the rule is reasonable and necessary in order to clarify the length of time any application for licensure is valid. The current rule could be interpreted as allowing an applicant to maintain an active application by writing an examination and not pursuing licensure for a number of years, or taking courses over an extended period of time. This interpretation was not the Board's original intent. Deletion of that portion of the rule will eliminate possible misinterpretation and allow greater administrative convenience.

6400.0900 Subp. 2 & 3. These proposed rules are reasonable and necessary in order to fully inform affected parties of the exact length of time for which examination results are valid. A one year time period is considered appropriate as standards and competency frequently change significantly in a time period greater than one year. This rule will also clarify the application process and allow greater administrative convenience.

In 6400.1300. The Board is proposing the deletion of the present Rule because of a change in the Minn. Stat.s 144A.27. The new Statute states:

> 144A.27 ACTING ADMINISTRATORS: If a licensed nursing home administrator is removed from the position by death or other unexpected cause, the controlling persons of the nursing home suffering the removal may designate an acting nursing home administrator who shall secure an acting administrators license within thirty days of appointment as the acting administrator.

Pursuant to the new Statutory Authority granted to it by the Legislature, the Board has divised the proposed standards based on the standard for original licensure.

The proposed rule is reasonable in that it specifies exactly what requirements an applicant must possess in order to secure an acting administrator's license. These requirements are necessary in order to assure that individuals serving as acting administrators possess, as a minimum, qualifications deemed adequate to assure that quality patient care is provided and that overall administrative knowledge and competency exists for functionally sound administration.

In the past there were no criteria for acting administrators because the law previously stated the acting administrator could serve without a license for 90 days. The law now requires that such a license be obtained within 30 days of the appointment of an acting administrator. A facility may not be able to obtain a fully licensed administrator in that short period of time, accordingly, it is appropriate than an individual who is merely acting as an administrator for a short period of time not be required to meet the full criteria for licensure. However, it is also reasonable that an acting administrator meet certain minimal qualifications. The Board, therefore, has proposed those minimum qualifications under the new 6400.1300.

Qualifications for an acting administrator include some of the qualifications for full licensure, such as being at least 18 years of age and suitably qualified. These are statutory requirements set forth under Minn. Stat. s144A.20. The Board proposes evidence of suitable qualification reflect some of the same characteristics or knowledge required of a fully licensed administrator, but without the coursework required of a licensed administrator. Further, the Board qualifies the knowledge necessary for the "temporary" administration of a nursing home because acting administrators are considered to be temporary positions while the facility finds a full-time licensed administrator.

Subpart D(5) requires passage of the state license examination with a passing score of at least 75%. This is reasonable because the state portion of the licensure examination is available to be taken at any time and thus could be taken within the

30 days specified in Minn. Stat s 144A.27 during which an acting administrator can secure a license. The federal portion of the licensure examination is only given four times a year so it would not be reasonable to require an acting administrator to have passed that portion of the examination.

Successful passage of the state portion of the examination is consistent with the statutory requirement found in Minn. Stat s 144A.20, subd. 1(c) and necessary to ensure that the acting administrator has a working knowledge of state health and safety regulations which are designed to protect residents of nursing homes.

In 6400.1400 only small or technical changes are proposed which will make the rules conform to present codification standards and in no way altars the existing rule. Also certain fees are raised, which statement of need was explained earlier in 6400.0600-E.

In 6400.1700 certain terms or words are substituted for existing words or terms in order to bring this section into conformity with codification standards. The remaining portion of the proposed Rule Subp 1; 1-a and Subp. 3 are existing rules presently found in Board rule 6400.2100 and 6400.2300 but now re-stated in this section. This relocation change is made so that all information regarding license renewal is centralized in one section specific to license renewal.

A change is proposed in Subpart 1, changing from July 31 to June 30 for the time when a license shall be considered to be lapsed. This change is needed to provide for uniformity of Board Rules regarding lapsed licenses and to comply with Minn. Stat. 2 214.07 which requires the filing of a report to the legislature regarding licensure data and statistics as of June 30 each year.

The portion of 6400.1800-B, dealing with credit hours from academic institutions is being deleted due to obsolescense. When the continuing education requirement was initially started there were limited amount of non-academic educational offerings available to meet this requirement. With many more non-academic educational offerings available and also, the major increase in required academic courses for original licensure, it is no longer felt needed to continue to require academic courses for relicensure. This requirement frequently resulted in duplication of course material taken.

The Board is proposing in Board Rule 6400.1900 Subp. 1-a, certain changes to standardize continuing education requirements and the availability of seminars to all interested parties. This proposed rule is needed so that a specific common standard will exist for all potential sponsors of in-house educational courses and that such sponsors will know exactly the requirements which must be met in order for an educational offering to be eligible for approval. This requirement is necessary to assure the availability of seminars to any and all parties interested in attending an educational offering approved by this Board and not to be restricted for the unique needs of the staff of a sponsoring agency. It is also reasonable in that it still recognizes that in-house training programs can be beneficial and should be given credit if they are of general interest. It is hoped that by requiring a portion of the course to be taught by instructors not employed by the sponsoring facility, the in-house training sessions will have general applicability to a variety of nursing home settings.

The Board is proposing in Board Rule 6400.2000-A-2 the addition of certain words for clarification of Board intent. The intent is that seminars, in order to secure full Board approval, should be designed specifically for administrators in the improvement of their skills in the long term health care sector. The rule change is reasonable in that seminars designed, specifically for administrators of long term health care facilities are readily available throughout the state as well as many nationally sponsored educational seminars by long term health care organizations.

The present wording of 6400.2200-Subp. 1-B is being deleted as it is non-specific and thus difficult to understand and interpret. New phraseology is proposed which specifies exactly the basis for disciplinary action. The new language is reasonable in that it correlates with the Minn. Stat. and 144A.11 Subd. 2 (2) which requires that the Commissioner of Health revoke or suspend the nursing home license of any facility which has four or more uncorrected violations. This rule will allow the Board to deal with administrators who are not performing as expected for the protection of the public and it will also compliment Dept. of Health Statutes.

In 6400.2200 Subp. 1-D the proposed rules are basically the same as now existing in 6400.2200 Subp. 1 and 2, except that certain words are changed to correct any possible reference to sexual bias.

The Board is proposing in 6400.2200 Subp. 1-D-12 an addition which will emphasize the importance of reporting any maltreatment of vulnerable adults who may be under the jurisdiction of administrators of nursing homes. Minn. Stat. s626.557 specifically authorizes the Board to take disciplinary action for violations of the Vulnerable Adult Act and thus it is appropriate to include violations of that law as a basis for disciplinary action. By specifying this behavior as a basis for discipline in its rules the Board gives notice to the licensees of its concern with behavior which is a violation of the Vulnerable Adult Act.

In 6400.2500 the Board is proposing the deletion of the present wording and replacing it with language which is more specific. This change is needed to inform potential applicants specifically of their responsibility in reporting required information to the Board. It is a reasonable change as only the applicant has access to such data.

MINNESOTA BOARD OF EXAMINERS
FOR NURSING HOME ADMINISTRATORS

2700 UNIVERSITY AVE. W. # 104
ST. PAUL, MN 55114-1082
(612) 642-0595

June 30, 1988

TO: Bruce J. Reddemann, Director
Budget Operation & Support Division
Department of Finance

FROM: Phillip C. Newberg
Executive Director

Phone: 642-0595

SUBJECT: Approval of Revised Fee Amounts

The Board of Examiners for Nursing Home Administrators has found it necessary to propose increases in fees in order to balance receipts and expenditures over the biennium. In accordance with Minnesota Statutes section 214.06 the following changes are proposed:

FEE	FROM	TO	DATE
1. Application	$ 75	$ 90	9/1/88
2. State examination	50	75	9/1/88
3. National examination	75	100	9/1/88
4. License	115	120	9/1/88
5. Continuing Education App'l.	20	25	9/1/88

A fee review form and other documentation is attached.

We request approval of the fee changes proposed above.

If you have any questions, please do not hesitate to call me.

Approved: _____ 7-12-88
Bruce J. Reddemann, Director Date

PCN:dn

cc: Rob Super
Executive Finance Officer
Enclosures

an equal opportunity employer

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS
FOR NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of the
Rule Amendments of the
Board of Examiners for Nursing
Home Administrators Relating
to Licensure Requirements,
Fees, Clarification of Rules
and Conformation of Rules with
State Statutes

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Phillip C. Newberg, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Board of Examiners for Nursing Home Administrators rulemaking list is accurate, complete, and current as of this 27th day of March, 1989.

That on the 17th day of August, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rule Amendments 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.

Phillip C. Newberg
Phillip C. Newberg
Executive Director

Subscribed and sworn to before me this
27th day of March, 1989.
Denise S. Collins
Notary Public

DENISE S. COLLINS
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES AUGUST 27, 1992

List of Persons and Individuals
Requesting Notice of Rulemaking Hearings

Peace Officer Standards and Training Board

John M. Broeker

Conrad M. Fredin

Lynn R. Gruber, Minnesota Medical Association

Minnesota Board of Optometry

Executive Director, Minnesota Board of Pharmacy

Rick Carter, Minnesota Association of Health Care Facilities

R. J. Lavell, Department of Veterans Affairs

Phillips Legislative Service, Inc.

Executive Director, Minnesota Board of Psychology

Bob Franklin, Minneapolis Star Tribune

Bonnie Bannanno, Office of Administrative Hearings

Minnesota Board of Nursing

Pamela Parker

Proposed Rules

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

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

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

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

Nursing Home Administrator Licensure Board

Proposed Permanent Rules Relating to Licensing of Nursing Home Administrators

Notice of Intent to Adopt Rule Amendments Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Examiners for Nursing Home Administrators (hereinafter "Board") intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The statutory authority to adopt the rule amendments is *Minnesota Statutes* §§ 144A.21, 144A.24, 214.06 and 626.557, subd. 16(b)(1986).

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

Any person may make a written request for a public hearing on the rule amendments 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 in writing. 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 amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

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

Phillip C. Newberg
Executive Director
Minnesota Board of Examiners
for Nursing Home Administrators
Suite 104
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0596

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

The rule amendments proposed for adoption relate to the following matters: licensure requirements, fees, clarification of present rules and to bring present rules into conformity with state statutes. A copy of the proposed rule amendments is attached to this notice.

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

If no hearing is required, upon adoption of the rule amendments, the rule amendments 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 amendments must submit the written request to Phillip C. Newberg at the above address.

Dated: 16 August 1988

Phillip C. Newberg
Executive Director

Rules as Proposed

6400.0600 LICENSE REQUIREMENTS.

No initial license shall be issued to a person as a nursing home administrator unless the individual:

A. Is at least 18 years of age~~:~~.

B. Is of sound ~~physical and~~ mental health~~:~~. For the purposes of this part, mental health means an individual's emotional or intellectual ability to adapt to a changing environment.

C. Is of good moral character and otherwise suitable ~~:~~. For the purposes of this part, moral character means the individual's ability to distinguish between right and wrong and act accordingly.

D. Has furnished satisfactory evidence, as required by the board, that ~~he/she~~ the individual possesses the general administrative abilities needed to satisfactorily administer a nursing home and possesses the ability to relate the administration of a nursing home to the physical, psychological, spiritual, emotional, and social needs of patients and to create a compassionate and helpful environment~~:~~.

E. Has paid the following licensure and examination fees as established by the board:

(1) an original application fee, not to exceed ~~$75~~ $100;

(2) a state examination fee, not to exceed ~~$50~~ $75; and

(3) a national examination fee, not to exceed ~~$80~~ $125.

Board adjustments to fees within the ranges noted in the rules will be subject to review and approval by the commissioner of finance each time the fees are adjusted. Information about the exact fees is available from the board office.

F. Has achieved a passing score~~, to be reasonably established by the board~~ of at least 75 percent, on all required examinations~~, unless otherwise hereinafter provided~~;.

G. Has a baccalaureate or higher degree from an accredited institution and has satisfactorily completed an approved academic course in each of the following areas:

(1) A course in the principles of ~~organizational management and administration which delineates the role, functions, and process of management including planning, staffing, organizing, controlling, delegating, and evaluating outcomes;~~ health care management that delineates the role, function, and process of top level management. This course shall include:

(a) the management process of planning, staffing, organizing, controlling, delegating, and evaluating outcomes;

(b) business technology and theory of application;

(c) executive role of administrator;

(d) the art versus the science of administration; and

(e) board-administrator relationships, functions, and authority.

(2) ~~an accounting course which provides an introduction to basic financial concepts, financial statements, definition of accounting terminology, and the recording and reporting of financial events including budgeting;~~ Both an introductory accounting course and an advanced managerial accounting course that includes accounting analysis and reports for managerial decisions, planning, and controlling of operations.

(3) ~~a course in social gerontology which includes the study of the social aspects of aging in our society as they relate to services and programs for the infirm or aged, or both;~~ A course in gerontology identifying the aging process in terms of biological, social, and psychological aspects. This course shall include the following objectives:

(a) knowledge of the physical, social, spiritual, economic, and emotional needs of long-term care residents; and

(b) programs and services necessary to meet the needs of the elderly as a population, and those necessary for specific subpopulations.

(4) ~~a course on issues in health care in which there is a study of at least three of the major social, economic, and ethical issues confronting long-term health care which include nontraditional approaches to health care, relationships of life style to health,~~

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.

~~patients' rights, right to die issues, and dilemmas of health care professionals in terms of morals, ethics, and professional commitments;~~ A course providing a study of issues and trends in long-term health care. This course shall include the following topics:

(a) history of and current trends in long-term health care;

(b) alternative modes for delivery of long-term care services;

(c) consumer issues such as patient rights and the right to die;

(d) corporation relationships; and

(e) health care policy issues such as government and society.

(5) ~~a course in health care law which studies common case law and types of legal entities that affect or govern long-term health care organizations including its board and staff and the laws that affect guardianship or conservatorship;~~ A course in health care law that examines case law and legislation affecting long-term health care facilities. This course shall include the following topics:

(a) guardianship and conservatorship;

(b) professional negligence;

(c) duty to provide appropriate patient care;

(d) biomedical ethics;

(e) concern for confidentiality of information;

(f) corporate responsibility;

(g) patient bill of rights; and

(h) law on the protection of residents from abuse or neglect.

(6) ~~a course in the administration of long-term care services and programs which is a study of the function and role of professional and nonprofessional personnel, their services, and organizational programs which are needed to provide therapeutic~~ term health care facilities. This course shall include the following topics:

(a) function and role of professional and nonprofessional staff and nonemployee staff;

(b) departmental operations and functions;

(c) ethics;

(d) policy development; and

(e) programs necesssary for residents' health and safety.

(7) ~~a human resource or personnel management course which is a study of recruitment, screening and selection processes, job descriptions, job evaluations, personnel policies affecting management and human resources, including orientation and development of employees, personnel records, wage and salary administration, labor laws, affirmative action planning, and equal employment opportunity legislation;~~ A human resource or personnel management course. This course shall include the following topics:

(a) recruitment, screening, and selection process;

(b) job descriptions and job evaluations;

(c) personnel policies and development of policies;

(d) wage and salary administration;

(e) federal and state regulations on employment and employment opportunities;

(f) group dynamics;

(g) labor relations and negotiations; and

(h) administration of disciplinary policy and procedure.

(8) A course in medical terminology, including a study of commonly accepted medical terms used in long-term care; ~~and~~

(9) ~~a board-preapproved practicum course which relates knowledge courses to the practice of administration in long-term health care organizations. The course, which must be of a minimum of 300 clock hours, must be under the direction of a faculty person of the educational institution coordinating the course and carried out by a licensed nursing home administrator preceptor. Upon mutual agreement of the educational facility and nursing home preceptor, a licensed nursing home may serve as~~

~~the practicum site for an applicant who is employed by that nursing home.~~ A course in the development and application of management information systems. This course shall include the following areas of study:

(a) management of data bases;

(b) computerization of patient records and care plans;

(c) budgeting and spread sheet analysis;

(d) survey of currently available systems;

(e) applications such as integrated software, spreadsheet construction, data structuring, local area network design, networks and installation linkages and options;

(f) security risks; and

(g) data management and automated systems.

This subitem is waived for all applicants who apply for licensure before July 1, 1989. All applicants for whom this subitem is waived between the effective date of this rule and July 1, 1989, must submit evidence of satisfactory completion of the course required by that rule as a condition for relicensure in 1990 pursuant to part 6400.1700. Evidence of satisfactory completion is written verification from the academic institution offering the course. The written verification must state that the course was completed with a passing grade and must give the date of completion of the course.

(10) A course in the funding mechanisms and regulatory compliance aspects currently in force for the long-term care industry. This course shall include the following topics:

(a) systems of payment by:

(i) Medicare;

(ii) Medicaid;

(iii) third party payors; and

(iv) private health care coverage;

(b) utilization review;

(c) survey and compliance;

(d) quality assurance and review;

(e) sanitation and food service regulations;

(f) life safety code;

(g) Occupational Safety and Health Administration (OSHA);

(h) Joint Commission on Accreditation of Health Care Organizations;

(i) peer review;

(j) roles of professional and trade organizations; and

(k) regulatory compliance.

(11) A board preapproved practicum course that applies knowledge from required courses to the practice of long-term health care administration. The course shall be a minimum of 400 clock hours and shall be jointly supervised by a licensed nursing home administrator and a faculty member of the approved educational institution. Upon mutual agreement of the educational facility and nursing home preceptor, a licensed nursing home may serve as the practicum site for an applicant who is employed by the nursing home. This course shall include the following topics:

(a) the opportunity to observe the integrative and administrative role of an administrator;

(b) the study of and involvement in each operating department of the facility;

(c) relationships between the facility and community and other health care providers and organizations;

(d) opportunity to participate in or review the findings and results of past regulatory inspections of a facility; and

(e) a major project study, research paper, or similar report on a topic relevant to the operations of the nursing home.

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.

H. Applicants with a degree in health care administration rather than long-term health care administration need only satisfy the practicum requirement of item G, subitem ~~(9)~~ (11), and satisfactorily complete the courses described in item G, subitems (3) and (6).

6400.0700 WAIVER PROVISIONS.

Subpart 1. **Waiver of degree.** The board shall waive part 6400.0600, items G and H if the applicant submits satisfactory evidence of having actively served full time as ~~a~~ the licensed nursing home administrator and chief executive officer of a nursing home in another state for a minimum ~~period~~ of two continuous years within the immediate past five licensure years and meets all other licensure requirements.

Subp. 2. **Waiver of practicum course.** The board shall waive part 6400.0600, item G, subitem ~~(9)~~ (11) if the applicant submits evidence of having completed satisfactorily one year continuous, ~~full time as an~~ full-time employment in the role of administrator or in a position as an assistant administrator in an acute care, skilled care, or nursing home intermediate care facility, or two years as a director of nursing services ~~or a director of social services~~ in a skilled or nursing home intermediate care facility.

Subp. 3. to 5. [Unchanged.]

6400.0800 APPLICATION.

Subpart 1. **Content; time of submission and validity.** Application for licensure shall be made on forms provided by the board and shall be accompanied by all the required supportive information and documents. Completed applications shall be received by the board no less than 45 days in advance of an examination date. Applications ~~shall~~ become void one year after the application form is filed with the licensure board ~~unless the applicant maintains an active file by either writing the examinations when offered or is enrolled in an approved educational course designed to meet licensure requirements and so notifies the board~~.

Subp. 2. and 3. [Unchanged.]

Subp. 5. [Unchanged.]

Subp. 6. **Fees not refunded.** ~~Any license or examination fees~~ A fee paid to the board cannot be refunded.

6400.0900 EXAMINATION.

Subpart 1. **Examination content.** Each examination shall consist of one or more written and/or oral tests and may include such other evaluative techniques as the board may employ. Each examination shall include, but shall not be limited to, the following subjects:

A. applicable standards of environmental health and safety;

B. local health and safety regulations;

C. general administration;

D. psychology of patient care;

E. general principles of medical care;

F. personal and social care; and

G. therapeutic and supportive care and services in long-term care.

Subp. 2. **Applicant examination void.** Examination results are considered void one year after the date the examination is taken if the applicant has not become fully licensed.

Subp. 3. **Examination void.** For holders of a lapsed license, all previous examination results are considered void if the license has been lapsed for one year or longer.

6400.1300 ACTING ADMINISTRATOR.

~~If a licensed nursing home administrator is removed from his position by death or other unexpected cause, the owner, governing body, or other appropriate authority of the nursing home suffering such removal may designate an acting nursing home administrator who may serve for no more than 180 days. The owner, governing body, or other appropriate authority of the nursing home suffering such removal shall notify the licensure board in writing within 15 days of the termination of service of the administrator as well as the appointment of the new administrator. Upon receipt of notification of a vacancy, the board shall provide, if the designated new administrator is not fully licensed, the appropriate forms for securing an acting license. The board shall expediently process all qualified applicants for acting license. If an application is received after a vacancy occurs, the acting license shall be retroactive to the date the applicant assumed administrative responsibility of the facility.~~

An applicant for an acting nursing home administrator's license must furnish satisfactory evidence that the applicant:

A. has graduated from high school or holds a general education development (GED) certificate of equivalent competency;

B. is at least 18 years of age;

C. is of good moral character; and

D. is suitable and fit to be licensed as an acting nursing home administrator as evidenced by:

(1) absence of any mental impairment that would be likely to interfere with the performance of the duties of a temporary nursing home administrator;

(2) the ability to understand and communicate general and technical information necessary to the temporary administration and operation of a nursing home;

(3) the ability to assume responsibilities for the temporary administration of a nursing home as evidenced by prior activities and prior service in the management of a nursing home;

(4) the ability to relate the physical, psychological, spiritual, emotional, and social needs of the patients to the temporary administration of a nursing home, and to create a climate necessary to meet the needs of the patients; and

(5) the ability to demonstrate adequate knowledge about Minnesota's state health and safety rules by passing the board's state examination based on the Department of Health Nursing and Boarding Care rules and the applicable Life Safety Code regulations with a passing score of at least 75 percent.

6400.1400 RECIPROCITY.

Subpart 1. **General requirements.** The board, subject to the law pertaining to the licensing of nursing home administrators prescribing the qualifications for nursing home administrator license, may endorse, without examination, a nursing home administrator license issued by the proper authorities of any other state or political subdivision of the United States provided:

A. that ~~such~~ the other state or subdivision of the United States~~,~~ maintains a system and standard of qualification examination for nursing home administrator licensure which is substantially equivalent to those required in ~~the state of~~ Minnesota under parts 6400.0600 and 6400.0700;

B. that ~~such~~ the applicant for endorsement is familiar with Minnesota's state and local health and safety regulations related to nursing homes and has successfully passed the board's examination on state rules;

C. that the applicant for endorsement is in good standing as a nursing home administrator ~~as such~~ in each state or subdivision of the United States from which ~~he or she~~ the applicant has ever received a nursing home administrator license or reciprocal endorsement; and

D. that an applicant who seeks licensure by reciprocity shall pay a service fee, as established by the board not to exceed ~~$50~~ $75.

Subp. 2. **Reciprocity of revocation.** The board shall have power and after due notice an opportunity to be heard at a formal hearing pursuant to the Administrative Procedure Act, *Minnesota Statutes* ~~1969~~, chapter ~~15~~ 14, to revoke or suspend the endorsement of a nursing home administrator license issued to any person on evidence satisfactory to the board that the duly constituted authorities of any state have lawfully revoked or suspended the nursing home administrator license issued to ~~such~~ that person by ~~such~~ the state.

6400.1700 RENEWAL OF LICENSE.

Subpart 1. **Forms from board.** Every person who holds a valid license as a nursing home administrator issued by the board shall annually apply to the board on or before June 1, ~~to the board for a renewal of the license~~ for relicensure and report any information ~~deemed~~ considered pertinent and requested by the board on forms provided for that purpose.

If the application for relicensure has not been received by June 30 of each year, the license will lapse and the holder of a lapsed license will be subject to the reinstatement procedure.

A nursing home administrator need not be actively practicing as a nursing home administrator in order to renew a license.

Subp. 1a. **Reinstatement.** A nursing home administrator duly licensed in this state, whose license has not been revoked or suspended, and whose license has lapsed, may apply for reinstatement of a license upon filing with the board an affidavit stating that the license has lapsed. The board may reissue the license if the applicant satisfies all past continuing education relicensure requirements and pays all required fees. A holder of a license that has been lapsed for five years or longer shall be regarded as having forfeited all rights and privileges for reinstatement of the lapsed license.

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. 2. **Fees; time for renewal.** Upon making an application for ~~a renewal of his license such~~ relicensure the licensee shall pay the annual fee as established by the board, not to exceed ~~$125~~ $150. ~~Renewal~~ Relicensure applications received after July 1 shall pay the late filing fees as established by the board not to exceed ~~$30~~ $50 for the first six months and ~~$50~~ $75 for the second six months. The applicant shall submit evidence satisfactory to the board that during the annual period immediately preceding ~~such~~ the application ~~he~~ the applicant has complied with the rules of this board and continues to meet the requirements as established, including, but not limited to, continuing educational requirements for relicensure. Nonacademic continuing education requirements ~~of~~ for relicensure shall be completed by May 1 of each year for the ensuing licensure year; however, upon presentation of a written petition, licensees may be granted an extension for an appropriate period of time. Extensions will only be granted in unusual circumstances. Applicants granted extensions ~~will be~~ are required to make payment of applicable late filing fees.

Subp. 3. **Waiting period.** An applicant whose nursing home administrator license has been revoked is not eligible for licensure again for at least six months.

6400.1800 CONTINUING EDUCATION REQUIREMENTS.

Licensees, in order to be eligible for consideration for renewal of their license, shall be required to satisfy the following continuing educational requirements:

A. annual attendance at licensure board-approved seminars, institutes, or workshops totaling at least 20 clock hours; and

B. satisfactory completion during each three-year license renewal period of ~~at least six quarter-credit hours or four semester hours in health care courses related to long-term health care administration from an educational institution accredited by the appropriate regional accrediting agency or attendance during the same time period at~~ an additional 30 clock hours of board-approved seminars, institutes, or workshops.

6400.1900 SPONSORS FOR CONTINUING EDUCATION.

Subpart 1. [Unchanged.]

Subp. 1a. **In-house educational courses.** An in-house educational course is one sponsored by a single health care facility or corporation or a single federal, state, or local government agency for licensed nursing home administrators who are members or employees of the facility, corporation, or agency. An approved in-house course must meet the following requirements:

A. It must comply with subpart 1 and other applicable board rules.

B. At least 25 percent of the hours of approved instruction must be taught by instructors not employed with the sponsoring facility, corporation, or agency.

C. It must be made available to enough outside licensed nursing home administrators so that the audience may be composed of at least 25 percent participants who are not administrators working in or for the facility, corporation, or agency.

D. Information concerning the course must be adequately communicated to outside administrators so they will have reasonable opportunity to attend.

Subp. 2. [Unchanged.]

6400.2000 DETERMINATION OF CREDIT HOURS FOR CONTINUING EDUCATION.

Seminars, institutes, or workshops shall be evaluated for clock hour credits on the following dual-level basis:

A. Seminars, institutes, or workshops shall receive full clock hour credit upon meeting the following criteria:

(1) subject matter specifically related to the primary administrator functions and responsibilities of long-term health care;

(2) ~~subject matter~~ the seminar is designed specifically for administrators and the development of their administrative skills in long-term health care administration; and

(3) instructors have documented academic background sufficient to demonstrate competence and expertise in involved subject.

B. [Unchanged.]

6400.2200 REVOCATION, SUSPENSION, REFUSAL.

Subpart 1. **Criteria.** The board may suspend or revoke a license or refuse to renew a license of a nursing home administrator after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that ~~such~~ the person:

A. has violated any of the provisions of the law pertaining to the licensing of nursing home administrators or the rules of the board pertaining ~~thereto~~ to the licensing of nursing home administrators; or

B. has ~~wilfully or repeatedly violated any of the provisions of the law, code, rules, or regulations of the licensing or supervising authority or agency of the state or political subdivision thereof having jurisdiction over the operation and licensing of~~

~~nursing homes~~ been the administrator of a facility during the time when there have been four or more uncorrected violations of Minnesota Department of Health rules, for which fines are in the four highest fine categories prescribed in rule and a final determination has been made that the fines were properly assessed;

C. has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license; or

D. is found by the board to be incompetent to practice as a nursing home administrator. For purposes of this part, incompetence means that the licensee:

(1) has practiced fraud, deceit, or misrepresentation as a nursing home administrator;

(2) has committed acts of misconduct in the operation of a nursing home under the licensee's jurisdiction;

(3) has practiced without annual licensure;

(4) has wrongfully transmitted or surrendered possession of the licensee's license to any other person, either temporarily or permanently;

(5) has paid, given, has caused to be paid or given, or offered to pay or give to any person, a commission or other consideration for solicitation or procurement either directly or indirectly for nursing home patronage;

(6) has practiced fraudulent, misleading, or deceptive advertising with respect to the institution of which the licensee has charge;

(7) has falsely impersonated another licensee of a like or different name;

(8) has failed to exercise true regard for the safety, health, or life of a patient;

(9) has wilfully permitted unauthorized disclosure of information relating to a patient or the patient's record;

(10) has discriminated with respect to patients, employees, or staff on account of age, race, sex, religion, color, national origin, marital status, status with regard to public assistance, or disability;

(11) has abused or is dependent on habit-forming drugs, including alcohol, a legend drug as defined in Minnesota Statutes, chapter 151, a chemical as defined in *Minnesota Statutes*, chapter 151, or a controlled substance as defined in *Minnesota Statutes*, chapter 152, and this abuse or dependency has affected the performance of the licensee's duties. In reviewing this disciplinary matter, the board shall consider any attempts the licensee has made toward rehabilitation; or

(12) has failed to comply with *Minnesota Statutes*, section 626.557.

Subp. 2. [See Repealer.]

6400.2400 PROGRAM APPROVAL.

Subpart 1. **Approval of programs for licensure.** A program of study offered by an accredited educational institution must have prior approval of the board in order to be acceptable for meeting nursing home administrator licensure requirements. The board shall approve programs of study ~~which~~ that include courses in the areas described in part 6400.0600, item G, subitems (1) to (7) and (9), upon payment of a service fee as established by the board, not to exceed ~~$40~~ $50 per program.

Subp. 2. [Unchanged.]

6400.2500 APPLICANT RESPONSIBILITY.

The ~~applicant shall furnish the board evidence of satisfactory completion of an approved program of study~~ applicant is responsible for providing to the board all data, reports, or information required by the board for licensure or relicensure.

REPEALER. *Minnesota Rules*, parts 6400.2100; 6400.2200, subpart 2; 6400.2300; 6400.2700; and 6400.2800 are repealed.

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.

RESOLUTION ADOPTING THE RULE

I, Michael Gibson, do hereby certify that I am a member and the Chair of the Board of Examiners for Nursing Home Administrators, 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 Examiners for Nursing Home Administrators, duly and properly called and held on the 10th day of January, 1989, 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, if after the amendments adopted by the Board at this meeting have been presented to the parties who have requested a public hearing on the Board's proposed rules, a sufficient number of those individuals withdraw their request for a hearing so that no hearing is necessary, then the rule relating to licensure requirements, clarification of rules and conformation of rules with state statute is approved and adopted, pursuant to authority vested in the Board of Examiners for Nursing Home Administrators by Minnesota Statutes § 144A.24. Phillip C. Newberg, the Executive Director of the Board of Examiners for Nursing Home Administrators, is authorized to sign the findings of fact, conclusions, 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 to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 10 day of February, 1989.

Michael M. Gibson
MICHAEL GIBSON
Chair of the Board of Examiners
for Nursing Home Administrators

Omar Schmidt
Attest by one other Board Member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS
FOR NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of the
Rule Amendments of the
Board of Examiners for
Nursing Home Administrators
Requirements, Fees, Clarification
of Rules and Conformation of Rules
With State Statutes

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

I.

Notice of the Board of Examiners for Nursing Home Administrators (hereinafter "Board") intent to adopt the above-entitled rule amendments was published in the State Register on August 29, 1988, and was sent by United States mail to all persons on the list maintained by the Board pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 on August 17, 1988.

II.

The statement of need and reasonableness was prepared before the notice of intent to adopt rule amendments 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. Before the notice was submitted to the State Register, a copy of the notice of intent to adopt rule amendments without a public hearing and the proposed rule amendments was sent to the chairs of the house appropriations committee and senate finance committee. Included with the documents submitted to the Attorney General for approval of the rule is an affidavit verifying submission to the chairs of the house appropriations committee and senate finance committee.

III.

All persons were given the opportunity to submit comment on the rule amendments for 30 days after notice of proposed rulemaking. The Board received 46 requests for a public hearing. Those requests were received from the following individuals: David Feinwachs, Patricia Brownrigg, Deborah Kerkong, Marlys Cunningham, Jill W. Dalton, Mitchell Davis, Jr., James R. Garretson, Beverly J. Heath, Gayle Kvenvold, David A. Lee, Joy Murra, Dennis O'Neill, Richard Peterson, Joe Schindler, Darrell R. Shreve, Heidi Simpson, Nancy Snyder, Marcy Steinberg, Eugene Tangcel, LaVerne Treb, Lynette Virnig, Kevin Walli, Peggy Westby, Mary E. Youle, Jerry L. Hoganson, Craig Kantos, Richard A. Spyhalski, Charles T. Thompson, Ann D. Foltz, Carlton Sather, Susan K. Kiley, Michael D. Siekas, Jenny Amon, Thomas C. Lenertz, Roger L. Metz, Daniel W. Fuelling, Mariann K. Wiebusch, Joseph Ramnarine, Paul J. Thinesen, James W. Pederson, Sonja L. Johnson, Bob Johnson, Tom Moss, Patricia J. Reller, Julie Ditzler, and Shirley Weiss. Twenty-six of those requests were withdrawn. Specifically, the following individuals submitted letters withdrawing their requests for a hearing: David Feinwachs, Patricia Brownrigg, Deborah Kerkong, Marlys Cunningham, Jill W. Dalton, Mitchell Davis, Jr., James R. Garretson, Beverly J. Heath, Gayle Kvenvold, David A. Lee, Joy Murra, Dennis O'Neill, Richard Peterson, Joe Schindler, Darrell R. Shreve, Heidi Simpson, Nancy Snyder, Marcy Steinberg, Eugene Tangcel, LaVerne Treb, Lynette Virnig, Kevin Walli, Peggy Westby, Mary E. Youle, Jerry L. Hoganson, Craig Kantos. Ten of the remaining twenty requests for a hearing did not specify a specific area of concern. One verbal and one telephone comment on the rule amendements not requesting a hearing also were received by the Board. All comments received by the Board were reviewed prior to final Board action.

IV.

No requests for notice of submission to the Attorney General were received by the Board.

V.

Changes were made between the rule amendments as proposed and the rule amendments as adopted. The changes made by the Board in the rules as proposed are changes made in response to comments received by the Board or by the Board itself to further clarify these amendments. Those changes include the following:

1. Minn. Rules pt. 6400.0600(B). The definition of mental health in this section was revised to be consistent with the definition of mental health found at Minn. Rules pt. 6400.1300(D)(1). This definition is more precise and reasonable than the originally proposed definition.

2. Minn. Rules pt. 6400.0900, subps. 2 and 3. These changes extend from one year to two years the length of time before examination results for applicants and holders of lapsed licenses become void. These changes were at the request of several individuals who noted that the length of time for voiding these results was based on administrative convenience for the Board staff. Since the examination itself does not change frequently this is not a substantial change, and at this point it does not appear it was result in significantly greater administrative inconvenience to Board staff to allow the examination results to remain valid for an additional year.

3. Minn. Rules pt. 6400.1300, subp. C. This change defines "good moral character" consistently with the definition of "good moral character" found at Minn. Rules pt. 6400.0600(C) and merely clarifies that the Board wishes to use the same definition of "good moral character" for both original licensure and acting administrator licensure.

4. Minn. Rules pt. 6400.2200, subp. 1(B). This section was the subject of extensive discussions between the Board staff and various individuals who requested a public hearing. The rule as proposed reflected the language found at Minn. Stat. §§ 144A.04, subd. 6, and 144A.11, subd. 2, which triggers certain sanctions against nursing homes and nursing home administrators if four or more fines in the four highest fine categories are collected by the Minnesota Department of Health during a two year time period. Certain individuals noted there was a possibility that this formula for number and type of fines may be changed by the legislature, and also that it made Board action contingent on Health Department action.

In reviewing this matter the Board noted that even if the formula in the statute is changed, Minn. Stat. § 144A.04, subd. 6, outlines a situation where an administrator would be ineligible to be employed as an administrator for a given period of time if a certain number of penalty assessments are accumulated while that person is acting as the administrator of a nursing home. The Board believes that this is sufficient basis for action against the license of the nursing home administrator. Accordingly, the language of Minn. Rules pt. 6400.2200, subp. 1(B), was revised to reflect the same concern and result, but by referencing the statutory citation instead of the actual language of the statute the Board hopes to avoid the necessity of revising its rules to reflect periodic changes in the statutory formula specified at Minn. Stat. § 144A.04, subd. 6.

5. Minn. Rules pt. 6400.2200, subp. 1(D)5. This revision was the result of comments received by the Board and reflects an exception authorized by case law. It also clarifies that the Board rule is aimed directly at commissions paid for nursing home patronage rather than payment for commercial advertisements.

6. Minn. Rules pt. 6400.2200, subp. 1(D). The final change is to add the word "or" between the subparts of Minn. Rules pt. 6400.2200, subp. 1(D). This change

clarifies that each subitem under D is separate basis for disciplinary action. This is the way the Board has always construed this rule and is merely a grammatical change.

VI.

Based on the comments and evidence in the record before the Board, including the statement of need and reasonableness which is incorporated herein as the Board's findings, the Board concludes that the above-captioned rule amendments are both needed and reasonable.

VII.

The above described changes do not affect classes of persons who could not reasonably have been expected to comment on the proposed rule as originally noticed; do not introduce significant new subject matter which a reasonable person, on the basis of the proposed rule as originally noticed, would not have anticipated would occur during the rulemaking proceeding and do not make a major substantive change that was not raised by the proposed rule.

NOW, THEREFORE, IT IS HEREBY ORDERED that the rule amendments of the Board of Examiners for Nursing Home Administrators regarding Fees, Clarification of Rules and Conformation of Rules with state statutes are adopted this 16th day of March, 1989, pursuant to authority vested in the Board by Minn. Stat. §§ 144A.21, 144A.24, 214.06, and 626.557, subd. 16(b) (1988).

Dated: March 27, 1989

Phillip C Newberg

PHILLIP C. NEWBERG
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS
FOR NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of the
Rule Amendments of the
Board of Examiners for Nursing
Home Administrators Relating
to Licensure Requirements,
Fees, Clarification of Rules
and Conformation of Rules with
State Statutes

DECLARATION OF COUNSEL

I, Audrey Kaiser Manka, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule amendments and the supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0482.

Dated: March 28, 1989

Audrey Kaiser Manka

AUDREY KAISER MANKA
Special Assistant
Attorney General

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS
FOR NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of the
Rule Amendments of the
Board of Examiners for Nursing
Home Administrators Relating
to Licensure Requirements,
Fees, Clarification of Rules
and Conformation of Rules with
State Statutes

NOTICE OF SUBMISSION OF
RULE AMENDMENTS ADOPTED
WITHOUT PUBLIC HEARING
TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. § 14.26:

PLEASE TAKE NOTICE that the above-captioned rule amendments as adopted has been submitted to the Office of the Attorney General on the date of this notice, March 28, 1989, for review as to legality and form to the extent form relates to legality. The proposed rule amendments, the rule as adopted, all the notices, the statement of need and reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rule amendments which were published in the State Register and made available to the public on August 29, 1989, has been modified. A free copy of the rule amendments as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule amendments is available upon request from Phillip C. Newberg.

The rule amendments must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule amendments. Any written comments must be submitted within eight calendar days of the date of submission of the rule amendments to the Attorney General. Your comments must address only the issue of legality of the rule amendments or the

legality of the specific parts or subparts of the rule amendments. Attorney General standards for review are set forth in Minn. Rules pt. 2010.1000. You may receive a copy of the Attorney General's decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

Office of the Attorney General
515 Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 297-2040

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Phillip C. Newberg
Executive Director
Minnesota Board of Examiners for
Nursing Home Administrators
Suite 104
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0596

Dated: March 28, 1989

Phillip C Newberg

Phillip C. Newberg
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS
FOR NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of the
Rule Amendments of the
Board of Examiners for Nursing
Home Administrators Relating
to Licensure Requirements,
Fees, Clarification of Rules
and Conformation of Rules with
State Statutes

AFFIDAVIT REGARDING MAILING
THE NOTICE OF SUBMISSION
OF RULE ADOPTED AMENDMENTS
WITHOUT PUBLIC HEARING TO
THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Phillip C. Newberg, being duly sworn says:

1) I am the Executive Director of the Board of Examiners for Nursing Home Administrators;

2) No requests have been received by the Board of Examiners for Nursing Home Administrators requesting notification of when the above captioned rules are submitted to the Attorney General's Office.

Phillip C Newberg
Phillip C. Newberg
Executive Director

Subscribed and sworn to before me
this 16th day of March, 1989.
Denise S. Collins
Notary Public

DENISE S. COLLINS
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES AUGUST 27, 1992

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the Proposed Adoption of the Rule Amendments of the Board of Examiners for Nursing Home Administrators Relating to Licensure Requirements, Fees, Clarification of Rules and Conformation of Rules with State Statutes

AFFIDAVIT OF MAILING A COPY OF THE RULES TO THE MINNESOTA HOUSE AND SENATE FINANCE COMMITTEE

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Phillip C. Newberg, being duly sworn says:

I hereby certify that on the 17th day of August, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed a copy of the proposed rule by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, to Representative Glen H. Anderson, Chair, House Appropriations Committee, Senator Gene Merriam, Chair, Senate Finance Committee, as required by Minn. Stat. § 16A.128, subd. 2a.

Phillip C Newberg

PHILLIP C. NEWBERG
Executive Director

Subscribed and sworn to before me this

16th day of March, 1989.

Denise S. Collins

DENISE S. COLLINS
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES AUGUST 27, 1992

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL - Health

STATE OF MINNESOTA

Office Memorandum

DATE : March 28, 1989

TO : Christie Eller
Assistant Attorney General

rec'd 3/29/89

FROM : Audrey Kaiser Manka
Special Assistant
Attorney General

PHONE : 341-7272

SUBJECT : In the Matter of the Adoption of the Rule Amendments of the Board of Examiners for Nursing Home Administrators Relating to Licensure Requirements, Fees, Clarification of Rules and Conformation of Rules with State Statutes

Enclosed for your review, pursuant to Minn. Stat. § 14.26 (1988) and Minn. Rules pt. 2010.0300 (1987), are the following documents to support the above-referenced rule amendments.

1. Notice of Solicitation of Outside Information.
2. Certificate of Board's Authorizing Resolution.
3. Rule as proposed with a certificate of approval as to form by the Revisor of Statutes attached.
4. Notice of Intent to Adopt Rule Amendments Without a Public Hearing (as mailed).
5. Statement of Need and Reasonableness.
6. Affidavit of Mailing the Notice of Intent to Adopt Rule Amendments Without a Public Hearing.
7. Notice of Intent to Adopt Rule Amendments Without a Public Hearing.
8. Rule as adopted (original and three copies).
9. Certificate of Board's Resolution Adopting Rule.
10. Findings of Fact, Conclusions, and Order Adopting Rule Amendments Without a Public Hearing.
11. Declaration of Counsel.
12. Notice of Submission to the Attorney General.
13. Affidavit Regarding Mailing Notice of Submission to the Attorney General.
14. Affidavit Regarding Mailing Rules to the Minnesota House and Senate Finance Committee.

15. Comments and Requests for Hearing.

a. 46 Comments and Requests for Hearing.
b. 2 Comments, not requesting a Hearing.
c. 26 Letters withdrawing requests for Hearing.

AKM:tmr

Enclosures