

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: October 11, 1990

TO: PHILLIP C. NEWBERG
Executive Director
Nursing Home Admin. Board

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Examination Scores

The above-referenced rule has been approved as to its legality by the Attorney General on October 8, 1990.

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.

MC:sc

cc: William Brown, Chief Judge
MaryAnn Hruby
Maria Christu

Nursing Home Administration Licensure Board

Adopted Permanent Rules Relating to Examination Scores

Rules as Adopted

6400.0600 LICENSE REQUIREMENTS.

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

[For text of items A to E, see M.R.]

F. Has achieved a passing score of at least 75 percent on the state examination and has achieved, on the national examination, a passing score set by the board at a pass/fail level established in a manner that is generally accepted in the psychometric community as fair and reasonable. The passing score, on the national examination, shall be determined by the Modified Angoff Scale Score method.

[For text of items G and H, see M.R.]

APPROVED AS TO FORM AND LEGALITY

October 8 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

OCT 9 - 1990 3:15

Joan Anderson Growe

Secretary of State

MJC

RULE REVIEW CHECKLIST

File No. 1743 — Docket No. 05 0009 0482
DATE RECEIVED Sept 25, 1990 — ADOPTED W/O HEARING ____
REVIEW DATE 10-5-90 — EMERGENCY RULE ____
DUE DATE 10-9-90 — TO REVISOR ON —
(DIS)APPROVED 10-8-90 mjc — REVISOR (DIS)APPROVED 10/1/90
WITHDRAWN ____ — FILED W/SEC. OF STATE ____
RETURNED TO AGENCY ____

✓ Rule as adopted (4 copies)

____ Notice to Solicit Outside Information/Opinion (if applicable)
____ Date published in State Register
____ Comments

____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
June 30, 1989 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
144A.24 Statutory Authority no stat author to adopt rules
NA Small Business Statement
____ Expenditure of public money statement
April 20, 1990 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
May 4, 1990 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
____ Copy of rule or summary attached

✓ Publication in State Register
May 7, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
June 29, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Sept 21, 1990 Date

____ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Maria Christu Name of SAAG representing agency

____ Notice of Submission to Attorney General (if applicable)

____ Affidavit of Mailing Notice to Attorney General (if applicable)

renewed only in accordance with the standards adopted by the board of examiners pursuant to section 144A.24.

Subd. 3. [Repealed, 1977 c 444 s 21]

Subd. 4. [Repealed, 1977 c 444 s 21]

History: *1976 c 173 s 21; 1977 c 444 s 11*

144A.22 ORGANIZATION OF BOARD.

The board of examiners shall elect from its membership a chair, vice-chair and secretary-treasurer, and shall adopt rules to govern its proceedings. Except as otherwise provided by law the board of examiners shall employ and fix the compensation and duties of an executive director and other necessary personnel to assist it in the performance of its duties. The executive director shall not be a member of the board of examiners.

History: *1976 c 173 s 22; 1985 c 247 s 25; 1986 c 444*

144A.23 JURISDICTION OF BOARD.

Except as provided in section 144A.04, subdivision 5, the board of examiners shall have exclusive authority to determine the qualifications, skill and fitness required of any person to serve as an administrator of a nursing home. The holder of a license shall be deemed fully qualified to serve as the administrator of a nursing home.

History: *1976 c 173 s 23*

144A.24 DUTIES OF THE BOARD.

The board of examiners shall:

(a) Develop and enforce standards for nursing home administrator licensing, which standards shall be designed to assure that nursing home administrators will be individuals of good character who, by training or experience, are suitably qualified to serve as nursing home administrators;

(b) Develop appropriate techniques, including examinations and investigations, for determining whether applicants and licensees meet the board's standards;

(c) Issue licenses to those individuals who are found to meet the board's standards;

(d) Establish and implement procedures designed to assure that individuals licensed as nursing home administrators will comply with the board's standards;

(e) Receive, investigate, and take appropriate action consistent with chapter 214, to revoke or suspend the license of a nursing home administrator who fails to comply with sections 144A.18 to 144A.27 or the board's standards;

(f) Conduct a continuing study and investigation of nursing homes, and the administrators of nursing homes within the state, with a view to the improvement of the standards imposed for the licensing of administrators and improvement of the procedures and methods used for enforcement of the board's standards; and

(g) Approve or conduct courses of instruction or training designed to prepare individuals for licensing in accordance with the board's standards. Courses designed to meet license renewal requirements shall be designed solely to improve professional skills and shall not include classroom attendance requirements exceeding 50 hours per year. The board may approve courses conducted within or without this state.

History: *1976 c 173 s 24; 1980 c 509 s 45*

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL - Health

STATE OF MINNESOTA

Office Memorandum

DATE : September 24, 1990

TO : PATRICIA NOLTE
Legal Assistant

FROM : MARIA C. CHRISTU MCC
Special Assistant
Attorney General

PHONE : 296-9695

SUBJECT : In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Examiners for Nursing Home Administrators Relating to Establishing a Passing Point on the National Examination

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 rule:

1. Certificate of Board's Authorizing Resolution;
2. Rules as proposed with a certificate of approval as to form by the Revisor of Statutes attached;
3. Notice of Intent to Adopt Rules Without a Public Hearing (as mailed);
4. Statement of Need and Reasonableness;
5. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing;
6. Notice of Intent to Adopt Rules Without a Public Hearing (as published);
7. Rules as adopted (original and three copies);
8. Certificate of Board's Resolution Adopting Rules;
9. Findings of Fact, Conclusions, and Order Adopting Rules Without a Public Hearing;
10. Declaration of Counsel.

MCC:dc

Enclosures

Stat Authority 144A. 24
no statutory authority to promugate
rules (I have attached the
statute says they
auth to
adopt stds - stds must be by rule
~~I think they sho~~
Statement of Need and Reasonableness
A description of the N.A.B study
and the modified - Angoff method
indicates it is attached - it isn't
(page 7 of the SOLAR

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the Proposed
Adoption of Rules Relating
to Establishing a Passing
Point on the National Examination

STATEMENT OF NEED FOR
AND FACTS ESTABLISHING
REASONABLENESS OF
PROPOSED AMENDMENTS

A. INTRODUCTION

The Minnesota Board of Examiners for Nursing Home Administrators is proposing an amendment to its existing rules to modify the passing score required on the national portion of the licensing examination. The existing rule is Minn. Rules pt. 6400.0600(F) (1989).

The proposed amendment is intended to create a more equitable passing score for the national examination, and to bring the rules in compliance with proposed federal standards. The Board presents this Statement of Need for and Facts Establishing Reasonableness of Proposed Amendments in support of the proposed rule change.

B. STATUTORY AUTHORITY

The Board's statutory authority to adopt and amend rules relating to licensing examinations is set forth in Minn. Stat. § 144A.24 (1988). This provision authorizes the Board to develop and enforce standards, including examination techniques, for nursing home administrator licensing.

C. ADDITIONAL REQUIREMENTS

1. Small Business Considerations.

Minn. Stat. § 14.115 requires administrative agencies, when proposing a rule or an amendment to an existing rule, to consider various methods for reducing the impact of the proposed rule or amendment on small businesses and to provide an opportunity for small businesses to participate in the rulemaking process.

It is the position of the Board that this provision 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 nursing home administrators not to the businesses they operate. Furthermore, although the Board does not compile statistics on the issue, the majority of nursing home administrators are simply employees of the facilities at which they work, much like nurses or nursing assistants. In these cases, it is clear that a nursing home administrator should not be considered a small business.

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 nursing homes." Nursing homes are regulated by government bodies for standards and costs. The vast majority of nursing home costs are subject to Medicaid and Medicare funding. With

respect to standards, the Department of Health actively regulates nursing homes and issues violation orders and fines in cases where standards are not met. The Board believes that nursing homes very clearly fall under the specific exception provided in subdivision 7.c.

In the event that these proposed rules would in some way be construed as being subject to Minn. Stat. § 14.115, the Board considered the five methods listed in section 14.115, subd. 2, for reducing the impact of the rules on small businesses. The Board believes that these methods would not be appropriate for the following reasons:

1. The methods appear to contemplate a business which is already in operation. The proposed rule change deals with applicants for nursing home administrator licensure. In the vast majority of cases, these are persons who have completed the educational requirements for a nursing home administrator license but have not in the past and are not presently employed as a nursing home administrator. Thus, it is difficult to see how any of the proposed methods would be applicable to an applicant who is not in fact yet operating in the industry.

2. Reducing the impact of the proposed amendment on small businesses would undermine the objective of the Minnesota licensing law for nursing home administrators. Pursuant to Minn. Stat. § 144A.18 et seq., the Board is authorized to establish standards and regulate practices or behavior of all licensees. The Board believes it would be unwise and contrary

to its statutory mandate to adopt one set of standards for those administrators who work in a large business setting and adopt another, less stringent set of standards for those administrators who practice in a small facility. Since the Board regulates all licensed administrators the Board feels that its rules must apply equally to all administrators if the public whom it serves is to be adequately protected.

D. BACKGROUND

At the time the existing rule was adopted, no standards or governmental regulations existed describing or establishing parameters for setting the passing point on any required licensing examinations. The passing point for all examinations was established at 75 percent, which, in the considered judgment of the Board, was fair and reasonable.

More recently, the Board has become aware of a need to change its national examination passing score. The Board is a member in the National Association of Boards of Examiners for Nursing Home Administrators (N.A.B.), the entity responsible for administering the national nursing home administrator licensing examination. Through its membership in N.A.B., the Board has learned of proposed changes by the Department of Health and Human Services in Washington. The changes involve a new federal regulation which would require setting the passing score on national licensing examinations at a pass/fail level established in a manner that is generally accepted in the psychometric community as fair and reasonable. The proposed federal requirement is as follows:

Sec. 1919(f)(4) SECRETARIAL STANDARDS QUALIFICATION OF ADMINISTRATORS. For purpose of subsections (d)(1)(c) and (e)(4), the Secretary shall develop standards to be applied in assuring the qualifications of administrators of nursing facilities. These standards shall address:

i) educational requirements for initial state licensure;

ii) administrator-in-training or other pre-licensure experience;

iii) continuing competency requirements for re-licensure;

iv) completion of a national competency examination with a minimum passing score set at a pass/fail level established in a manner that is generally accepted in the psychometric community as fair and reasonable, and . . .

v) standards of conduct and behavior.

In response to section iv of the proposed regulation, N.A.B. authorized a study to determine a passing point for the N.A.B. licensing examination. The purpose of the study was to investigate the feasibility of using a criterion-referenced cut score as a recommended standard for the N.A.B. program. The study used a method known as the modified-Angoff technique. At the conclusion of the study it was recommended that N.A.B. adopt a particular passing score as its new recommended passing score to be implemented in 1990. In addition, it was recommended that N.A.B. adopt a scale score distribution so that a uniform scale score can be applied to future examinations, thus ensuring a constant passing point from administration to administration despite shifts in raw scores.

On June 16, 1989, N.A.B. recommended that beginning January 1, 1990, all state nursing home administrator licensing

boards adopt as their passing score the score derived from the N.A.B. passing point study.

E. STATEMENT OF NEED

The proposed amendment creates a new passing score for the national licensing examination. This change is necessary to bring the Minnesota Board rule regarding the passing score on the national examination into compliance with the proposed federal standard and the N.A.B. recommendations.

The proposed amendment is also necessary to provide a more equitable examination for Minnesota applicants. The present scoring method does not utilize any generally accepted psychometric method for setting the passing point, but merely sets the passing point at 75 percent correct answers. This method does not take into account the varying difficulty levels of the examination. By implementing the new score the Board can ensure that the passing point will remain constant from test administration to test administration despite shifts in the difficulty level of examinations. The proposed method, then, is more effective and more equitable than the present method because it works to prevent prejudice to candidates who are administered a more difficult examination.

F. STATEMENT OF REASONABLENESS

The proposed rule amendment is reasonable in that it is based on well recognized psychometric methods and supported by a professional study conducted by experts in the testing field. The study authorized by N.A.B. was conducted by Professional Examination Services of New York (PES), a

professional testing organization. The pass point study was conducted in two phases. Phase I involved convening an expert panel to set a passing score for a particular examination form. The panel was composed of three educators, three entry level nursing home administrators, three experienced nursing home administrators, and three state licensing board representatives to serve as judges for the standard setting session. A PES psychometrician led the group through a modified-Angoff passing point procedure. This procedure is a well known and often utilized method in the psychometric community for establishing a pass/fail position on an examination.

During Phase II of the study, PES computed a passing scale score based on the panel's judgments, and applied the cut score to the distribution of scores for candidates who sat for the national examination between November 1988 and May 1989. The result of the study was the recommended passing scale score adopted by N.A.B. and recommended for all state nursing home administrator licensing boards. A description of the N.A.B. study and the modified-Angoff method is attached hereto and incorporated herein.

The proposed amendment is also reasonable because it helps to establish a uniform scale score passing point to be applied to the scores from each national test administration. This use of scale scores for score reporting purposes will ensure that the passing point will remain constant from administration to administration despite shifts in raw scores.

Finally, the proposed amendment is reasonable in that it does not substantially change the present passing point required by the Minnesota Board for the national examination. The present passing point is 75 percent. The Board estimates that the proposed amendment will lower the passing point by approximately one percent. Thus, any applicants who have relied on a fixed 75 percent passing score will not be prejudiced by the change.

Interim Report on NAB Passing Point Study

Description of Study

In the fall of 1988, the NAB Executive Committee authorized PES to conduct a passing point study for the NAB licensing examination. The purpose of the study was to investigate the feasibility of using a criterion-referenced cut score as a national standard for the NAB program.

PES executed the passing point study in two phases. Phase I involved the convening of an expert panel to set a passing score for a current form of the NAB licensing test. During Phase II, PES computed a passing score based on the panel's judgments, and applied the cut score to the distribution of scores for candidates who sat for the test between November 1988 and May 1989.

Phase I of the study was completed prior to the November 1988 Board of Governors meeting in Mesa, Arizona. Based on specifications supplied by PES, NAB assembled an expert panel composed of 3 educators, 3 entry-level nursing home administrators, 3 experienced nursing home administrators, and 3 state licensing board representatives to serve as judges for the standard setting session. At the workshop, a PES psychometrician led the group through a modified-Angoff passing point procedure. An overview of the modified-Angoff technique, as developed by PES and applied by the NAB panel, is presented below.

- Panelists responded to the questions on the target test to gain familiarity with the content of the NAB examination.
- Panelists were then presented with an overview of various passing point approaches, and the modified-Angoff method was introduced.
- The judges then considered the results from recent NAB test administrations and they identified the proportion of candidates at various points on the score distribution.
- Panelists were then asked to discuss their notions of barely qualified for licensure purposes, and they related these notions to the NAB test blueprint to establish a link between the conception of minimal competence and the content of the NAB test.
- Judges then reviewed the modified-Angoff question, "*What percent of those NAB candidates who are just barely qualified for licensure will answer this item correctly?* Panelists applied this question to 10 sample items as a practice exercise, and judges with extreme ratings were asked to justify their ratings.
- The participants then rated each item on test form 6442401.

Preliminary Results

A passing point for 6442401 was derived by summing the ratings for each judge, and then computing an average among judges. This process yielded a raw passing score of 106.05. Since this score must be exceeded in order to pass the test, the raw passing score would be rounded up to 107 (71.33% correct) for scoring purposes.

The reliability of judges' ratings was assessed using a procedure recommended by Thorndike (1982). The reliability of judges' passing score ratings was found to be .92. This level of precision is quite acceptable, and it indicates that over 90% of the variance of judges' ratings was due to individual differences among judges and less than 10% of the variance was due to error.

To examine the feasibility of using the Angoff-derived passing score for pass/fail decisions, the standard was applied to a distribution of scores from 1066 candidates who completed 6442401. Based on these scores, the Angoff passing score of 107 would result in a passing rate of 80.4% and a failure rate of 19.6%. When applied to the same score distribution, the current NAB passing score of 113 (75.33% correct) would result in a passing rate of 64.8% and a failure rate of 35.2%.

Summary

An expert panel used a modified-Angoff passing score procedure to establish a criterion-referenced passing score for NAB test form 6442401. If adopted by NAB, the panel's passing score of 107 (71.33% correct) would result in a higher passing rate than the current NAB standard of 113 (75.33% correct). Preliminary data indicate that the reliability of the Angoff-derived passing score exceeded recommended professional standards.

If approved by NAB, PES recommends that the Angoff passing score be implemented in 1990 in conjunction with the shift to common testing dates. The coordination of these activities would allow PES to collect a large enough candidate sample to facilitate passing score equating operations. PES anticipates that subsequent forms of the NAB test will be equated back to the base form, 6442401, to derive comparable passing scores. Since the use of equating procedures may result in slight variations among passing scores for specific test forms, PES advises NAB to consider the adoption of a scaling method to yield common passing scores among NAB test forms. For example, NAB may wish to use a scale that ranges from 25 to 99 with a passing point of 75. For this type of a scale, the raw score passing point on any form of the NAB test would be equal to a scale score of 75.

CERTIFICATE OF THE

MINNESOTA BOARD OF

NURSING HOME ADMINISTRATORS

AUTHORIZING RESOLUTION

I, Omar Schmidt, do hereby certify that I am a member and the vice-president of the Minnesota Board of Nursing Home Administrators (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 30th day of June, 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 Phillip C. Newberg, Executive Director of the Board, is hereby granted the authority and directed to sign and to give the Notice of the Intent to Adopt Rules Without a Public Hearing governing the adoption of the Modified Angoff Scale Score passing point for the national examination to all persons who have registered their names with the Board for that purpose, to publish the notice and rules in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of November, 1989.

Omar Schmidt

OMAR SCHMIDT
Vice-President

Marshall Silberstein

Attest by one other Board Member

RECEIVED
DEC 7 1989
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of Rules
Relating to Establishing a
Passing Point on the National
Examination

NOTICE OF INTENT TO
ADOPT RULES WITHOUT
A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Board of Examiners for Nursing Home Administrators (hereinafter "Board"), 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 Minn. Stat. §§ 14.22 to 14.28 (1988). The statutory authority to adopt the rules is Minn. Stat. § 144A.24 (1988).

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period.(4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held

unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule 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:

Mr. Phillip C. Newberg
Executive Director
Suite 104
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0595

The rule relates to establishing a pass/fail scoring method which will provide for more equitable scoring on the national licensing examination. A copy of the proposed rule is attached to this notice.

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

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person

may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rule must submit the written request to Phillip C. Newberg.

Date: April 20, 1990

Phillip C Newberg

PHILLIP C. NEWBERG
Executive Director

Nursing Home Administration Licensure Board

Proposed Permanent Rules Relating to Examination Scores

Rules as Proposed

6400.0600 LICENSE REQUIREMENTS.

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

[For text of items A to E, see M.R.]

F. ~~Has achieved a passing score of at least 75 percent, on all required examinations.~~ Has achieved a passing score of at least 75 percent on the state examination and has achieved, on the national examination, a passing score set by the board at a pass/fail level established in a manner that is generally accepted in the psychometric community as fair and reasonable. The passing score, on the national examination, shall be determined by the Modified Angoff Scale Score method.

[For text of items G and H, see M.R.]

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of Rules
Relating to Establishing a
Passing Point on the National
Examination

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)

Phillip Newberg, being duly sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1(a) and 14.22 or 14.30, that their names be placed on the Board of Examiners for Nursing Home Administrators rulemaking mailing list is accurate, complete, and current as of this 8th day of May, 1990.

That on the 4th day of May, 1990, at the city of St. Paul, County of Ramsey, State of Minnesota, I mailed or hand delivered the attached Notice of Intent to Adopt Rules WIthout a Public Hearing by personally delivering to the office or depositing in the State of Minnesota Central Mail System for

United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Phillip Newberg

PHILLIP NEWBERG

Executive Director

Subscribed and sworn to before me this 8th day of May, 1990.

Betty L. Messerney

NOTARY PUBLIC

BETTY L. MESSERNEY
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES AUGUST 23, 1995

Nursing Home Administration Licensure Board

Proposed Permanent Rules Relating to Examination Scores

Rules as Proposed

6400.0600 LICENSE REQUIREMENTS.

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

[For text of items A to E, see M.R.]

F. ~~Has achieved a passing score of at least 75 percent, on all required examinations.~~ Has achieved a passing score of at least 75 percent on the state examination and has achieved, on the national examination, a passing score set by the board at a pass/fail level established in a manner that is generally accepted in the psychometric community as fair and reasonable. The passing score, on the national examination, shall be determined by the Modified Angoff Scale Score method.

[For text of items G and H, see M.R.]

Approved by Revisor KTH

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Examination Scores

AGENCY: Nursing Home Administration Licensure Board

MINNESOTA RULES: Chapter 6400

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor

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

Comments or written requests for a public hearing must be submitted to: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

The rule may be modified if the modifications are supported by data and views submitted to the agency.

The Rule parts 9520.0300 to 9520.0320, proposed to be repealed, provided methods and procedures for county welfare boards to follow in their assistance to patients released from state hospitals for the mentally ill.

The rule also described the procedures of the release plan for patients with and without relatives. These procedures include: construction of sound release plans by the patient's hospital; financial assistance to discharged patients; collaboration between hospitals and county welfare boards to assist patients in finding suitable employment and shelter; and maintenance of records by county welfare boards.

This rule has no affect on counties or patients since it is obsolete.

Current provisions and duties related to county responsibilities for services to persons being discharged from regional treatment centers are included in *Minnesota Rules*, parts 9550.0010 to 9550.0092 (Rule 160), *Minnesota Rules*, parts 9525.0015 to 9525.0165 (Rule 185), the Comprehensive Adult Mental Health Act, *Minnesota Statutes*, sections 245.461 to 245.486, and the Comprehensive Children's Mental Health Act, *Minnesota Statutes*, sections 245.487 to 245.4887.

A free copy of the rule to be repealed is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling 296-7454. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A STATEMENT OF NEED AND REASONABLENESS that describes the need and reasonableness of repeal of the rule and identifies the data and information relied upon to support the proposed rule repeal has been prepared and is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

Repeal of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following repeal under the requirements of *Minnesota Statutes*, section 14.11.

If no hearing is required, upon adoption of the repeal of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the repealed rule, must submit the written request to Sylvia L. Strobel, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Ann Wynia
Commissioner

Rules as Proposed (all new material)

REPEALER. *Minnesota Rules*, parts 9520.0300, 9520.0310, and 9520.0320 are repealed.

Nursing Home Administration Licensure Board

Proposed Permanent Rules Relating to Examination Scores

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Examiners for Nursing Home Administrators (hereinafter "Board"), intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The statutory authority to adopt the rules is *Minnesota Statutes* § 144A.24 (1988).

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.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule 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:

Mr. Phillip C. Newberg
Executive Director
Suite 104
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0595

The rule relates to establishing a pass/fail scoring method which will provide for more equitable scoring on the national licensing examination. A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Phillip C. Newberg upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rule must submit the written request to Phillip C. Newberg.

Dated: 20 April 1990

Phillip C. Newberg
Executive Director

Rules as Proposed

6400.0600 LICENSE REQUIREMENTS.

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

[For text of items A to E, see M.R.]

F. ~~Has achieved a passing score of at least 75 percent. on all required examinations.~~ Has achieved a passing score of at least 75 percent on the state examination and has achieved, on the national examination, a passing score set by the board at a pass/fail level established in a manner that is generally accepted in the psychometric community as fair and reasonable. The passing score, on the national examination, shall be determined by the Modified Angoff Scale Score method.

[For text of items G and H, see M.R.]

CERTIFICATE OF THE

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

RESOLUTION ADOPTING RULES

I, Michael M. Gibson, do hereby certify that I am a member and the chair of the Minnesota Board of Examiners for Nursing Home Administrators (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 29th day of June, 1990, 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 the adoption of the Modified Angoff Scale Score Passing Point for the National Examination are approved and adopted pursuant to authority vested in the Board by Minn. Stat. § 144A.24 (1988). Phillip C. Newberg, Executive Director of the Board, is authorized to sign the findings of fact, conclusions and order adopting the rules and further is authorized to modify the rules if necessary to obtain the approval of the rules by the Attorney General and to perform the necessary acts to provide that the rules shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this day of June 29, 1990.

Michael M. Gibson
Chair

Attest by one other Board member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of Rules
Relating to Establishing
a Passing Point on the
National Examination

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

(1) Notice of the Board of Examiners for Nursing Home Administrators (hereinafter "Board" intent to adopt the above-entitled rules was published in the State Register on May 7, 1990, and was sent by United States mail to all persons on the list maintained by the Board pursuant to Minn. Stat. §§ 14.14, subd. 1(a) and 14.22 on May 4, 1990. (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.

(4) All persons were given the opportunity to submit comment on the rules for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing on the rules were received by the Board. (7) No submissions or comments on the rules were received by the Board. No requests for notice of submission to the Attorney General were received by the Board.

Based on the comments and evidence in the record before the Board, including the statement of need and reasonableness which is incorporated herein as the Board's findings, the Board concludes that the above-captioned rules are both needed and (9) reasonable.

NOW, THEREFORE, IT IS HEREBY ORDERED that the rules relating to the Adoption of the Modified Angoff Scale Passing Point for the National Examination are adopted this 21st day of September, 1990, pursuant to authority vested in the Board by Minn. Stat. § 144A.24 (1988).

(10)

Phillip C. Newberg

PHILLIP C. NEWBERG
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the
Proposed Adoption of Rules
Relating to Establishing a
Passing Point on the National
Examination

DECLARATION OF COUNSEL

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

Dated: September 21, 1990.

MARIA C. CHRISTU
Special Assistant
Attorney General