

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: April 16, 1991

TO: LOIS MIZUNO
Board of Psychology

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Special Fee for Legal Expenses

The above-referenced rule has been approved as to its legality by the Attorney General on April 11, 1991.

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 the 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:sc

cc: Tom McSteen
William Brown, Chief Judge
MaryAnn Hruby

MJC 4/2

RULE REVIEW CHECKLIST

File No. 1818
DATE RECEIVED 4-1-91
REVIEW DATE 4-10-91
DUE DATE ~~4-15-91~~
(DIS)APPROVED 4.11-91 mjc
WITHDRAWN

Docket No. 05.0009.0486
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 4-3-91
REVISOR (DIS)APPROVED 4-4-91
FILED W/SEC. OF STATE 4-15-91
RETURNED TO AGENCY 4-16-91

✓ 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
December 7, 1990 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
148.90 subd 2(4) subd 3 Statutory Authority 214.06
Statement Small Business Statement
Expenditure of public money statement
December 28, 1990 Signature

✓ Statement of Need and Reasonableness (if applicable)
Statement Small Business Statement
✓ Fees - § 16A.128 approval from Finance dated 12-28-90

✓ Affidavit of Mailing Notice of Intent to Adopt Rule sent letters to House approp and Senate Finance
January 11, 1991 Dated 30/25 days before adoption
Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
January 14, 1991 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
March 15, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
March 15, 1991 Date

~ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Tom McSteen Name of SAAG representing agency

Board of Psychology

Adopted Permanent Rules Relating to Special Fee for Legal Expenses

Rules as Adopted

7200.6150 SPECIAL FEE.

Each licensee licensed before the effective date of this rule shall be assessed a one-time fee in the amount of $40 to be remitted to the board on or before June 25, 1991, for the purpose of covering the board's legal expenses. The board shall withhold the new license or renewal certificate of any licensee who fails to remit the fee by June 25, 1991, until the fee and a late fee of $10 is paid.

APPROVED AS TO FORM AND LEGALITY

April 11 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassidy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 15 1991

Joan Anderson Growe
Secretary of State

4:12 P.M.

M

Mary
Those are the rules we talked to Tom Mosteen about - the rules that were a one shot deal that they would not have had to do rules again.

Notice of Intent rule indicates ~~rule~~ comment period expires on Feb 13, 1991

Stat Authority
148.90 subd 2(4)

The members of the board shall:
(4) Designate the officers of the board, and pursuant to chapter 14, ~~or~~ prescribe rules as may be necessary to enable it to carry into effect the provisions of Laws 1973, chapter 685

subd 3 Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements ...

214.06

Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to 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, as provided in section 16A.128.

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : March 27, 1991

TO : PATRICIA NOLTE
Legal Assistant

FROM : THOMAS M. MCSTEEN TMM
Special Assistant
Attorney General

3-28-91 have didn't adopted rules resubmitted

PHONE : 297-5944

SUBJECT : **In the Matter of the Proposed Adoption of Rules of the Board of Psychology Relating to Board Fees**

Enclosed for your review, pursuant to Minn. Stat. § 14.26 (1990) and Minn. Rules pt. 2010.0300 (1989), are the following documents to support the above-referenced rule:

1. Certificate of Board's Authorizing Resolution dated December 7, 1990;

2. Rules as proposed with a certificate of approval as to form by the Revisor of Statutes dated December 14, 1990;

3. Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing dated December 28, 1990 (as mailed);

4. Statement of Need and Reasonableness dated December 21, 1990 (as submitted to LCRAR), with a Memorandum from Bruce J. Reddemann approving the rule attached;

5. Memorandum to the Legislative Commission to Review Administrative Rules, the House Appropriations Committee and the Senate Finance Committee dated December 27, 1990;

6. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing dated January 11, 1991;

7. Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing,

This rule I am talked to Mary and me about. They probably would not have had to do rules because the fees are a one time deal.

and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing (as published in the State Register on January 14, 1991);

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

9. Certificate of Board's Resolution Adopting Rules dated March 15, 1991;

10. Findings of Fact, Conclusions, and Order Adopting Rules Without a Public Hearing dated March 15, 1991; and

11. Declaration of Counsel dated March 26, 1991.

TMM:pjo
Enclosures
cc: Board office (w/enclosures)

CERTIFICATE OF THE
MINNESOTA BOARD OF PSCYHOLOGY'S
AUTHORIZING RESOLUTION

I, DAVID BARAGA, PhD, do hereby certify that I am a member and the chair of the Minnesota Board of Psychology (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 7th day of December, 1990, that a quorum was present, and that a majority of those present voted for the following resolution which has not been rescinded or modified:

> RESOLVED, that Lois E. Mizuno, Executive Director of the Board, is hereby granted the authority and directed to sign and to give Notice of the Board's Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing relating to board fees 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 the event a public hearing becomes necessary, Lois E. Mizuno is hereby granted the authority and directed to sign an Order for Hearing and to perform any and all acts incidental thereto, including, but not limited to, acting as the Board's representative at such hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7 day of December, 1990.

David R. Baraga
DAVID BARAGA, PhD
Chair

Ernie Grelb
Attest by one other Board Member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of the
Proposed Adoption of
Rules of the Minnesota
Board of Psychology
Relating to Fees Assessed
Against Licensees

STATEMENT OF NEED

AND REASONABLENESS

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MINNESOTA BOARD OF PSYCHOLOGY

December 14, 1990

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The Minnesota Board of Psychology is proposing an amendment to existing rules which adds a new part, part 7200.6150, establishing a one-time fee of $40 to be assessed against every licensee who holds a valid license issued prior to the effective date of the rule.

The purpose of the proposed rule is to generate sufficient revenue to cover unanticipated legal fees which are expected to be incurred in F.Y. 1991, as is required by Minn. Stat. S 214.06, subd. 1.

No internal references will be affected by the proposed change.

Small business considerations are addressed in the section following the Statement of the Board's Authority, which is in turn followed by the Statement of Need and Reasonableness.

STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to adopt and amend rules relating to licensure fees is set forth in Minn. Stat. SS 148.90, subd. 2(4) and subd. 3; 148.91, subd. 3; and 214.06, subds. 1 and 2 (1990). Section 148.90, subdivision 2(4) grants the Board the authority to prescribe rules as may be necessary to effectuate the provisions of the licensing law. Section 148.90, subdivision 3 requires that the setting of board fees shall be as provided in Chapter 214. Section 148.91, subdivision 3 authorizes the Board to set application and renewal fees. Section 214.06, subdivision 1 requires each regulatory board to promulgate rules providing for the adjustment of fees so that the total fees collected will as closely as possible equal anticipated expenditures during the fiscal biennium. Section 214.06, subdivision 2 requires each regulatory board to promulgate rules providing for the renewal of licenses. Under these statutes, the Board has the authority to amend its rules relating to fees.

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 opportunity for small businesses to participate in the rulemaking process. It is the Board's opinion that Minn. Stat. Section 14.115 does not apply to this proposed rule amendment.

However, in the event of disagreement with the Board's position, the Board has reviewed the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the rules on small businesses. 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.

As part of its review the Board considered the feasibility of implementing each of the five suggested methods, and considered whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rulemaking.

1. It would not be feasible to incorporate any of the five suggested methods into this proposed rule amendment.

Methods (a)-(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, this proposed amendment is viewed as compliance or reporting requirements for businesses, then the Board finds that it would be unworkable to lessen the requirements for those psychologists who practice in a solo or clinic setting of fewer than 50 employees, since that would include the vast majority of psychologists. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's amendment does 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 from any or all requirements of the rule. Under the Board's view that this proposed rule amendment does not in any way regulate the business operation of psychologists, there are no rule requirements from which to exempt small businesses. However, if this proposed amendment is viewed as regulating businesses insofar as they regulate psychologists, then it would hardly make sense for the Board to exempt from its rules those psychologists who practice in a solo or clinic setting with fewer than 50 employees, since they constitute the vast majority of psychologists. For all of these reasons, it is not feasible for the Board to incorporate into its proposed amendment any of the five methods specified in subdivision 2 of the small business statute.

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

Pursuant to the Minnesota licensing law for psychologists, Minn. Stat.

§§ 148.88 to 148.98, the Board was created for the purpose of establishing requirements for licensure and adopting a code of ethics governing appropriate practices or behavior for psychologists. Pursuant to Minn. Stat. § 148.90, subd. 2(4), the Board is specifically mandated to "prescribe rules as may be necessary to enable it to carry into effect" the Minnesota licensing law for psychologists. Given these statutory mandates, it is the Board's duty to establish rules relating to psychology practice which apply to and govern all applicants and licensees, regardless of the nature of their practice. As it has been stated above, it is the Board's position that the proposed amendment will not affect small businesses, and certainly does not have the potential for imposing a greater impact on psychologists in a solo or small practice than on psychologists practicing in a large business setting. 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 rule amendment may affect the business operation of a psychologist or group of psychologists, 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 and contrary to the purposes to be served by this rule for the Board to exempt one group of psychologists - indeed, the majority of psychologists - from the requirements of this rule. Similarly, the Board believes it would be unwise and contrary to its statutory mandate for the Board to adopt one set of licensure requirements for those psychologists who work in a large business setting and adopt another, less stringent, set of licensure requirements to be applied to those psychologists who practice in a solo or small clinic practice. It is the Board's view that this rule amendment must apply equally to all psychologists, if the public whom they serve is to be adequately protected.

STATEMENT OF NEED AND REASONABLENESS

Statement of Need

As a result of two extremely serious disciplinary matters which have not been amenable to resolution by negotiation, two contested cases must be initiated in F.Y. 1991. In addition, the director of the health board division of the Attorney General's office has indicated that the number of complaints handled by his office in calendar year 1990 is exceeding the number handled in calendar year 1989 by 25 percent. Indeed, the first quarter report for F.Y. 1991 indicates the Board has spent over $34,000 on services provided by the Attorney General's office. Projecting a constant rate for the whole of F.Y. 1991, the total (excluding services related the the two contested cases) would be approximately $136,000, or $34,000 over the amount allocated.

While it is not possible to predict exactly how much the contested case hearings will cost, recent cases of comparable complexity have cost in excess of $20,000, not including attorneys' fees. It is likely that attorneys' fees could approach $10,000 for each case.

The need for generating the revenue to cover the amount arises from the reqwuirement in Minn. Stat. S 214.06, subd. 1 that total fees collected in a biennium must equal expenditures.

The projected additional costs are summarized in Table I.

TABLE I

Expenditure Category	Anticipated Amount
Attorney General's Fees Budgeted $102,000 Anticipated $136,000	Net $34,000
Hearing Costs (2 hearings) Hearing, Expert Witnesses, AG's fees, etc.	60,000
Allowance for cost over-runs	6,000
TOTAL	100,000

It should be noted here that Attorney General's fees are not included in the appropriations made to regulatory boards. They are "extra budget", that is, not subject to expenditure limits, but still must be covered by revenue generated from fees. A regulatory board has little or no control over these expenses: they are largely governed by the number and seriousness of the complaints of unethical practice received by the Board.

Statement of Reasonableness

Given that Minn. Stat. S 214.06, subd. 1 requires fees to equal expenditures within a biennium, and given that revenue can only be raised by fees assessed against persons regulated by the board, the question is: what is a reasonable method of assessing fees?

The Board holds that it is reasonble to assess the needed fees against persons already licensed (and not against applicants) because the number of licensees is a known and stable quantity (necessary for an accurate prediction of revenue to be generated) and because almost all of the persons disciplined by the Board are licensees rather than applicants for licensure.

Table II indicates the fee amount necessary to generate $100,000 using two different methods of assessing fees against licensees.

Table II

Method	# Persons Paying in F.Y. 1991	Fee Amount
Raise Renewal Fee	maximum - 252*	$400
Assess All Licensees	2500 - 2600**	40

* May renewals - 67, June renewals - 185; if only June renewals are affected because of a later effective date, the fee would be $540.

** 2548 licensed as of 12/14/90; may increase/decrease as a result of new licenses, terminations.

The Board holds that a $400 fee is excessive and, therefore unreasonable. Increasing renewal fees is also unreasonable because the increase would continue beyond the biennium and generate far more revenue than needed to meet expenses in F.Y. 1992 and 1993. The Board further holds that an across-the-board assessment for all licensees is reasonable because all share equally in the burden of paying for expenses related to disciplinary matters and the burden for the individual is not excessive, given the total amount of revenue to be generated.

The Board could avoid raising additional revenue through fess only by allowing licensees to continue in practice

undisciplined despite evidence of their having egregiously violated the ethics of practice. Because to do so has the serious potential for harming clients, that option is not feasible. A regulatory board's reason for being is protection of the public from unethical and/or unprofessional practice. The Board would be derelict in its duty were it to opt for this solution to the problem.

The Board also holds that it is reasonable to impose a small monetary penalty ($10) and withholding of the license or renewal certificate for failure to pay by the deadline because of the necessity to ensure that the revenue is raised before the end of the biennium. The late fee is not excessive relative to the fee. The penalty of withholding renewal certificates is also reasonable because it is comparable to the penalty imposed on licensed persons by the Revenue Department for failure to pay taxes: licensing boards must withhold the right to practice until the taxes have been paid.

On the basis of the above, the Board holds that the fee per individual, the method of assessment, and the penalty for failure to pay on time are reasonable.

Lois E. Mizuno

Lois E. Mizuno
Executive Director

December 21, 1990

Date

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of the Proposed Adoption of Rules of the Board of Psychology Relating to Board Fees

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING, NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

I.

EXPLANATION OF ALTERNATIVE NOTICES.

The Minnesota Board of Psychology (hereinafter "Board") is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minn. Stat. §§ 14.22 to 14.28 (1990). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minn. Stat. § 14.25 (1990), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rules pursuant to Minn. Stat. §§ 14.131 to 14.20 (1990). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. Also, the hearing will be cancelled if a sufficient number of people withdraw their requests for a hearing in response to proposed revisions of the proposed rules by the Board. With the comment period closing on February 13, 1991, interested persons may call the Board on February 14, 1991 to ask whether the hearing which is scheduled for February 15, 1991 will be held.

II.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that the Minnesota Board of Psychology (hereinafter "Board") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 to 14.28 (1990).

(2) Interested persons shall have 30 days from the date this notice is published in the State Register to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 13, 1991. (3) Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. (8) The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. (6) Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Board be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. (4) A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by February 13, 1991. (7) If a hearing is required, it will be held in accordance with the provisions of Minn. Stat. §§ 14.131 to 14.20 (1990) and the hearing notice provided below.

(5) Comments or written requests for a public hearing should be submitted to:

Lois E. Mizuno, Executive Director
Minnesota Board of Psychology
Room 101
2700 University Avenue West
St. Paul, Minnesota 55114-1095

Telephone: (612) 642-0587

(1) The statutory authority of the Board to adopt the proposed rules is contained in Minn. Stat. §§ 148.90, subd. 2(4) and subd. 3; 148.91, subd. 3; and 214.06 (1990).

(11) If adopted, the proposed rules would (1) assess licensees of the Board a one-time fee of $40, to be remitted to the Board on or before June 25, 1991; (2) impose

a $10 late fee for licensees who fail to remit payment on or before June 25, 1991; and (3) notify licensees that failure to pay the fee will result in the Board withholding the licensee's renewal certificate. The proposed rules will be published in the State Register issue of January 14, 1991, and a free copy of the rules may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under Minn. Stat. § 14.11 (1990).

It is the position of the Board that it is not subject to Minn. Stat. § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

Upon completion of the proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 amendments as adopted should submit a written request to Lois E. Mizuno at the address listed above.

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON FEBRUARY 15, 1991, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to Minn. Stat. § 14.131 to 14.20 (1990), in the lower level joint board conference room located at 2700 University Avenue West, St. Paul, Minnesota, on February 15, 1991, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Barbara Neilson, Administrative Law Judge, Office of Administrative Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7604. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minn. Stat. §§ 14.131 to 14.20 (1990) and by Minn. Rules pts. 1400.0200 to 1400.1200 (1989). Questions about procedure may be directed to the administrative law judge.

If adopted, the rules would (1) assess licensees of the Board a one-time fee of $40, to be remitted to the Board on or before June 25, 1991; (2) impose a $10 late fee for licensees who fail to remit payment on or before June 25, 1991; and (3) notify licensees that failure to pay the fee will result in the Board withholding the licensee's

Board of Psychology

Proposed Permanent Rules Relating to Special Fee for Legal Expenses

Rules as Proposed (all new material)

7200.6150 SPECIAL FEE.

Each licensee licensed before the effective date of this rule shall be assessed a one-time fee in the amount of $40 to be remitted to the board on or before June 25, 1991, for the purpose of covering the board's legal expenses. The board shall withhold the new license or renewal certificate of any licensee who fails to remit the fee by June 25, 1991, until the fee and a late fee of $10 is paid.

renewal certificate. The proposed rules will be published in the State Register issue of January 14, 1991, and a free copy of the rules may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address and telephone number listed above in Part II of this notice.

The statutory authority of the Board to adopt the proposed rules is contained in Minn. Stat. §§ 148.90, subd. 2(4) and subd. 3; 148.91, subd. 3; and 214.06 (1990).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
>
> (b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone: (612) 296-5418.

Notice is hereby given that a statement of need and reasonableness is now available for review at the Board and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rules with the Secretary of State.

Promulgation of these proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under Minn. Stat. § 14.11 (1990).

It is the position of the Board that it is not subject to Minn. Stat. § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

IV.

NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE. ALSO, THE HEARING WILL BE CANCELLED IF A SUFFICIENT NUMBER OF PEOPLE WITHDRAW THEIR REQUEST FOR A HEARING IN RESPONSE TO PROPOSED REVISIONS OF THE PROPOSED RULES BY THE BOARD.

To be informed whether the hearing noticed in Part III above will be held, please call the Board before February 8, 1991, and leave your name, address, and telephone number. You will be notified on February 14, 1991, if the hearing has been cancelled. You may also call the Board on February 14, 1991 to find out whether the hearing scheduled for February 15, 1991 will be held.

Dated: December 28, 1990.

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

Board of Psychology

Proposed Permanent Rules Relating to Special Fee for Legal Expenses

Rules as Proposed (all new material)

7200.6150 SPECIAL FEE.

Each licensee licensed before the effective date of this rule shall be assessed a one-time fee in the amount of $40 to be remitted to the board on or before June 25, 1991, for the purpose of covering the board's legal expenses. The board shall withhold the new license or renewal certificate of any licensee who fails to remit the fee by June 25, 1991, until the fee and a late fee of $10 is paid.

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Special Fee for Legal Expenses

AGENCY: Board of Psychology

MINNESOTA RULES: Chapter 7200

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : of Finance

DATE : December 28, 1990

TO : Lois E. Mizuno, Executive Director
Board of Psychology

FROM : Bruce J. Reddemann, Director BJR
Budget Operations and Support

PHONE : 296-5188

SUBJECT : Special Assessment Fee

Your agency has proposed the establishment of a one-time $40 fee to be assessed each licensee for the purpose of covering the Board of Psychology's legal expenses. The fee as proposed in Minnesota Rule 7200.6150 is approved as submitted.

cc: Anne Barry
Pamula Wheelock
Glenn Olson

RECEIVED

JAN 14 1991

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

BOARD OF PSYCHOLOGY

2700 UNIVERSITY AVE. WEST, #101
ST. PAUL, MN 55114-1095
612/642-0587

TO: The Hon. Wayne Simoneau, Chair
House Appropriations Committee

The Hon. Gene Merriam. Chair
Senate Finance Committee

The Hon. Gene Waldorf, Chair
LCRAR

FROM: Lois E. Mizuno
Executive Director

DATE: December 27, 1990

RE: Proposed Fee

This memo is being forwarded to you pursuant to the provisions of Minn. Stat. SS 14.23 and 16A.128, subd. 2a. The Board of Psychology is proposing to adopt a rule providing for a one-time fee of $40 to be assessed against every licensee who will have been licensed before the effective date of the rule. The purpose of the fee is to cover projected expenses related to disciplinary matters - the cost of which by law must be covered in this biennium.

Attached are (1) a copy of the proposed rule establishing the fee, (2) a copy of the Statement of Need and Reasonableness in support of the proposal, and (3) a copy of the notice which will appear in the State Register.

If you have any questions about this matter, please contact me.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Lois E. Mizuno, being first duly sworn upon oath, deposes and says: That at the city of Minneapolis, county and state aforementioned, on the 11th day of January, 1991, she served the attached NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING, NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAT 25 PERSONS REQUEST A HEARING, by depositing in the United States mail at said city, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

THE PERSONS ON THE ATTACHED LIST

Lois E Mizuno

Subscribed and sworn to before me
this 11th day of January, 1991

Betty L. Messerey

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

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Commissioner of Human Serv
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Ethical Practices Board
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St. Paul MN 55101

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Minneapolis MN 55408

Minnesota Psychological Ass
1740 Rice Street #220
St. Paul MN 55113

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of the Proposed Adoption of Rules of the Board of Psychology Relating to Board Fees

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING, NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

I.

EXPLANATION OF ALTERNATIVE NOTICES.

The Minnesota Board of Psychology (hereinafter "Board") is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minn. Stat. §§ 14.22 to 14.28 (1990). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minn. Stat. § 14.25 (1990), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rules pursuant to Minn. Stat. §§ 14.131 to 14.20 (1990). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. Also, the hearing will be cancelled if a sufficient number of people withdraw their requests for a hearing in response to proposed revisions of the proposed rules by the Board. With the comment period closing on February 13, 1991, interested persons may call the Board on February 14, 1991 to ask whether the hearing which is scheduled for February 15, 1991 will be held.

II.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that the Minnesota Board of Psychology (hereinafter "Board") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 to 14.28 (1990).

Interested persons shall have 30 days from the date this notice is published in the State Register to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 13, 1991. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Board be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by February 13, 1991. If a hearing is required, it will be held in accordance with the provisions of Minn. Stat. §§ 14.131 to 14.20 (1990) and the hearing notice provided below.

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

Lois E. Mizuno, Executive Director
Minnesota Board of Psychology
Room 101
2700 University Avenue West
St. Paul, Minnesota 55114-1095

Telephone: (612) 642-0587

The statutory authority of the Board to adopt the proposed rules is contained in Minn. Stat. §§ 148.90, subd. 2(4) and subd. 3; 148.91, subd. 3; and 214.06 (1990).

If adopted, the proposed rules would (1) assess licensees of the Board a one-time fee of $40, to be remitted to the Board on or before June 25, 1991; (2) impose

a $10 late fee for licensees who fail to remit payment on or before June 25, 1991; and (3) notify licensees that failure to pay the fee will result in the Board withholding the licensee's renewal certificate. The proposed rules will be published in the State Register issue of January 14, 1991, and a free copy of the rules may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under Minn. Stat. § 14.11 (1990).

It is the position of the Board that it is not subject to Minn. Stat. § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

Upon completion of the proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 amendments as adopted should submit a written request to Lois E. Mizuno at the address listed above.

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON FEBRUARY 15, 1991, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to Minn. Stat. § 14.131 to 14.20 (1990), in the lower level joint board conference room located at 2700 University Avenue West, St. Paul, Minnesota, on February 15, 1991, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Barbara Neilson, Administrative Law Judge, Office of Administrative Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7604. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minn. Stat. §§ 14.131 to 14.20 (1990) and by Minn. Rules pts. 1400.0200 to 1400.1200 (1989). Questions about procedure may be directed to the administrative law judge.

If adopted, the rules would (1) assess licensees of the Board a one-time fee of $40, to be remitted to the Board on or before June 25, 1991; (2) impose a $10 late fee for licensees who fail to remit payment on or before June 25, 1991; and (3) notify licensees that failure to pay the fee will result in the Board withholding the licensee's

renewal certificate. The proposed rules will be published in the State Register issue of January 14, 1991, and a free copy of the rules may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address and telephone number listed above in Part II of this notice.

The statutory authority of the Board to adopt the proposed rules is contained in Minn. Stat. §§ 148.90, subd. 2(4) and subd. 3; 148.91, subd. 3; and 214.06 (1990).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
>
> (b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone: (612) 296-5418.

Notice is hereby given that a statement of need and reasonableness is now available for review at the Board and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rules with the Secretary of State.

Promulgation of these proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under Minn. Stat. § 14.11 (1990).

It is the position of the Board that it is not subject to Minn. Stat. § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minn. Stat. § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

IV.

NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE. ALSO, THE HEARING WILL BE CANCELLED IF A SUFFICIENT NUMBER OF PEOPLE WITHDRAW THEIR REQUEST FOR A HEARING IN RESPONSE TO PROPOSED REVISIONS OF THE PROPOSED RULES BY THE BOARD.

To be informed whether the hearing noticed in Part III above will be held, please call the Board before February 8, 1991, and leave your name, address, and telephone number. You will be notified on February 14, 1991, if the hearing has been cancelled. You may also call the Board on February 14, 1991 to find out whether the hearing scheduled for February 15, 1991 will be held.

Dated: December 28, 1990.

Lois E. Mizuno

LOIS E. MIZUNO
Executive Director

Board of Psychology

Proposed Permanent Rules Relating to Special Fee for Legal Expenses

Rules as Proposed (all new material)

7200.6150 SPECIAL FEE.

Each licensee licensed before the effective date of this rule shall be assessed a one-time fee in the amount of $40 to be remitted to the board on or before June 25, 1991, for the purpose of covering the board's legal expenses. The board shall withhold the new license or renewal certificate of any licensee who fails to remit the fee by June 25, 1991, until the fee and a late fee of $10 is paid.

By this notice, Minnesota OSHA proposes to adopt the final rule for lift-slab construction operations as published in the *Federal Register* on October 18, 1990; it will become effective in Minnesota five days after publication of the adoption notice in the *State Register.*

E) "Safety Standards for Stairways and Ladders Used in the Construction Industry; Final Rule." On November 14, 1990, Federal OSHA published the final rule revising and relocating the existing provisions for stairways and ladders from existing Subpart L, "Ladders and Scaffolds" and Subpart M, "Floors and Wall Openings" into Subpart X. The final rule reformats the standards into a more logical grouping of topics, focusing on the principal hazards involved when working on stairways and ladders and eliminating what OSHA believes to be unnecessary and redundant provisions in the existing standards. The revised Subpart X becomes effective January 14, 1991.

The ladder revisions cover installation; minimum weight capacity; cages for fixed ladders; spacing of rungs, cleats, and steps; and ladder safety devices. Revised stairway provisions cover landings, surface conditions, stair rails, risers, and handrails. Among the new provisions, the standards require all stairway and ladder fall protection systems to be installed before employees begin work. A stairway or ladder must be provided at all points of worker access where there is a break in elevation of 19 inches or more and no ramp, runway, sloped embankment, or personnel hoist is provided. At least one point of access must be kept clear of obstructions at all times to permit free passage of workers. Light duty ladders must be capable of supporting at least four times their maximum intended load, and certain specified heavy duty ladders not less than 3.3 times their maximum intended load. Portable ladders must be at least 11½ inches wide with rungs uniformly spaced 10 to 14 inches apart. The rungs and steps of fixed metal ladders manufactured 60 days after publication of this standard must be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize slipping.

Foot traffic is prohibited on skeleton metal stairs where permanent treads and/or landings are to be installed unless the stairs are fitted with secured temporary treads and landings that cover the entire tread or landing area. Within specified limits, stair rails may also be used as handrails.

By this notice, Minnesota OSHA proposes to adopt the revised final safety standards for stairways and ladders used in the construction industry as published in the *Federal Register* on November 14, 1990. The effective date for this standard will be five days after publication of the adoption notice in the *State Register.*

F) "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite; Extension of Partial Stay and Amendment of Final Rule." On December 10, 1990, Federal OSHA extended the partial administrative stay of the revised final standards for occupational exposure to asbestos, tremolite, anthophyllite, and actinolite for general industry (1910.1001) and for construction (1926.58) insofar as they apply to non-asbestiform tremolite, anthophyllite, and actinolite. The current stay expired on November 30, 1990; this notice extends that partial stay until August 31, 1991 to allow OSHA to complete supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite, and actinolite should continue to be regulated in the same standard as asbestos or should be treated in some other way. Minor conforming amendments to notes in the affected standard are also made in this notice.

Minnesota OSHA adopted the Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite standards (1910.1001 and 1926.58) on November 10, 1986. The partial administrative stay was adopted on March 30, 1987; subsequent extensions were also adopted.

By this notice, Minnesota OSHA proposes to extend the administrative stay to August 31, 1991, as published in the *Federal Register* on December 10, 1990.

Board of Psychology

Proposed Permanent Rules Relating to Special Fee for Legal Expenses

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Board of Psychology (hereinafter "Board") is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* §§ 14.22 to 14.28 (1990). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* § 14.25 (1990), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1990). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. Also, the hearing will be cancelled if a sufficient number of people withdraw their requests for a hearing in response to proposed revisions of the proposed rules by the Board. With the comment period closing on February 13, 1991,

interested persons may call the Board on February 14, 1991 to ask whether the hearing which is scheduled for February 15, 1991 will be held.

II. Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Psychology (hereinafter "Board") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* §§ 14.22 to 14.28 (1990).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 13, 1991. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Board be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by February 13, 1991. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* §§ 14.131 to 14.20 (1990) and the hearing notice provided below.

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

Lois E. Mizuno, Executive Director
Minnesota Board of Psychology
Room 101
2700 University Avenue West
St. Paul, Minnesota 55114-1095
Telephone: (612) 642-0587

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 148.90, subd. 2(4) and subd. 3; 148.91, subd. 3; and 214.06 (1990).

If adopted, the proposed rules would (1) assess licensees of the Board a one-time fee of $40, to be remitted to the Board on or before June 25, 1991; (2) impose a $10 late fee for licensees who fail to remit payment on or before June 25, 1991; and (3) notify licensees that failure to pay the fee will result in the Board withholding the licensee's renewal certificate. The proposed rules will be published in the *State Register* issue of January 14, 1991, and a free copy of the rules may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1990).

It is the position of the Board that it is not subject to *Minnesota Statutes* § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

Upon completion of the proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial

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change. 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 amendments as adopted should submit a written request to Lois E. Mizuno at the address listed above.

III. Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing

PLEASE NOTE that If 25 or More Persons Submit Written Requests for a Public Hearing With Respect to the Above-Captioned Rules Within the 30-Day Comment Period Pursuant to the Notice Given in Part II Above, a Hearing Will Be Held on February 15, 1991, in Accordance With the Following Notice of Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* § 14.131 to 14.20 (1990), in the lower level joint board conference room located at 2700 University Avenue West, St. Paul, Minnesota, on February 15, 1991, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Barbara Neilson, Administrative Law Judge, Office of Administrative Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7604. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1990) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1989). Questions about procedure may be directed to the administrative law judge.

If adopted, the rules would (1) assess licensees of the Board a one-time fee of $40, to be remitted to the Board on or before June 25, 1991; (2) impose a $10 late fee for licensees who fail to remit payment on or before June 25, 1991; and (3) notify licensees that failure to pay the fee will result in the Board withholding the licensee's renewal certificate. The proposed rules will be published in the *State Register* issue of January 14, 1991, and a free copy of the rules may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address and telephone number listed above in Part II of this notice.

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 148.90, subd. 2(4) and subd. 3; 148.91; subd. 3; and 214.06 (1990).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minnesota Statutes ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone: (612) 296-5418.

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at the Board and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rules with the Secretary of State.

Promulgation of these proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1990).

It is the position of the Board that it is not subject to *Minnesota Statutes* § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

IV. Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing in Response to the Notice Given in Part II Above. Also, the Hearing Will Be Cancelled If a Sufficient Number of People Withdraw Their Request for a Hearing in Response to Proposed Revisions of the Proposed Rules by the Board

To be informed whether the hearing noticed in Part III above will be held, please call the Board before February 8, 1991, and leave your name, address, and telephone number. You will be notified on February 14, 1991, if the hearing has been cancelled. You may also call the Board on February 14, 1991 to find out whether the hearing scheduled for February 15, 1991 will be held.

Lois E. Mizuno
Executive Director

Rules as Proposed (all new material)

7200.6150 SPECIAL FEE.

Each licensee licensed before the effective date of this rule shall be assessed a one-time fee in the amount of $40 to be remitted to the board on or before June 25, 1991, for the purpose of covering the board's legal expenses. The board shall withhold the new license or renewal certificate of any licensee who fails to remit the fee by June 25, 1991, until the fee and a late fee of $10 is paid.

Adopted Rules

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

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

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

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

Office of Administrative Hearings

Adopted Permanent Rules Relating to Rulemaking, Contested Case, and Revenue Recapture Act Hearings

The rules proposed and published at *State Register*, Volume 15, Number 7, pages 362-370, August 13, 1990 (15 SR 362) are adopted with the following modifications:

Rules as Adopted

1400.0250 FILING OF MATERIALS.

Subp. 2. **Facsimile transmission.** Any paper relating to hearings conducted by an administrative law judge under *Minnesota Statutes*, chapter 14, may be filed with or served on the office by facsimile transmission. The person filing the document must forward the original signed document within five days. Filings or service shall be effective at the time that the facsimile transmission is received by the office. A transmission which is commenced prior to 4:30 p.m. shall be deemed to have been timely filed. The filing or service of a facsimile shall have the same force and effect as the filing or service of the original document.

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CERTIFICATE OF THE

MINNESOTA BOARD OF PSYCHOLOGY'S

RESOLUTION ADOPTING RULES

I, DAVID BARAGA, L.C.P., do hereby certify that I am a member and the president of the Minnesota Board of Psychology (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 15th day of March, 1991, 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 a Special Fee for Legal Expenses are approved and adopted pursuant to authority vested in the Board by Minn. Stat. § 148.90. Lois E. Mizuno, 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 (or other stated circumstances) 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 15th day of March, 1991.

David R Baraga

DAVID BARAGA, L.C.P.
President

_____

Attest by one other Board member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of the Proposed Adoption of Rules of the Board of of Psychology Relating to Special Fee for Legal Expenses

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

(1) Notice of the Board of Psychology's (hereinafter "Board") intent to adopt the above-entitled rules was published in the State Register on January 14, 1991, 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 January 11, 1991. (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. Before the notice was submitted to the State Register, a copy of the Notice of Intent to Adopt Rules Without a Public Hearing, a copy of the proposed rules, and a copy of the Statement of Need and Reasonableness were sent to the chairs of the House Appropriations Committee, the Senate Finance Committee and the Legislative Commission to Review Administrative Rules.

(4) All persons were given the opportunity to submit comment on the rules for 30 days after notice of proposed rulemaking. (5) The Board did not receive any requests for a public hearing.

(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 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 reasonable. (8)

NOW, THEREFORE, IT IS HEREBY ORDERED that the rules identified as Special Fee for Legal Expenses are adopted this 15th day of March, pursuant to authority vested in the Board by Minn. Stat. § 148.90. (9)

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PSYCHOLOGY

In the Matter of the
Proposed Adoption of
Rules of the Board of
Psychology Relating to
Special Fee for Legal Expenses

DECLARATION OF COUNSEL

I, THOMAS M. MCSTEEN, 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 docket client code is 50.779X.0486.

Dated: 3/26/91.

Thomas M. McSteen

THOMAS M. MCSTEEN
Special Assistant
Attorney General