

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Due Monday

RULE REVIEW CHECKLIST

File No. 1819
DATE RECEIVED 6-6-91
REVIEW DATE 6-17-91
DUE DATE 6-19-91
(DIS)APPROVED 6-10-91
WITHDRAWN _____

Docket No. 05 0009 0485
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 6-6-91
REVISOR (DIS)APPROVED 6-7-91
FILED W/SEC. OF STATE 6-10-91
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 – Did not do another one did one in Jan 1991 when they 1st started
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
153.16 1(5) and 3 Statutory Authority 214.06, 214.12
✓ Small Business Statement
NA Expenditure of public money statement
April 22, 1991 Signature

_____ Statement of Need and Reasonableness (if applicable)
_____ Small Business Statement
✓ Fees - § 16A.128 sent letters received approval from finance in dd file

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
May 2, 1991 Dated (30)/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
May 6, 1991 Date (30)/25 days before adoption

✓ 180-day deadline from:
NA 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 Did not do another one
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
~~April 22, 1991~~ Date June 6, 1991

NA Written Requests, Submissions or Comments

✓ Declaration of Attorney
Bob Holly Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

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

Problem 30 day Comment period

Published 2-19-91

Comment period ends March 20, 1991
not 30 days

Stat Authority
153.02 Board of Podiatric Medicine
The governor shall appoint a board of podiatric medicine consisting ...

153.16 subds 1(f)
The applicant shall pay a fee established by the board by rule. The fee shall not be refunded.

subd 3 Upon payment of a fee and in accordance with the rules of the board, the board may issue a temporary permit to practice podiatric medicine ...

214.12
The health-related and non-health-related licensing boards may promulgate by rule requirements for renewals of licenses designed to promote the continuing professional competence of licensees.

Notice indicates "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.

Rules 6900.0020 subd 9 (page 5 lines 10-15)

"may require the applicant to respond satisfactorily to questions ... I do know may is old language - why are some asked ethical questions and others not why not all of them - I know we can't make them change may because its old language

Changes - Rules

~~Page 12, subd 5, line 28 if subpart 3 is deleted as stated in 11a, K, they should delete the reference to subpart 3~~

Many changes in the rule

Call Doris and ask her to send the letters to House Appropriations and Senate also <CAR - Bob Holly said he would ask her

~~X~~ 30 day Comment period didn't make

February 19, 1991 — March 20
State Register was published on Presidents Day February 18, 1991

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: June 19, 1991

TO: LOIS E. MIZUNO
Executive Director

FROM: CHARLENE HATCHER
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Training and Licensing

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

CH:sc
Enclosures
cc: Robert Holley
William Brown, Chief Judge
MaryAnn Hruby

Board of Podiatric Medicine

Adopted Permanent Rules Relating to Training and Licensing

Rules as Adopted

6900.0010 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. **Acceptable graduate training.** "Acceptable graduate training" means at least 12 consecutive months of postgraduate training in a clinical residency, preceptorship, or other graduate training as described in part 6900.0020, subparts 5, 6, 7, or 8.

Subp. 2. and 3. [See repealer.]

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Suspend a license.** "Suspend a license" means to discontinue a podiatrist's right to practice for a definite or indefinite time until specified conditions are met.

[For text of subp 7, see M.R.]

Subp. 8. **Initial licensure period.** For a license issued after the date on which the biennial renewal period becomes effective, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Graduate training.** Applicants graduating in 1987 and thereafter from a podiatric medical school must present evidence of satisfactory completion of acceptable graduate training.

Subp. 5. **Clinical residency.** A clinical residency is a formal, structured postdoctoral training program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and sponsored by and conducted in an institution such as a hospital or ambulatory health care

facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases of children and adults;

B. develop the podiatric medical graduate in the art of preventing and controlling podiatric conditions and diseases and in the promotion of foot health principally through mechanical and rehabilitative methods;

C. provide the podiatric medical graduate with clinical experience necessary to refine competency in the podiatric medical and surgical care of the foot as defined by the statutory scope of practice; or

D. provide the podiatric medical graduate with clinical experience necessary to become competent in the full scope of advanced podiatric medicine and surgery.

Subp. 6. **Preceptorship.** A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association. The preceptorship must provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. **Preceptor requirements.** The preceptor must:

A. provide training in the care of children and adults that offers experience as defined by the statutory scope of practice including drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:

(1) nail;

(2) digital;

(3) soft tissue;

(4) forefoot;

(5) metatarsal;

(6) midfoot; and

(7) rearfoot or ankle;

B. hold a clinical appointment at a podiatric medical school or be a member of the teaching staff of a hospital sponsoring a residency program;

C. have a hospital staff appointment with podiatric surgical privileges; however, the granting of staff privileges is solely within the discretion of individual institutions;

D. not have been the subject of disciplinary action concerning professional conduct or practice; and

E. instruct and direct the unlicensed podiatrist in the podiatrist's duties, oversee and check the work, provide general directions, and comply with at least the following criteria:

(1) review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts and records; review may either be in person or by telecommunication;

(2) be on-site at facilities staffed by an unlicensed podiatrist;

(3) be present during the performance of surgical treatment by the unlicensed podiatrist; and

(4) supervise no more than two unlicensed podiatrists at any one time.

Subp. 8. **Other graduate training.** Other graduate training must meet the requirements of items A to C and of subpart 7, items A, D, and E, and include written goals, objectives, and an evaluation process.

A. A licensed podiatrist must be designated as the unlicensed podiatrist's supervisor and assume full podiatric responsibility for patient services provided by the unlicensed

podiatrist.

B. The supervisor must obtain the approval of the board for the proposed graduate training, including its written goals and objectives, before the training begins.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges. However, the granting of staff privileges is solely within the discretion of individual institutions. The podiatrist with a hospital appointment and surgical privileges must be present during the performance of surgical treatment by the unlicensed podiatrist.

Subp. 9. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. Applicants must be prepared to answer questions regarding ethics of practice.

Subp. 10. **License in other states.** If an applicant is licensed in one or more states other than Minnesota, the applicant must cause a form supplied by the board to be submitted from the board of podiatric medicine in the state of original licensure and each state in which a license was held during the five years immediately preceding application.

6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in an acceptable graduate training program.

Subp. 2. **Term of permit.** A granted permit is valid for

the period of graduate training of 12 months beginning with the first day of graduate training. A permit may be reissued once if the applicant submits acceptable evidence that the training was interrupted by circumstances beyond the control of the applicant and that the sponsor of the program agrees to the extension.

Subp. 2a. **Revocation.** The permit may be revoked if an applicant has engaged in conduct that constitutes grounds for denial of licensure or disciplinary action, discontinues training, or moves out of Minnesota.

Subp. 3. **Scope of practice.** The scope of practice of the permit holder is limited to the performance of podiatric medicine within the structure of the acceptable graduate training program within which the permit holder is enrolled.

6900.0200 LICENSE RENEWAL.

Subpart 1. **Active status.** The license renewal term is 24 months beginning on July 1 and ending on June 30. Applications received and postmarked after June 30 in the year due will be returned for addition of the late renewal fee. The term of renewal begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even number. The July 1, 1991, renewal term for a licensee who renews in even-numbered years shall end June 30, 1992, and the renewal fee and continuing education hours shall be half the amount required for a 24-month renewal period. For the first renewal period following the initial licensure period, the fee for renewal of license is that fraction of $450, to the nearest dollar, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

An applicant for license renewal must submit to the board:

A. an application form, renewal fee, and, if applicable, the late renewal fee. The application form must provide a place for the renewal applicant's signature and solicit information including the applicant's office address,

and other information that may be reasonably requested by the board;

B. evidence of participation in approved continuing education programs as described in part 6900.0300; and

C. other evidence as the board may reasonably require.

[For text of subp 2, see M.R.]

Subp. 3. **Notice.** Any time after July 1 of the applicable year, the board will send to the last address on file with the board, a notice to licensees who have not applied for license renewal. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and information about continuing education that must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by applying for license renewal as provided in subpart 1 or by notifying the board that the licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

Subp. 4. **Result.** If the application for renewal as provided in subpart 1 or notice of voluntary termination is not received by the board by the date specified in the notice, the license will expire and the licensee's right to practice terminates on the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

[For text of subp 5, see M.R.]

Subp. 6. **Disciplinary action.** The board, in lieu of the procedure in subpart 3, may initiate disciplinary action against any licensee for failure to submit fees or provide documentation of completion of continuing education requirements, and may add such failure to other grounds specified in Minnesota Statutes, sections 153.01 to 153.25 in any contested case proceeding initiated by the board against the licensee on the other grounds.

Subp. 7. **Name and address change.** A podiatrist who has

changed names must notify the board in writing as soon as possible and request a revised renewal certificate. The board may require substantiation of the name change by requiring official documentation.

A podiatrist must maintain with the board a correct mailing address to receive board communications and notices. A podiatrist who has changed addresses must notify the board in writing as soon as possible. Placing a notice in first class United States mail, postage prepaid and addressed to the licensee at the licensee's last known address, constitutes valid service.

6900.0210 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements.** Upon a podiatrist's compliance with the requirements in this part, the podiatrist's license must be reinstated. The podiatrist requesting reinstatement of a license shall submit the following materials:

A. an application form and relicensure fee;

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

Subp. 2. **Revoked or suspended license.** No license that has been suspended or revoked by the board will be reinstated unless the former licensee provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the former licensee has successfully completed the requirements. The board may require the licensee to pay the costs of the proceedings resulting in the suspension or revocation of a license under its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay the costs of the proceedings resulting in the disciplinary action.

[For text of subp 3, see M.R.]

6900.0250 FEES.

Subpart 1. **Amounts.** Fees are as follows:

A. licensure, $450;

B. renewal of a license, $450;

C. late renewal of a license, an additional $100;

D. temporary permit, $200;

E. replacement of an original license document or renewal certificate, $10; and

F. relicensure following expiration of license, $550.

Subp. 2. **Requirements.** Fees must be paid in United States money and are not refundable.

6900.0300 CONTINUING EDUCATION.

Subpart 1. **Requirement.** Every podiatrist licensed to practice in Minnesota shall obtain 30 clock hours of continuing education in each two-year cycle of license renewal. The number of continuing education hours required during the initial licensure period is that fraction of 30 hours, to the nearest whole hour, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

Subp. 2. **Obtaining continuing education hours.** Continuing education hours shall be obtained in the following manner:

A. attendance at educational programs approved by the board under subpart 3;

B. attendance at hospital staff meetings (no more than three hours of hospital staff meetings may be used for license renewal each year); or

C. participation in acceptable graduate training.

Subp. 3. **Requirements of program approval.** Each continuing education program used to meet the license renewal requirements must be approved by the board before the program is accepted as meeting requirements of this part.

In order for a continuing education program to be approved by the board, the program must meet the following criteria:

A. The content must be directly related to the practice of podiatric medicine as defined in Minnesota Statutes, section 153.01, subdivision 2. Subjects such as practice management or those not of a scientific nature are not acceptable.

B. The speaker must be a licensed podiatrist, other credentialed health care professional, or person especially qualified to address the subject.

C. The sponsor must provide the attendee a written statement of attendance that includes the name and dates of the program, the name and address of the sponsor, the number of continuing education clock hours granted by the sponsor and approved by the board if prior approval has been sought, the name of the attendee and a signature of the sponsor or designee, or upon completion of the program, the sponsor must send the board a list of attendees.

Subp. 3a. **Procedure for program approval.** Either the sponsor of a continuing education program or a licensee may submit the program for approval by the board.

The following information about the program is required:

A. name and address of the program sponsor;

B. dates and times of the program;

C. subject or content matter of each item on the program together with the amount of time devoted to the subject;

D. name of and identifying information about the speakers or instructors; and

E. assurance that a written statement of attendance will be given to the podiatrist or that a list of attendees will be sent to the board.

The board shall approve each continuing education program for a specific number of clock hours of continuing education. One clock hour is 60 minutes. Partial hours will not be granted. Lunch breaks, rest periods, greetings, and other noneducational time will not be included.

Subp. 4. **Proof of attendance.** Proof of attendance at continuing education programs meeting the requirement of this

part shall be submitted to the board within the renewal period in which it was attended in the form of a certificate, descriptive receipt, or affidavit.

Subp. 5. [See repealer.]

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. **Application.** A licensee or applicant for licensure may petition the board for a time-limited waiver or variance of any rule except for any part of a rule which incorporates a statutory requirement. The waiver or variance shall be granted if:

A. adherence to the rule would impose an undue burden on the petitioner;

B. the granting of a waiver or variance will not adversely affect the public welfare; and

C. in the case of a variance, the rationale for the rule in question can be met by alternative practices or measures specified by the petitioner.

Subp. 2. **Renewal, reporting, and revocation.** A waiver or variance shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver or variance shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver or variance shall be revoked if a material change in the circumstances which justify its granting occurs or, in the case of a variance, if the petitioner has not complied with the alternative practices or measures specified in the petition.

Subp. 3. **Burden of proof.** The burden of proof is upon the petitioner to demonstrate to the board that the requirements in subpart 1 have been met.

Subp. 4. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

REPEALER. Minnesota Rules, parts 6900.0010, subparts 2 and 3;

6900.0030; and 6900.0300, subpart 5, are repealed.

APPROVED AS TO FORM AND LEGALITY

June 10, 1991

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene M. Hatcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUN 10 1991 GL

Joan Anderson Growe 10:15 A.M.

Secretary of State

Board of Podiatric Medicine

Proposed Amendments to Proposed Permanent Rules Relating to Training and Licensing

Rules as Amended

The rules as proposed at State Register, Volume 15, Number 34, pages 1803 to 1811, are proposed with the following amendments:

6900.0010 DEFINITIONS.

Subp. 8. **Initial licensure period.** For a license issued after the **effective** date ~~of parts 6900.0100 to 6900.0500~~ on which the biennial renewal period becomes effective, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

Subp. 5. **Clinical residency.** A clinical residency is a formal, structured postdoctoral training program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and sponsored by and conducted in an ~~accredited~~ institution such as a hospital or ambulatory health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases of children and adults;

Subp. 6. **Preceptorship.** A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a

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college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The ~~residency~~ preceptorship must provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. **Preceptor requirements.** The preceptor must:

C. have a hospital staff appointment with podiatric surgical privileges; however, the granting of staff privileges is solely within the discretion of individual institutions; ~~and~~

D. not have been the subject of disciplinary action concerning professional conduct or practice~~.~~; and

E. instruct and direct the unlicensed podiatrist in the podiatrist's duties, oversee and check the work, provide general directions, and comply with at least the following criteria:

(1) review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts and records; review may either be in person or by telecommunication;

(2) be on-site at facilities staffed by an unlicensed podiatrist;

(3) be present during the performance of surgical treatment by the unlicensed podiatrist; and

(4) supervise no more than two unlicensed podiatrists at any one time.

Subp. 8. **Other graduate training.** Other graduate training must meet the requirements of items A to ~~B~~ C and of subpart 7, items A ~~and~~, D, and E, and include written goals, objectives, and an evaluation process.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges. However, the granting of staff privileges

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is solely within the discretion of individual institutions. The podiatrist with a hospital appointment and surgical privileges must be present during the performance of surgical treatment by the unlicensed podiatrist.

~~D.--The-supervisor-shall-instruct-and-direct-the unlicensed-podiatrist-in-the-podiatrist's-duties,-oversee-and check-the-work,-provide-general-directions,-and-comply-with-at least-the-following-criteria:~~

~~(1)-the-supervisor-shall-review-and-evaluate patient-services-provided-by-the-unlicensed-podiatrist-on-a daily-basis-from-information-in-patient-charts-or-records. Review-may-either-be-in-person-or-by-telecommunication;~~

~~(2)-the-supervisor-shall-be-on-site-at-facilities staffed-by-an-unlicensed-podiatrist;~~

~~(3)-one-of-the-licensed-podiatrists-referred-to in-item-C-must-be-present-during-the-performance-of-surgical treatment-by-the-unlicensed-podiatrist;-and~~

~~(4)-the-supervisor-may-not-supervise-more-than two-unlicensed-podiatrists-at-any-one-time.~~

Subp. 9. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. ~~The-board-may-require the-applicant-to-respond-satisfactorily~~ Applicants must be prepared to answer questions regarding ethics of practice.

6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in ~~a~~ an acceptable graduate training program

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by Revisor _____

~~and-that-the-program-meets-the-standards-in-part-6900.0020, subpart-4,-5,-6,-or-7.~~

Subp. 2a. **Revocation.** The permit ~~is~~ may be revoked if an applicant has engaged in conduct that constitutes grounds for denial of licensure or disciplinary action, discontinues training, or moves out of Minnesota.

6900.0300 CONTINUING EDUCATION.

Subp. 2. **Obtaining continuing education hours.** Continuing education hours shall be obtained in the following manner:

C. participation in acceptable graduate training ~~that meets-the-requirements-of-part-6900.0020,-subpart-4,-5,-6,-or-7.~~

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. **~~Waivers;~~ Application.** A licensee or applicant for licensure may petition the board for a time-limited waiver or variance of any rule except for any part of a rule which incorporates a statutory requirement. The waiver or variance shall be granted if:

A. ~~the-rule-in-question-does-not-address-a-problem-of significance-to-the-public-in-relation-to-the-practice-or application-of-the-petitioner;~~

B. adherence to the rule would impose an undue burden on the petitioner; ~~and~~

C. B. the granting of a waiver or variance will not adversely affect the public welfare; and

C. in the case of a variance, the rationale for the rule in question can be met by alternative practices or measures specified by the petitioner.

Subp. 2. **~~Waivers;~~ Renewal, reporting, and revocation.** A waiver or variance shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver or variance shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver or variance shall be revoked if a material change in the circumstances which justify

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its granting occurs or, in the case of a variance, if the petitioner has not complied with the alternative practices or measures specified in the petition.

~~Subp. 3. Variances; application. A licensee or applicant may petition the board for a time-limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:~~

~~A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;~~

~~B. adherence to the rule would impose an undue burden on the petitioner; and~~

~~C. the granting of the variance will not adversely affect the public welfare.~~

~~Subp. 4. Variances; compliance. Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.~~

~~Subp. 5. Variance; renewal; reporting; and revocation. A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance shall be revoked if a material change in the circumstances which justify its granting occurs.~~

Subp. ~~6.~~ 3. **Burden of proof.** The burden of proof is upon the petitioner to demonstrate to the board that the requirements in ~~subparts~~ subpart 1 ~~and 3~~ have been met.

Subp. ~~7.~~ 4. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

Approved by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Amendments to Proposed Permanent Rules Relating to Training and Licensing

AGENCY: Board of Podiatric Medicine

MINNESOTA RULES: Chapter 6900

The attached rules are approved for filing with the Secretary of State

Carla M. Riehle

Carla M. Riehle
Assistant Revisor

Stat. Authority

153.02,

The governor shall appoint a board of podiatric medicine consisting of two public members as defined by section 214.02

153.16 subd 1 (f) and 3

The applicant shall pay a fee established by the board by rule. The fee shall not be refunded.

(3) Upon payment of a fee and in accordance with the rules of the board, the board may issue a temporary permit to practice podiatric medicine

214.06

Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13 all heath-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee with the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each . . .

214.12

The health-related and non-health-related licensing boards may promulgate by rule requirements for ~~the~~ renewal of licenses designed to . . .

Did not do another resolution - did one with the 1st set that were originally submitted

~~Affidavit indicates~~

Resolution indicates the director has authority to do everything necessary to get rules approved so it is not necessary to redo the resolution.

Yes
Did originally obtain permission from Finance so not necessary to do it again

Findings of Fact

Didn't state that the SOLAR was available prior to publishing Notice of Intent but since this is a Supplemental Findings and they stated it in their origina

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

(1) NOTICE IS HEREBY GIVEN that the Minnesota Board of Podiatric Medicine (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 in which to submit comment in support of or in opposition to the proposed rules. Comment is encouraged. (3) 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. 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 within the 30-day comment period. If a hearing is required, it will be held in accordance with the provisions of Minn. Stat. §§ 14.131 to 14.20 (1990).

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

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

Telephone: (612) 642-0588

The statutory authority of the Board to adopt the proposed rules is contained in Minn. Stat. §§153.02, 153.16, subds. 1(f) and 3, 214.06 and 214.12 (1990).

If adopted, the proposed rules would add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waivers or variances. A copy of the proposed rules is attached. The attached proposed rules constitute amendments to proposed rules of the Board published at 15 S.R. 1803-1811 (State Register, Tuesday, February 19, 1991, Volume 15, Number 34, pages 1803-1811). The rules as published at 15 S.R. 1803-1811 were subsequently withdrawn from consideration. The text of said rules, as amended by the attachment hereto, and notice of the Board's intent to adopt the rules without a public hearing are hereby republished by reference.

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.

(13) 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).

(14) 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.

(9) If no hearing is required, upon adoption of the rules, the rules and the required supporting documents, will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. 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 rules as adopted should submit a written request to Lois E. Mizuno at the address listed above.

Dated: April 22, 1991

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA BOARD

OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

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

WHEREAS, pursuant to Findings Of Fact, Conclusions, And Order Adopting Rules Without A Public Hearing, the Minnesota Board of Podiatric Medicine adopted the above subject rules on March 22, 1991;

WHEREAS, the rules were thereupon submitted to the Attorney General for review in accordance with Minn. Rules pt. 2010.0300;

WHEREAS, during the course of the Attorney General's review, it was determined that the required 30-day comment period had inadvertently been reduced by one day due to the unanticipated publication of the rules on the day following a state holiday. It was further determined that the rules would benefit by certain insubstantial modifications;

WHEREAS, the Board withdrew the rules from review by the Attorney General on April 22, 1991;

WHEREAS, the rules, as modified in certain insubstantial ways, together with notice of the Board's intent to adopt the rules, were remailed to all Board licensees and to all persons on the Board's rulemaking mailing list and republished in the State Register on May 6, 1991 (15 SR 2400-2403);

WHEREAS, before notice of the Board's intent to adopt the rules was submitted to the State Register for republication, copies of the notice were resubmitted to the Chairs of the House Appropriations Committee and the Senate Finance Committee;

(4) WHEREAS, all persons were given the opportunity to submit comment on the remailed and republished rules for 30 days after notice of proposed rulemaking; and

(3)(7) WHEREAS, the Board received no submissions or comments on the rules, including no requests for a public hearing and no request for notice of submission to the Attorney General.

NOW, THEREFORE, the Board makes the following supplemental:

FINDINGS OF FACT

1. During the course of the Attorney General's review of the proposed rules and prior to their withdrawal, the Board was advised by the Attorney General that modifications of part 6900.0020 on the order of the following were indicated and that such modifications would not constitute a substantial change:

(6) Subp. 9. Personal appearance. The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. ~~The board may require the applicant to respond satisfactorily~~ Applicants must be prepared to answer questions regarding ethics of practice.

The Attorney General stated that absent the foregoing or similar changes, the Board could be selective regarding which applicants would be examined on the ethics of practice. Such discretion, without standards to guide the Board, could be subject to abuse.

The Board intends the rule to apply to all applicants for licensure. The changes suggested by the Attorney General will accomplish this end. Accordingly, the Board adopts the changes.

2. Based on comments submitted by Administrative Law Judge Howard L. Kaibel, the Board previously combined provisions under part 6900.0500 relating to

waivers and variances and thereby eliminated duplicative text without altering the meaning of the part. Findings of Fact, Conclusions, And Order Adopting Rules Without A Public Hearing, Finding No. 11, dated March 22, 1991. Inadvertently omitted from the earlier modifications was the addition of "or variance" under subpart 1.B. With the change, subpart 1.B now reads" "[T]he granting of a waiver or variance will not adversely affect the public welfare." This change is hereby made to conform with a number of other identical changes in part 6900.0500 which were previously adopted by the Board.

3. The Board proposes no other changes in the rules and has made none subsequent to the rules' May 6, 1991, republication in the State Register (15 SR 2400-2403).

4. Pursuant to the Board's Resolution Adopting The Rules herein, the undersigned Executive Director is authorized to modify the rules if necessary to obtain the approval of the rules by the Attorney General.

CONCLUSIONS

1. The Board has published and served adequate notice of its intent to adopt the proposed rules.

2. The Board has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive and procedural requirements.

3. The aforementioned changes that are being made in the proposed rules do not result in rules that are substantially different from the rules as originally submitted to the Attorney General. Moreover, the Board's publication in the State Register (15 SR 2400-2403) and service of copies of the proposed rules which include the changes in question fully satisfies all public notice requirements.

4. Any findings which might properly be termed conclusions, and any conclusions which might properly be termed findings, are hereby adopted as such.

5. The above-captioned rules are needed and reasonable.

ORDER

NOW, THEREFORE, IT IS ORDERED that, pursuant to the authority vested in the Board by Minn. Stat. § 153.02 and based upon the entire record herein, including the instant document together with Findings Of Fact, Conclusions, And Order Adopting Rules Without A Public Hearing, dated March 22, 1991, the above-captioned rules are adopted as amended this 6th day of June, 1991.

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

STATE OF MINNESOTA

BEFORE THE MINNESOTA
BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed
Adoption of Rules of the Board of
Podiatric Medicine
Relating to Licensure Requirements,
Temporary Permits, License Renewal
and Reinstatement, Fees, Continuing
Education, and Waivers and Variances

DECLARATION
OF COUNSEL

I, Robert T. Holley, 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 Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0485.

Robert T. Holley

ROBERT T. HOLLEY
Special Assistant
Attorney General

Dated: June 6, 1991.

Rule Notice as Mailed

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

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Lois E. Mizuno, Executive Director
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Room 101
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St. Paul, Minnesota 55114-1095

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If adopted, the proposed rules would add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waivers or variances. A copy of the proposed rules is attached. The attached proposed rules constitute amendments to proposed rules of the Board published at 15 S.R. 1803-1811 (State Register, Tuesday, February 19, 1991, Volume 15, Number 34, pages 1803-1811). The rules as published at 15 S.R. 1803-1811 were subsequently withdrawn from consideration. The text of said rules, as amended by the attachment hereto, and notice of the Board's intent to adopt the rules without a public hearing are hereby republished by reference.

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Dated: April 22, 1991

Lois E. Mizuno
LOIS E. MIZUNO
Executive Director

Board of Podiatric Medicine

Proposed Amendments to Proposed Permanent Rules Relating to Training and Licensing

Rules as Amended

The rules as proposed at State Register, Volume 15, Number 34, pages 1803 to 1811, are proposed with the following amendments:

6900.0010 DEFINITIONS.

Subp. 8. Initial licensure period. For a license issued after the effective date ~~of parts 6900.0100 to 6900.0500~~ on which the biennial renewal period becomes effective, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

Subp. 5. Clinical residency. A clinical residency is a formal, structured postdoctoral training program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and sponsored by and conducted in an ~~accredited~~ institution such as a hospital or ambulatory health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or of the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases of children and adults;

Subp. 6. Preceptorship. A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a

college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The ~~residency~~ preceptorship must provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. Preceptor requirements. The preceptor must:

C. have a hospital staff appointment with podiatric surgical privileges; however, the granting of staff privileges is solely within the discretion of individual institutions; and

D. not have been the subject of disciplinary action concerning professional conduct or practice~~;~~; and

E. instruct and direct the unlicensed podiatrist in the podiatrist's duties, oversee and check the work, provide general directions, and comply with at least the following criteria:

(1) review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts and records; review may either be in person or by telecommunication;

(2) be on-site at facilities staffed by an unlicensed podiatrist;

(3) be present during the performance of surgical treatment by the unlicensed podiatrist; and

(4) supervise no more than two unlicensed podiatrists at any one time.

Subp. 8. Other graduate training. Other graduate training must meet the requirements of items A to ~~B~~ C and of subpart 7, items A and~~,~~ D, and E, and include written goals, objectives, and an evaluation process.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges. However, the granting of staff privileges is solely within the discretion of individual institutions. The podiatrist with a hospital appointment and surgical privileges must be present during the performance of surgical treatment by the unlicensed podiatrist.

~~B.--The-supervisor-shall-instruct-and-direct-the unlicensed-podiatrist-in-the-podiatrist's-duties,-oversee-and check-the-work,-provide-general-directions,-and-comply-with-at least-the-following-criteria:~~

~~(1)-the-supervisor-shall-review-and-evaluate patient-services-provided-by-the-unlicensed-podiatrist-on-a daily-basis-from-information-in-patient-charts-or-records. Review-may-either-be-in-person-or-by-telecommunication;~~

~~(2)-the-supervisor-shall-be-on-site-at-facilities staffed-by-an-unlicensed-podiatrist;~~

~~(3)-one-of-the-licensed-podiatrists-referred-to in-item-C-must-be-present-during-the-performance-of-surgical treatment-by-the-unlicensed-podiatrist;-and~~

~~(4)-the-supervisor-may-not-supervise-more-than two-unlicensed-podiatrists-at-any-one-time.~~

Subp. 9. Personal appearance. The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. ~~The-board-may-require the-applicant-to-respond-satisfactorily~~ Applicants must be prepared to answer questions regarding ethics of practice.

6900.0160 TEMPORARY PERMIT.

Subpart 1. Prerequisites. An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in a an acceptable graduate training program

subpart 4, 5, 6, or 7.

Subp. 2a. Revocation. The permit is may be revoked if an applicant has engaged in conduct that constitutes grounds for denial of licensure or disciplinary action, discontinues training, or moves out of Minnesota.

6900.0300 CONTINUING EDUCATION.

Subp. 2. Obtaining continuing education hours. Continuing education hours shall be obtained in the following manner:

C. participation in acceptable graduate training that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7.

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. Waivers; Application. A licensee or applicant for licensure may petition the board for a time-limited waiver or variance of any rule except for any part of a rule which incorporates a statutory requirement. The waiver or variance shall be granted if:

A. the rule in question does not address a problem of significance to the public in relation to the practice or application of the petitioner;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. B. the granting of a waiver or variance will not adversely affect the public welfare; and

C. in the case of a variance, the rationale for the rule in question can be met by alternative practices or measures specified by the petitioner.

Subp. 2. Waivers; Renewal, reporting, and revocation. A waiver or variance shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver or variance shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver or variance shall be revoked if a material change in the circumstances which justify its granting occurs or, in the case of a variance, if the petitioner has not complied with the alternative practices or measures specified in the petition.

Subp. 3. Variances; application. A licensee or applicant may petition the board for a time-limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:

A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. the granting of the variance will not adversely affect the public welfare.

Subp. 4. Variances; compliance. Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.

Subp. 5. Variance; renewal, reporting, and revocation. A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 6. 3. Burden of proof. The burden of proof is upon the petitioner to demonstrate to the board that the requirements in subparts subpart 1 and 3 have been met.

Subp. 7. 4. Statement of reasons. The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

Approved by Revisor _____

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

LOIS E. MIZUNO, being duly sworn, says:

I hereby certify that the attached list of persons and associations who have requested, pursuant to Minn. Stat. Sections 14.14, subd. 1(a) and 14.22 or 14.30, that their names be placed on the Board of Podiatric Medicine's rulemaking mailing list and the attached list of licensees of the Board of Podiatric Medicine, are accurate, complete, and current as of this 2nd day of May, 1991.

That on the 2nd day of May, 1991, at the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached Notice by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

Subscribed and sworn to before me this 2nd day of May, 1991.

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

Betty L Messervey

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Lois E. Mizuno, being first duly sworn upon oath, deposes and says: That at the city of Minneapolis, county of Hennepin and state aforementioned, on the 2nd day of May, 1991, she served the attached NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC 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:

PERSONS ON THE ATTACHED LIST

Lois E Mizuno

Subscribed and sworn to before me
this 2nd day of May, 1991

Betty L. Messervey

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

Licensees as of 4/22/91

John Joseph Adams, DPM
740 East Main St.
Anoka MN 55303

Fred G. Albert, DPM
408 - 4th Ave NW, P.O. Box 646
Austin MN 55912

George J. Albert, DPM
320 Superior Avenue
Washburn WI 54891

Thomas Ray Anderson, DPM
118 Washington St., Box 430
Decorah IA 52101

Roy Mark Armagost, DPM
514 W. 39th Street
Minneapolis MN 55409

Robert Livingston Armstrong,
3341 Xenwood Avenue S.
Minneapolis MN 55416

Richard Espe Arness, DPM
736 North Broadway
Fargo MN 58102

Michael R. Bourne, DPM
2004 Landon Lane #2
Sacramento CA 95825

Paul F. Brezinski, DPM
5301 West Fullerton
Chicago IL 60639

James Bernard Cahill, DPM
1712 South Lane
Camdenus SC 29020

Alan Bruce Carlson, DPM
12401 Oak Park Blvd #202
Blaine MN 55434

Richard Peter Cervenka, DPM
2748 Douglas Drive North
Minneapolis MN 55422

John W. Cheesebro, DPM
5407 Excelsior Boulevard
Minneapolis MN 55416

Richard Leo Constans, DPM
312 West Becker Avenue
Willmar MN 56201

Robert F. Datta, DPM
Route 3, Box 281D
Winona MN 55987

James Patrick Deegan, III, DPM
400 East 3rd Street
Duluth MN 55805

David Lee Deetz, DPM
710 South Alameda
Las Cruces NM 88005

Gordon J. Denno, DPM
953 Moccasin
Carol Stream IL 60188

Stephen Robert Doms, DPM
29 Ninth Avenue N.
Hopkins MN 55343

John Matthew Donohue, DPM
Physicians Clinic 451 N Dunlap
St. Paul MN 55104

Terryl Ann Dorsch, DPM
8101 Hinson Farm Road, #108
Alexandria VA 22306

John Alfred Dow, DPM
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St. Paul MN 55113

Delano J.A. Dunn, DPM
2599 White Bear Avenue
St. Paul MN 55109

Walter Nicholas Ellis, DPM
Thompson Apts #214-1009 3rd S
Worthington MN 56187

John Mark Enger, DPM
132 West Main
Albert Lea MN 56007

Loren Dale Erickson, DPM
1690 University Avenue West
St. Paul MN 55104

Edgar Lee Espe, DPM
Bemidji Cl, 1233 34th St NW
Bemidji MN 56601

Craig Jerome Ficks, DPM
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Spring Lake Park MN 55432

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LaCrosse WI 54601

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Minneapolis MN 55435

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901 - 17th Street NE
Rochester MN 55906

Richard Bruce Graham, DPM
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Minneapolis MN 55422

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West St. Paul MN 55118

William Edward Hanson, DPM
350 East Sarnia
Winona MN 55987

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Worthington MN 56187

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P. O. Box 18
Virginia MN 55792

Lee Allen Hofsommer, DPM
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Fargo ND 58103

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St. Cloud MN 56303

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2121 Cliff Drive
Eagan MN 55122

Michael Timothy Joyce, DPM
2233 N Hamline Ave
Roseville MN 55113

Walter Joseph Jurcich, DPM
2177 Ford Parkway
St. Paul MN 55116

Myron O. Kaminsky, DPM
6112 Oak Meadow Lane NW
Rochester MN 55901

Michael James Kelley, DPM
209 1/2 West Bridge
Owatonna MN 55060

Dennis Alan Kessler, DPM
521 - 30th St
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Steven Russell Kiester, DPM
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Cottage Grove MN 55016

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Fridley MN 55432

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St. Paul MN 55108

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4651 Nichols Road, Suite 100
Eagan MN 55122

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Crookston MN 56716

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David William Maher, DPM
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Hutchinson MN 55350

Timothy J. Maher, DPM
13800 - 83rd Way
Maple Grove MN 55369

Marc Steven Maikon, DPM
1009 3rd Avenue S #302
Worthington MN 56187

Schelli Olmanson McCabe, DPM
316 South 3rd Street
St. Peter MN 56082

Conrad Luke Meints, DPM
517 Medical Arts Building
Duluth MN 55802

Harry Lewis Merrill, DPM
4721 Pleasant Ave. S.
Minneapolis MN 55409

Roy R. Moeller, DPM
16570 West 78th Street, Ste. 3
Eden Prairie MN 55346

Jeffrey Paul Muha, DPM
8017 Dowitch Lane #B
Indianapolis IN 46260

Duane Francis Nelson, DPM
2599 White Bear Avenue
White Bear Lake MN 55109

Bruce Bernard Neumann, DPM
705 South Mill
Redwood Falls MN 56283

William Nicholas Nichols, DPM
12940 Harriet Ave. S.
Burnsville MN 55337

Harold Marcus Nirschl, DPM
120 East Junius
Fergus Falls MN 56537

David Norman Nussbaum, DPM
342 Madison Ave, Suite 1904
New York NY 10017

Jay LaVern Ohlsen, DPM
301 North 3rd
Marshall MN 56258

Aaron Carroll Olson, DPM
525 North Ninth Street
Bismarck ND 58501

Willard John Olson, DPM
732 Lowry Medical Arts Bldg.
St. Paul MN 55102

Kenneth Edward Paul, DPM
418 East Clark
Albert Lea MN 56007

Frank Perendy, DPM
3148 Idaho Avenue North
Crystal MN 55427

Thomas William Perendy, DPM
65 Teton Lane
Mankato MN 56001

William Perendy, DPM
65 Teton Lane
Mankato MN 56001

David C. Peterson, DPM
208 South Main
Crookston MN 56716

Richard G. Picha, DPM
8545 France Ave. S., #512
Edina MN 55435

Anthony Lee Pojman, DPM
1342 Wilderness Run Drive
Eagan MN 55123

Stephen Lee Ponton, DPM
Foot Clinic - 119 S 27th Str
Hattiesburg MS 39401

Stephen H. Powless, DPM
5000 W 39th Street
St. Louis Park MN 55416

Michael Raymond Quinn, DPM
1711 Hickory Street
Onalaska WI 54650

Robert Elmer Ray, DPM
805 Medical Arts Building
Minneapolis MN 55402

Richard E. Rice, DPM
3735 Lakeland Ave. N., #160
Robbinsdale MN 55422

Rayburn Lee Roetman, DPM
803 School Street E.
Owatonna MN 55060

Ann G. Rotramel, DPM
1219 North 5th St.
New Ulm MN 56073

Daniel Francis Ryan, DPM
216 Kingwood St.
Brainerd MN 56401

Robert Bruce Sabbann, DPM
915 - 3rd Avenue Southeast
Rochester MN 55904

James John Salonen, DPM
801 North 9th Street
Virginia MN 55792

Ellsworth Bernard Sampson, DPM
1116 Kings Lane
Anoka MN 55303

David Conrad Schleichert, DPM
1442 12th Avenue North
St. Cloud MN 56303

James Sidney Shaw, DPM
210 Walnut Street
Mankato MN 56001

Michael Alan Sherwin, DPM
5931 N Lovers Lane Rd #105
Milwaukee WI 53225

Thomas Edward Silver, DPM
2301 Louisiana Ave. S.
St. Louis Park MN 55426

Stanley Harold Solomon, DPM
910 - 16th Street
Denver CO 80202

Steven Scott Standa, DPM
287 Marschall Road, Suite 103
Shakopee MN 55379

Loring J. Stead, DPM
1433 Graham Court SE
Rochester MN 55904

Raymond Gerard Stolarski, DPM
PO Box 800
Fairmont MN 56301

Michael L. Stone, DPM
Fargo Cl,Orthoped,736 Broadway
Fargo ND 58123

Craig Perry Sullivan, DPM
PO Box 430, 118 Washington
Decorah IA 52101

Thomas Lynn Tauscheck, DPM
4001 Stinson Boulevard, #232
Minneapolis MN 55421

John Peter Van Ryn, DPM
95 Barlake Ave., #1106
Hamilton,ONT L8E 1H1

Dale Herbert Vancil, DPM
825 Nicollet Ave, Suite 441
Minnepolis MN 55402

Steven David Wachter, DPM
710 N Broadway
New Ulm MN 56073

Lesley Ward Wagner, DPM
608 - 1st Drive NW
Austin MN 55912

Donald Joseph Wahman, DPM
170 East 7th Place
St. Paul MN 55101

Stephen Bryan Wahman, DPM
170 East 7th Place
St. Paul MN 55101

John Frank Waidzunas, DPM
6550 York Ave. S. #206
Edina MN 55435

Ronald A. Warcholak, DPM
Mariner Medical Clinic
Superior WI 54880

John Marcus Warren, DPM
4852 Highway 101
Minnetonka MN 55345

Christopher John Weis, DPM
6344 Penn Avenue South
Richfield MN 55423

Gordon Gregory Weller, DPM
Mayo Clinic, No. 14 Mayo Bldg
Rochester MN 55905

Omer Hilary Welna, DPM
1402 - 25th Street S.
Fargo ND 58103

William Floyd White, DPM
201 - 85th Avenue NW
Coon Rapids MN 55433

Alexander Nick Worobel, DPM
1599 Whitaker Avenue
White Bear Lake MN 55110

David Albert Yount, DPM
1806 Third Street NE
Austin MN 55912

Requests for Rules Notices - 4/30/91

Alexander Worobel, DPM
Group Health, Inc.
2500 Como Avenue
St. Paul MN 55108

Tom Tauscheck, President
MPMA
Apache Plaza Medical Ctr
Minneapolis MN 55321

Mary Beth Curry
MN Hospital Associat
2221 University Ave SE
Minneapolis MN 55414

Michelle Barrete
Sivertson & Barrette
1465 Arcade Street
St. Paul MN 55106

Walter J. Jurich, DPM
2177 Ford Parkway
St. Paul MN 55116
duplicate

Dr. Thomas Silver
2301 Louisiana Avenue S
St. Louis Park MN 55426
duplicate

William Perendy, DPM
65 Teton Lane
Mankato MN 56001
duplicate

Ann G. Rotrameł, DPM
1219 North Fifth Street
New Ulm MN 56073
duplicate

William White, DPM
201 85th Avenue NW
Coon Rapids MN 55433
duplicate

Karen Himle
St. Paul Companies
385 Washington Street
St. Paul MN 55102

Frank Perendy, DPM
5415 West Broadway
Crystal MN 55426
duplicate

Tom William
4725 Excelsior Blvd #400
Minneapolis MN 55416

Robert Holley
Capitol Office Bldg
525 Park Street
St. Paul MN 55103

~~F.~~ G. may do the additional things necessary to ~~achieve compliance~~ comply with parts 3525.0200 to 3525.4700;

~~G.~~ H. may postpone the hearing for up to 15 days to achieve the purposes of this subpart; and

~~H.~~ I. may grant specific extensions of time beyond the 45-day period established in part 3525.3900, item E, at the request of either party.

3525.4200 HEARING RIGHTS OF ~~THE~~ RESPECTIVE PARTIES.

The hearing shall be closed unless the parents request an open hearing. The parties shall have the right to representatives of their own choosing, including legal counsel.

At a reasonable time before the hearing, the parties or their representatives~~, as the case may be,~~ shall be given access to the providing and resident school districts' records and such other records pertaining to the child that are authorized by law to be disclosed, including but not limited to all tests, evaluations, assessments, reports, and other written information concerning the educational assessment or reassessment, conducted pursuant to parts 3525.2550 to 3525.2850 upon which the proposed action may be based.

At least five days before the hearing the parents shall receive from the school districts, who are parties of the hearing, a brief resume of additional material allegations referring to conduct, situations, or conditions which are discovered and found to be relevant to the issues to be contested at the hearing and which are not contained in the original notice or memorandum provided pursuant to parts 3525.3200 to 3525.3600 or ~~part~~ 3525.3700, subpart 2. ~~If the material allegation or information about the allegation is not disclosed, the person conducting the hearing must determine if the material allegation may be considered.~~ Any party to the hearing may prohibit the introduction of any evidence that has not been disclosed to that party at least five days before the hearing. Within five days after the written request is received, any party shall receive from the other parties a list of witnesses who may be called to testify at the hearing. The list must be filed with the person conducting the hearing. The lists may be modified at any time but each party should be notified immediately if possible. The parties or their representatives~~, as the case may be,~~ have the right to ~~request~~ compel the attendance of any employee of the school district, or any other person who may have evidence relating to the proposed action, and to confront, and to cross examine any witness. Any request must be made to the appropriate school district or to the person whose attendance is ~~requested~~ compelled at least five days in advance of the hearing. The written requests shall also be filed with the person conducting the hearing at the time of hearing.

If the person conducting the hearing determines at the conclusion of the hearing that there remain disputes of fact which, in the interest of fairness and the child's educational needs, require the testimony of additional witnesses, or if the hearing officer concludes that alternative educational programs and opportunities have not been sufficiently considered, the hearing officer may continue the hearing for not more than ten days, for the purpose of obtaining the attendance of witnesses or considering alternative programs and opportunities. The parties' right to cross examination and confrontation and other applicable rights and procedures shall continue and be given full force and effect.

REPEALER. *Minnesota Rules*, parts 3525.0200, subpart 23; 3525.2370; 3525.2380, subpart 2; and 3525.2900, subparts 2, 4, and 5, are repealed.

Board of Podiatric Medicine

Proposed Amendments to Proposed Permanent Rules Relating to Training and Licensing

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Podiatric Medicine (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 in which to submit comment in support of or in opposition to the proposed rules. 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 within the 30-day comment period. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* §§ 14.131 to 14.20 (1990).

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

Lois E. Mizuno, Executive Director
Minnesota Board of Podiatric Medicine
Room 101
2700 University Avenue West
St. Paul, Minnesota 55114-1095
Telephone: (612) 642-0588

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 153.02, 153.16, subds. 1(f) and 3,214.06 and 214.12 (1990).

If adopted, the proposed rules would add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waivers or variances. A copy of the proposed rules is attached. The attached proposed rules constitute amendments to proposed rules of the Board published at 15 S.R. 1803-1811 (*State Register*, Tuesday, February 19, 1991, Volume 15, Number 34, pages 1803-1811). The rules as published at 15 S.R. 1803-1811 were subsequently withdrawn from consideration. The text of said rules, as amended by the attachment hereto, and notice of the Board's intent to adopt the rules without a public hearing are hereby republished by reference.

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.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents, will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. 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 rules as adopted should submit a written request to Lois E. Mizuno at the address listed above.

Dated: 22 April 1991

Lois E. Mizuno
Executive Director

Rules as Amended

The rules as proposed at *State Register*, Volume 15, Number 34, pages 1803 to 1811, are proposed with the following amendments:

6900.0010 DEFINITIONS.

Subp. 8. **Initial licensure period.** For a license issued after the ~~effective~~ date ~~of parts 6900.0100 to 6900.0500~~ on which the biennial renewal period becomes effective, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

Subp. 5. **Clinical residency.** A clinical residency is a formal, structured postdoctoral training program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and sponsored by and conducted in an ~~accredited~~ institution such as a hospital or ambulatory health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The residency must:

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

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases of children and adults;

Subp. 6. **Preceptorship.** A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The ~~residency~~ preceptorship must provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. **Preceptor requirements.** The preceptor must:

C. have a hospital staff appointment with podiatric surgical privileges; however, the granting of staff privileges is solely within the discretion of individual institutions; ~~and~~

D. not have been the subject of disciplinary action concerning professional conduct or practice~~.~~; and

E. instruct and direct the unlicensed podiatrist in the podiatrist's duties, oversee and check the work, provide general directions, and comply with at least the following criteria:

(1) review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts and records; review may either be in person or by telecommunication;

(2) be on-site at facilities staffed by an unlicensed podiatrist;

(3) be present during the performance of surgical treatment by the unlicensed podiatrist; and

(4) supervise no more than two unlicensed podiatrists at any one time.

Subp. 8. **Other graduate training.** Other graduate training must meet the requirements of items A to ~~D~~ C and of subpart 7, items A ~~and~~, D, and E, and include written goals, objectives, and an evaluation process.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges. However, the granting of staff privileges is solely within the discretion of individual institutions. The podiatrist with a hospital appointment and surgical privileges must be present during the performance of surgical treatment by the unlicensed podiatrist.

~~D. The supervisor shall instruct and direct the unlicensed podiatrist in the podiatrist's duties, oversee and check the work, provide general directions, and comply with at least the following criteria:~~

~~(1) the supervisor shall review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts or records. Review may either be in person or by telecommunication;~~

~~(2) the supervisor shall be on site at facilities staffed by an unlicensed podiatrist;~~

~~(3) one of the licensed podiatrists referred to in item C must be present during the performance of surgical treatment by the unlicensed podiatrist; and~~

~~(4) the supervisor may not supervise more than two unlicensed podiatrists at any one time.~~

Subp. 9. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. ~~The board may require the applicant to respond satisfactorily~~ Applicants must be prepared to answer questions regarding ethics of practice.

6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in ~~a~~ an acceptable graduate training program ~~and that the program meets the standards in part 6900.0020, subpart 4, 5, 6, or 7~~.

Subp. 2a. **Revocation.** The permit ~~is~~ may be revoked if an applicant has engaged in conduct that constitutes grounds for denial of licensure or disciplinary action, discontinues training, or moves out of Minnesota.

6900.0300 CONTINUING EDUCATION.

Subp. 2. **Obtaining continuing education hours.** Continuing education hours shall be obtained in the following manner:

C. participation in acceptable graduate training ~~that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7~~.

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. ~~**Waivers;**~~ **Application.** A licensee or applicant for licensure may petition the board for a time-limited waiver or variance of any rule except for any part of a rule which incorporates a statutory requirement. The waiver or variance shall be granted if:

A. ~~the rule in question does not address a problem of significance to the public in relation to the practice or application of the petitioner;~~

~~B.~~ adherence to the rule would impose an undue burden on the petitioner; ~~and~~

~~C.~~ B. the granting of a waiver or variance will not adversely affect the public welfare; and

C. in the case of a variance, the rationale for the rule in question can be met by alternative practices or measures specified by the petitioner.

Subp. 2. ~~**Waivers;**~~ **Renewal, reporting, and revocation.** A waiver or variance shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver or variance shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver or variance shall be revoked if a material change in the circumstances which justify its granting occurs or, in the case of a variance, if the petitioner has not complied with the alternative practices or measures specified in the petition.

~~Subp. 3. **Variances; application.** A licensee or applicant may petition the board for a time-limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:~~

~~A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;~~

~~B. adherence to the rule would impose an undue burden on the petitioner; and~~

~~C. the granting of the variance will not adversely affect the public welfare.~~

~~Subp. 4. **Variances; compliance.** Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.~~

~~Subp. 5. **Variance; renewal, reporting, and revocation.** A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance shall be revoked if a material change in the circumstances which justify its granting occurs.~~

Subp. ~~6.~~ 3. **Burden of proof.** The burden of proof is upon the petitioner to demonstrate to the board that the requirements in ~~subparts~~ subpart 1 ~~and 3~~ have been met.

Subp. ~~7.~~ 4. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

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.

Board of Podiatric Medicine

2700 University Avenue West #101
St. Paul, MN 55114
(612) 642-0588

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: April 22, 1991

RE: Proposed Rule Changes, Including Fee Changes

On February 4, 1991 you were sent a copy of the attached memorandum regarding proposed rules. Because of a technical error unrelated to the content of the proposed rules, the rules need to be republished.

This memorandum notifies you pursuant to the provisions of Minn. Stat. SS 14.23 and 16A.128, subd. 2a of the Board's intent to adopt rules that include amendments to the fee rule.

The fee rule in the proposed rules attached to the 2/4/91 memorandum remains unchanged.

If you have any questions, please contact me.

Attachment

Board of Podiatric Medicine

2700 University Avenue West #101
St. Paul, MN 55114
(612) 642-0588

June 6, 1991

Patricia Nolte
Attorney General's Office
Public Finance Division
525 Park Street, 5th Floor
St. Paul, MN 55103

Dear Ms. Nolte:

The Minnesota Board of Podiatric Medicine has adopted rules relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances, which I am resubmitting, together with the documents listed below. Ms. Charlene Hatcher is in possession of the documents originally submitted. Please refer to the copy of my letter of April 5, 1991 for a list of those documents.

1. Proposed Rule and Certificate of Approval
2. Notice of Intent to Adopt a Rule Without a Public Hearing
3. Affidavit of Mailing and Certificate of Agency's Mailing List
4. Notice of Intent to Adopt a Rule Without a Public Hearing as Published in the State Register
5. Four Copies of the Rule as Adopted
6. Supplemental Findings of Fact, Conclusions, and Order Adopting Rules Without a Public Hearing
7. Copy of a Memo to Chairs of the House Appropriations, Senate Finance Committees, and Legislative Commission for Review of Agency Rules
8. Declaration of the Attorney General

There were no comments submitted and no requests for the Statement of Need and Reasonableness or to be notified when the rules were to be submitted to the Attorney General for review.

It is urgent that the rules be reviewed as soon as possible so that the final notice of adoption can be submitted to the State Register on Monday, June 10, 1991, in order to become effective before the end of the fiscal year, assuming the rules are approved.

If you have any questions, please contact me at 642-0588.

Sincerely,

Lois E. Mizuno

Lois E. Mizuno
Executive Director

AN EQUAL OPPORTUNITY EMPLOYER

Board of Podiatric Medicine

2700 University Avenue West #101
St. Paul, MN 55114
(612) 642-0588

COPY

April 5, 1991

Patricia Nolte
Attorney General's Office
Public Finance Division
525 Park Street, 5th Floor
St. Paul, MN 55103

Dear Ms. Nolte:

The Minnesota Board of Podiatric Medicine has adopted rules relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances. I am, therefore, submitting all documents for review and approval of these rules. Enclosed for your review are the following documents:

1. Authorizing Resolution
2. Proposed Rule and Certificate of Approval
3. Notice of Intent to Adopt a Rule Without a Public Hearing
4. Statement of Need and Reasonableness
5. Affidavit of Mailing and Certificate of Agency's Mailing List
6. Notice of Intent to Adopt a Rule Without a Public Hearing as Published in the State Register
7. Four Copies of the Rule as Adopted
8. Resolution Adopting the Rule
9. Findings of Fact, Conclusion, and Order Adopting Rules
10. Correspondence relating to the Rule
11. Declaration of the Attorney General

If you have any questions, please contact me at 642-0588.

Sincerely,

Lois E. Mizuno
Executive Director

AN EQUAL OPPORTUNITY EMPLOYER

(Condensed Version)

Amended Notice

The Notice published Feb 19. gave an incomplete 30 day comment period. ~~This notice~~ 7/14 we are republishing this Notice to give all persons a full 30 day comment period. You have until ____ to send comments to .

For the remainder of the original Notice refer to (cite) . For the full text of the rule [redacted] see (cite)

Applicants must be prepared to answer questions concerning ethics of practice.

Eric Johnson 5

At my client + Senator Lassey & ppsd legislation for REM + City of Cambridge

Advice Re Rule

Rules should be w/drawn; or they will be rejected per the rules for failure give 30-day comment period.

1. draft a new notice of intent (not dual) which has as attachment the new proposed rules

4-22-91 2. get the new notice and the proposed rules over to the State Register's office today so that it can be published on May 6.

5-6-91 3. Notice of Intent and proposed rules published in the State Register. Commencement of the new 30-day comment period.

6-5-91 4. End of the 30-day comment period. Date when the rules can be submitted to A.G.'s office per re-submission rules. [2010.1300]

6-6/7-91 5. Rules re-submitted to A.G.'s office together w/ appropriate accompanying documents per rule.
(a) obtain Certificate from the Revisor's office prior to approval

NOTE: Lois Mizuno is willing to handcarry the documents thru, if necessary.

Problem - 30 comment period 4-15 CH

RULE REVIEW CHECKLIST

File No. 1819
DATE RECEIVED 4-8-90
REVIEW DATE 4-17-91
DUE DATE 4-22-91
(DIS)APPROVED
WITHDRAWN 4-22-91

Docket No. 05 0009 0485
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 4-15-91
REVISOR (DIS)APPROVED 4-19-91
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
January 4, 1991 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
153.02, 153.16 subd 1 & 3 Statutory Authority 214.12
✓ Small Business Statement
_____ Expenditure of public money statement
Feb 4, 1991 Signature

✓ Statement of Need and Reasonableness (if applicable)
Statement Small Business Statement
✓ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
February 15, 1991 Dated 30/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
February 19, 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 22, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
March 22, 1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Bob Holly Name of SAAG representing agency

NA Notice of Submission to Attorney General (if applicable)

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

Board of Podiatric Medicine

Adopted Permanent Rules Relating to Training and Licensing

Rules as Adopted

6900.0010 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. **Acceptable graduate training.** "Acceptable graduate training" means at least 12 consecutive months of postgraduate training in a clinical residency, preceptorship, or other graduate training as described in part 6900.0020, subparts 5, 6, 7, or 8.

Subp. 2. and 3. [See repealer.]

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Suspend a license.** "Suspend a license" means to discontinue a podiatrist's right to practice for a definite or indefinite time until specified conditions are met.

[For text of subp 7, see M.R.]

Subp. 8. **Initial licensure period.** For a license issued after the ~~effective~~ date ~~of parts 6900.0100 to 6900.0500~~ on which the biennial renewal period becomes effective, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Graduate training.** Applicants graduating in 1987 and thereafter from a podiatric medical school must present evidence of satisfactory completion of acceptable graduate training.

Subp. 5. **Clinical residency.** A clinical residency is a formal, structured postdoctoral training program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and sponsored by and conducted in an ~~accredited~~ institution such as a hospital or ambulatory

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health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases of children and adults;

B. develop the podiatric medical graduate in the art of preventing and controlling podiatric conditions and diseases and in the promotion of foot health principally through mechanical and rehabilitative methods;

C. provide the podiatric medical graduate with clinical experience necessary to refine competency in the podiatric medical and surgical care of the foot as defined by the statutory scope of practice; or

D. provide the podiatric medical graduate with clinical experience necessary to become competent in the full scope of advanced podiatric medicine and surgery.

Subp. 6. **Preceptorship.** A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The ~~residency~~ preceptorship must provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. **Preceptor requirements.** The preceptor must:

A. provide training in the care of children and adults that offers experience as defined by the statutory scope of practice including drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and

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the following surgeries:

(1) nail;

(2) digital;

(3) soft tissue;

(4) forefoot;

(5) metatarsal;

(6) midfoot; and

(7) rearfoot or ankle;

B. hold a clinical appointment at a podiatric medical school or be a member of the teaching staff of a hospital sponsoring a residency program;

C. have a hospital staff appointment with podiatric surgical privileges; however, the granting of staff privileges is solely within the discretion of individual institutions; ~~and~~

D. not have been the subject of disciplinary action concerning professional conduct or practice~~.~~; and

E. instruct and direct the unlicensed podiatrist in the podiatrist's duties, oversee and check the work, provide general directions, and comply with at least the following criteria:

(1) review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts and records; review may either be in person or by telecommunication;

(2) be on-site at facilities staffed by an unlicensed podiatrist;

(3) be present during the performance of surgical treatment by the unlicensed podiatrist; and

(4) supervise no more than two unlicensed podiatrists at any one time.

Subp. 8. **Other graduate training.** Other graduate training must meet the requirements of items A to ~~B~~ C and of subpart 7, items A ~~and~~, D, and E, and include written goals, objectives, and an evaluation process.

A. A licensed podiatrist must be designated as the unlicensed podiatrist's supervisor and assume full podiatric

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responsibility for patient services provided by the unlicensed podiatrist.

B. The supervisor must obtain the approval of the board for the proposed graduate training, including its written goals and objectives, before the training begins.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges. However, the granting of staff privileges is solely within the discretion of individual institutions. The podiatrist with a hospital appointment and surgical privileges must be present during the performance of surgical treatment by the unlicensed podiatrist.

~~D.--The-supervisor-shall-instruct-and-direct-the unlicensed-podiatrist-in-the-podiatrist's-duties,-oversee-and check-the-work,-provide-general-directions,-and-comply-with-at least-the-following-criteria:~~

~~(1)-the-supervisor-shall-review-and-evaluate patient-services-provided-by-the-unlicensed-podiatrist-on-a daily-basis-from-information-in-patient-charts-or-records. Review-may-either-be-in-person-or-by-telecommunication;~~

~~(2)-the-supervisor-shall-be-on-site-at-facilities staffed-by-an-unlicensed-podiatrist;~~

~~(3)-one-of-the-licensed-podiatrists-referred-to in-item-C-must-be-present-during-the-performance-of-surgical treatment-by-the-unlicensed-podiatrist;-and~~

~~(4)-the-supervisor-may-not-supervise-more-than two-unlicensed-podiatrists-at-any-one-time.~~

Subp. 9. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. The board may require the applicant to respond satisfactorily to questions regarding ethics of practice.

Subp. 10. **License in other states.** If an applicant is

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licensed in one or more states other than Minnesota, the applicant must cause a form supplied by the board to be submitted from the board of podiatric medicine in the state of original licensure and each state in which a license was held during the five years immediately preceding application.

6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in ~~a~~ an acceptable graduate training program ~~and that the program meets the standards in part 6900.0020, subpart 4, 5, 6, or 7~~.

Subp. 2. **Term of permit.** A granted permit is valid for the period of graduate training of 12 months beginning with the first day of graduate training. A permit may be reissued once if the applicant submits acceptable evidence that the training was interrupted by circumstances beyond the control of the applicant and that the sponsor of the program agrees to the extension.

Subp. 2a. **Revocation.** The permit ~~is~~ may be revoked if an applicant has engaged in conduct that constitutes grounds for denial of licensure or disciplinary action, discontinues training, or moves out of Minnesota.

Subp. 3. **Scope of practice.** The scope of practice of the permit holder is limited to the performance of podiatric medicine within the structure of the acceptable graduate training program within which the permit holder is enrolled.

6900.0200 LICENSE RENEWAL.

Subpart 1. **Active status.** The license renewal term is 24 months beginning on July 1 and ending on June 30. Applications

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received and postmarked after June 30 in the year due will be returned for addition of the late renewal fee. The term of renewal begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even number. The July 1, 1991, renewal term for a licensee who renews in even-numbered years shall end June 30, 1992, and the renewal fee and continuing education hours shall be half the amount required for a 24-month renewal period. For the first renewal period following the initial licensure period, the fee for renewal of license is that fraction of $450, to the nearest dollar, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

An applicant for license renewal must submit to the board:

A. an application form, renewal fee, and, if applicable, the late renewal fee. The application form must provide a place for the renewal applicant's signature and solicit information including the applicant's office address, and other information that may be reasonably requested by the board;

B. evidence of participation in approved continuing education programs as described in part 6900.0300; and

C. other evidence as the board may reasonably require.

[For text of subp 2, see M.R.]

Subp. 3. **Notice.** Any time after July 1 of the applicable year, the board will send to the last address on file with the board, a notice to licensees who have not applied for license renewal. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and information about continuing education that must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by applying for license renewal as provided in subpart 1 or by notifying the board that the

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licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

Subp. 4. **Result.** If the application for renewal as provided in subpart 1 or notice of voluntary termination is not received by the board by the date specified in the notice, the license will expire and the licensee's right to practice terminates on the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

[For text of subp 5, see M.R.]

Subp. 6. **Disciplinary action.** The board, in lieu of the procedure in subpart 3, may initiate disciplinary action against any licensee for failure to submit fees or provide documentation of completion of continuing education requirements, and may add such failure to other grounds specified in Minnesota Statutes, sections 153.01 to 153.25 in any contested case proceeding initiated by the board against the licensee on the other grounds.

Subp. 7. **Name and address change.** A podiatrist who has changed names must notify the board in writing as soon as possible and request a revised renewal certificate. The board may require substantiation of the name change by requiring official documentation.

A podiatrist must maintain with the board a correct mailing address to receive board communications and notices. A podiatrist who has changed addresses must notify the board in writing as soon as possible. Placing a notice in first class United States mail, postage prepaid and addressed to the licensee at the licensee's last known address, constitutes valid service.

6900.0210 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements.** Upon a podiatrist's compliance with the requirements in this part, the podiatrist's license must be reinstated. The podiatrist requesting reinstatement of a license shall submit the following materials:

A. an application form and relicensure fee;

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

Subp. 2. **Revoked or suspended license.** No license that has been suspended or revoked by the board will be reinstated unless the former licensee provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the former licensee has successfully completed the requirements. The board may require the licensee to pay the costs of the proceedings resulting in the suspension or revocation of a license under its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay the costs of the proceedings resulting in the disciplinary action.

[For text of subp 3, see M.R.]

6900.0250 FEES.

Subpart 1. **Amounts.** Fees are as follows:

A. licensure, $450;

B. renewal of a license, $450;

C. late renewal of a license, an additional $100;

D. temporary permit, $200;

E. replacement of an original license document or renewal certificate, $10; and

F. relicensure following expiration of license, $550.

Subp. 2. **Requirements.** Fees must be paid in United States money and are not refundable.

6900.0300 CONTINUING EDUCATION.

Subpart 1. **Requirement.** Every podiatrist licensed to practice in Minnesota shall obtain 30 clock hours of continuing education in each two-year cycle of license renewal. The number of continuing education hours required during the initial

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licensure period is that fraction of 30 hours, to the nearest whole hour, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

Subp. 2. **Obtaining continuing education hours.** Continuing education hours shall be obtained in the following manner:

A. attendance at educational programs approved by the board under subpart 3;

B. attendance at hospital staff meetings (no more than three hours of hospital staff meetings may be used for license renewal each year); or

C. participation in acceptable graduate training ~~that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7~~.

Subp. 3. **Requirements of program approval.** Each continuing education program used to meet the license renewal requirements must be approved by the board before the program is accepted as meeting requirements of this part.

In order for a continuing education program to be approved by the board, the program must meet the following criteria:

A. The content must be directly related to the practice of podiatric medicine as defined in Minnesota Statutes, section 153.01, subdivision 2. Subjects such as practice management or those not of a scientific nature are not acceptable.

B. The speaker must be a licensed podiatrist, other credentialed health care professional, or person especially qualified to address the subject.

C. The sponsor must provide the attendee a written statement of attendance that includes the name and dates of the program, the name and address of the sponsor, the number of continuing education clock hours granted by the sponsor and approved by the board if prior approval has been sought, the name of the attendee and a signature of the sponsor or designee, or upon completion of the program, the sponsor must send the board a list of attendees.

Subp. 3a. **Procedure for program approval.** Either the

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sponsor of a continuing education program or a licensee may submit the program for approval by the board.

The following information about the program is required:

A. name and address of the program sponsor;

B. dates and times of the program;

C. subject or content matter of each item on the program together with the amount of time devoted to the subject;

D. name of and identifying information about the speakers or instructors; and

E. assurance that a written statement of attendance will be given to the podiatrist or that a list of attendees will be sent to the board.

The board shall approve each continuing education program for a specific number of clock hours of continuing education. One clock hour is 60 minutes. Partial hours will not be granted. Lunch breaks, rest periods, greetings, and other noneducational time will not be included.

Subp. 4. **Proof of attendance.** Proof of attendance at continuing education programs meeting the requirement of this part shall be submitted to the board within the renewal period in which it was attended in the form of a certificate, descriptive receipt, or affidavit.

Subp. 5. [See repealer.]

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. **Waivers; Application.** A licensee or applicant for licensure may petition the board for a time-limited waiver or variance of any rule except for any part of a rule which incorporates a statutory requirement. The waiver or variance shall be granted if:

~~A. the rule in question does not address a problem of significance to the public in relation to the practice or application of the petitioner;~~

~~B.~~ adherence to the rule would impose an undue burden on the petitioner; ~~and~~

~~C.~~ B. the granting of a waiver will not adversely

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affect the public welfare; and

C. in the case of a variance, the rationale for the rule in question can be met by alternative practices or measures specified by the petitioner.

Subp. 2. **Waivers; Renewal, reporting, and revocation.** A waiver or variance shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver or variance shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver or variance shall be revoked if a material change in the circumstances which justify its granting occurs or, in the case of a variance, if the petitioner has not complied with the alternative practices or measures specitied in the petition.

~~Subp. 3. **Variances; application.** A licensee or applicant may petition the board for a time limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:~~

~~A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;~~

~~B. adherence to the rule would impose an undue burden on the petitioner; and~~

~~C. the granting of the variance will not adversely affect the public welfare.~~

~~Subp. 4. **Variances; compliance.** Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.~~

~~Subp. 5. **Variance; renewal, reporting, and revocation.** A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any~~

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~~material-change-in-circumstances-which-justify-the-granting-of the-variance.--A-variance-shall-be-revoked-if-a-material-change in-the-circumstances-which-justify-its-granting-occurs.~~

Subp. ~~6.~~ 3. **Burden of proof.** The burden of proof is upon the petitioner to demonstrate to the board that the requirements in ~~subparts~~ subpart 1 ~~and 3~~ have been met.

Subp. ~~7.~~ 4. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

REPEALER. Minnesota Rules, parts 6900.0010, subparts 2 and 3; 6900.0030; and 6900.0300, subpart 5, are repealed.

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STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA BOARD

OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

STATEMENT OF NEED AND REASONABLENESS

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MINNESOTA BOARD OF PODIATRIC MEDICINE

January 28, 1991

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The existing rules were adopted to implement the new podiatric medicine practice act which became law in 1987, and have been in effect since November, 1988. On the whole the existing rules have served fairly well in providing a needed and reasonable means of implementing the licensure law.

However, experience over the past two and a half years has revealed some areas in which clarity may be lacking. The proposed rules attempt to make the provisions easier to understand. In addition, in an effort to ease the renewal process for both licensees and the Board, the proposed rules provide for a two year renewal period to replace the one year period currently in effect. Companion provisions are proposed to phase in half the licensees in odd numbered years and half in even numbered years, address the problems inherent in the initial licensure period due to its being shorter than the standard renewal period, and equate continuing education requirements and renewal fees to the two year cycle so that the amount of each required per year remains the same. The Board has also found that the existing rules lack the needed flexibility to cope with unusual and unexpected circumstances and has added a proposed waiver and variance rule, the provisions of which have withstood the test of time for another health-related board.

As part of the objective to provide greater clarity, all the proposed provisions related to the one year of graduate training mandated by the law as a requirement for licensure are consolidated into one rule part. The proposed rules also provide greater clarity in the provisions relating to temporary permits, consolidate into one rule part the provisions relating to disciplinary action currently in two widely separated parts, and simplify the provisions relating to compliance with continuing education requirements.

The statement of need and reasonableness follows the statement of the Board's statutory authority and the section on small business considerations.

II. 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 153.02;, 153.16, subds 1(f) and 3, and 214.06, subds. 1 and 2

(1990). Section 153.02 grants the Board the authority to adopt rules as may be necessary to carry out the purposes of the licensing law. Section 153.16 subdivision 1(f) requires a licensure fee established by rule. Section 153.16 subdivision 3 authorizes a temporary permit fee established according to Board rule. 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 bienniuum. 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.

III. SMALL BUSINESS CONSIDERATIONS

Minn. Stat. S 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 these proposed rule amendments.

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.

BOARD OF PODIATRIC MEDICINE--STATEMENT OF NEED AND REASONABLENESS

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

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, these proposed amendments are viewed as compliance or reporting requirements for businesses, the the Board finds that it would be unworkable to lessen the requirements for those podiatrists who practice in a solo or clinic setting of fewer than 50 employees, since that would include the vast majority of podiatrists. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's amendments do not propose design or operational standards for businesses, and therefore there is no reason to implement performance standards for small businesses as a replacement for design or operational standards that do not exist. Finally, method (e) suggests exempting small businesses from any or all requirements of the rules. Under the Board's view that these proposed rule amendments does not in any way regulate the business operation of podiatrists, 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 podiatrists, then it would hardly make sense for the Board to exempt from its rules those podiatrists who practice in a solo or clinic setting with fewer than 50 employees, since they constitute the vast majority of podiatrists. For all of these reasons, it is not feasible for the Board to incorporate into its proposed amendments 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 podiatrists.

Pursuant to the Minnesota licensing law for podiatrists, Minn. Stat. SS 153.01 to 153.25, the Board was created for the purpose of establishing requirements for licensure and adopting ethical standards governing appropriate practices or behavior for podiatrists. Pursuant to Minn. Stat. S 153.02, the Board is specifically empowered to "adopt rules as necessary to carry out the purpose" of the Minnesota licensing law for podiatrists. Given these statutory mandates, it is the Board's duty to establish rules relating to the practice of podiatric medicine 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 amendments will not affect small businesses, and certainly do not have the potential for imposing a greater impact on

podiatrists 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 amendments may affect the business operation of a podiatrist or a group of podiatrists, 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 podiatrists - indeed, the majority of podiatrists - from the requirements of these rules. 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 podiatrists who work in a large business setting and adopt another, less stringent, set of licensure requirements to be applied to those podiatrists who practice in a solo or small clinic practice. It is the Board's view that these rule amendments must apply equally to all podiatrists, if the public whom they serve is to be adequately protected.

IV. STATEMENT OF NEED AND REASONABLENESS

6900.0010, Definitions

Subpart 1a. is a proposed new subpart which defines "acceptable graduate training". The definition is needed to avoid repetition of the elements of the definition throughout the rules. The definition is reasonable because it includes the time period (12 consecutive months) for the post graduate training already prescribed for and common to each of the three types of training described in existing rules, and because the three types of training remain unchanged from existing rules. It is reasonable to pull together the three types of graduate training to make it easier to understand what graduate training is acceptable for meeting the requirements for licensure.

Subparts 2 and 3. In the proposed amendment subparts 2 and 3 are repealed because the substance of the definitions of "clinical residency" and "preceptorship" are transferred to part 6900.0020, subparts 5, 6, and 7. The repeal and transfer are needed to ensure that all information about each type of graduate training is included in one place to avoid incomplete interpretation or misinterpretation of the elements of acceptable graduate training. In existing rules, elements of "clinical residency" and "preceptorship" are separated from "other graduate training", which makes matters confusing for the reader. The repeal of the subparts and transfer of the text are reasonable because the change improves the clarity of the provisions and the intent of the definitions is not altered: clinical residency and preceptorship requirements remain essentially the same.

Subparts 4 and 5 remain unchanged.

Subpart 6. The proposed amendment provides that in the definition of "suspend a license" the term "licensee's" is changed to

"podiatrist's" (right to practice). The change is needed to conform with usage in subpart 5 and throughout the rules: "podiatrist" is used to describe a person granted a license or temporary permit to practice podiatric medicine. The change is reasonable because the terms are essentially interchangeable: a person cannot engage in the independent practice of podiatric medicine without being licensed to do so.

Subpart 7 remains unchanged.

Subpart 8 is a proposed new subpart that defines "initial licensure period". The definition is needed to avoid repeating the elements of the definition in other parts of the rules. It is also needed because, while the renewal period spans a definite time period (two years, June 30 to July 1), the time period between the licensure date and the beginning of a renewal period is indefinite: the date of licensure can occur at any board meeting during the year. The definition is also needed to ensure that the initial licensure period ends at the beginning of a renewal period so that licensee's renewal coincides with the renewal period without any omitted or overlapped days. The definition is reasonable because it describes accurately and economically a variable time period and ensures that the time period will never exceed two years, the length of a renewal period.

6900.0020 Licensure Requirements

Subparts 1, 2, and 3 remain unchanged.

Subpart 4. In the subpart concerning who must complete graduate training, the proposed amendment deletes the words "a clinical residency, preceptorship, or other" and adds the word "acceptable" so that the text agrees with other parts in which the term "other graduate training" occurs. The amendment is needed to reduce duplication of phrases and increase clarity. The change is reasonable because it uses a term now defined (in subpart 1a) in an appropriate and logical manner.

Subpart 5. The proposed amendment to the description of "clinical residency" includes the text from repealed part 6900.0010, subpart 2, with minor changes to conform with the style of this part, and deletes duplicated text. The amendment is needed to ensure that all the elements of a clinical residency are located in the same place in the rules in order to avoid incomplete interpretation or misinterpretation of the elements. The amendment is reasonable because it retains all the existing elements of a clinical residency and does not impose any additional elements.

Subpart 6. The proposed amendment to the description of "preceptorship" includes the text from repealed part 6900.0010, subpart 3, and deletes duplicated text. The amendment is needed to ensure that all the elements of a preceptorship are located in the same place in the rules in order to avoid incomplete interpretation or misinterpretation of the elements. The amendment is reasonable be-

cause it retains all the existing elements of a preceptorship and does not impose any additional elements.

Subpart 7. There are only two proposed changes to preceptor requirements: (1) the sentence in Item A - "The care of children and adults must be included." - is moved from its location after the list of surgeries to the beginning of the subpart, changing the sentence to a phrase, and alter the punctuation; and (2) the word "college" in Item B is changed to the words "podiatric medical school". The change in Item A is needed to ensure that the care of children and adults is an integral part of the training rather than an afterthought. The change in Item B is needed to ensure that the supervisor must hold an appointment at a podiatric medical school, not at a college with undergraduate programs devoted to other professions. The changes are reasonable because they clarify but do not alter the meaning of the subpart.

Subpart 8. The proposed amendments to other graduate training requirements eliminate duplication of provisions common to both preceptorships and other graduate training by including by reference the applicable provisions in subpart 7 and deleting the duplicated text. The change is needed to reduce duplicative provisions which because of their repetition become confusing, and to ensure that the similarity between a preceptorship and other graduate training is recognized. The amendment is reasonable because it ensures that other graduate training is as comparable to a preceptorship as possible and provides as comprehensive a preparation for licensure.

The proposed amendment includes the following additional requirement for other graduate training: Item B., requiring Board approval for the proposed training before the training begins. The addition is needed to ensure that the training meets prevailing standards in the absence of oversight by a podiatric medical school or a hospital sponsoring a residency program. The addition is reasonable because it permits any licensee to serve as a supervisor of graduate training if his proposal is approved by the Board.

The proposed amendments to Item D. are needed to clarify the item's meaning and to provide uniformity in terminology. The change in clause four (4) is needed to clarify that a supervising podiatrist is not limited to supervising two unlicensed podiatrists during his or her entire professional career. The changes are reasonable because they aid comprehension without imposing new requirements.

Subpart 9. The proposed amendments to the personal appearance requirements delete the provision that the board may waive the personal appearance if a board member has personal knowledge of the application's accuracy, and substitutes the provision that in the personal appearance the applicant may be required to respond satisfactorily to questions regarding ethics of practice. The amendment is needed to avoid the appearance that the board could grant licensure on any basis other than an applicant's having met the requirements for licensure. It is needed also to implement the provision of

Minnesota Statute S153.16, subdivision 1, clause (e), permitting the board to establish procedures for the personal appearance. The amendment is reasonable because it ensures that applicants will perceive they are being treated fairly and equitably, and because applicants for licensure are expected to understand professional ethics in order to practice within the law and according to community standards.

Subpart 10. The proposed amendment to the requirements for verification of an applicant's licensure in other states only changes the wording to clarify the text without altering its meaning. The amendment is needed to ensure that verification is received from the state of original licensure and from each state granting licensure within the five years preceding application in Minnesota. The change is reasonable because it does not add any verification requirements to the existing rule.

6900.0160, Temporary Permits

Subpart 1. The proposed amendment to the prerequisites for being granted a temporary permit requires the applicant to submit an application for a temporary permit as well as an application for licensure and to pay the temporary permit fee. The amendment is needed to inform applicants that both applications must be submitted but that only the fee for a temporary permit must be paid. The amendment is also needed because the board must be able to readily differentiate between an application for a temporary permit and an application for licensure. The amendment is reasonable because it eliminates the need for paying both the temporary permit fee and the licensure fee at a time when the podiatrist is least able to pay.

Subpart 2. The proposed amendment to the term of permit text clarifies that the permit to engage in graduate training begins on the first day of training and lasts for twelve months (the required amount of graduate training for Minnesota licensure) and provides that the permit may be renewed once if evidence is submitted that the training was interrupted by circumstances beyond the control of the applicant and the sponsor agrees to the extension. The proposed amendment also deletes the requirement that training must be completed within 18 months. The amendment is needed to ensure that a permit holder has the opportunity to continue the graduate training beyond a year if interrupted by such factors as illness, active duty in the armed services, etc., even if the training must extend beyond 18 months in order to ensure 12 months of training altogether. The amendment is reasonable because it provides sufficient flexibility to accommodate training to unforeseen circumstances while assuring the Board that the extension is approved by the sponsor and is, therefore, not being requested for frivolous or capricious reasons.

Subpart 2a. The proposed amendment moves the permit revocation provisions of subpart 2 to subpart 2a, deletes the phrase "a permit expires when an applicant is licensed" and provides that a permit is revoked for conduct that would constitute grounds for denial of

licensure or disciplinary action. The amendment is needed to clarify that revocation of a permit results from conduct constituting grounds disciplinary action under Minn. Stat. S 153.19. The amendment is reasonable because it deletes language which does not aid comprehension and imposes no additional burden on the permit holder: the grounds listed in Minn. Stat. S 153.19 are the basis for both denial of licensure or [other] disciplinary action.

Subpart 3. The proposed amendment to the scope of practice text substitutes "acceptable" graduate training for the reference to the different types of graduate training. The amendment is needed so that the text agrees with and makes use of the definition in part 6900.010, subpart 1a. The amendment is reasonable because is shortens the text without changing its meaning.

6900.0200, License Renewal

Subpart 1. The proposed amendments to the license renewal period change the period from 12 months to 24 months, provide that renewals in odd and even years correspond to odd and even license numbers, provide a one year renewal period for the 1991 renewal only for licensees with even numbered licenses, with half the renewal fee required, and provide for the proration of the first renewal fee for persons licensed after the effective date of the rules.

The amendment providing for a two-year renewal period is needed to lessen the paper work for both licensees and board staff. A two year renewal period means that licensees will have to complete the renewal process only half as many times as they must under existing rules, and the staff will have, after the first year, only half the number of renewal applications to process. The amendment is reasonable because it imposes no additional renewal requirements on licensees.

The provision that the renewal period beginning July 1, 1991 is one year for licensees with even numbered licenses is needed to ensure that such licensees will have a two year renewal cycle beginning in an even-numbered year (1992). The amendment is reasonable because the renewal fee is proportionate to the shortened renewal period.

The provision which prorates the fee for the first renewal period after the initial licensure period is needed to ensure that the fees for obtaining and maintaining a license, taken together, are proportional to the amount of time the person is licensed. The initial licensure fee cannot be prorated because the varying amount of time between the date of application and the date of licensure makes proration before the fact impossible. The provision is reasonable because the new licensee is not required to pay a disproportionately high fee for a license that is in effect for less than two years.

Subpart 2 remains unchanged.

Subpart 3. The proposed amendments to the renewal notice text

make the text conform to the proposed two year renewal cycle, delete words which are redundant because they repeat provisions in subpart 1, and substitute for the deletions reference to the provisions of subpart 1. The amendments are needed to reduce confusion and clarify meaning. The amendments are reasonable because they do not impose any additional renewal requirements on licensees.

Subpart 4. The proposed amendment to this subpart has the same configuration and purpose as the amendments to subpart 3. The need and reasonableness of the amendment are, therefore, the same.

Subpart 5 remains unchanged.

Subpart 6. The proposed amendment to subpart 6 combines the text of part 6900.0300, subpart 5, with this part, deleting duplication language and integrating the texts to ensure that all the existing provisions of the two subparts are preserved. The first half of the amendment relates to the provisions of part 6900.0300, subpart 5, and the second half clarifies the provisions of this subpart. The amendment is needed to reduce the confusion inherent in two widely separate subparts dealing with essentially the same subject matter--the right of the board to initiate disciplinary action against a licensee for failure to submit fees or documentation of completion of continuing education requirements, and to add such failure to other grounds in a contested case proceeding. The amendment is reasonable because it preserves the meaning of the separate subparts but does not impose any additional burden on licensees.

Subpart 7. The proposed amendment to the name and address change provisions substitutes the word "must" for the word "shall". The amendment is needed to bring the text into conformance with standard usage. The amendment is reasonable because it does not alter the meaning of the text.

6900.0210, Reinstatement of License

Subpart 1. The proposed amendment to requirements for reinstatement of licensure substitutes the word "podiatrist's" for the word "applicant", the word "requesting" for the words "desiring the", and the word "must" for the word "shall". The amendment is needed to clarify that it is podiatrists' license reinstatement at issue (reserving the word "applicant" only for a person not yet licensed), and to bring the text into conformance with standard usage. The amendment is reasonable because it imposes no additional requirements for reinstatement of a license.

The proposed amendment to Item A substitutes the words "relicensure fee" for the words "license renewal fee" and "late renewal fee". The amendment is needed to ensure that all former licensees, regardless of when reinstatement is requested, must pay the same fee. (See part 0900.0250 for the relicensure fee, which equals the renewal fee plus the late fee.) The amendment is reasonable because it corrects an unintentional disparity in the ex-

isting subpart: persons reinstating within 12 months pay the late fee; persons reinstating after 12 months do not.

Items B through E remain unchanged.

Subpart 2. The proposed amendment substitutes the words "former licensee" for the words "applicant for reinstatement". The change is needed, as stated earlier, to reserve the word "applicant" only for a person who is not yet licensed. The amendment is reasonable because it does not alter the meaning of the text.

Subpart 3 remains unchanged.

6900.0250, Fees

Subpart 1. The proposed amendment doubles the amounts of renewal and late fees, makes the licensure fee equal to the renewal fee, deletes the "reexamination by the board under an original application for licensure" fee, and establishes a fee for relicensure.

Doubling of the renewal fee and late renewal fee is needed because the time period of the renewal is doubled; leaving the fees as they are in existing rules would cut the revenue of the board in half, which would not permit the board to carry out its duties. Making the licensure fee equal to the renewal fee is needed because the fee serves the same purpose as the renewal fee (bearing in mind, of course, that the first renewal fee is prorated to take into account the fact that the initial licensure period is always less than the renewal period of two years). Deletion of the "reexamination" fee is needed because it serves no useful purpose (and is not imposed) in the administration of the application process. The initial licensure fee, paid at the time of application, covers the application process, regardless of whether the applicant passes the PMLexis (national exam) on the first try. A separate relicensure fee is needed because of the reference made to the fee in the preceding subpart.

The proposed renewal and late renewal fees are reasonable because they are exactly equivalent to the existing fees, being double for a doubled time period. The proposed licensure fee is reasonable because the proration provision in an amendment to a preceding rule part ensures that the licensure fee and renewal fee taken together are proportional to the actual period in which the license is valid. The deletion of the "reexamination" fee is reasonable because leaving a fee in the rules which is not used is confusing to the reader. The relicensure fee is reasonable because its amount is equivalent to the total of the renewal fee and late renewal fee. In the case of each proposed fee listed the amount of the fee is reasonable because no added financial burden is imposed on podiatrists.

Subpart 2. The proposed amendment deletes the provision that personal checks are not acceptable for payment of a license fee or temporary permit fee. The amendment is needed because requiring a

certified check or money order in payment is an added financial burden on the applicant without serving a useful purpose. There is a sufficient time period between application for a temporary permit or licensure and the granting of the permit or license to catch a personal check which is not backed by sufficient funds and hold up the permit or license until the fee is paid. The amendment is reasonable because it eases the application process without hampering the board's ability to control the process.

6900.0300, Continuing Education

Subpart 1. The proposed amendment changes the required amount of continuing education from 15 clock hours in a one year renewal period to 30 clock hours in a two-year renewal period and provides for prorating the number of clock hours required in the initial license period to match the length of the initial licensure period. The amendment is needed to ensure that the required amount of continuing education hours per year remains the same. The amendment is reasonable because it imposes no additional continuing hours on licensees, and, in fact, provides a greater degree of flexibility in obtaining continuing education hours than does the existing rule.

Subpart 2. The proposed amendment, which substitutes the words "acceptable graduate training" for the words "a clinical residency, preceptorship, or graduate training" as one way to obtain continuing education hours is needed to provide conformity with other references to acceptable graduate training in the proposed rules. The amendment is reasonable because it uses fewer words without altering the meaning of the text.

Subpart 3. The proposed amendment to the introductory paragraph regarding continuing education program approval deletes confusing and redundant terminology. Deleting the words "that the licensee desires to use" and using the word "used" in their place is needed to clarify the meaning. Using the word "must" in place of the word "shall" is needed to have the text conform with standard usage. Providing that the continuing education program must be approved by the board before it is accepted as meeting requirements is needed because it is less confusing than the words which are deleted, and has the same meaning: whether the program is approved before the licensee registers for the program or afterward, (as provided in the existing rule) so long as the option to do it either way exists, all that ultimately matters is that the board must approve the program before the licensee can claim the hours. The amendment is reasonable because it clarifies the text while leaving the meaning intact.

In item A the proposed amendment deletes the words "risk management" from the list of program subjects which are not acceptable, which has the effect of permitting programs (or parts of programs) on risk management to be approved. The amendment is needed because risk management in medical practice in the last decade of the 20th century is an integral part of patient care. Knowledge of ethical steps to reduce risk, both to the patient and to the podiatrist,

is just as essential to good, safe practice as keeping current on the scientific aspects of practice. The amendment is reasonable because it permits podiatrists to receive credit for a subject that bears directly on the quality of patient care.

In item C the proposed amendment requires that in the written statement of attendance provided to the attending podiatrist, the sponsor (of the continuing education program) must include the number of continuing education hours approved by the board if prior approval has been sought. The amendment is needed so that the licensee will know at the time the attendance verification is received how many acceptable hours have been completed. If the number of acceptable hours is less than the number of hours claimed by the sponsor but the podiatrist is not so informed, the podiatrist could erroneously assume that he or she has completed enough continuing education to meet renewal requirements, with serious consequences for the podiatrist. The amendment is reasonable because sponsors routinely list the varying number of hours accepted by the various states. No additional burden is imposed by the amendment.

Subpart 3a. The proposed amendment changes the word "podiatrist" to the word "licensee" and in item C requires that the subject or content of each item on the continuing education program and the time devoted to it must be included in the information submitted to the board for approe. The amendment is needed so that the board is able to separate out those items on a program, such as practice management, which are not acceptable to meet renewal requirements, and count only the time devoted to acceptable subjects. The amendment is reasonable because as a practical matter, regular sponsors of continuing education programs in podiatric medicine routinely include a detailed breakdown of the subjects and time allotted in their program brochures.

Subpart 4. The proposed amendment changes the timing for submitting proof of attendance at continuing education progams to the board from "at renewal" to "within the renewal period in which it was attended". Although the change is slight, it is needed to encourage licensees to submit the proof of attendance soon after attending the program, to avoid misplacing the proof so that it cannot be found at the time of submitting the renewal form and fee. The amendment is reasonable, however, because the licensee is not required to submit the proof of attendance soon after attending the program, and may submit the proofs of attendance with the renewal form, provided the renewal form is submitted by the last day of the renewal period.

Subpart 5 is repealed because its content is incorporated into part 6900.0200, subpart 6. Repeal of the subpart is needed to avoid duplication of provisions. It is reasonable to repeal the subpart because redundancy is confusing to the reader.

6900.0500, Waivers and Variances

The proposed amendment, which is identical with a rule of the

Board of Psychology that has been in effect for over eight years, creates a whole new rule part providing for the Board to grant a waiver of a rule or a variance from a rule under certain circumstances. Because it is virtually impossible to draft a set of rules which anticipates every need with respect to equitably implementing the law, a waiver and variance rule is needed for a board to have authority to cope with unexpected circumstances in a rational and structured manner. For example, a licensee after having completed 10 continuing education hours suffers a heart attack halfway through a renewal period, perhaps undergoes triple bypass surgery, and cannot practice or attend continuing education programs for the remainder of the renewal period. The licensee expects to return to active practice and wishes to retain his license. The waiver provisions would permit the licensee to petition for relief from completing the remaining 20 hours within the renewal period.

The amendment as a whole is reasonable because it provides relief from rigid compliance with a particular rule when compliance would impose an undue burden on an applicant or licensee and when the public welfare would not be adversely affected if the rule is not adhered to.

Subpart 1. The proposed amendment provides that a licensee or applicant may petition for a time limited waiver of any rule except that part of a rule which incorporates a statutory requirement. The amendment is needed to ensure that a waiver is not granted indefinitely and that a statutory provision is not inadvertently waived. The provision is reasonable because it alerts both the petitioner and the board to the fact that a waiver is for a finite period and that some provisions cannot be waived.

The proposed amendment provides the conditions which must be met for waiver to be granted. The conditions are needed to ensure that the needs and welfare of the public are addressed before the waiver is granted, because the function of a regulatory board is to protect the public, and to ensure it is determined that adherence to the rule would impose a greater burden on the petitioner than on others in the same category. The conditions are reasonable because they address fairly and equitably both the public interest and the specific problem of the petitioner.

Subpart 2. The proposed subpart provides for renewal of a time-limited waiver upon reapplication if the circumstances which justified its granting continue to exist. It also requires the petitioner who is granted a waiver to notify the Board in writing of a material change in the circumstances which justified its granting, in which case the waiver must be revoked. The reapplication and revocation provisions are needed to ensure that waivers that are justified can be continued and those that are no longer justified are stopped. The provisions are reasonable because they provide an uncomplicated procedure for continuing a justifiable waiver and clear directions to the petitioner regarding his/her responsibility to report if the justification for the waiver no longer exists.

Subpart 3. The proposed amendment provides the procedure for a variance petition and the guidelines for granting the petition. As in the waiver provisions in subpart 1, a variance is time-limited and cannot be applied to a part of a rule incorporating a statutory provision. The need for and reasonableness of the subpart parallels the need for and reasonableness of the provisions of subpart 1. The only differences between the two subparts are (1) that waivers exempt petitioners from compliance with a rule while variances permit petitioners to comply with a rule in an alternate manner, and (2) that the conditions to be met for a variance to be granted require the petitioner to demonstrate that the proposed alternative meets or exceeds the rationale for the rule. These provisions are needed to ensure that a granted variance is based on a rational and credible alternative that fulfills the purpose of the rule. The provisions are reasonable because they allow licensees and applicants a degree of flexibility when circumstances prevent rigid compliance, without impairing the protection provided to the public by the rules.

Subpart 4. The proposed subpart requires a petitioner granted a variance to adhere to the alternative practices or measures specified in the application for a variance. The provision is needed to ensure that the petitioner complies with the terms of the variance. The provision is reasonable because it imposes no additional conditions on the petitioner beyond those proposed by the petitioner in the variance request.

Subpart 5. This subpart is identical with respect to variances as subpart 2 is to waivers. Therefore, the need for and reasonableness of its provisions parallel those cited for subpart 2.

Subpart 6. This proposed subpart provides that the burden of proof is upon the petitioner for a waiver or variance to demonstrate that he or she has met the requirements in subpart 1 or 3, whichever applies. The provision is needed to make it clear that it is the petitioner's responsibility, not the Board's, to prove that the petition meets the listed conditions. The provision is reasonable because the petitioner is the person in possession of the facts supporting the petition, and therefore the logical person to be responsible for the proof

Subpart 7. This subpart requires board meeting minutes to include the reason for the Board's granting, denying, renewing, or revoking a waiver or variance. The provision is needed to ensure that an official written record of each action with respect to waivers and variances is maintained and is available to the public. The provision is reasonable because a written record of the reasons for the Board's actions serves as an aid to the Board in maintaining consistency over time, and to the public (including licensees and applicants) in providing a foundation for rational expectations of future Board decisions based on patterns established as this rule part is utilized.

BOARD OF PODIATRIC MEDICINE--STATEMENT OF NEED AND REASONABLENESS

Repealers

6900.0010, subparts 2 and 3. The need for this repealer is addressed on page 4.

6900.0030. Application Nullification. This rule part is repealed because fees paid for applications that are not completed are not refundable under Minn. Stat. S 153.16, subdivision, clause f. Therefore, the provision of subpart 2 (that the fees are forfeited) is not needed. In addition, an applicant who fails to complete an application for licensure is not granted licensure. Therefore, nullification of the application is not needed in order to protect the public from incompetent or unprofessional practice. It is reasonable to repeal unnecessary rules because unused/unnecessary rules confuse the reader.

6900.0300, subpart 5. The need for this repealer is addressed on pages 9 and 12.

Lois E Mizuno
Lois E. Mizuno
Executive Director

February 8, 1991
Date

SF-00006-05 (4/86)

DEPARTMENT : of Finance

STATE OF MINNESOTA

Office Memorandum

DATE : February 2, 1991

TO : Lois E. Mizuno, Executive Director
Board of Podiatric Medicine

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

PHONE : 296-5188

SUBJECT : Proposed Fee Schedule

The following fee schedule is approved as proposed to fund Board activities as submitted per your letter of January 23, 1991.

FEES FOR PODIATRISTS

FEE	PRESENT AMOUNT	APPROVED PROPOSED AMOUNT
Temporary Permit	$ 200	$ 200
License Application	200	450
License Renewal	225	450
Late Renewal	50	100
Corporation Registration	100	100
Corporation Re-registration	25	25

cc: Anne Barry
Pamula Wheelock
Glenn Olson

STATE OF MINNESOTA

BEFORE THE MINNESOTA
BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

ORDER OF WITHDRAWAL OF RULES FROM REVIEW BY THE ATTORNEY GENERAL

PLEASE TAKE NOTICE that pursuant to the authority conferred upon me by the Minnesota Board of Podiatric Medicine and in accordance with the requirements set forth at Minn. Rules pt. 2010.1100, the above-captioned rules are hereby withdrawn from review by the Attorney General this 22nd day of April, 1991.

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

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

(1) Notice of the Board of Podiatric Medicine's (hereinafter "Board") intent to adopt the above-entitled rules was published in the State Register on February 19, 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 and to all licensees of the Board on February 15, 1991. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt rule amendments was mailed to all Board licensees and all persons on the rulemaking mailing list and published in the State Register. (3) Before the notice was submitted to the State Register, copies of the notice of intent to adopt the rule amendments and the proposed rule amendments were sent to the chairs of the house appropriations committee and the senate finance committee.

(4) All persons were given the opportunity to submit comment on the rule amendments for 30 days after notice of proposed rulemaking. (5) The Board received no requests for a public hearing. Therefore, the Board did not receive requests for a public hearing from 25 or more persons.

(7) No submissions or comments on the rule amendments were received by the Board, except for a letter, dated March 12, 1991, from the Administrative Law Judge (hereinafter "Judge") assigned to hear the matter. A copy of the Judge's letter is attached

hereto and made a part hereof as Exhibit A. No requests for notice of submission to the Attorney General were received by the Board.

This matter came before the Board at a public meeting on March 12, 1991. After considering all evidence of record, including the Judge's written comments (Exhibit A), the Board makes the following:

FINDINGS OF FACT

For the reasons hereinafter set forth, the Board amends the above-captioned rules as follows:

1. Page 1, line 20, after the words "after the" and before the word "date" delete the word "effective"; after the word "date" and before the comma delete the words "of parts 6900.0100 to 6900.0500" and insert the words "on which the biennial renewal period becomes effective".

[The Board agrees with the Judge's comment that the definition of "Initial licensure period" is confusing. The definition should refer only to licenses issued after the biennial renewal period becomes effective.]

2. Page 2, line 2, after the word "program" and before the word "sponsored" insert the words "approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and."

[This amendment is needed to include a phrase which was inadvertently omitted in the proposed rules.]

3. Page 2, line 3, after the word "an" and before the word "institution" delete the word "accredited."

[The Board agrees with the Judge's comment that the word "accredited" is ambiguous. Approval of a residency by the Council on Podiatric Medical Education of the American Podiatric Medical Association includes assurances that the residency is conducted either in a hospital or ambulatory health care facility approved by the Council or

by a podiatric medical school accredited by the Council. Therefore, the Board finds that the word "accredited" can be deleted as being unnecessary as well as ambiguous.]

4. Page 2, lines 6 and 35, after the word "Education" and before the word "the" delete the word "or" and insert the word "of."

[The word "or" is a typographical error. It should be "of."]

5. Page 2, line 11, after the word "diseases" and before the semicolon insert the words "of children and adults."

[The Board agrees with the Judge that the proposed rules give the appearance of requiring different standards for preceptorships and other graduate training from those required for residencies. It is intended that the three types of graduate training be as similar as possible given the differences in settings and sponsorship. The Board finds that including diseases of children and adults in residency requirements helps to accomplish that goal.]

6. Page 2, line 36, after the word "The" and before the word "must" delete the word "residency" and insert the word "preceptorship."

[Use of the word "residency" was inadvertent. The word "preceptorship" is correct in this context.]

7a. Page 3, line 23, after the semicolon strike the word "and."

b. Page 3, line 25, strike the period and insert the word "; and" and insert a new item E. to read:

"E. The supervisor shall instruct and direct the unlicensed podiatrist in the podiatrist's duties, oversee and check the work, and provide general directions, and comply with at least the following criteria:

(1) The supervisor shall review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts and records. Review may either be in person or by telecommunication;

(2) The supervisor shall be on site at facilities staffed by an unlicensed podiatrist;

(3) The supervisor must be present during the performance of surgical treatment by the unlicensed podiatrist; and

(4) The supervisor may not supervise more than two unlicensed podiatrists at any one time."

c. Page 3, line 28, after the word "to" and before the word "and" delete the letter "D" and insert the letter "C."

d. Page 3, line 29, after the letter "A" delete the word "and" and insert a comma, and after the letter "D" and before the period insert the words ", and E, and include written goals, objectives, and an evaluation process."

e. Page 4, line 24, after the period add "The podiatrist with a hospital appointment and surgical privileges must be present during the performance of surgical treatment by the unlicensed podiatrist."

f. Page 4, line 25, to page 5, line 6, strike item D.

[The Board agrees with the Judge's observation that the rules seem to permit an unlicensed podiatrist in a preceptorship to perform surgery without the supervisor being present. It is intended that the three types of graduate training be as similar as possible. Therefore, item D of subpart 8 is transferred to subpart 7 and becomes item E (with minor language changes to conform with preceptorship requirements). The item will relate to both preceptorships and other graduate training, being included in the latter requirements by reference.

[The Board finds that the above amendments make the necessary corrections to the text to ensure that the training given supervisees in preceptorships and other graduate training is essentially the same.]

8a. Page 5, line 31, after the word "in" strike the word "a" and insert the words "an acceptable graduate training"; after the word "program" strike the remainder of the line.

b. Page 5, line 32, strike everything before the period.

[The Board agrees with the Judge's observation that inasmuch as "acceptable graduate training" is defined, it is less confusing to use the phrase consistently where appropriate and to delete unneeded modifiers.]

9. Page 6, line 7, after the word "permit" and before the word "revoked" delete the word "is" and insert the words "may be."

[The Board agrees with the Judge's comment that requiring revocation of a permit may be too harsh for minor infractions and changes the sentence accordingly.

[The Board, however, finds that there is a clear and substantial distinction between holding a permit and holding a license. A permit does not confer the same rights as a license. Further, the Board finds that adding an appeal process would constitute a major change which should not be addressed without interested persons having full access to the rulemaking process.]

10. Page 10, lines 10 and 11, strike everything after the word "training" and before the period.

[The Board agrees with the Judge's observation that "acceptable graduate training" is defined and needs no further modification or explanation when used in the text.]

11a. Page 11, line 26, delete the word "Waivers" from the title and capitalize "Application."

b. Page 11, line 27, after the word "waiver" insert the words "or variance."

c. Page 11, line 29, after the word "waiver" and before the word "shall" insert the words "or variance."

d. Page 11, lines 30 to 32, delete item A and re-letter the remaining items.

e. Page 11, line 34, after the semicolon delete the word "and."

f. Page 12, line 1, after the word "welfare" and before the period insert the word "and."

g. Page 12, after line 1 insert "C. in the case of a variance, the rationale for the rule in question can be met by alternative practices or measures specified by the petitioner."

h. Page 12, line 2, delete the word "Waivers;" from the title and capitalize "renewal."

i. Page 12, lines 3, 6, and 8, after the word "waiver" and before the word "shall" insert the words "or variance."

j. Page 12, line 9, after the word "occurs" and before the period insert the words "or, in the case of a variance, if the petitioner has not complied with the alternative practices or measures specified in the petition."

k. Page 12, lines 10 to 33, delete subparts 3, 4, and 5 and renumber the remaining subparts.

l. Page 12, line 36, delete the word "subparts" and insert the word "subpart"; after the number "1" and before the word "have" delete the words "and 3."

[The Board agrees with the Judge's observations with respect to waiver and variance provisions. The amendments above combine the provisions for waivers and variances and delete duplicative text without altering the meaning of the part.]

12. The following findings relate to the parts of Judge Kaibel's letter which did not prompt changes to the proposed rules.

a. The Board finds that the suggestion to broaden the scope of the interview requirements of part 6900.0020, subpart 9, could result in a subjective and possibly unfair evaluation process. The existing rule was intended to prevent the Board from using subjective evaluation processes in determining an applicant's fitness for licensure. The Board finds that allowing examination of the applicant's knowledge of

ethical practice does not introduce subjectivity inasmuch as the grounds for disciplinary action are objectively spelled out in the Board's practice act.

b. The Board finds that giving sponsors some input in permit extensions in part 6900.0160, subpart 2, recognizes the fact that, as a practical matter, a permit holder cannot continue in a graduate training program without the blessing of the sponsor. A permit extension would not help a permit holder whose sponsor opposed the continuation of training. The Board needs to know that the sponsor approves before granting the extension.

c. The Board finds that the questions raised with respect to part 6900.0210, subpart 3, do not require a response because the subpart is not amended in the proposed rules.

d. The Board finds that changing "contested case proceeding" to "disciplinary action" is reasonable because under the provisions of Chapter 214 regulatory boards can discipline through negotiated settlement as well as by means of contested case proceedings. The text as proposed recognizes that fact and permits greater latitude in the manner in which rule and law violations can be pursued..

e. The Board finds that the text of part 6900.0200, subpart 1, relating to the calculation of fees for the first renewal period after the initial licensure period may have been misinterpreted by the Judge. The formula has been tested against several hypothetical initial licensure periods and has been found to work as intended.

CONCLUSIONS

1. The Board has published and served adequate notice of intent to adopt the proposed rules.

2. The Board has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive and procedural requirements of the statute and rules.

3. The changes that are being made in the proposed rules do not result in rules that are substantially different from those published in the State Register. The changes are made largely for purposes of clarification; they are not controversial; and, facially, they do not:

a. affect classes of persons who could not reasonably have been expected to comment on the proposed rules as originally proposed;

b. introduce significant new subject matter which a reasonable person, on the basis of the proposed rules as originally noticed, would not have anticipated during the rulemaking proceeding; or

c. make any major substantive change that was not raised by the proposed rules as originally noticed in such a way as to invite reaction.

4. Any findings which might properly be termed conclusions, and any conclusions which might properly be termed findings, are hereby adopted as such.

5. The above-captioned rules are needed and reasonable (8)

CONCLUSIONS

NOW, THEREFORE, IT IS ORDERED that the rule amendments identified by the caption above, are adopted as amended this 22nd day of March, 1991, pursuant to authority vested in the Board by Minn. Stat. § 153.02. (9)

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

FIFTH FLOOR, FLOUR EXCHANGE BUILDING
310 FOURTH AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55415
(612) 341-7600

March 12, 1991

Robert T. Holley
Special Assistant Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Re: In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances; OAH Docket No. 5-0900-5286-1.

Dear Mr. Holley:

As I reviewed these proposed rules and the Statement of Need and Reasonableness (SONAR) in preparation for the hearing, I jotted down a few questions as they occurred to me. I think it's better to try to get those questions to the staff prior to the hearing and to have them available in writing for the public, whenever my calendar permits it. This letter consequently will be a somewhat disorganized series of questions and thoughts which hopefully will be helpful in the rule review process.

With regard to residencies, the SONAR indicates that the requirements remain essentially the same. However, it appears that the old rules required the Council on Podiatric Medical Education of the American Podiatric Medical Association (AMPA) to approve all residencies, while the new proposed rules appear to require AMPA accreditation only of colleges offering residencies. Is this change intentional? If so, why is the change being made? It appears from Judge Beck's Report on the original adoption of these provisions that this was an issue of some concern to the public. What has been the experience in the interim?

Is there some ambiguity in "accredited" hospitals? Does the AMPA accredit "institutions such as" hospitals and ambulatory health care facilities? If not, shouldn't the rules specify what kind of accreditation is intended? Is there a potential for dispute over whether this means some kind of national or regional or state accreditation?

Are we still talking about the Council on Podiatric Medical Education <u>of</u> the American Podiatric Medical Association? If so, is it a typographical error on lines 6 and 35 of page 2 (revisor's copy) to change it to the Council on Podiatric Medical Education <u>or</u> the American Podiatric Medical Association?

Exhibit A

If it is not a typographical error, what are the differences between the two accrediting bodies and why is the change being proposed?

Is there also a typographical error on line 20 of page 1 relating to proposed subpart 8? Should 6900.0100 properly read .0010? If not, what is .0100 and why are we starting with that number? It does not appear to me that there is a part 6900.0100.

I'm having some difficulty applying this definition of the "initial licensure period" as it is used in the license renewal provisions of lines 20-31 on page 6. For example, suppose that I'm a podiatrist granted an even numbered license 73 days prior to June 30, 1972. Lines 22-25 on page 6 appear to say that the renewal period for such an even numbered license would begin on July 1, 1972, but the definition on page 1 says the "initial licensure period" ends "on June 30 of the first fiscal year following the year it is granted" which would be June 30, 1973. Does this mean that the first renewal would have to occur in an odd numbered year? Lines 27-31 indicate that renewal fees are the ratio of the number of days in the initial period to 730. If the initial licensure period is 73 days plus the next fiscal year, the renewal fee would be 6/10ths of the full two years or $270 in 1973 for a renewal that would only last a year. This doesn't sound like what is intended in the SONAR. I'm sure staff knows exactly what is intended, but the language is somewhat confusing. Would these difficulties be eliminated if the definition of the initial period were changed to read "ends on June 30 of the first fiscal year in which the license is renewed"? Is that what is intended?

If there is a typographical error in this definition which should really read part 6900.0010, is there a better way of stating the effective date -- if it needs to be stated at all? It's confusing to me to state "after the effective date" of .0010, because that part is already effective. Would it be better to say, "after the effective date of the 1991 revision of the renewal schedule"?

Why don't the program requirements of the preceptorship include all of the program requirements of the clinical residency and vice versa? Do we intend, for example, that only preceptees will be assured of graduate experience with both children and adults? It is of course hard for the uninitiated to understand the game without a program, but did the Legislature intend and do the rules really intend for licensees to receive different kinds of post-graduate training?

Without belaboring, the "other graduate training" muddies things up more by including some preceptor requirements, but not vice versa. Is this intended? Is it okay for preceptees, for example, to perform surgery outside of the presence of a licensed podiatrist?

Was there ever any doubt in subpart 9 that applicants could be required to respond satisfactorily to questions regarding ethics? Does the addition imply that applicants need not respond satisfactorily to other questions? If not, would it be more accurate to require satisfactory responses to "questions testing qualifications, including knowledge of ethics of practice"?

It's not part of the proposed revisions, but perhaps on final adoption, consideration should be given to deleting "4" from the last line of .0160, subpart 1 (page 5, line 32). Inclusion could be interpreted as implying that subpart 4 is an alternative program for graduate training other than subparts 5, 6 and 7, unless of course, that's intended? More important, what happened to subpart 8? I assume that its omission in this line was an oversight. If so, shouldn't it be corrected in this proceeding? Alternatively, why not strike everything after the first three words in line 31, substituting "an acceptable graduate training program" as has been done throughout the rest of the text? Does the same problem (omission of subpart 8) occur in .0300, subpart 2C. on page 10, lines 10 and 11? If so, could it be cured by striking everything after "training' on line 10?

Shouldn't the new subpart 2a. (revocation of training permit) on line 7 read that a permit "may be" revoked instead of "is" revoked? Is automatic revocation really intended for any conduct that would constitute grounds for disciplinary action? Why summary revocation of a training permit when the same conduct could subject a licensee to only a reprimand or imposition of some license restriction? Are there facts that make peremptory revocation reasonable for all trainees who are subject to discipline, such as those who fail to conform to the minimal standards of prevailing practice or improperly manage records, pursuant to Minn. Stat. § 153.19(11) and (14)? Isn't it assumed that these permittees (who have invested a significant part of their undergraduate lives in qualifying for this permitted year of post-graduate training) will make some "records" or "minimal standards" mistakes, which is why they have to be supervised so rigorously during this stage of their career? Is it really intended that the Board, an administrative law judge or reviewing court would be limited to deciding whether the conduct occurred, without examining extenuating circumstances? What facts, presented in the SONAR or elsewhere, should be cited in this rulemaking report in support of that proposition?

Is there any right to a contested case appeal on proposed permit revocations as there is for license revocations under Minn. Stat. § 153.22? Does the Board have any other vehicle for exercising discretion in responding to mitigating circumstances, such as retrospective application of the variance and waiver provisions for conduct subject to discipline? If not, what is the recourse for a permittee who disagrees with alleged grounds for revocation? If there is no hearing, what facts should be cited as supporting the reasonableness of automatic revocation of the right to pursue one's profession, without a hearing; when that is the most severe sanction that the Board could possibly impose on a licensee for engaging in the same alleged conduct, after a hearing?

Why is it necessary to give sponsors a veto over re-issuance of the training permit? Shouldn't the Board make the final decision on whether an extension is being requested for frivolous or capricious reasons? What if a preceptee is not getting along with a preceptor? What is the rationale for allowing only one extension? Why shouldn't a graduate be allowed to start over two or three times (or even a dozen times) in different programs, as long as s/he eventually completes one of those programs in 12 consecutive months?

In the revised "other graduate training" language of .0010, subpart 8, are we intentionally eliminating the requirement of the "written evaluation process" contained in the present rule? If so, why is it being done?

It's not part of any proposed change, but I should perhaps at least understand the purpose is of the existing rule part .0210, subpart 3? Doesn't everyone apply for licensure, including those with revoked or suspended licenses, pursuant to the provisions of Minn. Stat. § 153.16, because that is the only provision of the statute relating to application for licensure? Does it mean that previous licensees can start over and go through the testing process, instead of applying for reinstatement?

Finally, the waiver and variance rule appears to be twice as long as it needs to be, solely to distinguish waivers from variances, which is ultimately a distinction without a difference. The only difference in the proposed rule is that applicants who can identify alternative measures are allowed to use the word "variance" in their petitions instead of "waivers". Are the two concepts dealt with separately because variances should be easier to obtain than waivers? If so, why should the ability to identify alternative measures be of any significance whatsoever, so long as the applicant must prove that the waiver or variance "will not adversely affect the public welfare"? Please compare the Pharmacy Board "variance and waiver" rule (part 6800.9900) where the two words are used interchangeably and applicants must identify "alternative measures to be taken, if any". Is there some advantage I'm missing to treating these two concepts separately and reduntantly?

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Sincerely,

HOWARD L. KAIBEL, JR
Administrative Law Judge

Telephone: 612/341-7608

HLK:vh
cc: Lois E. Mizuno

STATE OF MINNESOTA

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(612) 341-7600

MAR 1991
MN BOARD
OF PODIATRY

March 12, 1991

Robert T. Holley
Special Assistant Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Re: In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances; OAH Docket No. 5-0900-5286-1.

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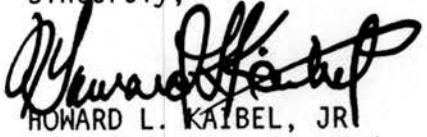

HOWARD L. KAIBEL, JR.
Administrative Law Judge

Telephone: 612/341-7608

HLK:vh
cc: Lois E. Mizuno

Board of Podiatric Medicine

Adopted Permanent Rules Relating to Training and Licensing

Rules as Adopted

6900.0010 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. **Acceptable graduate training.** "Acceptable graduate training" means at least 12 consecutive months of postgraduate training in a clinical residency, preceptorship, or other graduate training as described in part 6900.0020, subparts 5, 6, 7, or 8.

Subp. 2. and 3. [See repealer.]

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Suspend a license.** "Suspend a license" means to discontinue a podiatrist's right to practice for a definite or indefinite time until specified conditions are met.

[For text of subp 7, see M.R.]

Subp. 8. **Initial licensure period.** For a license issued after the ~~effective~~ date ~~of parts 6900.0100 to 6900.0500~~ on which the biennial renewal period becomes effective, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Graduate training.** Applicants graduating in 1987 and thereafter from a podiatric medical school must present evidence of satisfactory completion of acceptable graduate training.

Subp. 5. **Clinical residency.** A clinical residency is a formal, structured postdoctoral training program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and sponsored by and conducted in an ~~accredited~~ institution such as a hospital or ambulatory

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health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases of children and adults;

B. develop the podiatric medical graduate in the art of preventing and controlling podiatric conditions and diseases and in the promotion of foot health principally through mechanical and rehabilitative methods;

C. provide the podiatric medical graduate with clinical experience necessary to refine competency in the podiatric medical and surgical care of the foot as defined by the statutory scope of practice; or

D. provide the podiatric medical graduate with clinical experience necessary to become competent in the full scope of advanced podiatric medicine and surgery.

Subp. 6. **Preceptorship.** A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education ~~or~~ of the American Podiatric Medical Association. The ~~residency~~ preceptorship must provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. **Preceptor requirements.** The preceptor must:

A. provide training in the care of children and adults that offers experience as defined by the statutory scope of practice including drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and

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the following surgeries:

(1) nail;

(2) digital;

(3) soft tissue;

(4) forefoot;

(5) metatarsal;

(6) midfoot; and

(7) rearfoot or ankle;

B. hold a clinical appointment at a podiatric medical school or be a member of the teaching staff of a hospital sponsoring a residency program;

C. have a hospital staff appointment with podiatric surgical privileges; however, the granting of staff privileges is solely within the discretion of individual institutions; ~~and~~

D. not have been the subject of disciplinary action concerning professional conduct or practice~~.~~; and

E. instruct and direct the unlicensed podiatrist in the podiatrist's duties, oversee and check the work, provide general directions, and comply with at least the following criteria:

(1) review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts and records; review may either be in person or by telecommunication;

(2) be on-site at facilities staffed by an unlicensed podiatrist;

(3) be present during the performance of surgical treatment by the unlicensed podiatrist; and

(4) supervise no more than two unlicensed podiatrists at any one time.

Subp. 8. **Other graduate training.** Other graduate training must meet the requirements of items A to ~~B~~ C and of subpart 7, items A ~~and~~, D, and E, and include written goals, objectives, and an evaluation process.

A. A licensed podiatrist must be designated as the unlicensed podiatrist's supervisor and assume full podiatric

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responsibility for patient services provided by the unlicensed podiatrist.

B. The supervisor must obtain the approval of the board for the proposed graduate training, including its written goals and objectives, before the training begins.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges. However, the granting of staff privileges is solely within the discretion of individual institutions. The podiatrist with a hospital appointment and surgical privileges must be present during the performance of surgical treatment by the unlicensed podiatrist.

~~D.--The-supervisor-shall-instruct-and-direct-the unlicensed-podiatrist-in-the-podiatrist's-duties,-oversee-and check-the-work,-provide-general-directions,-and-comply-with-at least-the-following-criteria:~~

~~(1)-the-supervisor-shall-review-and-evaluate patient-services-provided-by-the-unlicensed-podiatrist-on-a daily-basis-from-information-in-patient-charts-or-records. Review-may-either-be-in-person-or-by-telecommunication;~~

~~(2)-the-supervisor-shall-be-on-site-at-facilities staffed-by-an-unlicensed-podiatrist;~~

~~(3)-one-of-the-licensed-podiatrists-referred-to in-item-C-must-be-present-during-the-performance-of-surgical treatment-by-the-unlicensed-podiatrist;-and~~

~~(4)-the-supervisor-may-not-supervise-more-than two-unlicensed-podiatrists-at-any-one-time.~~

Subp. 9. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. The board may require the applicant to respond satisfactorily to questions regarding ethics of practice.

Subp. 10. **License in other states.** If an applicant is

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licensed in one or more states other than Minnesota, the applicant must cause a form supplied by the board to be submitted from the board of podiatric medicine in the state of original licensure and each state in which a license was held during the five years immediately preceding application.

6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in ~~a~~ an acceptable graduate training program ~~and that the program meets the standards in part 6900.0020, subpart 4, 5, 6, or 7~~.

Subp. 2. **Term of permit.** A granted permit is valid for the period of graduate training of 12 months beginning with the first day of graduate training. A permit may be reissued once if the applicant submits acceptable evidence that the training was interrupted by circumstances beyond the control of the applicant and that the sponsor of the program agrees to the extension.

Subp. 2a. **Revocation.** The permit ~~is~~ may be revoked if an applicant has engaged in conduct that constitutes grounds for denial of licensure or disciplinary action, discontinues training, or moves out of Minnesota.

Subp. 3. **Scope of practice.** The scope of practice of the permit holder is limited to the performance of podiatric medicine within the structure of the acceptable graduate training program within which the permit holder is enrolled.

6900.0200 LICENSE RENEWAL.

Subpart 1. **Active status.** The license renewal term is 24 months beginning on July 1 and ending on June 30. Applications

Approved by Revisor _____

received and postmarked after June 30 in the year due will be returned for addition of the late renewal fee. The term of renewal begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even number. The July 1, 1991, renewal term for a licensee who renews in even-numbered years shall end June 30, 1992, and the renewal fee and continuing education hours shall be half the amount required for a 24-month renewal period. For the first renewal period following the initial licensure period, the fee for renewal of license is that fraction of $450, to the nearest dollar, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

An applicant for license renewal must submit to the board:

A. an application form, renewal fee, and, if applicable, the late renewal fee. The application form must provide a place for the renewal applicant's signature and solicit information including the applicant's office address, and other information that may be reasonably requested by the board;

B. evidence of participation in approved continuing education programs as described in part 6900.0300; and

C. other evidence as the board may reasonably require.

[For text of subp 2, see M.R.]

Subp. 3. **Notice.** Any time after July 1 of the applicable year, the board will send to the last address on file with the board, a notice to licensees who have not applied for license renewal. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and information about continuing education that must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by applying for license renewal as provided in subpart 1 or by notifying the board that the

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licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

Subp. 4. **Result.** If the application for renewal as provided in subpart 1 or notice of voluntary termination is not received by the board by the date specified in the notice, the license will expire and the licensee's right to practice terminates on the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

[For text of subp 5, see M.R.]

Subp. 6. **Disciplinary action.** The board, in lieu of the procedure in subpart 3, may initiate disciplinary action against any licensee for failure to submit fees or provide documentation of completion of continuing education requirements, and may add such failure to other grounds specified in Minnesota Statutes, sections 153.01 to 153.25 in any contested case proceeding initiated by the board against the licensee on the other grounds.

Subp. 7. **Name and address change.** A podiatrist who has changed names must notify the board in writing as soon as possible and request a revised renewal certificate. The board may require substantiation of the name change by requiring official documentation.

A podiatrist must maintain with the board a correct mailing address to receive board communications and notices. A podiatrist who has changed addresses must notify the board in writing as soon as possible. Placing a notice in first class United States mail, postage prepaid and addressed to the licensee at the licensee's last known address, constitutes valid service.

6900.0210 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements.** Upon a podiatrist's compliance with the requirements in this part, the podiatrist's license must be reinstated. The podiatrist requesting reinstatement of a license shall submit the following materials:

A. an application form and relicensure fee;

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

Subp. 2. **Revoked or suspended license.** No license that has been suspended or revoked by the board will be reinstated unless the former licensee provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the former licensee has successfully completed the requirements. The board may require the licensee to pay the costs of the proceedings resulting in the suspension or revocation of a license under its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay the costs of the proceedings resulting in the disciplinary action.

[For text of subp 3, see M.R.]

6900.0250 FEES.

Subpart 1. **Amounts.** Fees are as follows:

A. licensure, $450;

B. renewal of a license, $450;

C. late renewal of a license, an additional $100;

D. temporary permit, $200;

E. replacement of an original license document or renewal certificate, $10; and

F. relicensure following expiration of license, $550.

Subp. 2. **Requirements.** Fees must be paid in United States money and are not refundable.

6900.0300 CONTINUING EDUCATION.

Subpart 1. **Requirement.** Every podiatrist licensed to practice in Minnesota shall obtain 30 clock hours of continuing education in each two-year cycle of license renewal. The number of continuing education hours required during the initial

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licensure period is that fraction of 30 hours, to the nearest whole hour, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

Subp. 2. **Obtaining continuing education hours.** Continuing education hours shall be obtained in the following manner:

A. attendance at educational programs approved by the board under subpart 3;

B. attendance at hospital staff meetings (no more than three hours of hospital staff meetings may be used for license renewal each year); or

C. participation in acceptable graduate training ~~that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7~~.

Subp. 3. **Requirements of program approval.** Each continuing education program used to meet the license renewal requirements must be approved by the board before the program is accepted as meeting requirements of this part.

In order for a continuing education program to be approved by the board, the program must meet the following criteria:

A. The content must be directly related to the practice of podiatric medicine as defined in Minnesota Statutes, section 153.01, subdivision 2. Subjects such as practice management or those not of a scientific nature are not acceptable.

B. The speaker must be a licensed podiatrist, other credentialed health care professional, or person especially qualified to address the subject.

C. The sponsor must provide the attendee a written statement of attendance that includes the name and dates of the program, the name and address of the sponsor, the number of continuing education clock hours granted by the sponsor and approved by the board if prior approval has been sought, the name of the attendee and a signature of the sponsor or designee, or upon completion of the program, the sponsor must send the board a list of attendees.

Subp. 3a. **Procedure for program approval.** Either the

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sponsor of a continuing education program or a licensee may submit the program for approval by the board.

The following information about the program is required:

A. name and address of the program sponsor;

B. dates and times of the program;

C. subject or content matter of each item on the program together with the amount of time devoted to the subject;

D. name of and identifying information about the speakers or instructors; and

E. assurance that a written statement of attendance will be given to the podiatrist or that a list of attendees will be sent to the board.

The board shall approve each continuing education program for a specific number of clock hours of continuing education. One clock hour is 60 minutes. Partial hours will not be granted. Lunch breaks, rest periods, greetings, and other noneducational time will not be included.

Subp. 4. **Proof of attendance.** Proof of attendance at continuing education programs meeting the requirement of this part shall be submitted to the board within the renewal period in which it was attended in the form of a certificate, descriptive receipt, or affidavit.

Subp. 5. [See repealer.]

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. **~~Waivers;~~ Application.** A licensee or applicant for licensure may petition the board for a time-limited waiver or variance of any rule except for any part of a rule which incorporates a statutory requirement. The waiver or variance shall be granted if:

~~A. the rule in question does not address a problem of significance to the public in relation to the practice or application of the petitioner;~~

~~B.~~ adherence to the rule would impose an undue burden on the petitioner; ~~and~~

~~C.~~ B. the granting of a waiver or variance will not

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adversely affect the public welfare; and

C. in the case of a variance, the rationale for the rule in question can be met by alternative practices or measures specified by the petitioner.

Subp. 2. **Waivers; Renewal, reporting, and revocation.** A waiver or variance shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver or variance shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver or variance shall be revoked if a material change in the circumstances which justify its granting occurs or, in the case of a variance, if the petitioner has not complied with the alternative practices or measures specitied in the petition.

~~Subp. 3. **Variances; application.** A licensee or applicant may petition the board for a time limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:~~

~~A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;~~

~~B. adherence to the rule would impose an undue burden on the petitioner; and~~

~~C. the granting of the variance will not adversely affect the public welfare.~~

~~Subp. 4. **Variances; compliance.** Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.~~

~~Subp. 5. **Variance; renewal, reporting, and revocation.** A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any~~

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~~material-change-in-circumstances-which-justify-the-granting-of the-variance.--A-variance-shall-be-revoked-if-a-material-change in-the-circumstances-which-justify-its-granting-occurs.~~

Subp. ~~6.~~ 3. **Burden of proof.** The burden of proof is upon the petitioner to demonstrate to the board that the requirements in ~~subparts~~ subpart 1 ~~and 3~~ have been met.

Subp. ~~7.~~ 4. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

REPEALER. Minnesota Rules, parts 6900.0010, subparts 2 and 3; 6900.0030; and 6900.0300, subpart 5, are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Training and Licensing

AGENCY: Board of Podiatric Medicine

MINNESOTA RULES: Chapter 6900

The attached rules are approved for filing with the Secretary of State

Carla M. Riehle
Assistant Revisor

Board of Podiatric Medicine

2700 University Avenue West #101
St. Paul, MN 55114
(612) 642-0588

April 5, 1991

Patricia Nolte
Attorney General's Office
Public Finance Division
525 Park Street, 5th Floor
St. Paul, MN 55103

Dear Ms. Nolte:

The Minnesota Board of Podiatric Medicine has adopted rules relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances. I am, therefore, submitting all documents for review and approval of these rules. Enclosed for your review are the following documents:

1. Authorizing Resolution
2. Proposed Rule and Certificate of Approval
3. Notice of Intent to Adopt a Rule Without a Public Hearing
4. Statement of Need and Reasonableness
5. Affidavit of Mailing and Certificate of Agency's Mailing List
6. Notice of Intent to Adopt a Rule Without a Public Hearing as Published in the State Register
7. Four Copies of the Rule as Adopted
8. Resolution Adopting the Rule
9. Findings of Fact, Conclusion, and Order Adopting Rules
10. Correspondence relating to the Rule
11. Declaration of the Attorney General

If you have any questions, please contact me at 642-0588.

Sincerely,

Lois E Mizuno

Lois E. Mizuno
Executive Director

Board of Podiatric Medicine

Proposed Permanent Rules Relating to Training and Licensing

Rules as Proposed

6900.0010 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. **Acceptable graduate training.** "Acceptable graduate training" means at least 12 consecutive months of postgraduate training in a clinical residency, preceptorship, or other graduate training as described in part 6900.0020, subparts 5, 6, 7, or 8.

Subp. 2. and 3. [See repealer.]

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Suspend a license.** "Suspend a license" means to discontinue a ~~licensee's~~ podiatrist's right to practice for a definite or indefinite time until specified conditions are met.

[For text of subp 7, see M.R.]

Subp. 8. **Initial licensure period.** For a license issued after the effective date of parts 6900.0100 to 6900.0500, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Graduate training.** Applicants graduating in 1987 and thereafter from a podiatric medical school must present evidence of satisfactory completion of ~~a clinical residency, preceptorship, or other~~ acceptable graduate training ~~as required in Minnesota Statutes, section 153.16, subdivision 1, paragraph (d), and described in subparts 5, 6, and 7 or 8.~~

Subp. 5. **Clinical residency.** ~~An acceptable clinical residency must be at least 12 consecutive months in length and be approved by the Council on Podiatric Medical Education of the~~

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~~American-Podiatric-Medical-Association.~~ A clinical residency is a formal, structured postdoctoral training program sponsored by and conducted in an accredited institution such as a hospital or ambulatory health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases;

B. develop the podiatric medical graduate in the art of preventing and controlling podiatric conditions and diseases and in the promotion of foot health principally through mechanical and rehabilitative methods;

C. provide the podiatric medical graduate with clinical experience necessary to refine competency in the podiatric medical and surgical care of the foot as defined by the statutory scope of practice; or

D. provide the podiatric medical graduate with clinical experience necessary to become competent in the full scope of advanced podiatric medicine and surgery.

Subp. 6. **Preceptorship.** ~~An-acceptable-preceptorship-must:~~

~~A.--consist-of-a-minimum-of-12-consecutive-months-of study;~~

~~B.--operate-under-the-control-and-supervision-of-an accredited-college-of-podiatric-medicine;-and~~

~~C.--have-written-objectives-appropriate-to-all training-aspects-of-the-program.~~ A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association. The residency must provide the recent podiatric

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medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. **Preceptor requirements.** The preceptor must:

A. provide training in the care of children and adults that offers experience as defined by the statutory scope of practice including drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:

(1) nail;

(2) digital;

(3) soft tissue;

(4) forefoot;

(5) metatarsal;

(6) midfoot; and

(7) rearfoot or ankle~~.~~

~~The care of children and adults must be included.~~;

B. hold a clinical appointment at a ~~college~~ podiatric medical school or be a member of the teaching staff of a hospital sponsoring a residency program~~.~~;

C. have a hospital staff appointment with podiatric surgical privileges~~,~~; however, the granting of staff privileges is solely within the discretion of individual institutions~~.~~; and

D. not have been the subject of disciplinary action concerning professional conduct or practice.

Subp. 8. **Other graduate training.** Other ~~acceptable~~ graduate training must meet the ~~following standards:~~ requirements of items A to D and of subpart 7, items A and D.

~~A. The program must be 12 consecutive months of formal, structured study started after graduation from a college of podiatric medicine, have written objectives appropriate to all training aspects of the program, and have a written evaluation process.~~

~~B. Experience within the statutory scope of practice must include drug therapy, radiology, local anesthesia,~~

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~~analgesia,-biomechanics,-physical-medicine,-rehabilitation,-and the-following-surgeries:~~

~~(1)-nail;~~

~~(2)-digital;~~

~~(3)-soft-tissue;~~

~~(4)-forefoot;~~

~~(5)-metatarsal;~~

~~(6)-midfoot;-and~~

~~(7)-rearfoot-or-ankle.~~

~~The-care-of-children-and-adults-must-be-included.~~

~~C.~~ A licensed podiatrist must be designated as the unlicensed podiatrist's supervisor and assume full podiatric responsibility for patient services provided by the unlicensed podiatrist. ~~The-supervisor-must-not-have-been-the-subject-of disciplinary-action-concerning-professional-conduct-or-practice.~~

~~D.~~ B. The supervisor must obtain the approval of the board for the proposed graduate training, including its written goals and objectives, before the training begins.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges~~,~~. However, the granting of staff privileges is solely within the discretion of individual institutions.

~~E.~~ D. The supervisor shall instruct and direct the unlicensed podiatrist in ~~his-or-her~~ the podiatrist's duties, oversee and check the work, ~~and~~ provide general ~~direction-to-the unlicensed-podiatrist.--The-unlicensed-podiatrist-and supervising-podiatrist-shall~~ directions, and comply with at least the following criteria:

(1) ~~A~~ the supervisor shall review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts or records. Review may either be in person or by telecommunication~~.~~;

(2) ~~A~~ the supervisor shall be on site at facilities staffed by an unlicensed podiatrist~~.~~;

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(3) one of the licensed podiatrists referred to in item ~~B~~ C must be present during the performance of surgical treatment by the unlicensed podiatrist~~.~~; and

(4) ~~A supervising podiatrist~~ the supervisor may not supervise more than two unlicensed podiatrists at any one time.

Subp. 9. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. The board may ~~waive~~ require the ~~personal appearance if one or more board members has personal knowledge of the accuracy of the applicant's application~~ applicant to respond satisfactorily to questions regarding ethics of practice.

Subp. 10. **License in ~~another state~~ other states.** If an applicant is licensed in ~~another state~~ one or more states other than Minnesota, the applicant must cause a form supplied by the board to be submitted from the board of podiatric medicine in the state of original licensure and ~~the other states~~ each state in which a license was held during the five years immediately preceding application.

6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required ~~fees~~ fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in a program and that the program meets the standards in part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 2. **Term of permit.** ~~The~~ A granted permit is ~~issued~~ valid for ~~a~~ the period ~~not to exceed~~ of graduate training of 12 months ~~of training that must occur within 18 consecutive~~

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~~months~~ beginning with the first day of graduate training. A permit may be reissued once ~~to-a-qualified~~ if the applicant submits acceptable evidence that the training was interrupted by circumstances beyond the control of the applicant and that the sponsor of the program agrees to the extension. ~~A-permit expires-when-an-applicant-is-licensed,-or-must-be~~

Subp. 2a. **Revocation.** The permit is revoked if an applicant has engaged in conduct that constitutes grounds for denial of ~~a-license~~ licensure or disciplinary action, discontinues training, or moves out of Minnesota.

Subp. 3. **Scope of practice.** The scope of practice of the permit holder is limited to the performance of podiatric medicine within the structure of the ~~residency,-preceptorship,-or-other~~ acceptable graduate training program within which the permit holder is enrolled.

6900.0200 LICENSE RENEWAL.

Subpart 1. **Active status.** The license renewal term is ~~12~~ 24 months beginning on July 1 and ending on June 30. Applications received and postmarked after June 30 in the year due will be returned for addition of the late renewal fee. The term of renewal begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even number. The July 1, 1991, renewal term for a licensee who renews in even-numbered years shall end June 30, 1992, and the renewal fee and continuing education hours shall be half the amount required for a 24-month renewal period. For the first renewal period following the initial licensure period, the fee for renewal of license is that fraction of $450, to the nearest dollar, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

An applicant for license renewal must submit to the board:

A. an application form, renewal fee, and, if applicable, the late renewal ~~fee,~~. The application form must provide a place for the renewal applicant's signature and ~~must~~

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solicit information including the applicant's office address, and other information that may be reasonably requested by the board;

B. evidence of participation in approved continuing education programs as described in part 6900.0300; and

C. other evidence as the board may reasonably require.

[For text of subp 2, see M.R.]

Subp. 3. **Notice.** Any time after July 1 of the applicable year, the board will send to the last address on file with the board, a notice to licensees who have not applied for license renewal. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and ~~the~~ information ~~required~~ about continuing education that must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by ~~submitting the~~ applying for license renewal ~~application and applicable fees and information required about continuing education~~ as provided in subpart 1 or by notifying the board that the licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

Subp. 4. **Result.** If the application for renewal~~,~~ ~~including required information about continuing education and the applicable renewal and late fees~~ as provided in subpart 1 or notice of voluntary termination~~,~~ is not received by the board by the date specified in the notice, the license will expire and the licensee's right to practice terminates on the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

[For text of subp 5, see M.R.]

Subp. 6. ~~Contested case proceeding~~ **Disciplinary action.** The board, in lieu of the ~~process~~ procedure in subpart 3, may initiate ~~a contested case hearing to revoke or suspend a license~~ disciplinary action against any licensee for failure to submit

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fees ~~and~~ or provide documentation of completion of continuing education ~~information-requested-on-the-renewal-application-at the-time-it-initiates-disciplinary-proceedings-against-the licensee-for~~ requirements, and may add such failure to other grounds specified in Minnesota Statutes, sections 153.01 to 153.25 in any contested case proceeding initiated by the board against the licensee on the other grounds.

Subp. 7. **Name and address change.** A podiatrist who has changed names ~~shall~~ must notify the board in writing as soon as possible and request a revised renewal certificate. The board may require substantiation of the name change by requiring official documentation.

A podiatrist ~~shall~~ must maintain with the board a correct mailing address to receive board communications and notices. A podiatrist who has changed addresses ~~shall~~ must notify the board in writing as soon as possible. Placing a notice in first class United States mail, postage prepaid and addressed to the licensee at the licensee's last known address, constitutes valid service.

6900.0210 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements.** Upon ~~complying~~ a podiatrist's compliance with the requirements in this part, the ~~applicant's~~ podiatrist's license must be reinstated. The podiatrist ~~desiring the~~ requesting reinstatement of a license shall submit the following materials:

A. an application form~~,-license-renewal~~ and relicensure fee~~,-and,-if-the-request-is-received-within-12 months-of-a-previous-license-expiration,-the-late-renewal-fee~~;

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

Subp. 2. **Revoked or suspended license.** No license that has been suspended or revoked by the board will be reinstated unless the ~~applicant-for-reinstatement~~ former licensee provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of

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establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the ~~applicant~~ former licensee has successfully completed the requirements. The board may require the licensee to pay the costs of the proceedings resulting in the suspension or revocation of a license under its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay the costs of the proceedings resulting in the disciplinary action.

[For text of subp 3, see M.R.]

6900.0250 FEES.

Subpart 1. **Amounts.** Fees ~~for podiatrists~~ are as follows:

A. licensure, ~~$200~~ $450;

B. ~~reexamination by the board under an original application for licensure, $200;~~

~~C.~~ renewal of a license, ~~$225~~ $450;

~~D.~~ C. late renewal of a license, an additional ~~$50~~ $100;

~~E.~~ D. temporary permit, $200; ~~and~~

~~F.~~ E. replacement of an original license document or renewal certificate, $10; and

F. relicensure following expiration of license, $550.

Subp. 2. **Requirements.** Fees must be paid in United States money~~.--A personal check is not acceptable for payment of a license or temporary permit.--Fees~~ and are not refundable.

6900.0300 CONTINUING EDUCATION.

Subpart 1. **Requirement.** Every podiatrist licensed to practice in Minnesota shall obtain ~~15~~ 30 clock hours of continuing education in each two-year cycle of license renewal ~~period~~. The number of continuing education hours required during the initial licensure period is that fraction of 30 hours, to the nearest whole hour, that is represented by the ratio of the number of days the license is held in the initial

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licensure period to 730 days.

Subp. 2. **Obtaining continuing education hours.** Continuing education hours shall be obtained in the following manner:

A. attendance at educational programs approved by the board under subpart 3;

B. attendance at hospital staff meetings (no more than three hours of hospital staff meetings may be used for license renewal each year); or

C. participation in ~~a clinical residency, preceptorship, or~~ acceptable graduate training that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 3. **Requirements of program approval.** ~~Approval of~~ Each continuing education program ~~that the licensee desires to use~~ used to meet the license renewal requirements ~~should~~ must be approved by the board before ~~registration for the program but must be approved by the board before license renewal is granted~~ the program is accepted as meeting requirements of this part.

In order for a continuing education program to be approved by the board, the program must meet the following criteria:

A. The content must be directly related to the practice of podiatric medicine as defined in Minnesota Statutes, section 153.01, subdivision 2. Subjects such as practice management, ~~risk management,~~ or those not of a scientific nature are not acceptable.

B. The speaker must be a licensed podiatrist, other credentialed health care professional, or person especially qualified to address the subject.

C. The sponsor must provide the attendee a written statement of attendance that includes the name and dates of the program, the name and address of the sponsor, the number of continuing education clock hours granted by the sponsor and approved by the board if prior approval has been sought, the name of the attendee and a signature of the sponsor or designee, or upon completion of the program, the sponsor must send the board a list of attendees.

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Subp. 3a. **Procedure for program approval.** Either the sponsor of a continuing education program or a ~~podiatrist~~ licensee may submit the program for approval by the board.

The following information about the program is required:

A. name and address of the program sponsor;

B. dates and times of the program;

C. subject or content matter of each item on the program together with the amount of time devoted to the subject;

D. name of and identifying information about the speakers or instructors; and

E. assurance that a written statement of attendance will be given to the podiatrist or that a list of attendees will be sent to the board.

The board shall approve each continuing education program for a specific number of clock hours of continuing education. One clock hour is 60 minutes. Partial hours will not be granted. Lunch breaks, rest periods, greetings, and other noneducational time will not be included.

Subp. 4. **Proof of attendance.** Proof of attendance at continuing education programs meeting the requirement of this part shall be submitted to the board ~~at the time of license~~ within the renewal period in which it was attended in the form of a certificate, descriptive receipt, or affidavit.

Subp. 5. [See repealer.]

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. **Waivers; application.** A licensee or applicant for licensure may petition the board for a time-limited waiver of any rule except for any part of a rule which incorporates a statutory requirement. The waiver shall be granted if:

A. the rule in question does not address a problem of significance to the public in relation to the practice or application of the petitioner;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. the granting of a waiver will not adversely affect

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the public welfare.

Subp. 2. **Waivers; renewal, reporting, and revocation.** A waiver shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 3. **Variances; application.** A licensee or applicant may petition the board for a time-limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:

A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. the granting of the variance will not adversely affect the public welfare.

Subp. 4. **Variances; compliance.** Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.

Subp. 5. **Variance; renewal, reporting, and revocation.** A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 6. **Burden of proof.** The burden of proof is upon the petitioner to demonstrate to the board that the requirements in subparts 1 and 3 have been met.

Approved
by Revisor _____

Subp. 7. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

REPEALER. Minnesota Rules, parts 6900.0010, subparts 2 and 3; 6900.0030; and 6900.0300, subpart 5, are repealed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Training and Licensing

AGENCY: Board of Podiatric Medicine

MINNESOTA RULES: Chapter 6900

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Board of Podiatric Medicine Relating to Training and Licensing

AFFIDAVIT OR MAILING ALTERNATIVE NOTICES AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

LOIS E. MIZUNO, being duly sworn, says:

I hereby certify that the attached list of persons and associations who have requested, pursuant to Minn. Stat. Sections 14.14, subd. 1(a) and 14.22 or 14.30, that their names be placed on the Board of Podiatric Medicine's rulemaking mailing list and the attached list of licensees of the Board of Podiatric Medicine, are accurate, complete, and current as of this 15th day of February, 1991.

That on the 15th day of February, 1991, at the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached Alternative Notices by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

Subscribed and sworn to before me
this 15th day of February, 1991.

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Lois E. Mizuno, being first duly sworn upon oath, deposes and says: That at the city of Minneapolis, county of Hennepin and state aforementioned, on the 15th day of February, 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 THAN 25 PERSONS REQUEST A HEARING AND PROPOSED PERMANENT RULES RELATING TO TRAINING AND LICENSING, 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:

PERSON ON THE ATTACHED LIST

Lois E Mizuno

Subscribed and sworn to before me
this 15th day of February, 1991

Betty L. Messerly

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

4/5/1991

Minnesota Board of Podiatric Medicine
Rules Hearing Mailing List

Rules Hearing Mailing List attached

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Moorhead, MN 56560

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Apple Valley, MN 55124

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4844 Xerxes Avenue South
Minneapolis, MN 55410

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17 S. 7th Avenue
St. Cloud, MN 56301

+ Board Members

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Rochester, MN 55904

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Minneapolis, MN 55421

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Austin MN 55912

Office of the Revisor of Statutes

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297 Phone: 296-2868

DATE: April 18, 1991

TO: Patty Nolte

FROM: Carla Riehle

RE: File No. 1805

The rule has the change we discussed on page 10, line 35.

Board of Podiatric Medicine

2700 University Avenue West #101
St. Paul, MN 55114
(612) 642-0588

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: February 04, 1991

RE: Proposed Rules Changes, Including Fee Changes

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 Podiatric Medicine is proposing to adopt rules relating to graduate training, temporary permits, licensure, renewal, continuing education, and waivers and variances. Because the proposed rules institute a biennial renewal period in place of the annual period in existing rules, the fees related to licensure and renewal are changed as well. The renewal fee and late fee are doubled to match the doubled renewal period, and the initial licensure fee is increased to become equal to the renewal fee, with a subsequent rebate proportional to that part of a two year period in which the person was not licensed.

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.

Attachments

AN EQUAL OPPORTUNITY EMPLOYER

Rules as Proposed

6105.0330 RESTRICTED SPEED ZONES.

Subpart 1. **Slow speed zone.** No motorboat shall at any time be operated in excess of a slow speed from the dam at Taylors Falls to the sandbars located approximately at mile 31.0.

Subp. 2. **Slow-no wake speed.** No motorboat shall be operated in excess of a slow-no wake speed in the following areas:

A. at the narrows located approximately at mile 28.6, which is 0.4 miles downstream from the Arcola high bridge;

B. between the Coast Guard navigational buoys designating location of the navigation channel from the railroad swing bridge located at approximately mile 17.3 to the south side of the southernmost island in the chain of islands located at approximately mile 16.5;

C. between the Coast Guard navigational buoys designating the Kinnickinnic River delta narrows from approximately mile 6.6 to approximately mile 6.0;

D. at the Prescott Narrows from the north side of U.S. Highway No. 10 bridge located approximately at mile 0.3 to the confluence of the Saint Croix River with the Mississippi River;

E. within 100 feet of shore (including the shores of islands) and of swimmers, from sandbars located approximately at mile 31.0 to the confluence of the Saint Croix River with the Mississippi River; ~~and~~

F. in that area known as Andersen Bay, located approximately at mile 20.0;

G. from shore to shore in the area known as Afton-Catfish Bar, located approximately at mile 11.4 to 11.8 as measured in the navigational channel, and established by regulatory buoys; and

H. between the dam at Taylors Falls to the confluence of the Saint Croix River with the Mississippi River, whenever the water level reaches 683.0 feet, mean sea level, as measured at the Stillwater gauge.

Subp. 3. **Exception.** Any motorboat designated for law enforcement shall be exempt from this part in circumstances involving emergencies or violation of law.

Board of Podiatric Medicine

Proposed Permanent Rules Relating to Training and Licensing

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

Explanation of Alternative Notices

The Minnesota Board of Podiatric Medicine (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 March 20, 1991, interested persons may call the Board on March 21, 1991, to ask whether the hearing which is scheduled for March 22, 1991, will be held.

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Podiatric Medicine (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).

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.

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 March 20, 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 March 20, 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 Podiatric Medicine
Room 101
2700 University Avenue West
St. Paul, Minnesota 55114-1095
Telephone: (612) 642-0588

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 153.02, 153.16, subds. 1(f) and 3,214.06 and 214.12 (1990).

If adopted, the proposed rules would add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waivers and variances. A copy of the proposed rule is attached and will be published in the *State Register* issue of February 19, 1991.

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 imapct 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 March 22, 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 Room 41 (Conference Room A), Lower Level, Colonial Office Park Building, 2700 University Avenue West, St. Paul, Minnesota, on Friday, March 22, 1991, commencing at 1:30 p.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 Howard L. Kaibel, Administrative Law Judge, Office of Administrative

Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608. 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 add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waivers and variances. A free copy of the proposed rules is attached and will be published in the *State Register* issue of February 19, 1991.

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 153.02, 153.16, subds. 1(f) and 3,214.06 and 214.12 (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) 296-5148.

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.

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 notice in Part III above will be held, please call the Board before March 15, 1991, and leave

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.

your name, address, and telephone number. You will be notified on March 21, 1991, if the hearing has been cancelled. You may also call the Board on March 21, 1991, to find out whether the hearing scheduled for March 22, 1991, will be held.

Dated: 4 February 1991

Lois E. Mizuno
Executive Director

Rules as Proposed

6900.0010 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. **Acceptable graduate training.** "Acceptable graduate training" means at least 12 consecutive months of postgraduate training in a clinical residency, preceptorship, or other graduate training as described in part 6900.0020, subparts 5, 6, 7, or 8.

Subp. 2. and 3. [See repealer.]

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Suspend a license.** "Suspend a license" means to discontinue a ~~licensee's~~ podiatrist's right to practice for a definite or indefinite time until specified conditions are met.

[For text of subp 7, see M.R.]

Subp. 8. **Initial licensure period.** For a license issued after the effective date of parts 6900.0100 to 6900.0500, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Graduate training.** Applicants graduating in 1987 and thereafter from a podiatric medical school must present evidence of satisfactory completion of a ~~clinical residency, preceptorship, or other~~ acceptable graduate training ~~as required in *Minnesota Statutes,* section 153.16, subdivision 1, paragraph (d), and described in subparts 5, 6, and 7 or~~ 8.

Subp. 5. **Clinical residency.** ~~An acceptable clinical residency must be at least 12 consecutive months in length and be approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association.~~ A clinical residency is a formal, structured postdoctoral training program sponsored by and conducted in an accredited institution such as a hospital or ambulatory health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases;

B. develop the podiatric medical graduate in the art of preventing and controlling podiatric conditions and diseases and in the promotion of foot health principally through mechanical and rehabilitative methods;

C. provide the podiatric medical graduate with clinical experience necessary to refine competency in the podiatric medical and surgical care of the foot as defined by the statutory scope of practice; or

D. provide the podiatric medical graduate with clinical experience necessary to become competent in the full scope of advanced podiatric medicine and surgery.

Subp. 6. **Preceptorship.** ~~An acceptable preceptorship must:~~

~~A. consist of a minimum of 12 consecutive months of study;~~

~~B. operate under the control and supervision of an accredited college of podiatric medicine; and~~

~~C. have written objectives appropriate to all training aspects of the program.~~ A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association. The residency must provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. **Preceptor requirements.** The preceptor must:

A. provide training in the care of children and adults that offers experience as defined by the statutory scope of practice including drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:

(1) nail;

(2) digital;

(3) soft tissue;

(4) forefoot;

(5) metatarsal;

(6) midfoot; and

(7) rearfoot or ankle~~.~~

~~The care of children and adults must be included.~~;

B. hold a clinical appointment at a ~~college~~ podiatric medical school or be a member of the teaching staff of a hospital sponsoring a residency program~~.~~;

C. have a hospital staff appointment with podiatric surgical privileges~~.~~; however, the granting of staff privileges is solely within the discretion of individual institutions~~.~~; and

D. not have been the subject of disciplinary action concerning professional conduct or practice.

Subp. 8. **Other graduate training.** Other ~~acceptable~~ graduate training must meet the ~~following standards:~~ requirements of items A to D and of subpart 7, items A and D.

A. ~~The program must be 12 consecutive months of formal, structured study started after graduation from a college of podiatric medicine, have written objectives appropriate to all training aspects of the program. and have a written evaluation process.~~

~~B. Experience within the statutory scope of practice must include drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:~~

~~(1) nail;~~

~~(2) digital;~~

~~(3) soft tissue;~~

~~(4) forefoot;~~

~~(5) metatarsal;~~

~~(6) midfoot; and~~

~~(7) rearfoot or ankle.~~

~~The care of children and adults must be included.~~

~~C.~~ A licensed podiatrist must be designated as the unlicensed podiatrist's supervisor and assume full podiatric responsibility for patient services provided by the unlicensed podiatrist. ~~The supervisor must not have been the subject of disciplinary action concerning professional conduct or practice.~~

~~D.~~ B. The supervisor must obtain the approval of the board for the proposed graduate training, including its written goals and objectives, before the training begins.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges~~.~~. However, the granting of staff privileges is solely within the discretion of individual institutions.

~~E.~~ D. The supervisor shall instruct and direct the unlicensed podiatrist in ~~his or her~~ the podiatrist's duties, oversee and check the work, ~~and~~ provide general ~~direction to the unlicensed podiatrist. The unlicensed podiatrist and supervising podiatrist shall~~ directions, and comply with at least the following criteria:

(1) ~~A~~ the supervisor shall review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts or records. Review may either be in person or by telecommunication~~.~~;

(2) ~~A~~ the supervisor shall be on site at facilities staffed by an unlicensed podiatrist~~.~~;

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(3) one of the licensed podiatrists referred to in item ~~D~~ C must be present during the performance of surgical treatment by the unlicensed podiatrist~~.~~; and

(4) ~~A supervising podiatrist~~ the supervisor may not supervise more than two unlicensed podiatrists at any one time.

Subp. 9. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. The board may ~~waive~~ require the ~~personal appearance if one or more board members has personal knowledge of the accuracy of the applicant's application~~ applicant to respond satisfactorily to questions regarding ethics of practice.

Subp. 10. **License in ~~another state~~ other states.** If an applicant is licensed in ~~another state~~ one or more states other than Minnesota, the applicant must cause a form supplied by the board to be submitted from the board of podiatric medicine in the state of original licensure and ~~the other states~~ each state in which a license was held during the five years immediately preceding application.

6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required ~~fees~~ fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in a program and that the program meets the standards in part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 2. **Term of permit.** ~~The~~ A granted permit is ~~issued~~ valid for ~~a~~ the period ~~not to exceed~~ of graduate training of 12 months ~~of training that must occur within 18 consecutive months~~ beginning with the first day of graduate training. A permit may be reissued once ~~to a qualified~~ if the applicant submits acceptable evidence that the training was interrupted by circumstances beyond the control of the applicant and that the sponsor of the program agrees to the extension. ~~A permit expires when an applicant is licensed, or must be~~

Subp. 2a. **Revocation.** The permit is revoked if an applicant has engaged in conduct that constitutes grounds for denial of ~~a license~~ licensure or disciplinary action, discontinues training, or moves out of Minnesota.

Subp. 3. **Scope of practice.** The scope of practice of the permit holder is limited to the performance of podiatric medicine within the structure of the ~~residency, preceptorship, or other~~ acceptable graduate training program within which the permit holder is enrolled.

6900.0200 LICENSE RENEWAL.

Subpart 1. **Active status.** The license renewal term is ~~12~~ 24 months beginning on July 1 and ending on June 30. Applications received and postmarked after June 30 in the year due will be returned for addition of the late renewal fee. The term of renewal begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even number. The July 1, 1991, renewal term for a licensee who renews in even-numbered years shall end June 30, 1992, and the renewal fee and continuing education hours shall be half the amount required for a 24-month renewal period. For the first renewal period following the initial licensure period, the fee for renewal of license is that fraction of $450, to the nearest dollar, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

An applicant for license renewal must submit to the board:

A. an application form, renewal fee, and, if applicable, the late renewal fee~~:~~. The application form must provide a place for the renewal applicant's signature and ~~must~~ solicit information including the applicant's office address, and other information that may be reasonably requested by the board;

B. evidence of participation in approved continuing education programs as described in part 6900.0300; and

C. other evidence as the board may reasonably require.

[For text of subp 2, see M.R.]

Subp. 3. **Notice.** Any time after July 1 of the applicable year, the board will send to the last address on file with the board, a notice to licensees who have not applied for license renewal. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and ~~the~~ information ~~required~~ about continuing education that must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by ~~submitting the~~ applying for license renewal ~~application and applicable fees and information required about continuing education~~ as provided in subpart 1 or by notifying the board that the licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

Subp. 4. **Result.** If the application for renewal~~, including required information about continuing education and the applicable renewal and late fees~~ as provided in subpart 1 or notice of voluntary termination~~,~~ is not received by the board by the date specified

in the notice, the license will expire and the licensee's right to practice terminates on the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

[For text of subp 5, see M.R.]

Subp. 6. ~~Contested case proceeding~~ **Disciplinary action.** The board, in lieu of the ~~process~~ procedure in subpart 3, may initiate ~~a contested case hearing to revoke or suspend a license~~ disciplinary action against any licensee for failure to submit fees ~~and~~ or provide documentation of completion of continuing education ~~information requested on the renewal application at the time it initiates disciplinary proceedings against the licensee for~~ requirements, and may add such failure to other grounds specified in *Minnesota Statutes*, sections 153.01 to 153.25 in any contested case proceeding initiated by the board against the licensee on the other grounds.

Subp. 7. **Name and address change.** A podiatrist who has changed names ~~shall~~ must notify the board in writing as soon as possible and request a revised renewal certificate. The board may require substantiation of the name change by requiring official documentation.

A podiatrist ~~shall~~ must maintain with the board a correct mailing address to receive board communications and notices. A podiatrist who has changed addresses ~~shall~~ must notify the board in writing as soon as possible. Placing a notice in first class United States mail, postage prepaid and addressed to the licensee at the licensee's last known address, constitutes valid service.

6900.0210 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements.** Upon ~~complying~~ a podiatrist's compliance with the requirements in this part, the ~~applicant's~~ podiatrist's license must be reinstated. The podiatrist ~~desiring the~~ requesting reinstatement of a license shall submit the following materials:

A. an application form~~, license renewal~~ and relicensure fee~~, and, if the request is received within 12 months of a previous license expiration, the late renewal fee~~;

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

Subp. 2. **Revoked or suspended license.** No license that has been suspended or revoked by the board will be reinstated unless the ~~applicant for reinstatement~~ former licensee provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the ~~applicant~~ former licensee has successfully completed the requirements. The board may require the licensee to pay the costs of the proceedings resulting in the suspension or revocation of a license under its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay the costs of the proceedings resulting in the disciplinary action.

[For text of subp 3, see M.R.]

6900.0250 FEES.

Subpart 1. **Amounts.** Fees ~~for podiatrists~~ are as follows:

A. licensure, ~~$200~~ $450;

~~B. reexamination by the board under an original application for licensure, $200;~~

~~C.~~ renewal of a license, ~~$225~~ $450;

~~D.~~ C. late renewal of a license, an additional ~~$50~~ $100;

~~E.~~ D. temporary permit, $200; ~~and~~

~~F.~~ E. replacement of an original license document or renewal certificate, $10; and

F. relicensure following expiration of license, $550.

Subp. 2. **Requirements.** Fees must be paid in United States money~~. A personal check is not acceptable for payment of a license or temporary permit.~~ ~~Fees~~ and are not refundable.

6900.0300 CONTINUING EDUCATION.

Subpart 1. **Requirement.** Every podiatrist licensed to practice in Minnesota shall obtain ~~15~~ 30 clock hours of continuing education in each two-year cycle of license renewal ~~period~~. The number of continuing education hours required during the initial licensure period is that fraction of 30 hours, to the nearest whole hour, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

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Subp. 2. **Obtaining continuing education hours.** Continuing education hours shall be obtained in the following manner:

A. attendance at educational programs approved by the board under subpart 3;

B. attendance at hospital staff meetings (no more than three hours of hospital staff meetings may be used for license renewal each year); or

C. participation in ~~a clinical residency, preceptorship, or~~ acceptable graduate training that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 3. **Requirements of program approval.** ~~Approval of~~ Each continuing education program ~~that the licensee desires to use~~ used to meet the license renewal requirements ~~should~~ must be approved by the board before ~~registration for the program but must be approved by the board before license renewal is granted~~ the program is accepted as meeting requirements of this part.

In order for a continuing education program to be approved by the board, the program must meet the following criteria:

A. The content must be directly related to the practice of podiatric medicine as defined in *Minnesota Statutes*, section 153.01, subdivision 2. Subjects such as practice management~~, risk management,~~ or those not of a scientific nature are not acceptable.

B. The speaker must be a licensed podiatrist, other credentialed health care professional, or person especially qualified to address the subject.

C. The sponsor must provide the attendee a written statement of attendance that includes the name and dates of the program, the name and address of the sponsor, the number of continuing education clock hours granted by the sponsor and approved by the board if prior approval has been sought, the name of the attendee and a signature of the sponsor or designee, or upon completion of the program, the sponsor must send the board a list of attendees.

Subp. 3a. **Procedure for program approval.** Either the sponsor of a continuing education program or a ~~podiatrist~~ licensee may submit the program for approval by the board.

The following information about the program is required:

A. name and address of the program sponsor;

B. dates and times of the program;

C. subject or content matter of each item on the program together with the amount of time devoted to the subject;

D. name of and identifying information about the speakers or instructors; and

E. assurance that a written statement of attendance will be given to the podiatrist or that a list of attendees will be sent to the board.

The board shall approve each continuing education program for a specific number of clock hours of continuing education. One clock hour is 60 minutes. Partial hours will not be granted. Lunch breaks, rest periods, greetings, and other noneducational time will not be included.

Subp. 4. **Proof of attendance.** Proof of attendance at continuing education programs meeting the requirement of this part shall be submitted to the board ~~at the time of license~~ within the renewal period in which it was attended in the form of a certificate, descriptive receipt, or affidavit.

Subp. 5. [See repealer.]

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. **Waivers; application.** A licensee or applicant for licensure may petition the board for a time-limited waiver of any rule except for any part of a rule which incorporates a statutory requirement. The waiver shall be granted if:

A. the rule in question does not address a problem of significance to the public in relation to the practice or application of the petitioner;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. the granting of a waiver will not adversely affect the public welfare.

Subp. 2. **Waivers; renewal, reporting, and revocation.** A waiver shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 3. **Variances; application.** A licensee or applicant may petition the board for a time-limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:

A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. the granting of the variance will not adversely affect the public welfare.

Subp. 4. **Variances; compliance.** Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.

Subp. 5. **Variance; renewal, reporting, and revocation.** A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 6. **Burden of proof.** The burden of proof is upon the petitioner to demonstrate to the board that the requirements in subparts 1 and 3 have been met.

Subp. 7. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

REPEALER. *Minnesota Rules*, parts 6900.0010, subparts 2 and 3; 6900.0030; and 6900.0300, subpart 5, are repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Underground Storage Tanks

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1990). The MPCA's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.49 (1990).

This is the second notice provided by the MPCA regarding the proposed adoption of these rules. The first notice was published in the *State Register* on July 30, 1990, (15 S. R. 264). The MPCA has issued an Order Withdrawing the Proposed Rules Relating to Technical Standards and Corrective Action Requirements for Underground Storage Tanks, *Minnesota Rules* pts. 7150.0010 through 7150.0700 as originally ntoiced, under the Withdrawn Rules Chapter in this *State Register*. The MPCA is renoticing *Minnesota Rules* pts. 7150.0010 through 7150.0350 and pts. 7150.0600 through 7150.0700 as originally noticed as Proposed Rules Relating to Technical Standards for Underground Storage Tanks, *Minnesota Rules* pts. 7150.0010 through 7150.0500. Copies of last July's notice can be obtained from county libraries or from the Minnesota Bookstore (612/297-3000).

As a result of comments received during the first notice period, the MPCA has met with representatives of the affected parties and several issues relating to the technical standards portion of the rule as originally noticed were resolved and have been incorporated as minor changes to the proposed rule as published.

The MPCA believes that, although amended corrective action criteria could probably be added to the proposed rules as originally noticed, additional time will be required to develop the necessary language. In addition, the modifications could be construed as a substantial change, and adoption of the technical standards could be significantly delayed. Correction action rules will be proposed at a later time.

All persons have until 4:30 p.m. on March 21, 1991, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing must state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 through 14.20 (1990).

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DEPARTMENT: ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: December 26, 1990

TO: BRUCE NELSON
Senior Engineer
Department of Public Service

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: **Rules Relating to Minnesota Energy Code**

The above-referenced rule has not been approved by the Attorney General because the Department of Public Service did not provide a 30-day comment period as required by Minn. Stat. §§ 14.22 and 14.25.

The Department's Notice of Intent to amend a rule without a public hearing expressly stated that "comments or requests for a public hearing must be received no later than 4:30 p.m. on October 30, 1990." While the affidavit of mailing indicates that the Notice was mailed September 25, 1990, the Notice was not published in the State Register until October 1, 1990. Under the method of calculation of the number of days pursuant to Minn. Stat. § 645.15, the 30-day comment period after the date of publication ended October 31, not October 30. Consequently, the Department provided a 29-day comment period, rather than 30 days.

To correct this deficiency, you must re-publish and re-mail the Notice of Intent and expressly provide a complete 30-day comment period. After the close of the 30-day comment period, assuming you do not get a total of 25 or more requests for a public hearing,[1] the rule may be resubmitted to the Attorney General for review. Attorney General Rule 2010.1300 provides the procedures for re-submitting the rule. In addition to the documents listed in subpart 1 of that rule, the following documents must also be submitted:

1. A copy of the Notice of Intent as signed and mailed;
2. A copy of the Notice of Intent as published in the State Register;
3. An affidavit of mailing the subsequent Notice of Intent; and
4. Any additional comments or requests received.

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1. In counting the number of requests for a public hearing, you must include the requests received during the initial comment period, unless the requests have been withdrawn in writing.

In resubmitting the rule to our office, please enclose a cover memo specifying that the rule is being resubmitted and refer to our file number 1771, so that we may obtain our initial file in this matter.

As I stated on the phone, if you wish, I will review your Notice of Intent before it is mailed/published. Please contact me or Patty Nolte if you have additional questions.

MJC:cy.bm1

cc: William Brown, Office of Administrative Hearings
Mary Ann Hruby, Legislative Commission to Review Administrative Rules
Paul Marinac, Revisors Office
Eric Swanson, Attorney General's Office

CERTIFICATE OF THE

MINNESOTA BOARD OF PODIATRIC MEDICINE'S

RESOLUTION ADOPTING RULES

I, MICHAEL L. STONE, D.P.M., do hereby certify that I am a member and the president of the Minnesota Board of Podiatric Medicine (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 22nd 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 Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances are approved and adopted pursuant to authority vested in the Board by Minn. Stat. S 153.02. 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 22nd day of March, 1991.

Michael L. Stone DPM

MICHAEL L. STONE, D.P.M.
President

Attest by one other Board member

CERTIFICATE OF THE MINNESOTA BOARD OF PODIATRIC MEDICINE AUTHORIZING RESOLUTION

I, Michael Stone, DPM, do hereby certify that I am a member and the president of the Minnesota Board of Podiatric Medicine (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 4th day of January, 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 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 temporary permits, licensure, license renewal, continuing education, and 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 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 4TH day of January, 1991.

Michael Stone DPM

MICHAEL STONE
President

Attest by one other Board Member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

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 Podiatric Medicine (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 March 20, 1991, interested persons may call the Board on March 21, 1991, to ask whether the hearing which is scheduled for March 22, 1991, will be held.

II.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that the Minnesota Board of Podiatric Medicine (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 March 20, 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 March 20, 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 Podiatric Medicine
Room 101
2700 University Avenue West
St. Paul, Minnesota 55114-1095

Telephone: (612) 642-0588

The statutory authority of the Board to adopt the proposed rules is contained in Minn. Stat. §§153.02, 153.16, subds. 1(f) and 3, 214.06 and 214.12 (1990).

If adopted, the proposed rules would add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing

education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waviers and variances. A copy of the proposed rule is attached and will be published in the State Register issue of February 18, 1991.

(12) 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.

(13) 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).

(14) 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.

(9) 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.

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 MARCH 22, 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 Room 41 (Conference Room A), Lower Level, Colonial Office Park Building, 2700 University Avenue West, St. Paul, Minnesota, on Friday, March 22, 1991, commencing at 1:30 p.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 Howard L. Kaibel, Administrative Law Judge, Office of Administrative Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608. 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 add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waviers and variances. A free copy of the proposed rules is attached and will be published in the State Register issue of February 18, 1991.

The statutory authority of the Board to adopt the proposed rules is contained in Minn. Stat. $$ 153.02, 153.16, subds. 1(f) and 3, 214.06 and 214.12 (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) 296-5148.

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 March 15, 1991, and leave your name, address, and telephone number. You will be notified on March 21, 1991, if the hearing has been cancelled. You may also call the Board on March 21, 1991, to find out whether the hearing scheduled for March 22, 1991, will be held.

Dated: Feb. 4, 1991

Lois E Mizuno

LOIS E. MIZUNO
Executive Director

Board of Podiatric Medicine

Proposed Permanent Rules Relating to Training and Licensing

Rules as Proposed

6900.0010 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. Acceptable graduate training. "Acceptable graduate training" means at least 12 consecutive months of postgraduate training in a clinical residency, preceptorship, or other graduate training as described in part 6900.0020, subparts 5, 6, 7, or 8.

Subp. 2. and 3. [See repealer.]

[For text of subps 4 and 5, see M.R.]

Subp. 6. Suspend a license. "Suspend a license" means to discontinue a ~~licensee's~~ podiatrist's right to practice for a definite or indefinite time until specified conditions are met.

[For text of subp 7, see M.R.]

Subp. 8. Initial licensure period. For a license issued after the effective date of parts 6900.0100 to 6900.0500, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

6900.0020 LICENSURE REQUIREMENTS.

[For text of subps 1 to 3, see M.R.]

Subp. 4. Graduate training. Applicants graduating in 1987 and thereafter from a podiatric medical school must present evidence of satisfactory completion of ~~a clinical residency, preceptorship, or other~~ acceptable graduate training ~~as required in Minnesota Statutes, section 153.16, subdivision 1, paragraph (d), and described in subparts 5, 6, and 7 or 8.~~

Subp. 5. Clinical residency. ~~An acceptable clinical residency must be at least 12 consecutive months in length and be approved by the Council on Podiatric Medical Education of the~~ American Podiatric Medical Association. A clinical residency is a formal, structured postdoctoral training program sponsored by and conducted in an accredited institution such as a hospital or ambulatory health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases;

B. develop the podiatric medical graduate in the art of preventing and controlling podiatric conditions and diseases and in the promotion of foot health principally through mechanical and rehabilitative methods;

C. provide the podiatric medical graduate with clinical experience necessary to refine competency in the podiatric medical and surgical care of the foot as defined by the statutory scope of practice; or

D. provide the podiatric medical graduate with clinical experience necessary to become competent in the full scope of advanced podiatric medicine and surgery.

Subp. 6. Preceptorship. ~~An acceptable preceptorship must:~~

~~A. consist of a minimum of 12 consecutive months of study;~~

~~B. operate under the control and supervision of an accredited college of podiatric medicine; and~~

~~C. have written objectives appropriate to all training aspects of the program.~~ A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association. The residency must provide the recent podiatric

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medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. Preceptor requirements. The preceptor must:

A. provide training in the care of children and adults that offers experience as defined by the statutory scope of practice including drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:

(1) nail;

(2) digital;

(3) soft tissue;

(4) forefoot;

(5) metatarsal;

(6) midfoot; and

(7) rearfoot or ankle~~.~~

~~The care of children and adults must be included.~~;

B. hold a clinical appointment at a ~~college~~ podiatric medical school or be a member of the teaching staff of a hospital sponsoring a residency program~~.~~;

C. have a hospital staff appointment with podiatric surgical privileges~~,~~; however, the granting of staff privileges is solely within the discretion of individual institutions~~.~~; and

D. not have been the subject of disciplinary action concerning professional conduct or practice.

Subp. 8. Other graduate training. Other acceptable graduate training must meet the ~~following standards:~~ requirements of items A to D and of subpart 7, items A and D.

A. ~~The program must be 12 consecutive months of formal, structured study started after graduation from a college of podiatric medicine, have written objectives appropriate to all training aspects of the program, and have a written evaluation process.~~

B. ~~Experience within the statutory scope of practice must include drug therapy, radiology, local anesthesia,~~

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~~analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:~~

~~(1) nail;~~

~~(2) digital;~~

~~(3) soft tissue;~~

~~(4) forefoot;~~

~~(5) metatarsal;~~

~~(6) midfoot; and~~

~~(7) rearfoot or ankle.~~

~~The care of children and adults must be included.~~

C. A licensed podiatrist must be designated as the unlicensed podiatrist's supervisor and assume full podiatric responsibility for patient services provided by the unlicensed podiatrist. ~~The supervisor must not have been the subject of disciplinary action concerning professional conduct or practice.~~

~~B.~~ B. The supervisor must obtain the approval of the board for the proposed graduate training, including its written goals and objectives, before the training begins.

C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges~~,~~. However, the granting of staff privileges is solely within the discretion of individual institutions.

~~B.~~ D. The supervisor shall instruct and direct the unlicensed podiatrist in ~~his or her~~ the podiatrist's duties, oversee and check the work, and provide general direction to the ~~unlicensed podiatrist. The unlicensed podiatrist and supervising podiatrist shall~~ directions, and comply with at least the following criteria:

(1) A the supervisor shall review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts or records. Review may either be in person or by telecommunication~~.~~;

(2) A the supervisor shall be on site at facilities staffed by an unlicensed podiatrist~~.~~;

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(3) one of the licensed podiatrists referred to in item ~~B~~ C must be present during the performance of surgical treatment by the unlicensed podiatrist~~;~~ and

(4) ~~A-supervising-podiatrist~~ the supervisor may not supervise more than two unlicensed podiatrists at any one time.

Subp. 9. Personal appearance. The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. The board may ~~waive~~ require the ~~personal-appearance-if-one-or-more-board-members-has personal-knowledge-of-the-accuracy-of-the-applicant's~~ application applicant to respond satisfactorily to questions regarding ethics of practice.

Subp. 10. License in ~~another-state~~ other states. If an applicant is licensed in ~~another-state~~ one or more states other than Minnesota, the applicant must cause a form supplied by the board to be submitted from the board of podiatric medicine in the state of original licensure and ~~the-other-states~~ each state in which a license was held during the five years immediately preceding application.

6900.0160 TEMPORARY PERMIT.

Subpart 1. Prerequisites. An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required ~~fees~~ fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in a program and that the program meets the standards in part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 2. Term of permit. ~~The~~ A granted permit is issued valid for a the period ~~not-to-exceed~~ of graduate training of 12 months ~~of-training-that-must-occur-within-18-consecutive~~

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months beginning with the first day of graduate training. A permit may be reissued once ~~to-a-qualified~~ if the applicant submits acceptable evidence that the training was interrupted by circumstances beyond the control of the applicant and that the sponsor of the program agrees to the extension. ~~A-permit expires-when-an-applicant-is-licensed,-or-must-be~~

Subp. 2a. Revocation. The permit is revoked if an applicant has engaged in conduct that constitutes grounds for denial of ~~a-license~~ licensure or disciplinary action, discontinues training, or moves out of Minnesota.

Subp. 3. Scope of practice. The scope of practice of the permit holder is limited to the performance of podiatric medicine within the structure of the ~~residency,-preceptorship,~~ or other acceptable graduate training program within which the permit holder is enrolled.

6900.0200 LICENSE RENEWAL.

Subpart 1. Active status. The license renewal term is ~~12~~ 24 months beginning on July 1 and ending on June 30. Applications received and postmarked after June 30 in the year due will be returned for addition of the late renewal fee. The term of renewal begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even number. The July 1, 1991, renewal term for a licensee who renews in even-numbered years shall end June 30, 1992, and the renewal fee and continuing education hours shall be half the amount required for a 24-month renewal period. For the first renewal period following the initial licensure period, the fee for renewal of license is that fraction of $450, to the nearest dollar, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

An applicant for license renewal must submit to the board:

A. an application form, renewal fee, and, if applicable, the late renewal ~~fee;~~. The application form must provide a place for the renewal applicant's signature and must

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solicit information including the applicant's office address, and other information that may be reasonably requested by the board;

B. evidence of participation in approved continuing education programs as described in part 6900.0300; and

C. other evidence as the board may reasonably require.

[For text of subp 2, see M.R.]

Subp. 3. Notice. Any time after July 1 of the applicable year, the board will send to the last address on file with the board, a notice to licensees who have not applied for license renewal. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and the information required about continuing education that must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by ~~submitting the~~ applying for license renewal ~~application and applicable fees and information required about continuing education~~ as provided in subpart 1 or by notifying the board that the licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

Subp. 4. Result. If the application for renewal, ~~including required information about continuing education and the applicable renewal and late fees~~ as provided in subpart 1 or notice of voluntary termination, is not received by the board by the date specified in the notice, the license will expire and the licensee's right to practice terminates on the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

[For text of subp 5, see M.R.]

Subp. 6. ~~Contested case proceeding~~ Disciplinary action. The board, in lieu of the process procedure in subpart 3, may initiate ~~a contested case hearing to revoke or suspend a license~~ disciplinary action against any licensee for failure to submit

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fees and or provide documentation of completion of continuing education ~~information requested on the renewal application at the time it initiates disciplinary proceedings against the licensee for~~ requirements, and may add such failure to other grounds specified in Minnesota Statutes, sections 153.01 to 153.25 in any contested case proceeding initiated by the board against the licensee on the other grounds.

Subp. 7. Name and address change. A podiatrist who has changed names ~~shall~~ must notify the board in writing as soon as possible and request a revised renewal certificate. The board may require substantiation of the name change by requiring official documentation.

A podiatrist ~~shall~~ must maintain with the board a correct mailing address to receive board communications and notices. A podiatrist who has changed addresses ~~shall~~ must notify the board in writing as soon as possible. Placing a notice in first class United States mail, postage prepaid and addressed to the licensee at the licensee's last known address, constitutes valid service.

6900.0210 REINSTATEMENT OF LICENSE.

Subpart 1. Requirements. Upon ~~complying~~ a podiatrist's compliance with the requirements in this part, the ~~applicant's~~ podiatrist's license must be reinstated. The podiatrist ~~desiring the~~ requesting reinstatement of a license shall submit the following materials:

A. an application form, ~~license renewal~~ and relicensure fee, ~~and, if the request is received within 12 months of a previous license expiration, the late renewal fee~~;

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

Subp. 2. Revoked or suspended license. No license that has been suspended or revoked by the board will be reinstated unless the ~~applicant for reinstatement~~ former licensee provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of

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establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the ~~applicant~~ former licensee has successfully completed the requirements. The board may require the licensee to pay the costs of the proceedings resulting in the suspension or revocation of a license under its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay the costs of the proceedings resulting in the disciplinary action.

[For text of subp 3, see M.R.]

6900.0250 FEES.

Subpart 1. Amounts. Fees ~~for podiatrists~~ are as follows:

A. licensure, ~~$200~~ $450;

B. ~~reexamination by the board under an original application for licensure, $200;~~

~~C~~, renewal of a license, ~~$225~~ $450;

~~B~~, C. late renewal of a license, an additional ~~$50~~ $100;

~~E~~, D. temporary permit, $200; and

~~F~~, E. replacement of an original license document or renewal certificate, $10; and

F. relicensure following expiration of license, $550.

Subp. 2. Requirements. Fees must be paid in United States money. ~~A personal check is not acceptable for payment of a license or temporary permit.~~ Fees and are not refundable.

6900.0300 CONTINUING EDUCATION.

Subpart 1. Requirement. Every podiatrist licensed to practice in Minnesota shall obtain ~~15~~ 30 clock hours of continuing education in each two-year cycle of license renewal period. The number of continuing education hours required during the initial licensure period is that fraction of 30 hours, to the nearest whole hour, that is represented by the ratio of the number of days the license is held in the initial

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licensure period to 730 days.

Subp. 2. Obtaining continuing education hours. Continuing education hours shall be obtained in the following manner:

A. attendance at educational programs approved by the board under subpart 3;

B. attendance at hospital staff meetings (no more than three hours of hospital staff meetings may be used for license renewal each year); or

C. participation in ~~a clinical residency, preceptorship, or~~ acceptable graduate training that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 3. Requirements of program approval. ~~Approval of~~ Each continuing education program ~~that the licensee desires to use~~ used to meet the license renewal requirements ~~should~~ must be approved by the board before ~~registration for the program but must be approved by the board before license renewal is granted~~ the program is accepted as meeting requirements of this part.

In order for a continuing education program to be approved by the board, the program must meet the following criteria:

A. The content must be directly related to the practice of podiatric medicine as defined in Minnesota Statutes, section 153.01, subdivision 2. Subjects such as practice management, ~~risk management,~~ or those not of a scientific nature are not acceptable.

B. The speaker must be a licensed podiatrist, other credentialed health care professional, or person especially qualified to address the subject.

C. The sponsor must provide the attendee a written statement of attendance that includes the name and dates of the program, the name and address of the sponsor, the number of continuing education clock hours granted by the sponsor and approved by the board if prior approval has been sought, the name of the attendee and a signature of the sponsor or designee, or upon completion of the program, the sponsor must send the board a list of attendees.

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Subp. 3a. Procedure for program approval. Either the sponsor of a continuing education program or a podiatrist licensee may submit the program for approval by the board.

The following information about the program is required:

A. name and address of the program sponsor;

B. dates and times of the program;

C. subject or content matter of each item on the program together with the amount of time devoted to the subject;

D. name of and identifying information about the speakers or instructors; and

E. assurance that a written statement of attendance will be given to the podiatrist or that a list of attendees will be sent to the board.

The board shall approve each continuing education program for a specific number of clock hours of continuing education. One clock hour is 60 minutes. Partial hours will not be granted. Lunch breaks, rest periods, greetings, and other noneducational time will not be included.

Subp. 4. Proof of attendance. Proof of attendance at continuing education programs meeting the requirement of this part shall be submitted to the board ~~at the time of license~~ within the renewal period in which it was attended in the form of a certificate, descriptive receipt, or affidavit.

Subp. 5. [See repealer.]

6900.0500 WAIVERS AND VARIANCES.

Subpart 1. Waivers; application. A licensee or applicant for licensure may petition the board for a time-limited waiver of any rule except for any part of a rule which incorporates a statutory requirement. The waiver shall be granted if:

A. the rule in question does not address a problem of significance to the public in relation to the practice or application of the petitioner;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. the granting of a waiver will not adversely affect

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the public welfare.

Subp. 2. Waivers; renewal, reporting, and revocation. A waiver shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 3. Variances; application. A licensee or applicant may petition the board for a time-limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:

A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. the granting of the variance will not adversely affect the public welfare.

Subp. 4. Variances; compliance. Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.

Subp. 5. Variance; renewal, reporting, and revocation. A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 6. Burden of proof. The burden of proof is upon the petitioner to demonstrate to the board that the requirements in subparts 1 and 3 have been met.

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Subp. 7. Statement of reasons. The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

REPEALER. Minnesota Rules, parts 6900.0010, subparts 2 and 3; 6900.0030; and 6900.0300, subpart 5, are repealed.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Training and Licensing

AGENCY: Board of Podiatric Medicine

MINNESOTA RULES: Chapter 6900

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

STATE OF MINNESOTA

BEFORE THE MINNESOTA BOARD OF PODIATRIC MEDICINE

In the Matter of the Proposed Adoption of Rules of the Board of Podiatric Medicine Relating to Licensure Requirements, Temporary Permits, License Renewal and Reinstatement, Fees, Continuing Education, and Waivers and Variances

DECLARATION OF COUNSEL

I, Robert T. Holley, 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 Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0485.

ROBERT T. HOLLEY
Special Assistant
Attorney General

Dated: April 8, 1991.