


# Minnesota Attorney General: Administrative Rules Proceedings

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SF-00006-05 (4/86)

STATE OF MINNESOTA

# Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : October 27, 1989

TO : RICHARD A. WEXLER
Assistant Attorney General
525 Park Street, Suite 500 (55103)

FROM : MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 404 (55103)

PHONE : 296-6839

SUBJECT : In the Matter of the Adopted Permanent Rule Relating to Application and Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes

The above-referenced emergency rule has been approved as to its legality by the Attorney General on October 26, 1989.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of tne notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. { 14.34.

If you have any questions in this regard, please contact me.

MJC:bbl
Enclosures

cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "

Emergency Rules

RULE REVIEW CHECKLIST

File No. 1631 (Health) Docket No. 05-0009.0479

DATE RECEIVED 10-17-89 ADOPTED W/O HEARING ✓

REVIEW DATE 10-26-89 EMERGENCY RULE _____

DUE DATE 10-31-89 To Revisor: 10-30-89

REVISOR APPROVED ✓

APPROVED 10-26-89 mjc REVISOR DISAPPROVED _____

DISAPPROVED ✓ FILED W/SEC. OF STATE 10/27/89

WITHDRAWN _____ RETURNED TO AGENCY _____

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04 Rule as adopted (4 copies) ~~2 not track from Revisor~~

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

June 30, 1986 Date published in State Register

_____ Comments

NA Petition for Adoption of a Rule (if applicable)

✓ Board's Authorizing Resolution

Oct 6, 1989 Date adopted

✓ Proposed Rule

_____ Revisor's Certificate

✓ Notice of Intent to Adopt Rule

✓ Statutory Authority see DNR's notes)

✓ Small Business Statement

_____ Expenditure of public money statement

July 26, 89 Signature

✓ Statement of Need and Reasonableness (if applicable)

~~NA~~ Small Business Statement

✓ ~~NA~~ Fees - § 16A.128 -

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

August 3, 89 Date (30)/25 days before adoption

✓ Notice attached see note

NO Copy of rule or summary attached Notice of Intent to Adopt Rule attached

✓ Publication in State Register

Aug 7, 1989 Date (30)/25 days before adoption

✓ 180-day deadline from:

NA Effective date of law requiring rule (14.12) (both rules) NA

✓ end of comment period (§ 14.26) (rules without hearing)

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

✓ Resolution Adopting

Oct 6, 1989 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

Oct 9, 1989 Date

Submitted

yes 1 Written requests, submissions or comments

_____ Declaration of attorney

Dick Wexler Name of SAAG representing agency

_____ Notice of Submission to Atty. Gen. (if applicable)

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

fees

Board of Dentistry

Adopted Permanent Rules Relating to Licensure

Rules as Adopted

3100.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter and unless the context otherwise requires, the terms in subparts 2 to 21 have the meanings given them.

Subp. 2. **Act.** "Act" means Laws of Minnesota 1969, chapter 974, codified as Minnesota Statutes, sections 150A.01 to 150A.12.

Subp. 3. to 5. [Unchanged.]

Subp. 6. **Board.** "Board" means the Board of Dentistry.

Subp. 7. to 9a. [Unchanged.]

Subp. 10. **Dental technician.** "Dental technician" means a person other than a licensed dentist who performs any of the services described in Minnesota Statutes, section 150A.10, subdivision 3.

Subp. 11. and 13. [Unchanged.]

Subp. 14. **Minnesota Professional Corporations Act.** "Minnesota Professional Corporations Act" means Minnesota Statutes, sections 319A.01 to 319A.22.

Subp. 15. **National board.** "National board" means an examination administered nationally and acceptable to the board.

Subp. 16. [Unchanged.]

Subp. 17. **Registered dental assistant.** "Registered dental assistant" means an assistant registered by the board pursuant to Minnesota Statutes, section 150A.06, subdivision 2a.

Subp. 18. and 20. [Unchanged.]

Subp. 21. **Supervision.** "Supervision" means one of the following levels of supervision, in descending order of restriction:

A. "Personal supervision" means the dentist is personally operating on a patient and authorizes the auxiliary to aid in treatment by concurrently performing supportive

procedures.

B. "Direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient, evaluates the performance of the auxiliary.

C. "Indirect supervision" means the dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed by the auxiliary.

D. "General supervision" means the dentist has authorized the procedures and they are being carried out in accordance with the dentist's diagnosis and treatment plan.

3100.1400 APPLICATION FOR LICENSURE BY CREDENTIALS.

Any person who is already a licensed dentist or dental hygienist in another state or Canadian province desiring to be licensed to practice dentistry or dental hygiene in Minnesota shall present to the board an application and credentials as prescribed by the act. The applicant shall conform to the following rules of the board:

A. to C. [Unchanged.]

D. An applicant for licensure as a dental hygienist must have been in active practice in another state, Canadian province, or United States government service for at least one of the two years prior to the board receiving a completed application. The applicant must submit at least two character references from dentists and two references from practicing dental hygienists.

E. to J. [Unchanged.]

3100.2000 FEES.

Subpart 1. **Application fees.** Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant shall submit with a license or registration application a fee in the following amounts:

A. dentist application, $100;

B. dental hygienist application, $45; and

C. dental assistant application, $25.

Subp. 2. **Annual license or registration fees.** Each dentist, dental hygienist, and registered dental assistant shall submit with an annual license or registration renewal application a fee as established by the board not to exceed the following amounts:

A. dentist, $80;

B. dental hygienist, $30; and

C. registered dental assistant, $20.

Subp. 3. **Licensure by credentials.** Each applicant for licensure as a dentist or dental hygienist by credentials pursuant to Minnesota Statutes, section 150A.06, subdivision 4 and part 3100.1400 shall submit with the license application a fee in the following amounts:

A. dentist, $425; and

B. dental hygienist, $100.

Subp. 4. [Unchanged.]

Subp. 5. **Duplicate license or registration fee.** Each licensee or registrant shall submit with a request for issuance of a duplicate of the original license or registration or of an annual renewal of it a fee in the following amounts:

A. original dentist or dental hygiene license, $10; and

B. initial and renewal registration certificates and license renewal certificates, $8.

Subp. 6. **Reinstatement fee.** No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked shall have the license or registration reinstated or a new license or registration issued until a fee has been submitted to the board in the following amount:

A. dentist, $100;

B. dental hygienist, $45; and

C. registered dental assistant, $25.

Subp. 7. to 9. [Unchanged.]

Subp. 9a. **Verification of licensure.** Each institution or corporation shall submit with a request for verification of a licensure or registration a fee in the amount of $5 for each

license or registration to be verified.

Subp. 10. [Unchanged.]

3100.3300 EXAMINATION OF DENTISTS.

Subpart 1. to 4. [Unchanged.]

Subp. 4a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 1, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 5. [Unchanged.]

3100.3400 EXAMINATION OF DENTAL HYGIENISTS.

Subpart 1. to 3. [Unchanged.]

Subp. 3a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 2, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies

that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 4. [Unchanged.]

3100.3500 EXAMINATION OF REGISTERED DENTAL ASSISTANTS.

Subpart 1. and 2. [Unchanged.]

Subp. 2a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 2a, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 3. **Additional examination content.** All candidates shall be examined for general knowledge of the act and the rules of the board.

Subp. 4. [Unchanged.]

3100.4100 CONTINUING DENTAL EDUCATION.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Exemptions.** A licensee or registrant who pays an annual license or registration renewal fee is exempt from complying with the CDE requirements if he or she files with the board an affidavit specifying that the licensee or registrant does not practice, including on a volunteer or free basis, within the state.

Subp. 5. [Unchanged.]

3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.

"Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant or conduct contrary to the best interests of the public," as used in Minnesota Statutes, section 150A.08, subdivision 1, clause (6), shall include the act of a dentist, dental hygienist, registered dental assistant, or applicant in:

A. to I. [Unchanged.]

J. failing to cooperate with the board, its agents, or those working on behalf of the board as required by part 3100.6350;

K. failing to maintain adequate safety and sanitary conditions for a dental office as specified in part 3100.6300; and

L. failing to provide access to and transfer of medical and dental records as prescribed by Minnesota Statutes, section 144.335.

3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.

Subpart 1. **Specialty areas.** The following special areas of dentistry are recognized as suitable for the announcement of specialty dental practices:

A. endodontics (endodontist);

B. oral and maxillofacial surgery (oral surgeon/oral maxillofacial surgeon);

C. oral pathology (oral pathologist);

D. orthodontics (orthodontist);

E. pediatric dentistry (pediatric dentist);

F. periodontics (periodontist);

G. prosthodontics (prosthodontist); and

H. public health.

Subp. 2. and 3. [Unchanged.]

3100.8700 DENTAL HYGIENISTS.

Subpart 1. **Permissible duties.** Dental hygienists may

perform the following services under the general supervision of a dentist:

A. all services permitted under parts 3100.8400 to 3100.8500, subpart 1;

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

C. to E. [Unchanged.]

Subp. 2. and 3. [Unchanged.]

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

OCT 27 1989

Joan Anderson Growe
Secretary of State

11:10 AM

APPROVED AS TO FORM AND LEGALITY

October 26 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassidy

SPECIAL ASSISTANT ATTORNEY GENERAL

Heath - Board of Dentistry

3100.0100

Changes from proposed to adopted rules

Statutory Authority
150A.04 subd 5
Board may promulgate rules as are necessary to carry out make effective the provisions in 150A.01 to 150A.12

150A.06 subds 1, 2, 2a and 4
Licensure relative to Dentists, Dental hygienists, and dental assistants and also licensure by credentials (nothing about rules but they already have the authority in 150A.04 subd 5

150A.08 subds 1(6) and 3
1(6) conduct unbecoming a person licensed to practice dentistry

3 Reinstatement

150A.10 subd 1
Dental hygienists duties

150A.11 subd 2
Public advertising by dentists may be controllable by by reasonable rules of the board.

214.06 (1988) authority to adjust any fee

which the commissioner of health is empowered to assess a sufficient amount so that the total fees collected by each board is empowered to assess a sufficient amount....

Fees

Per 16A-sub 2q a copy of the Notice of Intent and propose rules were sent to the House Appropriations Committee and Senate Finance Committee prior to their submission to the State Reg. (Per Notice of Intent)

Notice to Solicit Outside Information was published in June 1986 why so long ago?

Statement of need and Reasonableness indicates that the Board's Rule Committee received written submissions from the Notice of Intent to Solicit Information should they have submitted those?

180 day - deadline
NA not required (14.12)
may promulgate rules according to 150A.04

Aug 7 (Published Date) (14.26)
to Oct 17, 1989 (Date AG received it
less than 180 days

Proposed to Adopted Rules

① Change in fees not significant
no sig changes.

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL - Health

STATE OF MINNESOTA

# Office Memorandum

DATE : October 16, 1989

TO : Patricia Nolte
Legal Assistant
Public Finance Division

FROM : Richard A. Wexler
Assistant Attorney General

RECEIVED

OCT 17 1989

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

PHONE : 297-2040

SUBJECT : In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Application and Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes

Enclosed for your review, pursuant to Minn. Stat. § 14.26 (1988) and Minn. Rules pt. 2010.0300 (1989), are the following documents to support the above-referenced rules:

1. Notice of Solicitation of Outside Information;

2. Certificate of Board's Authorizing Resolution;

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

4. Notice of Intent to Adopt Rules Without a Public Hearing (as mailed);

5. Statement of Need and Reasonableness;

6. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing;

7. Notice of Intent to Adopt Rules Without a Public Hearing (as published in the State Register);

8. Rules as adopted (original and three copies);

9. Certificate of Board's Resolution Adopting Rules;

10. Findings of Fact, Conclusions, and Order Adopting Rules Without a Public Hearing;

11. All written requests, submissions, or comments on the rules received by the Board except requests solely for copies of the rules or of the statement of need and reasonableness;

12. Declaration of Counsel;

13. Letters dated July 25, 1989, from the Board to the chair of the Minnesota House Appropriations Committee and to the chair of the Minnesota Senate Finance Committee.

Because no one requested to be informed of the Board's submission of the rules to the Attorney General's Office, we are not including a notice about that or related affidavit of mailing.

This material is submitted on behalf of the Board of Dentistry. Please call me if you have any questions.

RAW:sv

Enclosures

cc: Douglas R. Sell

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Application and Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes

STATEMENT OF NEED AND REASONABLENESS

Pursuant to Minn. Stat. § 14.23 (1988), the Minnesota Board of Dentistry (hereinafter "Board"), hereby affirmatively presents the need for and facts establishing the reasonableness of the proposed amendments to Minn. Rules pt. 2100.0100 relating to definitions; part 3100.1400, relating to application for licensure by credentials; part 3100.2000, relating to fees; parts 3100.3300, subp. 4a, 3100.3400, subp. 3a, and 3100.3500, subp. 2a, relating to licensure and registration examinations of dentists, dental hygienists, and registered dental assistants, respectively; part 3100.4100, subpart 4, relating to continuing dental education exemptions; part 3100.6200 J and N, relating to conduct unbecoming a licensee or registrant in regards to correcting a cross citation to another section of the rules and adding as another grounds for discipline the failure to comply with Minn. Stat. § 144.335, regarding the access to and transfer of medical and dental records; part 3100.7000, subp. 1.B, C, and 1.F, relating to advertising a dental specialty practice; and part 3100.8700, subp. 1.B, relating to the permissible duties for dental hygienists.

In order to adopt the proposed rules, 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 rules; 2) the rules are needed; 3) the rules are reasonable; 4) the 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.

I. STATUTORY AUTHORITY

The statutory authority of the Board to adopt these rules is as follows:

1. Minn. Stat. § 150A.04, subd. 5 (1988), authorizes the Board to promulgate rules necessary to carry out the provisions and purposes of the Minnesota Dental Practices Act, Minn. Stat. ch. 150A;

2. Minn. Stat. §§ 150A.04, subd. 5; 150A.06, subds. 1, 2, 2(a) and 4; 150A.08, subd. 3; and 214.06, authorize the Board to adopt fees by rule.

3. Minn. Stat. § 150A.08, subd. 1(6) (1988) authorizes the Board to establish grounds for disciplinary action based on conduct unbecoming a licensee or registrant or conduct contrary to the best interests of the public.

4. Minn. Stat. § 150A.10, subd. 1 (1988) authorizes the Board to promulgate rules necessary to establish the permissible duties of dental hygienists.

II. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

A. Requirements in General.

The Board at its meeting on Saturday, November 19, 1988, determined that the above-captioned rules are noncontroversial and has elected to follow the procedures set forth in Minn. Stat. §§ 14.05 to 14.12 and 14.22 to 14.28 (1988), which provide for the adoption of noncontroversial rules without the holding of a public hearing.

Pursuant to Minn. Stat. § 14.23 (1988) the Board prepared this Statement of Need and Reasonableness and made it available to the public.

The Board will publish in the State Register the proposed rules and the Notice of Intent to Adopt Rules Without a Public Hearing. The Board will also mail copies of the Notice to persons registered with the Board pursuant to Minn. Stat.

§ 14.22 (1988), as well as to others whom the Board believes will have an interest in the rules. The notice will comply with the requirements of Minn. Stat. § 14.22 (1988) and Minn. Rules pt. 2010.0300 E (1989).

These rules will become effective five working days after publication of a notice of adoption in the State Register pursuant to Minn. Stat. § 14.27 (1988).

B. Notice Of Intent To Solicit Information From Non-Agency Sources.

Minnesota Statute section 14.10 (1988) requires an agency, which seeks information or opinions from sources outside the agency in preparing to propose the amendment of rules, to publish a notice of its action in the State Register and afford all interested persons an opportunity to submit data or comments on the subject of concern in writing or orally. In the State Register issue of June 30, 1986, page 2632, the Board published a notice entitled "Outside Information or Opinions Sought Regarding Existing Rules Including Those on Auxiliary Personnel and Proposed Rules Regarding General Anesthesia and Intravenous Conscious Sedation."

After publication of the notice, the Board's Rule Committee met on numerous occasions to review all the rules to determine which were in need of amendment, met with various interested individuals and representatives of groups or associations to hear their views regarding possible rule amendments, and considered written submissions. As a result of that process, the Committee drafted a number of specific proposals either amending existing rules or adding new provisions. These proposals were widely distributed among the dental profession and community. Thereafter, the Board conducted two open forums, one on June 25, 1988, and the other on July 26, 1988, and received a number of written and oral comments, which were considered by the Rules Committee at subsequent meetings. As a result of this process, the Board developed final proposals and divided them between noncontroversial provisions, which are being addressed in this Statement of Need and

Reasonableness, and those which will be presented at a public hearing in an entirely separate proceeding.

III. COMPLIANCE WITH OTHER RULEMAKING REQUIREMENTS

A. Miscellaneous Requirements.

These rules do not incorporate by reference text from any other law, rule, or available text or book. See Minn. Stat. § 14.07, subd. 4 (1988). The adoption of these rules will not require the expenditure of public money greater than $100,000 by local public bodies in either of the two years following promulgation, nor do the rules have any impact on agricultural land. See Minn. Stat. § 14.11 (1988). A fiscal note as required by Minn. Stat. § 3.982 is not required because the proposed rules will not result in local agencies or school districts incurring costs mandated by the state. Pursuant to Minn. Stat. § 16A.128, subd. 2a, the Board sent a copy of the Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules to the chairs of the appropriations committee of the Minnesota House of Representatives and of the Minnesota Senate finance committee before the Board submitted the Notice to the State Register.

B. Approval Of The Commissioner Of Finance.

Pursuant to Minn. Stat. § 16A.128, subd. 1(a), if a fee is required to be fixed by rule, the Commissioner of Finance must approve the fee and the Commissioner's approval must be in the statement of need and reasonableness. The Commissioner's approval of the fees established in the proposed permit rules is contained in the attached addendum, which is incorporated into this Statement of Need and Reasonableness as Addendum A.

C. Small Business Considerations.

It is the position of the Board that Minn. Stat. § 14.115 (1988), relating to small business considerations in rulemaking does not apply to the rules it promulgates.

Minn. Stat. § 14.115, subd. 7(b) (1988), states that section 14.115 does not apply to "agency rules that do not affect small businesses directly." The Board's authority relates only to dentists and not to the dental businesses they operate. While someone cannot operate a dental business without being licensed as a dentist by the Board, the license runs primarily to the technical ability to provide dental services for the purposes of public protection and not to the business aspects. This is graphically illustrated in recent dealings with nondentists who are involved with dental franchise offices. The Board has not taken the position prohibiting nondentist involvement in operating a dental business. Instead, the Board's position is that nondentists may not interfere with or have any control over the dentists when it comes to any aspect of the practice which could affect the providing of professional services to a patient. Thus, the Board regulates the provision of dental services and not the dental business per se. As such, it is exempt under Minn. Stat. § 14.115, subd. 7(b) (1988).

The Board is also exempt from the provisions of section 14.115, pursuant to its subdivision 7(c) which states that section 14.115 does not apply to "service businesses regulated by government bodies, for standards and costs, such as . . . providers of medical care." Dentists provide medical care and are regulated for standards and costs. The Board regulates dentists for standards and the Minnesota Department of Human Services regulates them for costs.

The question might be raised as to whether the same government body has to regulate the service business for standards and costs in order for the exemption to apply. The Board's position is that the question should be answered in the negative. First, the provision specifically refers to regulation by "government bodies." Second, and most significantly, some of the examples listed in subdivision 7(c) of service businesses exempt from the conditions of section 14.115 actually would not qualify for the exemption if the same government body had to regulate for standards and costs.

For example, nursing homes and hospitals are regulated by different government bodies for standards and costs. The Minnesota Department of Health regulates them for standards and the Minnesota Department of Human Services regulates them for costs. If the legislature had intended to exempt from the scope of section 14.115 only those rules addressing service businesses regulated by one government body for standards and costs, then it could not have included nursing homes and hospitals in its list of exemptions.

Based on the foregoing, it is clear that section 14.115 is not intended to apply to rules promulgated by the Board.

However, should these proposed rules in some way be construed as being subject to Minn. Stat. § 14.115, the Board notes below how the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the rules on small businesses should be applied to the proposed amendments. The five suggested methods enumerated in subdivision 2 are as follows:

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

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

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

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

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

The feasibility of implementing each of the five suggested methods and whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rulemaking are considered below.

1. It would not be feasible to incorporate any of the five suggested methods into these proposed rules.

Methods (a) to (c) of subdivision 2 relate to lessening compliance or reporting requirements for small businesses either by (a) establishing less stringent requirements, (b) establishing less stringent schedules or deadlines for compliance with the requirements, or (c) consolidating or simplifying the requirements. Since the Board is not proposing any compliance or reporting requirements for either small or large businesses, it follows that there are no such requirements for the Board to lessen with respect to small businesses. If, however, these proposed rule amendments are viewed as compliance or reporting requirements for businesses, then the Board finds that it would be unworkable to lessen the requirements for those dentists, dental hygienists, and registered dental assistants who practice in a solo or clinic setting of fewer than 50 employees, since that would include at a minimum the vast majority of licensees and registrants, and probably all of them. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's rule amendments do not propose design or operational standards for businesses and therefore there is no reason to implement performance standards for small businesses as a replacement for design or operational standards that do not exist. Finally, method (e) suggests exempting small businesses for any or all requirements of the rules. The application of this provision would exempt virtually all licensees and registrants from the purview of the rules, a result which would be absurd.

2. Reducing the impact of the proposed amendments on small businesses would undermine the objectives of the Minnesota licensing law for dentists.

Pursuant to the Minnesota licensing law for dentists, dental hygienists, and registered dental assistants, Minn. Stat. §§ 150A.01 to 150A.12, the Board was created for the purpose of establishing requirements for licensure and registration and

adopting standards for disciplinary action to govern the practices or behavior of all licensees and registrants. Pursuant to Minn. Stat. § 150A.04, subd. 5, the Board is specifically mandated to promulgate rules as may be "necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12." Given these statutory mandates, it is the Board's duty to establish licensure and registration qualifications and disciplinary standards which apply to and govern all applicants, licensees, and registrants, regardless of the nature of their practice. As it has been stated above, it is the Board's position that the proposed amendments will not affect small businesses and certainly do not have the potential for imposing a greater impact on dental professionals in a solo or small practice than on those practices large enough to remove them from the definition of small business, if indeed there are any practices that large. It has also been explained above that the Board considers it infeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent that the proposed rules may affect the business operation of a dentist or group of dentists and to the extent it may be feasible to implement any of the suggested methods for lessening the impact on small businesses, the Board believes it would be unwise, absurd, and contrary to the purposes to be served by these rules for the Board to exempt one group of dentists - indeed, the vast majority of dentists and perhaps the entire profession - from the requirements of these rules. Similarly, the Board believes it would be unwise, absurd, and contrary to its statutory mandate for the Board to adopt one set of standards for those dentists (which may consist of a nonexistent class) who work in a large business setting and adopt another, less stringent, set of standards to be applied to those dentists who practice in a solo or small clinic practice. It is the Board's view that these rules must apply equally to all dentists if the public whom they serve is to be adequately protected.

It should be noted that the fee for licensure and registration verification will in virtually all instances be paid by businesses and not by individual licensees or registrants. However, the businesses paying this fee will rarely be small businesses as the usual request is from insurance companies, hospitals and clinics. Only a relatively few requests for a verification will come from a "small business" as defined in section 14.115. Since the fee is only $5, the impact will be negligible.

Licensees, regardless of whether they are considered as individuals or small businesses, have had and will continue to have an opportunity to participate in the rulemaking process for these proposed amendments. As stated in Section II.B of this Statement of Need and Reasonableness, the Board has used a very open process to draft these rules. The Board has kept the various dental associations well informed of the rule proposals as they were developed and the associations have in turn informed their constituents. In addition, the Board gave anyone who wanted to make a presentation the opportunity to do so in the two public forums or hearings it has held and which were extremely well attended. The Board will also include a statement pursuant to Minn. Stat. § 14.115, subd. 4(a) (1988) in its rulemaking Notice although the Board believes that it is not required to do so.

## IV. NEED FOR AND REASONABLENESS OF THE PROPOSED RULES

### A. Statement Of Need For Proposed Rules.

In order to amend administrative rules, an agency must demonstrate that the proposed rules are needed and reasonable. The proposed changes more clearly delineate the provisions of the Minnesota Dental Practices Act and have a rational basis in law and dentistry as is detailed below.

1. 3100.0100. Definitions. The amendments to part 3100.0100 are all editorial in nature and do not result in any substantive change in meaning. Subpart 21, which defines various levels of supervision, is being totally reorganized. The Board

receives numerous questions concerning levels of supervision applicable to auxiliary duties and how they are to be applied. When referred to existing rules, it becomes confusing because the levels of supervision are currently listed alphabetically rather than in more logical and easier to follow ascending or descending levels of restriction. By structuring subpart 21 as proposed, it should be clearer as to what level of supervision is most restrictive through the least restrictive level thereby eliminating most confusion.

2. 3100.1400 D. Application for Licensure by Credentials. This amendment corrects an oversight in the originally promulated rule by making the basis for licensure of dental hygienists by credentials the same as it is for dentists. The amendment provides that a dental hygienist applicant may use United States governmental services besides active practice in another state or a Canadian province to fulfill the active practice requirement. Minn. Rules pt. 3100.1400 C permits dentist applicants to use United States governmental services to meet the practice requirement. The Board intended to include the same right within part 3100.1400 D but it was mistakenly left out. This proposal corrects that oversight.

3. 3100.2000. Fees. Budgets for fiscal years 1990 and 1991 have been adopted. The budgets, as the following figures illustrate, cannot be supported based on existing fees:

| | FY 1990 | FY 1991 | Total |
|---|---|---|---|
| Total Costs | $521,000 | $521,000 | $1,042,000 |
| Receipts (based on current fee schedule) | $464,000 | $464,000 | $928,000 |
| Deficit | ($57,000) | ($57,000) | ($114,000) |

Given the past expenditure patterns and projecting costs on this basis, remedial action must be taken for FY 1990 and FY 1991 fees to avoid a dramatic deficit. Additionally,

it is necessary to increase fees to assure that revenues and expenditures match as closely as possible as mandated by Minn. Stat. §§ 16A.128, subd. 1(a) and 214.06, subd. 1.

Pursuant to Minn. Stat. § 16A.128, subd. 1(a), the approval of the Commissioner of Finance of the Board's proposed fees is attached hereto as Addendum A and made a part hereof. Fees charged for initial licensure or registration, duplicate licenses and licensure by credentials have not been adjusted for five years. Board costs to verify licensure and registration applications, establish the initial licensure or registration record and issue initial license or registration certificates have increased along with other costs thereby necessitating an increase. Duplicate licenses and certificates are more costly to procure, engross and deliver. The cost to process licensure by credentials applications requires more staff and Board time.

Licensure and registration verification has become a time consuming and costly activity. One staff person devotes 15% of her time to written verification of licenses and registration of dentist, dental hygienist and registered dental assistant credentials. Most verifications are requested by insurance companies, hospitals and clinics in response to federal regulations requiring such verification and to ensure only licensed individuals are submitting claims for dental services. Benefit is attributed to the organization requesting verification; therefore, cost of providing such a service should be borne by the business which will benefit by the information it receives from the Board.

4. 3100.3300, subp. 4(a), 3100.3400, subp. 3(a), 3100.3500, subps. 2(a) and 3 Additional Educational Requirements After Two Failures of Examinations for Dentists, Dental Hygienists and Registered Dental Assistants. Under Minn. Stat. § 150A.06, subds. 1, 2, and 2a, an applicant is ineligible to

retake the clinical examination for licensure or registration after failing it twice until he or she obtains further education and training as specified by the Board by rule. However, the Board has not previously implemented this provision. These amendments remedy that void by providing a specific process to be followed by applicants who have twice failed the licensure or registration examination. The legislation requiring additional education and training recognizes that the failure of the examination may demonstrate a lack of skills which should be addressed through formal education before the applicant is permitted to retake the examination and be licensed.

In these proposed rules the Board has developed and adopted fair and reasonable requirements and a specific process whereby applicants will be required to subject themselves to a needs assessment by an educational institution accredited by the Commission on Accreditation. That institution will certify to the Board the areas in which the applicants are deficient and state which courses were given to correct the deficiency before the applicants will be allowed to retake the examination. The Board believes that this is necessary and reasonable in order to protect the public and ensure proper dental treatment. (The requirement that the assessment and courses be taken at an institution accredited by the Commission on Accreditation is consistent with the Board's requirement for institutions at which applicants must take their basic training. See Minn. Rules pts. 3100.1100, subp. 1B; 3100.1200 D; and 3100.1300 B.)

In addition, the correction of the word "content" for "contract" is also needed for clarity in the Registered Dental Assistant rule, part 3100.3500, subp. 3.

5. 3100.4100, subp. 4. Exemptions from Continuing Education. The change to this rule is of an editorial nature only. There is no change to the

substance as the three conditions in the existing rule under which a licensee or registrant could be exempt from complying with the continuing dental education are all covered by the summary statement of the amendment. The amended rule will be easier to understand.

6. 3100.6200 J. Conduct Unbecoming a Licensee or Registrant. The existing rule contains an incorrect citation to another part of the Board rules. This amendment corrects the erroneous citation.

7. 3100.6200 L. Conduct Unbecoming a Licensee or Registrant. The Board receives numerous complaints from the public over the last several years concerning the refusal of dentists to transfer a patient's dental and medical records to another dentist or to provide them directly to the patient pursuant to Minn. Stat. § 144.335. The Board currently has authority to deal with a refusal to comply with section 144.335 under Minn. Stat. § 150A.01, subd. 13 as a just cause for discipline related to the practice of dentistry. However, given the frequency of complaints received by the Board regarding this matter, it is appropriate to list it as a specific grounds for discipline.

In proposing this rule, it is the Board's position that the patients' legal rights to the access and transfer of their medical and dental records as established in Minn. Stat. § 144.335 supersede the rights of dentists to hold them because patients owe them money inasmuch as other business and legal remedies are available to dentists for collecting unpaid debts. This balancing of competing interests by the legislation and as further implemented by the Board is reasonable. The proposal is also reasonable because dentists may usually be able to provide copies of the records thus enabling them to keep the originals and have them in case professional liability issues arise or where they may be needed to resolve accounts receivable issues through legal proceedings.

8. 3100.7000, subp. 1B, C, and F. Advertising Dental Specialty Practice. The amendment corrects and updates the titles of the specialty dental practices of oral and maxillofacial surgery (oral surgeon/oral maxillofacial surgeon) and of pediatric dentistry (pediatric dentist) for use for advertising purposes.

9. 3100,8700, subp. 1A and B. Dental Hygienists' Permissible Duties. The change to subpart 1A is editorial. It corrects a citation to another part of the Board rules.

The change to subpart 1B removes the expanded function of soft tissue currettage from the permissible duties of a dental hygienist. Current dental research indicates that scaling and root planing remove the causative agents of periodontal disease and that soft tissue currettage is a secondary outcome of root planing and periodontal scaling and not a separate function. Not only has soft tissue currettage become an obsolete dental procedure, but in addition, current dental insurance policies have stopped reimbursement for the procedure.

It is the Board's judgment that all of the proposed amendments are both needed and reasonable and in the best interest of the dental profession and the public.

Dated: July 25, 1989

STATE OF MINNESOTA

BOARD OF DENTISTRY

DOUGLAS R. SELL
Executive Director

Addendum H

# Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 109
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

June 2, 1989

TO: Mr. Rob Super
Executive Budget Officer
Department of Finance

FROM: Douglas R. Sell
Executive Director

RE: PROPOSED FEE CHANGES

The Rules Committee of the Minnesota Board of Dentistry has completed a review of the fee structure as contained in Minnesota Rules, Chapter 3100.2000, Fees. Accordingly, the Rules Committee has recommended to the Board that certain of these fees should be adjusted to meet the requirements of Minnesota Statutes, Chapter 214.06. This statute requires that the Board . . . assess a sufficient amount so that the total fees collected by each Board will as closely as possible equal anticipated expenditures during the fiscal biennium. In addition, this statute requires approval for any fee adjustment must be obtained from the Commissioner of Finance.

The above-mentioned rules, Chapter, 3100.2000, should be changed to reflect the recommendation of the Board. A copy of the proposed rule change and fee comparison is attached. The basis for this request is twofold:

1. Without the increase, the provisions of Minnesota Statutes, Chapter 214.06 could not be met.

2. The increased cost of carrying out the provisions of Minnesota Statutes, Chapter 150A, the Dental Practice Act, necessitate a larger budget.

The budget for F.Y. 1990-1991 is $800,000 plus attorney general and indirect costs of $242,000. Total amounts collected by the Board must be as close as possible to the total expenditures of the Board, $1,042,000. The current fee structure would not provide sufficient income; therefore, the Board is proposing fee adjustments as outlined

in the attachment. With the exception of annual renewal fees, other fees have not been adjusted for at least five years, yet the cost of service has increased steadily over this period of time.

In addition to the basic budgetary requirements, the Board has experienced a significant number of lengthy and costly legal proceedings. The cost of these proceedings has generally been over and above the amounts earmarked for normal legal costs. The proposed fee increases would provide for all anticipated legal costs based on the increased number of complaints and resultant disciplinary actions.

It is the Committee's intention to have prepared for presentation to the full Board a statement of need and reasonableness on June 10, 1989. Part of that statement must include your concurrence with the proposed fee adjustments. With this in mind, request a response to be provided to the Board no later than June 7, 1988. Thank you for your consideration.

DRS/ajn

Attachments

Approved June 6, 1989
Department of Finance

Brian Roherty, Assistant Commissioner

3100.2000 FEES

Subpart 1. Application fees. Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant shall submit with a license or registration application a fee in the following amounts:

A. dentist application, ~~$75;~~ $100;

B. dental hygienist application, ~~$30;~~ $45; and

C. dental assistant application, ~~$20.~~ $25.

Subp. 2. Annual license or registration fees. Each dentist, dental hygienist, and registered dental assistant shall submit with an annual license or registration renewal application a fee as established by the board not to exceed the following amounts:

A. dentist, ~~$70;~~ $80;

B. dental hygienist, ~~$25;~~ $30; and

C. registered dental assistant, ~~$12.~~ $20.

Subp. 3. Licensure by credentials. Each applicant for licensure as a dentist or dental hygienist by credentials pursuant to Minnesota Statutes, section 150A.06, subdivision 4 and part 3100.1400 shall submit with his or her license application a fee in the following amounts:

A. dentist, ~~$275;~~ $425; and

B. dental hygienist, ~~$80.~~ $100.

Subp. 4 Annual license or registration late fee.

Applications for renewal of any license or registration received after the time specified in part 3100.1700 are subject to a late fee equal to 50 percent of the annual renewal fee.

Subp. 5. Duplicate license or registration fee. Each licensee or registrant shall submit with a request for issuance or a duplicate of his or her original license or registration or of an annual renewal thereof a fee in the following amounts:

A. original dentist or dental hygiene license, ~~$0;~~ $10; and

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Department of Finance

Brian Roherty, Assistant Commissioner

B. initial and renewal registration certificates and license renewal certificates, ~~$6.~~ $8.

Subp. 6. Reinstatement fee. No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked shall have his or her license or registration reinstated or a new license or registration issued until he or she has submitted to the board a fee in the following amount:

A. dentist, ~~$75;~~ $100;

B. dental hygienist, ~~$30;~~ $45; and

C. registered dental assistant, ~~$20.~~ $25.

Subp. 7. Application for permission to take dental x-rays. A person applying for permission to take dental x-rays pursuant to part 3100.8500, subpart 3, shall submit with an application a fee in the amount of $10.

Subp. 8. Application for approval as a sponsor of CDE courses. A person applying for approval as a sponsor of CDE programs pursuant to part 3100.4200, subpart 2, shall submit with an application a fee in the amount of $75.

Subp. 9. Affidavit of licensure. Each licensee or registrant shall submit with a request for an affidavit of licensure a fee in the amount of $10.

Subp. 9a. Verification of licensure. Each institution or corporation shall submit with request for verification of licensure or registration a fee in the amount of $5 for each license or registration to be verified.

Subp. 10. Refunds. No fee shall be refunded for any reason except in those cases where the applicant for licensure or registration is found to be ineligible to take the examination.

Approved June 6, 1989
Department of Finance

Brian Roherty, Assistant Commissioner

| | NUMBER OF | CURRENT FEE | PROPOSED FEE | ESTIMATED INCOME |
|---|---|---|---|---|
| DDS - Renewal | 3,900 | $ 66.00 | $ 80.00 | $312,000 |
| - Penalty | 250 | 33.00 | 40.00 | 10,000 |
| - Dup Certificate | 200 | 6.00 | 8.00 | 1,600 |
| - Lic by Exam | 100 | 75.00 | 100.00 | 10,000 |
| - Lic by Cred | 20 | 275.00 | 425.00 | 8,500 |
| - Lic Reinstatement | 5 | 66.00 | 100.00 | 500 |
| - Dup License | 20 | 8.00 | 10.00 | 200 |
| - Prior Year | 5 | 66.00 | 80.00 | 400 |
| - Prior Year Penalty | 5 | 33.00 | 40.00 | 200 |
| Subtotal | | | | $341,400 |
| DH - Renewal | 2,500 | $ 24.00 | $ 30.00 | $ 75,000 |
| - Penalty | 200 | 12.00 | 15.00 | 3,000 |
| - Dup Certificate | 50 | 6.00 | 8.00 | 400 |
| - Lic by Exam | 90 | 30.00 | 45.00 | 4,050 |
| - Lic by Cred | 25 | 80.00 | 100.00 | 2,500 |
| - Lic Reinstatement | 10 | 30.00 | 45.00 | 450 |
| - Dup License | 20 | 8.00 | 10.00 | 200 |
| - Prior Year | 10 | 24.00 | 30.00 | 300 |
| - Prior Year Penalty | 10 | 12.00 | 15.00 | 150 |
| Subtotal | | | | $ 86,050 |
| RDA - Renewal | 3,400 | $ 16.00 | $ 20.00 | $ 68,000 |
| - Penalty | 350 | 8.00 | 10.00 | 3,500 |
| - Dup Certificate | 60 | 6.00 | 8.00 | 480 |
| - Initial Reg | 300 | 20.00 | 25.00 | 7,500 |
| - Reg Reinstatement | 25 | 20.00 | 25.00 | 625 |
| - Prior Year | 25 | 16.00 | 20.00 | 500 |
| - Prior Year Penalty | 25 | 8.00 | 10.00 | 250 |
| Subtotal | | | | $ 80,855 |
| Corporations - Annual | 700 | $ 25.00 | $ 25.00 | $ 17,500 |
| - Initial | 15 | 100.00 | 100.00 | 1,500 |
| - Prior Year | 10 | 25.00 | 25.00 | 250 |
| Subtotal | | | | $ 19,250 |
| Misc - Affidavit | 40 | $ 10.00 | $ 10.00 | $ 400 |
| - Verification | 100 | | 5.00 | 500 |
| - CDE Sponsor | 50 | 75.00 | 75.00 | 3,750 |
| - Other | | 5,000.00 | | 6,000 |
| Subtotal | | | | $ 10,650 |
| Total | | | | $540,205 |

Board of Dentistry

Proposed Permanent Rules Relating to Licensure

Rules as Proposed

3100.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of ~~these rules~~ this chapter and unless the context otherwise requires, the terms in subparts 2 to 21 have the meanings given them.

Subp. 2. **Act.** "Act" ~~shall mean~~ means Laws of Minnesota 1969, chapter 974, codified as Minnesota Statutes, sections 150A.01 to 150A.12~~, as from time to time amended~~.

Subp. 3. to 5. [Unchanged.]

Subp. 6. **Board.** "Board" ~~shall mean~~ means the Board of Dentistry.

Subp. 7. to 9a. [Unchanged.]

Subp. 10. **Dental technician.** "Dental technician" means a person other than a licensed dentist who performs any of the services described in Minnesota Statutes, section 150A.10, subdivision 3 ~~of the act~~.

Subp. 11. and 13. [Unchanged.]

Subp. 14. **Minnesota Professional Corporations Act.** "Minnesota Professional Corporations Act" means Minnesota Statutes, sections 319A.01 to 319A.22~~, as from time to time amended~~.

Subp. 15. **National board.** "National board" ~~shall mean~~ means an examination administered nationally and acceptable to the board.

Subp. 16. [Unchanged.]

Subp. 17. **Registered dental assistant.** "Registered dental assistant" means an assistant registered by the board pursuant to Minnesota Statutes, section 150A.06, subdivision 2a~~, of the act~~.

Subp. 18. and 20. [Unchanged.]

Subp. 21. **Supervision.** "Supervision" ~~shall be defined in~~



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means one of the following ~~classifications~~ levels of supervision, in descending order of restriction:

~~A.--"Direct-supervision"-means-the-dentist-is-in-the dental-office,-personally-diagnoses-the-condition-to-be-treated, personally-authorizes-the-procedure-and-before-dismissal-of-the patient,-evaluates-the-performance-of-the-auxiliary.~~

~~B.--"General-supervision"-means-the-dentist-has authorized-the-procedures-and-they-are-being-carried-out-in accordance-with-his-diagnosis-and-treatment-plan.~~

~~C.--"Indirect-supervision"-means-the-dentist-is-in-the office,-authorizes-the-procedures,-and-remains-in-the-office while-the-procedures-are-being-performed-by-the-auxiliary.~~

~~D.--"Personal-supervision"-means-the-dentist-is personally-operating-on-a-patient-and-authorizes-the-auxiliary to-aid-his-treatment-by-concurrently-performing-supportive procedures.~~

A. "Personal supervision" means the dentist is personally operating on a patient and authorizes the auxiliary to aid in treatment by concurrently performing supportive procedures.

B. "Direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient, evaluates the performance of the auxiliary.

C. "Indirect supervision" means the dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed by the auxiliary.

D. "General supervision" means the dentist has authorized the procedures and they are being carried out in accordance with the dentist's diagnosis and treatment plan.

3100.1400 APPLICATION FOR LICENSURE BY CREDENTIALS.

Any person who is already a licensed dentist or dental hygienist in another state or Canadian province desiring to be licensed to practice dentistry or dental hygiene in Minnesota shall present to the board an application and credentials as



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prescribed by the act. The applicant shall conform to the following rules of the board:

A. to C. [Unchanged.]

D. An applicant for licensure as a dental hygienist must have been in active practice in another state ~~or~~, Canadian province, or United States government service for at least one of the two years prior to ~~receipt of~~ the board receiving a completed application ~~by the board and~~. The applicant must submit at least two character references from dentists and two references from practicing dental hygienists.

E. to J. [Unchanged.]

3100.2000 FEES.

Subpart 1. **Application fees.** Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant shall submit with a license or registration application a fee in the following amounts:

A. dentist application, ~~$75~~ $100;

B. dental hygienist application, ~~$30~~ $45; and

C. dental assistant application, ~~$20~~ $25.

Subp. 2. **Annual license or registration fees.** Each dentist, dental hygienist, and registered dental assistant shall submit with an annual license or registration renewal application a fee as established by the board not to exceed the following amounts:

A. dentist, ~~$70~~ $80;

B. dental hygienist, ~~$25~~ $30; and

C. registered dental assistant, ~~$17~~ $20.

Subp. 3. **Licensure by credentials.** Each applicant for licensure as a dentist or dental hygienist by credentials pursuant to Minnesota Statutes, section 150A.06, subdivision 4 and part 3100.1400 shall submit with ~~his or her~~ the license application a fee in the following amounts:

A. dentist, ~~$275~~ $425; and

B. dental hygienist, ~~$80~~ $100.

Subp. 4. [Unchanged.]



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Subp. 5. **Duplicate license or registration fee.** Each licensee or registrant shall submit with a request for issuance of a duplicate of ~~his-or-her~~ the original license or registration or of an annual renewal ~~thereof~~ of it a fee in the following amounts:

A. original dentist or dental hygiene license, ~~$8~~ $10; and

B. initial and renewal registration certificates and license renewal certificates, ~~$6~~ $8.

Subp. 6. **Reinstatement fee.** No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked shall have ~~his-or-her~~ the license or registration reinstated or a new license or registration issued until ~~he-or-she-has-submitted-to-the-board~~ a fee has been submitted to the board in the following amount:

A. dentist, ~~$75~~ $100;

B. dental hygienist, ~~$30~~ $45; and

C. registered dental assistant, ~~$20~~ $25.

Subp. 7. to 9. [Unchanged.]

Subp. 9a. **Verification of licensure.** Each institution or corporation shall submit with a request for verification of a licensure or registration a fee in the amount of $5 for each license or registration to be verified.

Subp. 10. [Unchanged.]

3100.3300 EXAMINATION OF DENTISTS.

Subpart 1. to 4. [Unchanged.]

Subp. 4a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 1, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only



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after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 5. [Unchanged.]

3100.3400 EXAMINATION OF DENTAL HYGIENISTS.

Subpart 1. to 3. [Unchanged.]

Subp. 3a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 2, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 4. [Unchanged.]

3100.3500 EXAMINATION OF REGISTERED DENTAL ASSISTANTS.

Subpart 1. and 2. [Unchanged.]

Subp. 2a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 2a, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on



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Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 3. **Additional examination contract** content. All candidates shall be examined for general knowledge of the act and the rules of the board.

Subp. 4. [Unchanged.]

3100.4100 CONTINUING DENTAL EDUCATION.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Exemptions.** A licensee or registrant who pays an annual license or registration renewal fee ~~and-meets-any-of-the-following-conditions~~ is exempt from complying with the CDE requirements if he or she files with the board an affidavit specifying ~~the-condition-within-which-he-or-she-falls:~~

~~A.--resides-permanently-outside-the-state-and-does-not-practice-within-the-state;-or~~

~~B.--is-retired-from-practice-and-does-not-perform-any-dental-services-on-a-volunteer-or-free-basis;-or~~

~~C.--is-permanently-disabled-and-unable-to-practice-dentistry.~~ that the licensee or registrant does not practice, including on a volunteer or free basis, within the state.

Subp. 5. [Unchanged.]

3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.

"Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant or conduct contrary to the best interests of the public," as used in Minnesota Statutes, section 150A.08, subdivision 1, clause (6), shall include the act of a dentist, dental hygienist, registered



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dental assistant, or applicant in:

A. to I. [Unchanged.]

J. failing to cooperate with the board, its agents, or those working on behalf of the board as required by part ~~3100.6300~~ 3100.6350; ~~and~~

K. failing to maintain adequate safety and sanitary conditions for a dental office as specified in part 3100.6300; and

L. failing to provide access to and transfer of medical and dental records as prescribed by Minnesota Statutes, section 144.335.

3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.

Subpart 1. **Specialty areas.** The following special areas of dentistry are recognized as suitable for the announcement of specialty dental practices:

A. endodontics (endodontist);

B. oral and maxillofacial surgery (oral surgeon/oral ~~and~~ maxillofacial surgeon);

~~C. maxillofacial-surgeon);~~

~~B.~~ oral pathology (oral pathologist);

~~E.~~ D. orthodontics (orthodontist);

~~F.~~ E. ~~pedodontics~~ pediatric dentistry (~~pedodontist~~ pediatric dentist);

~~G.~~ F. periodontics (periodontist);

~~H.~~ G. prosthodontics (prosthodontist); and

~~I.~~ H. public health.

Subp. 2. and 3. [Unchanged.]

3100.8700 DENTAL HYGIENISTS.

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

A. all services permitted under parts 3100.8400 to ~~3100.8600~~ 3100.8500, subpart 1;

B. complete prophylaxis to include scaling, root planing, ~~soft-tissue-curettage,~~ polishing of restorations, and



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temporary replacement of restorations;

C. to E. [Unchanged.]

Subp. 2. and 3. [Unchanged.]



Approved
by Revisor _____

# Office of the Revisor of Statutes

## Administrative Rules

**TITLE:** Proposed Permanent Rules Relating to Licensure

**AGENCY:** Board of Dentistry

**MINNESOTA RULES:** Chapter 3100

The attached rules are approved for publication
in the State Register

Carla M. Riehle
Assistant Revisor


JUL 1989
RECEIVED
ATTORNEY
GENERAL
HEALTH

Subp. 3. **Applicability.** Field windbreaks may be used in or around open fields that need protection against wind erosion. Additional benefits may be realized from the creation of wildlife habitat.

Subp. 4. **Policies.** Funding is authorized:

A. for field windbreaks if the inter-windbreak area is established in permanent vegetative cover at the time the windbreak is established; and

B. for site preparation, planting materials, planting, chemicals for weed control, and other applicable costs necessary to establish a field windbreak.

The landowner is responsible for controlling competitive vegetation for two years following planting and must bear the cost of control. Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

**8400.5600 [Emergency] APPROVED PRACTICE: ESTABLISHMENT OF PERMANENT VEGETATIVE COVER.**

Subpart 1. **Definition.** For purposes of this part, "permanent vegetative cover" means planting permanent vegetation on enrolled lands, including trees, shrubs, vines, grasses, and legumes.

Subp. 2. **Purpose.** The purpose of permanent vegetative cover is to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 3. **Applicability.** Permanent vegetative cover may be used on enrolled lands if vegetation is needed to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 4. **Policies.** Funding is authorized for:

A. earthwork, materials, seed, and seedings, and other associated costs necessary to stabilize the area;

B. temporary materials and seedings necessary to stabilize the area during construction; and

C. permanent fencing of the area as determined by the district board.

Subp. 5. **Conflicts.** Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

# OFFICIAL NOTICES

**Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.**

**The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.**

## Minnesota Board of Dentistry

### Outside Information or Opinions Sought Regarding Existing Rules Including Those on Auxiliary Personnel and Proposed Rules Regarding General Anesthesia and Intravenous Conscious Sedation

Notice is hereby given that the Minnesota Board of Dentistry is seeking information or opinions from sources outside the agency regarding its existing rules governing the functions which dental auxiliary personnel may perform and regarding a new rule which will address the administration of general anesthesia and intravenous conscious sedation. The Board is also seeking comments and suggestions with respect to all of its existing rules to determine which, if any, should be amended. The adoption of rules by the Board is authorized under Minn. Stat. § 150A.04 (1984) which permits the Board to adopt rules to carry out and make effective the provisions and purposes of Minn. Stat. § 150A.01 to 150A.12, the laws governing the practice of dentistry. Section 150A.04 also specifically authorizes the Board to set forth the training and education necessary for administering general anesthesia and intravenous conscious sedation.

The Board of Dentistry requests information and opinions on the matters referenced above. Interested or affected persons or groups may submit data, information suggestions, or opinions orally or in writing. Written statements should be addressed to: Dale J. Forseth, Executive Director, Minnesota Board of Dentistry, Suite 109, 2700 University Avenue West, St. Paul, Minnesota 55114. Oral statements will be received during regular business hours over the telephone at (612) 642-0579 and in person at the above address.

Any written materials received by the Board of Dentistry shall become part of the rulemaking record to be submitted to the Attorney General or an administrative law judge in the event that a rule is adopted.

Dated: 18 June, 1986

Dale J. Forseth
Executive Director

# Department of Human Services: Health Care Programs Division

## Public Notice Regarding Changes in Minnesota's Medical Assistance Program

Notice is hereby given to all providers and recipients of Minnesota Medical Assistance, and to the public, of changes in the levels of reimbursement for certain Medical Assistance services. This notice is published pursuant to federal regulations which govern administration of the Medical Assistance program at 42 CFR §§ 447.205.

**Personal Care Attendant Services**

State law (Minnesota Statutes 256B.02, subdivision 8, item 17) requires annual adjustment of payments to personal care attendants to reflect changes in the cost of living or of providing services. Accordingly, the payment rate for personal care attendant services will increase from $5.88 per hour to $6.08 per hour effective July 1, 1986. This represents a 3.4% increase, which is based on the projected Consumer Price Index (CPI) for urban areas for fiscal year 1987. (The CPI is prepared by the Department of Labor, Bureau of Labor Statistics and is a measurement of the cumulative increase in the price of consumer goods.)

**Private Duty Nursing Services**

In order to ensure that private duty nursing services are available to Medical Assistance recipients to the same extent the services are available to the general population, maximum payment rates will be increased effective July 1, 1986 to reflect the projected 3.4% increase in the CPI for urban areas for fiscal year 1987. Payment for private duty nursing services provided by RNs will increase from $11.52 per hour to $11.91 per hour. For LPNs, payment will increase from $8.64 per hour to $8.93 per hour.

Information on implementation of these provisions will be sent as needed to local welfare agencies via instructional and informational bulletins, to MA recipients via their MA cards, and the health care providers enrolled in the Medical Assistance program via provider bulletins. Copies of this material may be reviewed at the county welfare or social services department.

The estimated aggregate cost of these changes for fiscal year 1987 is $250,000.

Written comments and questions may be addressed to:

Health Care Programs Professional Services Section
2nd Floor, Space Center
444 Lafayette Road
St. Paul, Minnesota 55101

Comments and suggestions from the public may be viewed at the same address during normal working hours.

# Department of Jobs and Training

## Notice of Availability of 1987 Community Services Block Grant Plan for Public Review

Notice is hereby given that the State Plan for the use and distribution of the Fiscal Year 1987 Community Services Block Grant is available for public review.

This plan will be available for review at the local offices of current Community Services Block Grantees; Community Action agencies, Indian Reservations and the Minnesota Migrant Council.

A single copy of the plan may be obtained by writing:

Beverly J. Gleeson
Minnesota Department of
Jobs and Training
Community Services Office
690 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

CERTIFICATE OF THE

MINNESOTA BOARD OF DENTISTRY

AUTHORIZING RESOLUTION

I, Harry Dorvinen, DDS, do hereby certify that I am a member and the president of the Minnesota Board of Dentistry (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 19th day of November, 1988, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified:

> RESOLVED, that Douglas R. Sell, 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 Adopt Rule Amendments Without a Public Hearing governing (1) editorial changes relating to (a) definitions, (b) correcting a citation to another part of the rules, and (c) the listing of specialty practice areas; (2) continuing dental education exemptions; (3) the inclusion of time spent practicing in the United States government service as qualifying for licensure by credentials; (4) additional education for applicants who have twice failed the clinical examination; (5) the addition of failure to comply with Minn. Stat. § 144.335 to the grounds for

disciplinary action; and (6) the increase of fees specified in Minn. Rules pt. 3100.2000 as well as adding a fee for licensure verification. Mr. Sell is to give this notice to all persons who have registered their names with the Board for that purpose, to publish the notice and rule amendments in the State Register, and to perform any and all acts incidental thereto, including complying with all applicable provisions of the Minnesota Administrative Procedure Act.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of October, 1989.

Harry B. Dorvinen DDS

HARRY DORVINEN, DDS
President

Kathleen A. Kapsner

Attest by one other Board Member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Application and Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Board of Dentistry (hereinafter "Board") intends to adopt the above-entitled rules 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 (1988). The statutory authority to adopt the rules is Minn. Stat. §§ 150A.04, subd. 5; 150A.06, subds. 1, 2, 2a, and 4; 150A.08, subds. 1(6) and 3; 150A.10, subd. 1, 150A.11, subd. 2; and 214.06 (1988).

All persons have until September 8, 1989, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period which will close on September 8, 1989. If 25 or more persons submit a written request for a public hearing within the comment period, ending September 8, 1989, 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 rules 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 (1988).

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

Douglas R. Sell, Executive Director
Minnesota Board of Dentistry
Suite 109
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0579

The proposed rules 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 rules as noticed.

The rules proposed for adoption amend the basis for licensure by credentials of dental hygienists; increase existing fees and add a fee for licensure verification; require additional education for applicants who have failed any part of a clinical examination twice; add a basis for disciplinary action for failure to provide dental records to patients pursuant to Minn. Stat. § 144.335; update titles of specialty dental practices for purposes of advertising; remove an expanded function for dental hygienists; and make various editorial changes to Minn. Rules pts. 3100.0100, 3100.4100, and 3100.6200, without modifying the substantive meaning of the rule. A free copy of the rules is available upon request from Douglas R. Sell.

A Statement of Need and Reasonableness has been prepared and is available from Douglas R. Sell upon request. The Statement describes the need for and reasonableness of each provision of the proposed rules, identifies the data and information relied upon to support the proposed rules, and addresses the Board's position regarding the applicability of the small business rulemaking provisions and the impact of the proposed amendments on small businesses.

Minn. Stat. § 14.115 specifies certain actions which an agency must take if an agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115 pursuant to

subdivision 7(b) or (c). Nevertheless, should the rule amendments covered by this Statement of Need and Reasonableness be considered subject to section 14.115 and that they will impact on small businesses, the Board makes the following description of the probable quantitative and qualitative small business impact of the proposed rules. The impact will be negligible. The amendments which are editorial in nature will have no impact. See amendments to Minn. Rules pts. 3100.0100; 3100.3500, subp. 3; 3100.4100; 3100.6200 J; 3100.7000; and 3100.8700, subp. 1A. The amendments to Minn. Rules pts. 3100.1400 and 3100.3300 to .3500 relate to applicants. While they may result in increasing the cost of becoming licensed, these amendments will, more importantly, help assure that only applicants who meet minimally acceptable standards will be licensed or registered. Minn. Rules pt. 3100.2000 amendments increases fees but only by a small amount. The new fee for licensure and registration verification will be borne by those requesting the verification such as insurance companies, hospitals, and clinics. It is appropriate that those who benefit from and need the verification information should bear the cost, which is minimal, i.e., $5 for each license or registration verified. The increase and new fees are mandated by statute (Minn. Stat. § 16A.128, subd. 1a) to assure that the Board's income will match its appropriations and general support costs. The impact on any regulated individual will be minimal. The proposed new rule, Minn. Rules pt. 3100.6200 L which adds as a ground for disciplinary action the failure to comply with Minn. Stat. § 144.335, and the deletion of an obsolete dental hygienist duty (performing soft tissue currettage) from Minn. Rules pt. 3100.8700, subp. 1B also should not have any material quantitative or qualitative impact on licensees or registrants.

Pursuant to Minn. Stat. § 16A.128, subd. 2a (1988), a copy of this notice and the proposed rules were sent to the chairs of the House Appropriations Committee and Senate Finance Committee prior to their submission to the State Register.

If no hearing is required, upon adoption of the rules by the Board, the rules, 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 rules must submit the written request to Douglas R. Sell.

Dated: July 25, 1989

Douglas R. Sell

DOUGLAS R. SELL
Executive Director

CERTIFICATE OF THE

BOARD OF DENTISTRY

RESOLUTION ADOPTING RULES

I, Harry Dorvinen, DDS, do hereby certify that I am a member and the president of the Minnesota Board of Dentistry (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 23rd day of September, 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 rules relating to application and examination requirements, grounds for disciplinary action, fees, specialty practice titles, dental hygienist duties, and editorial changes are approved and adopted pursuant to authority vested in the Board by Minn. Stat. §§ 150A.04, subd. 5; 150A.06, subds. 1, 2, 2a, and 4; 150A.08, subds. 1(6) and 3; 150A.10, subd. 1; 150A.11, subd. 2; and 214.06 (1988). Douglas R. Sell, Executive Director of the Board, is authorized to sign the findings of fact, conclusions and order adopting the rules and further is authorized to perform the necessary acts to provide that the rules shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of October, 1989.

HARRY DORVINEN, DDS
President

Attest by one other Board member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Application and Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes

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

STATE OF MINNESOTA )
) ss.
COUNTY OF RAMSEY )

Douglas R. Sell, being duly sworn says:

I hereby certify that the attached 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 Dentistry rulemaking mailing list is accurate, complete, and current as of this 31st day of July, 1989.

That on the 3rd day of August, 1989, at the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules 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.

Douglas R. Sell

Subscribed and sworn to before me this 3RD day of August, 1989.

Arlayne J. Nelson

ARLAYNE J. NELSON
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
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Mr. Arthur Gillen
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Minneapolis, MN 55455

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Application and Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Board of Dentistry (hereinafter "Board") intends to adopt the above-entitled rules 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 (1988). The statutory authority to adopt the rules is Minn. Stat. §§ 150A.04, subd. 5; 150A.06, subds. 1, 2, 2a, and 4; 150A.08, subds. 1(6) and 3; 150A.10, subd. 1, 150A.11, subd. 2; and 214.06 (1988).

All persons have until September 8, 1989, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period which will close on September 8, 1989. If 25 or more persons submit a written request for a public hearing within the comment period, ending September 8, 1989, 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 rules 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 (1988).

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

Douglas R. Sell, Executive Director
Minnesota Board of Dentistry
Suite 109
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0579

The proposed rules 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 rules as noticed.

The rules proposed for adoption amend the basis for licensure by credentials of dental hygienists; increase existing fees and add a fee for licensure verification; require additional education for applicants who have failed any part of a clinical examination twice; add a basis for disciplinary action for failure to provide dental records to patients pursuant to Minn. Stat. § 144.335; update titles of specialty dental practices for purposes of advertising; remove an expanded function for dental hygienists; and make various editorial changes to Minn. Rules pts. 3100.0100, 3100.4100, and 3100.6200, without modifying the substantive meaning of the rule. A free copy of the rules is available upon request from Douglas R. Sell.

A Statement of Need and Reasonableness has been prepared and is available from Douglas R. Sell upon request. The Statement describes the need for and reasonableness of each provision of the proposed rules, identifies the data and information relied upon to support the proposed rules, and addresses the Board's position regarding the applicability of the small business rulemaking provisions and the impact of the proposed amendments on small businesses.

Minn. Stat. § 14.115 specifies certain actions which an agency must take if an agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115 pursuant to

subdivision 7(b) or (c). Nevertheless, should the rule amendments covered by this Statement of Need and Reasonableness be considered subject to section 14.115 and that they will impact on small businesses, the Board makes the following description of the probable quantitative and qualitative small business impact of the proposed rules. The impact will be negligible. The amendments which are editorial in nature will have no impact. See amendments to Minn. Rules pts. 3100.0100; 3100.3500, subp. 3; 3100.4100; 3100.6200 J; 3100.7000; and 3100.8700, subp. 1A. The amendments to Minn. Rules pts. 3100.1400 and 3100.3300 to .3500 relate to applicants. While they may result in increasing the cost of becoming licensed, these amendments will, more importantly, help assure that only applicants who meet minimally acceptable standards will be licensed or registered. Minn. Rules pt. 3100.2000 amendments increases fees but only by a small amount. The new fee for licensure and registration verification will be borne by those requesting the verification such as insurance companies, hospitals, and clinics. It is appropriate that those who benefit from and need the verification information should bear the cost, which is minimal, i.e., $5 for each license or registration verified. The increase and new fees are mandated by statute (Minn. Stat. § 16A.128, subd. 1a) to assure that the Board's income will match its appropriations and general support costs. The impact on any regulated individual will be minimal. The proposed new rule, Minn. Rules pt. 3100.6200 L which adds as a ground for disciplinary action the failure to comply with Minn. Stat. § 144.335, and the deletion of an obsolete dental hygienist duty (performing soft tissue currettage) from Minn. Rules pt. 3100.8700, subp. 1B also should not have any material quantitative or qualitative impact on licensees or registrants.

Pursuant to Minn. Stat. § 16A.128, subd. 2a (1988), a copy of this notice and the proposed rules were sent to the chairs of the House Appropriations Committee and Senate Finance Committee prior to their submission to the State Register.

If no hearing is required, upon adoption of the rules by the Board, the rules, 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 rules must submit the written request to Douglas R. Sell.

Dated: July 26, 1989

DOUGLAS R. SELL
Executive Director

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# Board of Dentistry

## Proposed Permanent Rules Relating to Licensure

### Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry (hereinafter "Board") intends to adopt the above-entitled rules 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 to14.28 (1988). The statutory authority to adopt the rules is *Minnesota Statutes* §§ 150A.04, subd. 5; 150A.06, subds. 1, 2, 2a, and 4; 150A.08, subds. 1(6) and 3; 150A.10,subd. 1, 150A.11, subd. 2; and 214.06 (1988).

All persons have until September 8, 1989, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period which will close on September 8, 1989. If 25 or more persons submit a written request for a public hearing within the comment period, ending September 8, 1989, 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 rules 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 (1988).

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

Douglas R. Sell, Executive Director
Minnesota Board of Dentistry
Suite 109
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0579

The proposed rules 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 rules as noticed.

The rules proposed for adoption amend the basis for licensure by credentials of dental hygienists; increase existing fees and add a fee for licensure verification; require additional education for applicants who have failed any part of a clinical examination twice; add a basis for disciplinary action for failure to provide dental records to patients pursuant to *Minnesota Statutes* § 144.335; update titles of specialty dental practices for purposes of advertising; remove an expanded function for dental hygienists; and make various editorial changes to *Minnesota Rules* pts. 3100.0100, 3100.4100, and 3100.6200, without modifying the substantive meaning of the rule. A free copy of the rules is available upon request from Douglas R. Sell.

A Statement of Need and Reasonableness has been prepared and is available from Douglas R. Sell upon request. The Statement describes the need for and reasonableness of each provision of the proposed rules, identifiees the data and information relied upon to support the proposed rules, and addresses the Board's position regarding the applicability of the small business rulemaking provisions and the impact of the proposed amendments on small businesses.

*Minnesota Statutes* § 14.115 specifies certain actions which an agency must take if an agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115 pursuant to subdivision 7(b) or (c). Nevertheless, should the rule amendments covered by this Statement of Need and Reasonableness be considered subject to section 14.115 and that they will impact on small businesses, the Board makes the following description of the probable quantitative and qualitative small business impact of the proposed rules. The impact will be negligible. The amendments which are editorial in nature will have no impact. See amendments to *Minnesota Rules* pts. 3100.0100, 3100.3500, subp. 3; 3100.4100; 3100.6200 J; 3100.7000; and 3100.8700, subp. 1A. The amendments to *Minnesota Rules* pts. 3100.1400 and 3100.3300 to .3500 relate to applicants. While they may result in increasing the cost of becoming licensed, these amendments will, more importantly, help assure that only applicants who meet minimally acceptable standards will be licensed or registered. *Minnesota Rules* pt. 3100.2000 amendments increases fees but only by a small amount. The new fee for licensure and registration verification will be borne by those requesting the verification such as insurance companies, hospitals, and clinics. It is appropriate that those who benefit from and need the verification information should bear the cost, which is minimal, i.e., $5 for each license or registration verified. The increase and new fees are mandated by statute (*Minnesota Statutes* § 16A.128, subd. 1a) to assure that the Board's income will match its appropriations and general support costs. The impact on any regulated individual will be minimal. The proposed new rule, *Minnesota Rules* pt. 3100.6200 L which adds as a ground for disciplinary action the failure to comply with *Minnesota Statutes* § 144.335, and

the deletion of an obsolete dental hygienist duty (performing soft tissue currettage) from *Minnesota Rules* pt. 3100.8700, subp. 1B also should not have any material quantitative or qualitative impact on licensees or registrants.

Pursuant to *Minnesota Statutes* § 16A.128, subd. 2a (1988), a copy of this notice and the proposed rules were sent to the chairs of the House Appropriations Committee and Senate Finance Committee prior to their submission to the State Register.

If no hearing is required, upon adoption of the rules by the Board, the rules, 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 rules must submit the written request to Douglas R. Sell.

Dated: 25 July 1989

Douglas R. Sell
Executive Director

## Rules as Proposed

**3100.0100 DEFINITIONS.**

Subpart 1. **Scope.** For the purpose of ~~these rules~~ this chapter and unless the context otherwise requires, the terms in subparts 2 to 21 have the meanings given them.

Subp. 2. **Act.** "Act" ~~shall mean~~ means Laws of Minnesota 1969, chapter 974, codified as Minnesota Statutes, sections 150A.01 to 150A.12~~, as from time to time amended~~.

Subp. 3. to 5. [Unchanged.]

Subp. 6. **Board.** "Board" ~~shall mean~~ means the Board of Dentistry.

Subp. 7. to 9a. [Unchanged.]

Subp. 10. **Dental technician.** "Dental technician" means a person other than a licensed dentist who performs any of the services described in Minnesota Statutes, section 150A.10, subdivision 3 ~~of the act~~.

Subp. 11. and 13. [Unchanged.]

Subp. 14. **Minnesota Professional Corporations Act.** "Minnesota Professional Corporations Act" means Minnesota Statutes, sections 319A.01 to 319A.22~~, as from time to time amended~~.

Subp. 15. **National board.** "National board" ~~shall mean~~ means an examination administered nationally and acceptable to the board.

Subp. 16. [Unchanged.]

Subp. 17. **Registered dental assistant.** "Registered dental assistant" means an assistant registered by the board pursuant to Minnesota Statutes, section 150A.06, subdivision 2a~~, of the act~~.

Subp. 18. and 20. [Unchanged.]

Subp. 21. **Supervision.** "Supervision" ~~shall be defined in~~ means one of the following ~~classifications~~ levels of supervision, in descending order of restriction:

~~A. "Direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient, evaluates the performance of the auxiliary.~~

~~B. "General supervision" means the dentist has authorized the procedures and they are being carried out in accordance with his diagnosis and treatment plan.~~

~~C. "Indirect supervision" means the dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed by the auxiliary.~~

~~D. "Personal supervision" means the dentist is personally operating on a patient and authorizes the auxiliary to aid his treatment by concurrently performing supportive procedures.~~

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.

A. "Personal supervision" means the dentist is personally operating on a patient and authorizes the auxiliary to aid in treatment by concurrently performing supportive procedures.

B. "Direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient, evaluates the performance of the auxiliary.

C. "Indirect supervision" means the dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed by the auxiliary.

D. "General supervision" means the dentist has authorized the procedures and they are being carried out in accordance with the dentist's diagnosis and treatment plan.

**3100.1400 APPLICATION FOR LICENSURE BY CREDENTIALS.**

Any person who is already a licensed dentist or dental hygienist in another state or Canadian province desiring to be licensed to practice dentistry or dental hygiene in Minnesota shall present to the board an application and credentials as prescribed by the act. The applicant shall conform to the following rules of the board:

A. to C. [Unchanged.]

D. An applicant for licensure as a dental hygienist must have been in active practice in another state ~~or~~, Canadian province, or United States government service for at least one of the two years prior to ~~receipt of~~ the board receiving a completed application ~~by the board and~~. The applicant must submit at least two character references from dentists and two references from practicing dental hygienists.

E. to J. [Unchanged.]

**3100.2000 FEES.**

Subpart 1. **Application fees.** Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant shall submit with a license or registration application a fee in the following amounts:

A. dentist application, ~~$75~~ $100;

B. dental hygienist application, ~~$30~~ $45; and

C. dental assistant application, ~~$20~~ $25.

Subp. 2. **Annual license or registration fees.** Each dentist, dental hygienist, and registered dental assistant shall submit with an annual license or registration renewal application a fee as established by the board not to exceed the following amounts:

A. dentist, ~~$70~~ $80;

B. dental hygienist, ~~$25~~ $30; and

C. registered dental assistant, ~~$17~~ $20.

Subp. 3. **Licensure by credentials.** Each applicant for licensure as a dentist or dental hygienist by credentials pursuant to Minnesota Statutes, section 150A.06, subdivision 4 and part 3100.1400 shall submit with ~~his or her~~ the license application a fee in the following amounts:

A. dentist, ~~$275~~ $425; and

B. dental hygienist, ~~$80~~ $100.

Subp. 4. [Unchanged.]

Subp. 5. **Duplicate license or registration fee.** Each licensee or registrant shall submit with a request for issuance of a duplicate of ~~his or her~~ the original license or registration or of an annual renewal ~~thereof~~ of it a fee in the following amounts:

A. original dentist or dental hygiene license, ~~$8~~ $10; and

B. initial and renewal registration certificates and license renewal certificates, ~~$6~~ $8.

Subp. 6. **Reinstatement fee.** No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked shall have ~~his or her~~ the license or registration reinstated or a new license or registration issued until ~~he or she has submitted to the board~~ a fee has been submitted to the board in the following amount:

A. dentist, ~~$75~~ $100;

B. dental hygienist, ~~$30~~ $45; and

C. registered dental assistant, ~~$20~~ $25.

Subp. 7. to 9. [Unchanged.]

Subp. 9a. **Verification of licensure.** Each institution or corporation shall submit with a request for verification of a licensure or registration a fee in the amount of $5 for each license or registration to be verified.

Subp. 10. [Unchanged.]

**3100.3300 EXAMINATION OF DENTISTS.**

Subpart 1. to 4. [Unchanged.]

Subp. 4a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by *Minnesota Statutes*, section 150A.06, subdivision 1, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 5. [Unchanged.]

**3100.3400 EXAMINATION OF DENTAL HYGIENISTS.**

Subpart 1. to 3. [Unchanged.]

Subp. 3a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by *Minnesota Statutes*, section 150A.06, subdivision 2, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 4. [Unchanged.]

**3100.3500 EXAMINATION OF REGISTERED DENTAL ASSISTANTS.**

Subpart 1. and 2. [Unchanged.]

Subp. 2a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by *Minnesota Statutes*, section 150A.06, subdivision 2a, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 3. **Additional examination ~~contract~~ content.** All candidates shall be examined for general knowledge of the act and the rules of the board.

Subp. 4. [Unchanged.]

**3100.4100 CONTINUING DENTAL EDUCATION.**

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Exemptions.** A licensee or registrant who pays an annual license or registration renewal fee ~~and meets any of the following conditions~~ is exempt from complying with the CDE requirements if he or she files with the board an affidavit specifying ~~the condition which he or she falls:~~

~~A. resides permanently outside the state and does not practice within the state; or~~

~~B. is retired from practice and does not perform any dental services on a volunteer or free basis; or~~

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

~~C.~~ ~~is permanently disabled and unable to practice dentistry.~~ that the licensee or registrant does not practice, including on a volunteer or free basis, within the state.

Subp. 5. [Unchanged.]

**3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.**

"Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant or conduct contrary to the best interests of the public," as used in *Minnesota Statutes*, section 150A.08, subdivision 1, clause (6), shall include the act of a dentist, dental hygienist, registered dental assistant, or applicant in:

A. to I. [Unchanged.]

J. failing to cooperate with the board, its agents, or those working on behalf of the board as required by part ~~3100.6300~~ 3100.6350; ~~and~~

K. failing to maintain adequate safety and sanitary conditions for a dental office as specified in part 3100.6300; and

L. failing to provide access to and transfer of medical and dental records as prescribed by *Minnesota Statutes*, section 144.335.

**3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.**

Subpart 1. **Specialty areas.** The following special areas of dentistry are recognized as suitable for the announcement of specialty dental practices:

A. endodontics (endodontist);

B. oral and maxillofacial surgery (oral surgeon/oral ~~and~~ maxillofacial surgeon);

C. ~~maxillofacial surgeon);~~

~~D.~~ oral pathology (oral pathologist);

~~E.~~ D. orthodontics (orthodontist);

~~F.~~ E. ~~pedodontics~~ pediatric dentistry (~~pedodontist~~ pediatric dentist);

~~G.~~ F. periodontics (periodontist);

~~H.~~ G. prosthodontics (prosthodontist); and

~~I.~~ H. public health.

Subp. 2. and 3. [Unchanged.]

**3100.8700 DENTAL HYGIENISTS.**

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

A. all services permitted under parts 3100.8400 to ~~3100.8600~~ 3100.8500, subpart 1;

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

C. to E. [Unchanged.]

Subp. 2. and 3. [Unchanged.]

# State Board of Vocational Technical Education

## Proposed Permanent Rules Relating to Part-time Licenses, Financial Aid Administrator, and Certain New Venture Programs

### Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Vocational Technical Education intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, Section 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 136C.04, Subdivision 9.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Application and Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The Board of Dentistry (hereinafter "Board") initiated the above-captioned rulemaking proceeding to adopt rules without a public hearing pursuant to Minn. Stat. §§ 14.22 to 14.28 as well as all other provisions of Minn. Stat. ch. 14 applicable to this rulemaking proceeding. On September 23, 1989, the Board met and after fully and thoroughly reviewing and considering the record in this matter adopted a resolution approving and adopting the above-captioned rules and directing that these findings of fact, conclusions, and order adopting rules be executed and that all other acts necessary to result in the rules having the force and effect of law be done. Accordingly, and based upon the record, the Board makes the following **FINDINGS:**

1. The Board's Notice of Intent to Adopt the above-entitled rules without a public hearing was published in the State Register on August 7, 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. 1a and 14.22 on August 3, 1989.

2. The Statement of Need and Reasonableness was prepared before the Notice of Intent to Adopt Rules Without a Public Hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

3. Before the Notice was submitted to the State Register, copies of the Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules were sent to the chairs of the house appropriations committee and senate finance committee.

4. All persons were given the opportunity to submit comment on the rules for more than 30 days after notice of proposed rulemaking.

5. The Board did not receive any requests for a public hearing on the rules.

6. One person requested a copy of the rules. One person submitted a question on behalf of the Minnesota Dental Hygienists Association. The question related to an interpretation of the amendment to Minn. Rules pt. 3100.8700, subp. 1. This amendment provides that dental hygienists may perform all services permitted under parts 3100.8400 "to" 3100.8500, subp. 1. The Association asked whether the rule should not instead read parts 3100.8400 "through" 3100.8500, subp. 2.

The Board's intent is to include in the permissible duties for dental hygienists those duties listed in part 3100.8500, subpart 1. That intent is met through the rules as proposed and as here adopted. The interpretation of rules is governed by Minn. Stat. ch. 645. See Minn. Stat. § 645.001. Minn. Stat. § 645.48 provides that whenever reference is made to several sections and the section numbers given in the reference are connected by the word "to," the reference includes both the sections whose numbers are given and all intervening sections.

Accordingly, the rule is properly drafted to include as permissible duties for dental hygienists the duties specified in Minn. Rules pt. 3100.8500, subp. 1.

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

8. The Board incorporates herein as findings, the statement of need and reasonableness.

Based upon the above findings, the Board with respect to the above-captioned rules makes the following as its **CONCLUSIONS:**

1. That all substantive and procedural requirements have been complied with;

2. That the rules are statutorily authorized; and

3. That the rules are both needed and reasonable.

NOW, THEREFORE, IT IS HEREBY ORDERED that the rules identified as In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Application and

Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes are adopted this 9th day of October, 1989, pursuant to authority vested in the Board by Minn. Stat. §§ 150A.04, subd. 5; 150A.06, subds. 1, 2, 2a, and 4; 150A.08, subds. 1(6) and 3; 150A.10, subd. 1; 150A.11, subd. 2; and 214.06 (1988).

DOUGLAS R. SELL
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Application and Examination Requirements, Grounds for Disciplinary Action, Fees, Specialty Practice Titles, Dental Hygienist Duties, and Editorial Changes

DECLARATION OF COUNSEL

I, Richard A. Wexler, Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed without exception. For Attorney General billing purposes, the four-digit docket client code is 0479.

Dated: Oct 12, 1989

RICHARD A. WEXLER
Assistant Attorney General

# Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 109
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

July 25, 1989

The Honorable Glenn H. Anderson
Chair, House Appropriations Committee
365 State Office Building
St. Paul, Minnesota 55155

RE: Proposed Rule Changes

Dear Representative Anderson;

Attached are several documents concerning proposed rule changes that relate to fees charged by the Board of Dentistry for various licenses and services provided by the Board. The Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules are provided to you pursuant to Minnesota Statutes, Chapter 16A.128, Subd. 2a.

Should you have any questions concerning these rules, please do not hesitate to contact this office.

Sincerely yours,

Douglas R. Sell
Executive Director

# Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 109
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

July 25, 1989

The Honorable Gene Merriam
Chair, Senate Finance Committee
122 Capitol
St. Paul, Minnesota 55155

**RE: Proposed Rule Changes**

Dear Senator Merriam;

Attached are several documents concerning proposed rule changes that relate to fees charged by the Board of Dentistry for various licenses and services provided by the Board. The Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules are provided to you pursuant to Minnesota Statutes, Chapter 16A.128, Subd. 2a.

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