

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

~~Mjo~~ Jak

RULE REVIEW CHECKLIST

File No. 1601

Docket No. 05.0009.0483

DATE RECEIVED 5-3-89

ADOPTED W/O HEARING X

REVIEW DATE 5-12-89

EMERGENCY RULE _____

DUE DATE 5-17-89

REVISOR APPROVED _____

APPROVED 5/15/89 JAJ

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE _____

WITHDRAWN _____

RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

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

_____ ~~Date published in State Register~~

_____ ~~Comments~~

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

✓ Board's Authorizing Resolution

1/26/89 Date adopted

✓ Proposed Rule

yes Revisor's Certificate (no comments)

✓ Notice of Intent to Adopt Rule

148.53 Statutory Authority OK

no Small Business Statement

no Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement

yes Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

1/30/89 Date 30/25 days before adoption

ok Notice attached

_____ ~~Copy of rule or summary attached~~

_____ Publication in State Register

12/5/88 2/13/89 Date 30/25 days before adoption

_____ 180-day deadline from:

n/a Effective date of law requiring rule (14.12) (both rules)

3/15/89 end of comment period (§ 14.26) (rules without hearing)

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

✓ Resolution Adopting

4/27/89 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

4/27/89 Date

_____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney

Tom McSteen Name of SAAG representing agency

Second Notice of Intent to amend and adopt rules

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

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

SF-00006-05 (4/86)

DEPARTMENT : ATTORNI GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : May 16, 1989

TO : TOM MCSTEEN
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 License Renewal

The above-referenced rule has been approved as to its legality by the Attorney General on May 15, 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

Board of Optometry

Adopted Permanent Rules Relating to License Renewal

Rules as Adopted

6500.2000 INDIVIDUAL ANNUAL LICENSE RENEWAL.

Subpart 1. **Fee.** On or before January 1 of each year, the board shall receive a license renewal fee of $90 from every licensed optometrist who desires to continue to be entitled to practice in this state.

Subp. 2. **Address of practice.** At the time of paying the fee required by this part, the optometrist shall inform the board of the address or addresses of the place or places where the practice is conducted. The optometrist shall also inform the board of any change in the address or addresses of the practice during the 12-month period within one month of the change.

Subp. 3. **Compliance with continuing education requirements.** As specified in parts 6500.0900 to 6500.1700, submission to the board of satisfactory proof of compliance with continuing education requirements is and shall be a condition precedent to annual license renewal.

Subp. 4. **Default; revocation of license.** When an optometrist defaults in payment of the annual renewal fee under part 6500.2000, subpart 1, the board may invoke the procedures of part 6500.2800 for the revocation of the license; provided that the payment of the fee at or before the completion of the procedures of part 6500.2800, with such additional sum not exceeding $30 as may be fixed by the board, shall excuse the default. In the event any default remains unexcused at the completion of the procedures of part 6500.2800 and a license is revoked for nonpayment of renewal fees, the board may, in its discretion, refuse to issue a new license to any person whose license has been so revoked until such time as that person repasses or, if previously licensed by reciprocity, passes the

examinations and complies with all other requirements for initial licensure by examination in this state.

Subp. 5. Practicing optometry without a current license. Practicing optometry without a renewed or current license shall have the same force, effect, and potential legal consequences as practicing optometry without a license.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 17 1989
Secretary of State

APPROVED AS TO FORM AND LEGALITY
HUBERT H. HUMPHREY III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 17 1989

Joan Anderson Growe

Secretary of State

9:00 AM

APPROVED AS TO FORM AND LEGALITY

May 15, 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Julie A. Seppanen

SPECIAL ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF THE

MINNESOTA BOARD OF OPTOMETRY

AUTHORIZING RESOLUTION

I, Dean Stensrud, do hereby certify that I am a member and the president of the Minnesota Board of Optometry (hereinafter "Board"), a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board duly and properly called and held on the 13th day of July, 1988, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified:

> RESOLVED, that Burton H. Skuza, OD, Executive Director of the Board, is hereby granted the authority and directed to sign and to give the Notice of the Board's Intent to Amend and Adopt Rules Without a Public Hearing governing license renewal fees to all persons who have registered their names with the Board for that purpose, to publish the notice and rule amendment in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 24 day of January, 1989.

Dean Stensrud OD

DEAN STENSRUD, OD
President

Attest by one other Board Member

Board of Optometry

Proposed Permanent Rules Relating to License Renewal

Rules as Proposed

6500.2000 INDIVIDUAL ANNUAL LICENSE RENEWAL.

Subpart 1. **Fee.** On or before January 1 of each year, the board shall receive a license renewal fee of ~~$65~~ $90 from every licensed optometrist who desires to continue to be entitled to practice in this state.

Subp. 2. **Address of practice.** At the time of paying the fee required ~~herein~~ by this part, the optometrist shall inform the board of the address or addresses of the place or places where ~~he conducts his~~ the practice is conducted. ~~He~~ The optometrist shall also inform the board of any change in the address or addresses of ~~his~~ the practice during the 12-month period within one month of the change.

Subp. 3. **Compliance with continuing education requirements.** As specified ~~at~~ in parts 6500.0900 to 6500.1700 ~~hereof~~, submission to the board of satisfactory proof of compliance with continuing education requirements is and shall be a condition precedent to annual license renewal.

Subp. 4. **Default; revocation of license.** When an optometrist defaults in payment of the annual renewal fee ~~as set forth at~~ under part 6500.2000, subpart 1, the board~~, upon a hearing,~~ may ~~revoke his~~ invoke the procedures of part 6500.2800 for the revocation of the license; provided that the payment of ~~such~~ the fee at or before the ~~time of hearing~~ completion of the procedures of part 6500.2800, with such additional sum not exceeding ~~$25~~ $30 as may be fixed by the board, shall excuse the default. In the event any ~~such~~ default remains unexcused at the ~~time of hearing~~ completion of the procedures of part 6500.2800 and a license is revoked for nonpayment of renewal fees, the board may, in its discretion, refuse to issue a new license to any person whose license has been so revoked until such time as

Approved by Revisor CMR

that person repasses or, if ~~he was~~ previously licensed by reciprocity, passes the examinations and complies with all other requirements for initial licensure by examination in this state.

Subp. 5. **Practicing optometry without a current license.** Practicing optometry without a renewed or current license shall have the same force, effect, and potential legal consequences as practicing optometry without a license.

Approved by Revisor CMR

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to License Renewal

AGENCY: Board of Optometry

MINNESOTA RULES: Chapter 6500

The attached rules are approved for publication
in the State Register

Carla M. Riehle

Carla M. Riehle
Assistant Revisor

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the Proposed Amendment of Rules of the Minnesota State Board of Optometry Relating to Annual License Renewal, Penalty Fees

NOTICE OF INTENT TO AMMEND AND ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Board of Optometry proposes to ammend Minn. Rule 6500.2000, relating to annual license renewal fee and penalty fee without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to ammend the rule is Minnesota Statutes, section 148.53.

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

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

Comments or written requests for a public hearing must

be submitted to:

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

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

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

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

If no hearing is required, upon ammendment of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the ammended rule, must submit the written request to Burton H. Skuza at the above address.

Dated: November 25, 1988

MINNESOTA BOARD OF OPTOMETRY

Burton H. Skuza

Burton H. Skuza, O.D.
Executive Director

DRAFT

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA
BOARD OF OPTOMETRY

STATEMENT OF NEED AND REASONABLENESS OF AMENDMENTS REGARDING FEES

Pursuant to Minnesota Statutes 14.23 (1986) the Minnesota Board of Optometry (hereafter "Board"), hereby affirmatively presents the facts establishing the need and reasonableness of proposed amendments to Minnesota Rules, parts 6500.2000, subpart 1, subpart 4 relating to fees.

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

1. STATUTORY AUTHORITY

Minnesota Statutes section 148.53 (1986) authorizes the Board to make any rules and to do any and all things not inconsistant with the law which it may deem necessary or expedient for the effective enforcement of Minnesota Statutes sections 148.52 to 148.62 or for the full and efficient performance of its duties.

Minnesota Statutes, sections 16A.128 and 214.06 (1986) requires the Board to adjust any fee which the Board is empowered to assess a sufficient amount so that the total fees collected will as closely as possible equal anticipated expenditures during the fiscal biennium, including support costs and statewide indirect costs attributable to the fee function.

2. STATEMENT OF NEED

The Board has reviewed its anticipated expenditures and its revenue derived from existing fees for the 1990-1991 biennium. The Board has found that expenditures will exceed income. The Board, therefore, would not be in compliance with Minnesota Statutes, sections 16A.128 and 214.06 (1986). Thus, there is need for the Board to adjust its fees so that the Board can comply with the statute.

The Board is proposing the amendment to cover the Board's costs for the full and efficient performance of this Board. The anticipated expenditures within the next biennium will exceed the income of the Board under the current fee schedule. The proposed license renewal fee and penalty fee increase would meet the need for increased staff support, legal costs and statewide indirect costs charged to this Board.

3. STATEMENT OF REASONABLENESS

Before submitting its 1990-1991 biennial budget request to the Legislature, the Board carefully scrutinized all expenses anticipated over the next biennium and found it was not possible

to meet the anticipated expenditures of the Board under the current fee structure.

A review of license renewal fees shows that the last fee increase was in 1978, ten years ago. Therefore, it is reasonable to raise the license renewal fee and the late penalty fee from the current level to meet the anticipated expenditures in the next biennium, 1990-1991.

4. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minnesota Statutes, sections 14.05 to 14.12 and 14.22 to 14.28, specify certain procedures which must be followed when an agency adopts or amends rules without a public hearing. Procedures applicable to all rules, Minnesota Statutes, sections 14.05 to 14.12, have been complied with by the Board as noted below. Procedural Rulemaking Requirements of the Administrative Prodedure Act.

The adoption of these rules will not require the expenditure of public money by local public bodies, nor do the rules have impact on agricultural land, Minnesota Statutes, section 14.11 (1986).

Pursuant to Minnesota Statutes, section 14.23, the Board has prepared this Statement of Need and Reasonableness which is available to the public. The Board will publish a Notice of Intent to amend Rules without a Public Hearing in the State Register and mail copies of the notice and proposed amendment to persons registered with the Minnesota Board of Optometry pursuant to Minnesota Statutes, section 14.14, subdivision 1.a. The

notice will include the following information: a) that the public have 30 days in which to submit comments on the proposed amendments and giving information pertaining to the manner in which persons may comment; b) that no public hearing will be held on the amendment relating to fees pursuant to Minnesota Statutes, section 16A.128, subdivision 2.a (1986); c) that the rule may be modified if modifications are supported by data and the views submitted; d) that notice of the date of submission of the proposed amendment to the Attorney General for review will be mailed to any person requesting to receive the notice, and giving information on how to request the notice.

The Board will submit the proposed amendment and notice as published, and as adopted, any written comments which have been received, and this Statement of Need and Reasonableness to the Attorney General for approval of the amendment as to legality and form.

5. ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance.

Pursuant to Minnesota Statutes, section 16A.128, subdivision 1, if fee adjustment is required to be fixed by rule, the Commissioner of Finance must approve the adjustment, and the Commissioner's approval must be in the Statement of Need and Reasonableness. The Commissioner's approval of the proposed amendments to part 6500.2000 is contained in the attached document entitled "Commissioner of Finance".

Small Business Consideration. In preparing this proposed amendment, the Board considered the impact of the amendment on small businesses as set forth in Minnesota Statutes, section 14.115, subdivision 2 (1986). Since the proposed amendment merely raises the fee charged by the Board for license renewal, the impact on small businesses would be negligible.

Small businesses effected by the proposed amendment will have an opportunity to participate in the rulemaking process. A notice of the proposed rulemaking will be mailed to the following organizations which will likely represent small businesses affected by the amendment: Minnesota Optometric Association, Minnesota Association of Optometrists and Opticians, Minnesota Society of Opticians and Contact Lens Technicians and other interested parties.

Dated: _____, 1988

STATE OF MINNESOTA

BOARD OF OPTOMETRY

Burton H. Skuza, O.D.
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the matter of Proposed Amendments
to the Board of Optometry relating to
Fees 6500.2000 Individual Annual License
and Default Penalty Fee

Minnesota Statutes 148.53 authorizes the Board of Optometry to make any rules and regulations and to do any and all things not inconsistant with law which it may deem necessary or expedient for the full and efficient performance of their duties. Minn. Statutes 214.06 provides in part that "health related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the board is empowered to assess a sufficient amount so that the fees collected by each board will as closely as possible equal anticipated expenditure".

The above captioned rule of the board would increase the "Individual Annual License Renewal Fee" from sixty-five dollars ($65.00) to ninety dollars ($90.00).

The rule would also increase the default fee from twenty-five dollars ($25.00) to thirty dollars ($30.00).



Upon review of the attached supporting information justifying the need, reasonableness and amounts of the adjusted and newly created fees, and pursuant to the authority vested in the Minnesota Department of Finance by Minn. Statute 214.06, the fees set forth in the proposed amendment to Minn. Rule 6500.2000 of the Board are hereby approved.

COMMISSIONER OF FINANCE 11-7-88

BY:

DRAFT

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

STATEMENT OF NEED AND REASONABLENESS OF AMENDMENTS REGARDING FEES

Pursuant to Minnesota Statutes 14.23 (1986) the Minnesota Board of Optometry (hereafter "Board"), hereby affirmatively presents the facts establishing the need and reasonableness of proposed amendments to Minnesota Rules, parts 6500.2000, subpart 1, subpart 4 relating to fees.

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

1. STATUTORY AUTHORITY

Minnesota Statutes section 148.53 (1986) authorizes the Board to make any rules and to do any and all things not inconsistant with the law which it may deem necessary or expedient for the effective enforcement of Minnesota Statutes sections 148.52 to 148.62 or for the full and efficient performance of its duties.

Minnesota Statutes, sections 16A.128 and 214.06 (1986) requires the Board to adjust any fee which the Board is empowered to assess a sufficient amount so that the total fees collected will as closely as possible equal anticipated expenditures during the fiscal biennium, including support costs and statewide indirect costs attributable to the fee function.

2. STATEMENT OF NEED

The Board has reviewed its anticipated expenditures and its revenue derived from existing fees for the 1990-1991 biennium. The Board has found that expenditures will exceed income. The Board, therefore, would not be in compliance with Minnesota Statutes, sections 16A.128 and 214.06 (1986). Thus, there is need for the Board to adjust its fees so that the Board can comply with the statute.

The Board is proposing the amendment to cover the Board's costs for the full and efficient performance of this Board. The anticipated expenditures within the next biennium will exceed the income of the Board under the current fee schedule. The proposed license renewal fee and penalty fee increase would meet the need for increased staff support, legal costs and statewide indirect costs charged to this Board.

3. STATEMENT OF REASONABLENESS

Before submitting its 1990-1991 biennial budget request to the Legislature, the Board carefully scrutinized all expenses anticipated over the next biennium and found it was not possible

to meet the anticipated expenditures of the Board under the current fee structure.

A review of license renewal fees shows that the last fee increase was in 1978, ten years ago. Therefore, it is reasonable to raise the license renewal fee and the late penalty fee from the current level to meet the anticipated expenditures in the next biennium, 1990-1991.

4. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minnesota Statutes, sections 14.05 to 14.12 and 14.22 to 14.28, specify certain procedures which must be followed when an agency adopts or amends rules without a public hearing. Procedures applicable to all rules, Minnesota Statutes, sections 14.05 to 14.12, have been complied with by the Board as noted below. Procedural Rulemaking Requirements of the Administrative Prodedure Act.

The adoption of these rules will not require the expenditure of public money by local public bodies, nor do the rules have impact on agricultural land, Minnesota Statutes, section 14.11 (1986).

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notice will include the following information: a) that the public have 30 days in which to submit comments on the proposed amendments and giving information pertaining to the manner in which persons may comment; b) that no public hearing will be held on the amendment relating to fees pursuant to Minnesota Statutes, section 16A.128, subdivision 2.a (1986); c) that the rule may be modified if modifications are supported by data and the views submitted; d) that notice of the date of submission of the proposed amendment to the Attorney General for review will be mailed to any person requesting to receive the notice, and giving information on how to request the notice.

The Board will submit the proposed amendment and notice as published, and as adopted, any written comments which have been received, and this Statement of Need and Reasonableness to the Attorney General for approval of the amendment as to legality and form.

5. ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance.

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Small Business Consideration. In preparing this proposed amendment, the Board considered the impact of the amendment on small businesses as set forth in Minnesota Statutes, section 14.115, subdivision 2 (1986). Since the proposed amendment merely raises the fee charged by the Board for license renewal, the impact on small businesses would be negligible.

Small businesses effected by the proposed amendment will have an opportunity to participate in the rulemaking process. A notice of the proposed rulemaking will be mailed to the following organizations which will likely represent small businesses affected by the amendment: Minnesota Optometric Association, Minnesota Association of Optometrists and Opticians, Minnesota Society of Opticians and Contact Lens Technicians and other interested parties.

Dated: Jan 12, 1989

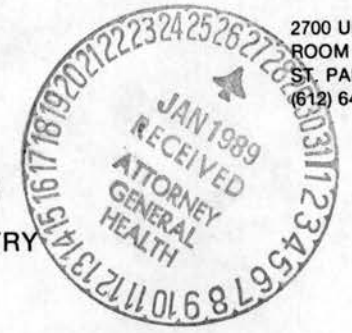
STATE OF MINNESOTA

BOARD OF OPTOMETRY

Burton H. Skuza, O.D.
Executive Director

STATE OF MINNESOTA
BOARD OF OPTOMETRY

2700 UNIVERSITY AVE. W.
ROOM 103
ST. PAUL, MN 55114
(612) 642-0594



January 27, 1989

Representative Glen Anderson
Chairman
House Appropriations Committee
Room 365
State Office Building
St. Paul, MN 55155

Dear Representative Anderson:

Pursuant to Minnesota Statutes, section 16A.128. subdivision 2a, enclosed please find a Notice to Adopt Rules Without a Public Hearing and a copy of the proposed rules which fix fees of the Minnesota Board of Optometry.

Very truly yours,

Burton H. Skuza, O.D.

Burton H. Skuza, O.D.
Executive Director

Enclosures

Copy: Thomas McSteen, S.A.A.G.

2700 UNIVERSITY AVE. W.
ROOM 103
ST. PAUL, MN 55114
(612) 642-0594

STATE OF MINNESOTA

BOARD OF OPTOMETRY



January 27, 1989

Senator Gene Merriam
Chairman
Senate Finance Committee
Room 122
Capitol Building
St. Paul, MN 55155

Dear Representative Anderson:

Pursuant to Minnesota Statutes, section 16A.128. subdivision 2a, enclosed please find a Notice to Adopt Rules Without a Public Hearing and a copy of the proposed rules which fix fees of the Minnesota Board of Optometry.

Very truly yours,

Burton H. Skuza, O.D.
Executive Director

Enclosures

Copy: Thomas McSteen, S.A.A.G.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the Proposed Adoption of the Amendment of the Rules Relating to License Renewal Fees

AFFIDAVIT OF MAILING THE SECOND NOTICE OF INTENT TO AMEND AND ADOPT RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Burton H. Skuza, OD, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. la, and 14.22 or 14.30, that their names be placed on the Board of Optometry rulemaking mailing list is accurate, complete, and current as of this 30 day of January, 1989.

That on the 30 day of January, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Second Notice of Intent to Amend and Adopt Rules Without a Public Hearing, and the attached Notice of Intent to Amend and Adopt Rules Without a Public Hearing, with a copy of the proposed amendment attached, by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Burton H. Skuza, OD

BURTON H. SKUZA, OD
Executive Director

Subscribed and sworn to before me this

30 day of January, 1989.

Arlayne J. Nelson

ARLAYNE J. NELSON
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES APRIL 13, 1993

SF-00007-03

STATE OF MI[illegible]SOTA

DEPARTMENT BOARD OF OPTOMETRY

Office Memorandum

TO: Tom McSteen, S.A.A.G.

DATE: January 30, 1989

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

PHONE: 642-0594

SUBJECT: Interested Parties

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

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

Sue Ladwig
Minnesota Association of Optometrists & Opticians
386 North Wabasha, Suite 840
ST. Paul, MN 55102

Myrel A. Neuman, O.D.
Midwest Vision Centers
Box 456
St. Cloud, MN 56302

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

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

Sue Peterson
Vision World
2375 Fairview North
Roseville, MN 55113

Zona DeWitt
State Documents
Ligislative Reference Library
645 State Office Building
St. Paul, MN 55155

SF-00006-03

STATE OF MIN__OTA

DEPARTMENT

Office Memorandum

TO: DATE:

FROM: PHONE:

SUBJECT: Interested Parties continued

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

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

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

Vickie McCormick
Physicians Health Plan
300 Opus Center
9000 Bren Road East
Minnetonka, MN 55343

William Brooks, Jr.
Chestnut & Brooks
900 Norwest Midland Building
Minneapolis, MN 55401

Sherri L. Carson
Precision Lenscrafters
8650 Governor's Hill Drive
Cincinnati, OH 45249

Christine J. Janty, O.D.
410 Church Street SE
Boynton Health Service
Minneapolis, MN 55455

For workers' compensation benefits paid from July 1 through December 31, the due date of the corresponding assessment amount is March 1 of the following calendar year.

Notice of the assessment rate and instructions for payment will be issued by the fund 45 or more days before the due date.

Subp. 2. **Basis.** A penalty will be assessed under *Minnesota Statutes*, section 176.129, subdivision 10, where either:

A. the completed assessment form and payment of the special compensation fund assessment; or

B. written certification that the assessment report and assessment payment will not be made by the due date because of reasons beyond the control of the insurer, is not received by the special compensation fund on or before the due date.

Subp. 3. **Amount.** Within 30 days of the due date, the special compensation fund will give notice of penalty to those who have neither filed the completed assessment form and paid the assessment amount, nor submitted a certified reason for nonpayment by the due date as follows:

A. Either:

(1) 2.5 percent of the assessment amount due if the assessment payment is received at the fund within five days after the due date; or

(2) five percent of the assessment amount due if the assessment payment is received at the fund within six to 30 days after the due date; or

(3) ten percent of the assessment amount due if the assessment payment is received at the fund within 31 to 60 days after the due date; or

(4) 15 percent of the assessment amount due if the assessment payment is received at the fund 61 or more days after the due date; or

B. $500, whichever is greater.

Subp. 4. **Payable to.** Both the assessment amount and any penalty due under this part are payable to the special compensation fund.

Subp. 5. **Continued nonpayment.** If the insurer penalized does not make payment within six months of the due date, the fund director shall refer the file to the Department of Commerce for consideration of license or permit revocation.

Board of Optometry

Second Notice of Intent to Amend and Adopt Rules Without a Public Hearing in the Matter of the Proposed Adoption of the Amendment of the Rules Relating to License Renewal Fees

In order to comply with the requirements of *Minnesota Statutes*, section 16A.128, subdivision 2a, and section 14.22, the Minnesota Board of Optometry hereby republishes the Notice of Intent to Amend and Adopt Rules Without a Public Hearing, and the proposed rules regarding license renewal fees. The Notice and the copy of the rules, which appeared at 13 *State Register* 1368 (December 5, 1988) are incorporated herein by reference.

Dated: 27 January 1989

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

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

State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division

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Proposed Rules

Pursuant to Minn. Stat. §§ 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.

Board of Optometry

Proposed Permanent Rules Relating to License Renewal

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

NOTICE IS HEREBY GIVEN that the Minnesota Board of Optometry proposes to amend *Minnesota Rule* 6500.2000, relating to annual license renewal fee and penalty fee without a public hearing following the procedures set forth in *Minnesota Statutes,* sections 14.22 to 14.28. The statutory authority to amend the rule is *Minnesota Statutes,* section 148.53.

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

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

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

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

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

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

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

If no hearing is required, upon amendment of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the amended rule, must submit the written request to Burton H. Skuza at the above address.

Dated: 23 November 1988

Burton H. Skuza, O.D.
Executive Director

Rules as Proposed

6500.2000 INDIVIDUAL ANNUAL LICENSE RENEWAL.

Subpart 1. **Fee.** On or before January 1 of each year, the board shall receive a license renewal fee of ~~$65~~ $90 from every licensed optometrist who desires to continue to be entitled to practice in this state.

Subp. 2. **Address of practice.** At the time of paying the fee required ~~herein~~ by this part, the optometrist shall inform the board of the address or addresses of the place or places where ~~he conducts his~~ the practice is conducted. ~~He~~ The optometrist shall also inform the board of any change in the address or addresses of ~~his~~ the practice during the 12-month period within one month of the change.

Subp. 3. **Compliance with continuing education requirements.** As specified ~~at~~ in parts 6500.0900 to 6500.1700 ~~hereof~~, submission to the board of satisfactory proof of compliance with continuing education requirements is and shall be a condition precedent to annual license renewal.

Subp. 4. **Default; revocation of license.** When an optometrist defaults in payment of the annual renewal fee ~~as set forth at~~ under part 6500.2000, subpart 1, the board~~, upon a hearing,~~ may ~~revoke his~~ invoke the procedures of part 6500.2800 for the revocation of the license; provided that the payment of ~~such~~ the fee at or before the ~~time of hearing~~ completion of the procedures of part 6500.2800, with such additional sum not exceeding ~~$25~~ $30 as may be fixed by the board, shall excuse the default. In the event any ~~such~~ default remains unexcused at the ~~time of hearing~~ completion of the procedures of part 6500.2800 and a license is revoked for nonpayment of renewal fees, the board may, in its discretion, refuse to issue a new license to any person whose license has been so revoked until such time as that person repasses or, if ~~he was~~ previously licensed by reciprocity, passes the examinations and complies with all other requirements for initial licensure by examination in this state.

Subp. 5. **Practicing optometry without a current license.** Practicing optometry without a renewed or current license shall have the same force, effect, and potential legal consequences as practicing optometry without a license.

Adopted Rules

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

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

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

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

Minnesota State Agricultural Society Minnesota State Fair

Adopted Rules Governing the Operation and Management of the Minnesota State Fair and the Minnesota State Fairgrounds

The Minnesota State Agricultural Society board of managers adopted the following updated version of rules Nov. 3, 1988, at a general business session. The rules are published here as official public notice.

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

CERTIFICATE OF THE

BOARD OF OPTOMETRY

RESOLUTION ADOPTING RULE AMENDMENT

I, Lee A. Nelson, OD, do hereby certify that I am a member and the president of the Minnesota Board of Optometry (hereinafter "Board"), a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board, duly and properly called and held on the 27th day of April, 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 the rule amendment relating to license renewal fees is approved and adopted pursuant to authority vested in the Board by Minn. Stat. § 148.53. Burton H. Skuza, OD, Executive Director of the Board, is authorized to sign the findings of fact, conclusions and order adopting the rule amendment and further is authorized to modify the rule amendment if necessary to obtain the approval of the rule amendment by the Attorney General and to perform the necessary acts to provide that the rule amendment shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of April, 1989.

LEE A. NELSON, OD
President

Attest by one other Board member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the Proposed Adoption of the Amendment of the Rules of the Board of Optometry Relating to License Rewewal Fees

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

The Second Notice of the Board of Optometry's (hereinafter "Board") intent to adopt the above-entitled rule amendment was published in the State Register on February 13, 1989, and was sent by United States mail to all persons on the list maintained by the Board pursuant to Minn. Stat. §§ 14.14, subd. la and 14.22 on January 30, 1989. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule amendment 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 a rule amendment without a public hearing and the proposed rule amendment was sent to the chairs of the house appropriations committee and senate finance committee.

All persons were given the opportunity to submit comment on the rule amendment for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule amendment were received by the Board.

No submissions or comments on the rule amendment were received by the Board. No requests for notice of submission to the Attorney General were received by the Board.

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

NOW, THEREFORE, IT IS HEREBY ORDERED that the rule amendment identified as Amendment of the Rules Relating to License Renewal Fees is adopted this 27th day of April, 1989, pursuant to authority vested in the Board by Minn. Stat. § 148.53.

Burton H. Skuza, OD

BURTON H. SKUZA, OD
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Adoption of the
Amendment of the Rules of
the Board of Optometry
Relating to License
Renewal Fees

DECLARATION OF COUNSEL

I, Thomas M. McSteen, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule amendment and the supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0483.

Dated: May 3, 1989

Thomas M. McSteen

THOMAS M. McSTEEN
Special Assistant
Attorney General

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF OPTOMETRY

In the Matter of the
Proposed Adoption of the
Amendment of the Rules of
the Board of Optometry
Relating to License
Renewal Fees

SECOND NOTICE OF
INTENT TO AMEND AND
ADOPT RULES WITHOUT
A PUBLIC HEARING

In order to comply with the requirements of Minnesota Statutes, section 16A.128, subdivision 2a, and section 14.22, the Minnesota Board of Optometry hereby republishes the Notice of Intent to Amend and Adopt Rules Without a Public Hearing, and the proposed rules regarding license renewal fees. The Notice and the copy of the rules, which appeared at 13 State Register 1368 (December 5, 1988) are incorporated herein by reference.

Dated: January 27, 1989

Burton H. Skuza, OD

BURTON H. SKUZA, OD
Executive Director
Board of Optometry

DEPARTMENT : ATTORNEY GENERAL - Health

STATE OF MINNESOTA

SF-00006-05 (4/86)

Office Memorandum

DATE : May 3, 1989

TO : Julie Leppink
Special Assistant
Attorney General

FROM : Thomas M. McSteen TMM
Special Assistant
Attorney General

PHONE : 341-7272

SUBJECT : In the Matter of the Board of Optometry's License Renewal Fees

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 amendment:

1. Certificate of the Minnesota Board of Optometry's Authorizing Resolution dated January 26, 1989;

2. Rule as proposed with a certificate of approval as to form by the Revisor of Statutes attached;

3. Statement of Need and Reasonableness, not dated, with approval form from Commissioner of Finance attached;

4. Notice of Intent to Adopt a Rule Amendment Without a Public Hearing, dated November 23, 1988;

5. A photocopy of the relevant pages of the December 5, 1988 State Register at 13 S.R. 1368, in which the notice and proposed rule were published;

6. Statement of Need and Reasonableness dated January 12, 1989;

7. Copies of letters to the House and Senate Committees as required by Minn. Stat. § 16A.128, subd. 2a;

8. Second Notice of Intent to Amend and Adopt Rules Without a Public Hearing, dated January 27, 1989;

9. Affidavit of Mailing the Second Notice of Intent to Amend and Adopt Rules Without a Public Hearing and Certificate of Mailing List, dated January 30, 1989;

10. A photocopy of the relevant pages of the February 13, 1989 State Register, at 13 S.R. 1989, in which the second notice was published;

11. Certificate of the Minnesota Board of Optometry's Resolution Adopting Rules dated April 27, 1989;

12. Findings of Fact, Conclusions, and Order Adopting Rule Amendment Without a Public Hearing, dated April 27, 1989;

13. The original and three copies of the rule as adopted;

14. Declaration of Counsel.

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

TMM:sv

Enclosures