

Minnesota Attorney General: Administrative Rules Proceedings

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CH
10/2/91

RULE REVIEW CHECKLIST

File No. 1857
DATE RECEIVED 10/2/91
REVIEW DATE 10/11/91
DUE DATE 10/16/91
(DIS)APPROVED 10-15-91
WITHDRAWN _____

Docket No. 05.0009.0980
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 10/3/91
REVISOR (DIS)APPROVED 10/7/91
FILED W/SEC. OF STATE 10/18/91
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

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

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
1-5-91 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
148.74, 214.06, subd. Statutory Authority
✓ Small Business Statement
n/a Expenditure of public money statement
6-3-91 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
✓ Fees - § 16A.128 obtained approval from Finance but don't have letters to House appropriation + Senate Finance

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
June 13, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
June 17, 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
September 14, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
September 14, 1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Jack Brever Name of SAAG representing agency

_____ Notice of ~~Submission~~ to Attorney General (if applicable)

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

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL EXAMINERS

In the Matter of Proposed Rules and Amendments Relating to Board Fees

STATEMENT OF NEED AND REASONABLENESS

Pursuant to Minn. Stat. § 14.23 (1990), the Minnesota Board of Medical Examiners (hereinafter "Board") hereby affirmatively presents the need for and facts establishing the reasonableness of proposed rules and amendments to Minn. Rule, pt. 5600.2500, relating to fees.

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

1. STATUTORY AUTHORITY

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

Minn. Stat. §§ 147.01, 147.02, 147.03, 147.037, (1990), 148.705, 148.73, 148.74 (1990), and 214.12, (1990) authorize the Board to promulgate licensure fees and other rules necessary to administer sections 147.01 to 147.161 and 148.65 to 148.78.

Minn. Stat. §§ 16A.128 (1990) and 214.06 (1990), require the Board to adjust any fee, which the Board is empowered to assess, in an amount sufficient so that the total fees collected will, as closely as possible, equal anticipated expenditures, including support costs, other statewide indirect costs, and attorney general costs attributable to the fee function.

2. STATEMENT OF NEED

The Board has reviewed its anticipated costs for the next biennium (1992-1993) and found that if revenues are derived from existing fees, the projected costs would exceed revenue receipts by as much as $978,000 by the 1993 Fiscal Year.

Estimated Cost for FY 1993	- $3,034,000
Receipts for FY 1990-Existing Fees	- $2,056,000
Expenditures in excess of Revenues	- $ 978,000

(See Department of Revenue FEE REVIEW Document, Attachment A)

With expenditures exceeding revenues, the Board would be out of compliance with Minn. Stat. §§ 16A.128 and 214.06 which require the Board to adjust or set fees sufficient to collect revenues to cover anticipated expenditures. Thus it is necessary for the Board to adjust and set fees as requested in this document to insure compliance with Minn. Stat. §§ 16A.128 and 214.06.

3. STATEMENT OF REASONABLENESS

On January 5, 1991, the Board of Medical Examiners authorized its Executive Director, H. Leonard Boche, to begin the rulemaking process seeking the adoption of rules and amendments relating to Board Fees. Below is the text of the proposed rule with its amendments and new provisions.

RULES AS PROPOSED

5600.2500 ANNUAL FEES.

The fees charged by the board are fixed at the following rates:

A. physician examination fee, full exam, ~~$425~~ $490;
B. physician examination fee, Part I only, ~~$250~~ $290;
C. physician examination fee, Part II only, ~~$300~~ $345;
D. physician application fee, $200;
E. physician annual license fee, ~~$115~~ $144;
F. physician certification to other states, $10;
G. physician verification to institutions, $5;
H. physician endorsement to other states, $40;
I. physician emeritus license, $50;
J. physician temporary licenses, $60;
K. physician late fee, $60;
L. physical therapist application fee, ~~$40~~ $75;
M. physical therapist examination fee, $110;
N. physical therapist annual registration, ~~$20~~ $35;
O. physical therapist late fee, $10;
P. physical therapist certification to other states, $10;
Q. physical therapist verification to institutions, $5;
R. physical therapist temporary permit, $10.;
S. duplicate license or registration fee, $10;
T. education or training program approval fee, $25; and
U. special purpose examination fee, $345

The fee changes requested by the Board fit into three categories. They are fees involving physicians, fees involving physical therapists and miscellaneous fee charges. In each instance, the new fee and/or fee adjustments are for service-related costs that provide primary benefit to the individual fee payer.

PHYSICIAN FEES

The fees involving physicians are found in proposed Minn. Rule, pt. 5600.2500, Items A.-C., F. and U. Items A.-C. concern physician examination fees. Item E. is the physician annual license fee. Item U. is the Special Purpose Examination fee.

ITEMS A - C

The physician examination fees are arranged as three separate components - physician examination fee (full exam), physician examination fee (Part I-only), and physician examination (Part II-only). This arrangement is necessary because of the licensing examination recognized by the Board for physician examination purposes.

The Federation of State Medical Boards offers the Federation Licensing Examination (FLEX). The Board accepts the FLEX exam as a physician licensing exam. Because the FLEX exam can be taken or retaken in its entirety or in separate parts, the fees must be arranged so as to provide applicants the option of paying for a full exam or for part of an exam.

The Board's physician examination fees reflect the cost of the exam as charged by the Federation of State Medical Boards and the exam administration fee of the Board needed to recover exam administration expenses incurred in conducting the exam.

On March 1, 1990, the Federation of State Medical Boards announced an examination fee increase starting in 1991. [See Attachment B - March 1, 1990 letter from James R. Winn, M.D., announcing the exam fee increases].

The Federation raised its fees as follows:

$190 to $220 = $30 increase for Part I of FLEX
$240 to $275 = $35 increase for Part II of FLEX
$365 to $420 = $55 increase for the entire FLEX exam

The Board fees include an exam administration cost. Previously this administration cost was $60. It is being increased by $10 to $70. Thus, the amended fee will reflect both the Federation cost increase and the Board administration cost increase. Therefore, the Board physician exam fees will be as follows:

Physician Exam Fee Part I
From $250 to $290 = $40 increase ($30 Federation increase + $10 Board increase)

Physician Exam Fee Part II
From $300 to $345 = $45 increase ($35 Federation increase + $10 Board increase)

Physician Exam Fee Full Exam
From $425 to $490 = $65 increase ($55 Federation increase + $10 Board increase)

The Board increased its exam administration portion of the fees by $10 to cover the increased costs of conducting the exam due to inflation (about 5% per year). The fees were last adjusted in 1987. The $10 increase will generate about $8,680 with about 124 applicants.

	Estimated # of Applicants		BME $ Fee		
Full Exam	84	x	490	=	$41,160.00
Part I	20	x	290	=	5,800.00
Part II	20	x	345	=	6,900.00

	Estimated # of Applicants		Federation $ Fee		
Full Exam	84	x	420	=	$35,280.00
Part I	20	x	220	=	4,400.00
Part II	20	x	275	=	5,500.00

$41,160 - $35,280 =	$ 5,880.00
$ 5,800 - 4,400 =	$ 1,400.00
$ 6,900 - 5,500 =	$ 1,400.00
	$ 8,680.00 (Exam Adm. Fee collected)

EXAMINATION ADMINISTRATION EXPENSES

Facility Rental	$1,800	($450 x 2 tests x 2 yrs.)
Proctor Fees	5,200	($25/hr. x 26 hrs. x 2 proctors x 2 years)
Application Review/Mailings	1,625	($25/hr x 65 hrs.)
	$8,625	(Total)

It is, therefore, reasonable and necessary to increase the physician examination fees to accomodate the fee increases mandated by the Federation of State Medical Boards and to meet the exam administration cost increases due to inflation since 1987.

ITEM U.

The Board of Medical Examiners has proposed 1991 legislation which would provide for the use of the Special Purpose Examination (SPEX) as a means of obtaining licensure in Minnesota. [See attached proposed bill amending Minn. Stat. §§ 147.03 and 147.031 - Attachment F.] The Board has also begun to utilize the SPEX exam as part of disciplinary orders requiring physicians to successfully complete the exam in order to establish practice competency.

The combination of these two above situations will cause the increased administration of the SPEX exam by the Board. With the increased number of administrations, more staff time will be required, thus straining other Board licensing and/or discipline operations. It is therefore reasonable and necessary for the Board to establish a SPEX exam fee to list the Federation exam cost and provide for a Board exam administration fee to recover its costs.

The Federation of State Medical Boards fee for the SPEX exam is $275. [See Attachment B - March 28, 1990 letter from James R. Winn, M.D.]. The Board will charge a $70 exam administration fee to recover its expenses related to conducting the exam. This $70 fee is the same amount as charged for the FLEX exam for a one day exam administration. It includes the cost of facility rental, proctors and exam review/mailings by Board staff.

Estimated # of Applicants					
20	x	$345 (BME Fee)	=	$6,900	
20	x	275 (Fed. Fee)	=	5,500	
				$1,400	(Exam administration fee collected)

Facility rental ($150 x 4 sessions)	=	$ 600
Proctor ($25/hr. x 26 hrs.)	=	650
Exam Review/Mailings	=	155
		$1,400

ITEM E.

The physician annual license fee is the largest Board fee for existing licensees. The Board's complaint review process and compliance monitoring system involve the largest Board expenditure of time, personnel and resources. It is therefore both reasonable and necessary for the Board to increase the physician annual license fee to recover the costs associated with the growing demands placed on the Board's complaint review and compliance monitoring functions. The $29 fee increase from $115 to $144 will generate about $435,000 in additional revenues [15,000 licenses x $29 increase = $435,000.]

The Board has seen a significant increase in disciplinary complaints filed against physicians. The number has risen with 505 (FY 1987), 687 (FY 1988), 1044 (FY 1989), and 1089 (FY 1990). There was a 52% increase over the years 1988 and 1989. It is projected the number of complaints received will rise to about 2400 by F.Y. 1993. [See Attachment A.]

In order to respond to the huge influx of complaints, a second complaint review committee was created in 1989. With more cases now being processed by the two committees, more cases have been referred to the Attorney General's Office - Health Division for evaluation, investigation and litigation (contested case proceedings). The number of cases referred to the Attorney General's Office - Health Division was 316 in FY 1990 and is projected to rise to 425 in FY 1991, 503 in FY 1992 and 654 by FY 1993. [See Attachment A.]

The Board is requesting appropriations of $818,000 for FY 1992 and $946,000 for FY 1993 for Attorney General's Office services in order to meet the increased caseload generated by the surge of complaints occurring and continuing since FY 1989. The appropriations reflect about a 15% increase per year growth factor.

In addition to the second complaint review committee being established, Board complaint staff has been increased with three new Medical Regulations Analysts and the Board's Medical Director. This again was in response to the surge of complaints starting in 1989 and continuing to the present time.

There has also been a corresponding increase in other Board discipline expenditures. These expenditures include professional services (consultant's fees, Office of Administrative Hearing costs for contested case proceedings and physical therapy rule hearing and miscellaneous legal services) and technical services (acquisition of medical records, copy fees and mailings.)

In fiscal year 1990, professional service fees were $357,860 and technical service fees were $67,161 for a total of

$425,021. As of March 1991, the Board has already incurred $264,000 in expenses for professional services and $100,939 for technical services. The overall cost of professional and technical services has risen $295,632 since 1989 [$425,021 F.Y. 1990 - $129,389 F.Y. 1989 = $295,632] when the rise in complaints began.

The number of case dispositions resulting in orders approved by the Board against physicians has also grown concurrently with the surge of complaints and cases processed by the Board's complaint review committees. There is currently about 311 physicians under Board disciplinary order with about two-thirds of the orders requiring the individual to provide regularly scheduled reports to the Board, complete specific retraining or training programs, submit to biological fluid monitoring or obtain psychological or other counseling. It is projected that by F.Y. 1993, the Board will act on up to 218 orders, thus further adding to the physicians currently under order.

With the large number of physicians to be monitored, it is necessary to increase discipline staff to provide systematic compliance monitoring of physicians under order. Systematic compliance monitoring is necessary to insure the public is protected against physicians failing to comply with the Board's orders as well as to facilitate restoration of unrestricted license status to physicians properly in compliance with their order.

There are two additional factors which have impacted the Board's disciplinary process. They are the Board's Educational Outreach Program and the National Practitioners Data Bank.

Educational Outreach Program

In 1989, the Board began a program of Educational Outreach to attempt to eliminate or control behavior in physicians which leads to complaints. The program involved offering seminars on the subject of malprescribing. Eight seminars were conducted in the Spring and Fall of 1990. The response to the program from physicians was overwhelmingly positive.

Because of the overwhelmingly positive response, the Board has decided to continue offering educational outreach programs. These programs will focus on issues brought to the Board's attention through the complaint review process. The Board is requesting $51,000 for FY (1992) and $56,000 for FY 1993. These costs cover mailings, materials, presentators, and facility rental.

FY 1992		FY 1993	
Faculty	$34,000	Faculty	$37,000
Facilities	7,500	Facilities	8,250
Transportation	5,000	Transportation	5,500
Printing/Publicity	3,500	Printing/Publicity	3,850
Board Per Diems	1,000	Board Per Diems	1,100
	$51,000		$56,100

National Practitioners Data Bank

In 1986, Congress passed the Health Care Quality Improvement Act, Title IV, Public Law 99-660 establishing the National Practitioners Data Bank. The Bank will serve as a nationwide repository for information relative to physician professional conduct/competence, licensure status and malpractice claims. In September 1, 1990, the Board became the state's recipient agency for handling National Practitioners Data Bank reports. The Board has received about 20 reports per month, generating about 250 disciplinary cases per year, thus adding to the need for additional discipline staff.

With a properly functioning complaint review/compliance monitoring system, the Board can fulfill its responsibility of protecting the Minnesota public against incompetent and/or impaired physicians while providing all necessary due process to individuals under investigation or under order. The Educational Outreach Program represents an affirmative step by the Board to educate physicians about issues before they become complaints.

For these above reasons, it is reasonable and necessary the Board seek an increase in the physician annual license fee to recover its costs in providing an effective and high quality complaint review/compliance monitoring system and to continue its educational efforts aimed at reducing physician complaint behavior.

Physical Therapy Fees

The Board is seeking a $15 increase in the physical therapist annual registration fee (Minn. Rule, pt. 5600.2500 Item N.), and $35 increase in the physical therapist application fee (Minn. Rule, pt. 5600.2500 Item L.) in order to recover the expenses involved in the administration of the statutes and rules governing physical therapists.

In November, 1990, new rules governing physical therapists took effect. The new rules require additional application information from applicants [see Minn. Rule, pt. 5601.0300 D - N], mandates continuing education [see Minn. Rule, pts. 5601.2200 - 5601.2500] and requires Board auditing of continuing education compliance [see Minn. Rule, pt. 5601.2600]. These additional requirements will place additional demands on Board

staff in terms of collecting, verifying and processing application and registration renewal documents. It currently takes about five hours to process an application. This added work is coupled with an increase in the number of physicial therapists being registered. The number of applicants has risen from 111 in FY 1987 to 172 in FY 1990. There is currently about 2350 physical therapists registered with the Board.

Also with the rule changes of November, 1990, physical therapists are now permitted to directly evaluate patients without a referral from a physician as was previously required. [See Minn. Rule, pts. 5601.1800 and 5601.1900]. It is expected, with this "direct access" by patients to physical therapists, that physical therapists will be the subject of more patient complaints related to the initial physical therapy evaluation. This will, in turn, require more time and attention of Board staff, the Complaint Review Committee, the Attorney General's Office--Health Division, and the Physical Therapy Advisory Council in terms of reviewing and processing complaints.

The Physical Therapy operating budget has been approximately $53,000 since 1987 when the fees were last changed. Because of inflation, auditing of continuing education, expanded application information requirements, continued growth in the number of applicants, and expected rise in the number of discipline complaints against Physical Therapists, it is reasonable and necessary for the Board to increase its Physical Therapy application fee and registration renewal fee by $35.00 and $15.00 respectively.

2350 registrants x $15 fee increase =	$35,250
120 applicants x $35 fee increase =	$ 4,200
	$39,450

Existing Physical Therapy Budget	$53,000
Fee Increase Revenue	39,450
Project Revenue	$92,450

Projected Physical Therapy Operating Budget

Salaries/Benefits	$35,000
Advisory Council	5,000
Computerization	7,000
Overhead	16,000
Mailing/Printing	6,000
Document Development	3,000
Complaint Review	10,000
CE Adm./Audit	10,000
	$92,000

The administration of the continuing education requirements and continuing education audit is a new requirement just mandated by the new physical therapy rules and was not listed in the previous operating budget.

Miscellaneous Fees

The Miscellaneous Fees involve Minn. Rule, pts. 5600.2500 Item S. (duplicate license or registration fee) and Item T. (education or training program approval fee).

Item S.

The establishment of the $10 fee to cover the cost of providing replacement license or registration documents is both reasonable and necessary to recover the staff time involved in providing the service. Because the processing of replacement documents is similar to the handling of certification requests, the fee charged is the same for both. [See Minn. Rule, pt. 5600.2500 Item F.] It takes about one-half hour to process a replacement license request.

With the Board now administering rules governing physicians, physician assistants, physical therapists and respiratory care practitioners (7/91), it is reasonable to expect that with this large number of licensees and registrants (about 16,000), at least 100 requests for replacement documents would be received in a biennium. The fee will generate about $1,000 in revenue to cover staff time in processing replacement requests.

The duplicate license/registration fee rule is modeled after Minn. Rule, pt. 3100.2000 subp. 5 (A.) and Minn. Rule, pt. 6900.0250 (F.) of the Boards of Dentistry and Podiatry, respectively. [See Attachment E.]

Item T.

The $25 education or training program approval fee is reasonable and necessary to allow the Board to recover its costs in processing applications seeking approval of continuing education programs for continuing education credit, and requests seeking approval of training programs acceptable for licensure purposes.

Minn. Rules, pts. 5605.0400 and 5601.2400 subp. 2. requires individuals or organizations to submit applications containing course materials and faculty credentialling information to obtain Board approval of their continuing education programs when the program is not otherwise recognized in Minnesota Rules. Minnesota Rule, pt. 5605.0400 applies to physicians and Minn. Rule, pt. 5601.2400 subp. 2. applies to physical therapists.

Thus, such applications must be reviewed relative to rule compliance and then prepared for submission to the Board for final action. The average application takes about an hour to review and process, and is charged at the rate of $25 per hour of licensure staff time.

The Board has already received 37 applications in FY 1991 with at least 50 applications estimated per biennium. With about 50 applications, about $1250 would be generated to recover staff costs.

The Board has also received a growing number of requests by licensure applicants to review graduate training programs for licensure purposes. Under Minn. Stat. §§ 147.02 subd. 2 (d), 147.037 subd. 1. (d) and Minn. Rule, pt. 5600.0600, subp. 2. (C.), and 5600.0700 subp. 2. (D.), the Board is authorized to approve other physician graduate training in addition to accepting graduate training programs or internships from institutions in the United States or Canada.

It is estimated that the Board will receive about 20 requests for internship/graduate training program approval for licensure purposes each year. The majority would involve foreign trained graduates. Here again, Board staff would have to obtain and prepare documents in order to allow the Licensure Committee/Board to assess if a program is acceptable for licensure purposes.

About $500 per year would be collected for processing training program approval requests ($25x20 applicants = $500).

Board Appropriation Request

The Board has applied to the Commissioner of Finance and Minnesota Legislature for an increased appropriation to carry out its statutorily mandated activities. The Governor, Legislature, and Commissioner of Finance, approved appropriations of $2,893,000 for FY 1992 and $3,034,000 for FY 1993.

SUMMATION

The fee increases and new fees described in this document are modest and necessary financial adjustments to allow the Board of Medical Examiners to meet its responsibilities to its licensees and registrants. Reflected in each fee is the underlying legislative mandate of Minn. Stat. 16A.128 which requires the service-related costs provide a primary benefit to the fee payer. The fees provide for the needed expansion of services such as with the National Practitioners Data Bank, Physical Therapists, Educational Outreach Programs and compliance monitoring of individuals under Board order. The fees also respond to mandated

inflationary circumstances such as the Federation of State Medical Boards fee increases with the the FLEX and SPEX exams. Lastly, the fee changes recognize the need for the Board to recover costs for services previously not charged for such as with the SPEX exam, review/approval of education/training programs, and processing of replacement license or registration documents.

With these fee amendments and new fees, the Board can fulfill its statutorily mandated responsibilities under Minn. Stat. §§ 16A.128 and 214.06 and still maintain its high quality service without compromising existing licensing and discipline programs.

On March 25, 1991, a copy of the Minnesota Board of Medical Examiners UPDATE newsletter (spring 1991) was mailed to all current Board licensees and registrants. The newsletter contains an article describing the proposed fee changes requested by the Board and information concerning the rulemaking process. [Attachment G.]

COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minn. Stat., §§ 14.05-14.12 and 14.22-14.28, specify certain procedures which must be followed when an agency adopts or amends rules. Procedures applicable to all rules, Minn. Stat., §§ 14.05-14.12, have been complied with by the Board as noted below. Because Board fees are fixed by rule rather than by statute, the procedures for adoption of non-controversial rules in sections 14.22 to 14.28 are being used, except that no public hearing is presently planned and need not be held unless 20 percent of those affected by the proposed amendments or new fees make a timely written request for a public hearing. See Minn. Stat. 16A.128 Subd. 2a.

The adoption of these rules will not require the expenditure of public money by local public bodies, nor do the rules have any impact on agricultural land. The adoption of these rules could have negligible effect on small businesses as discussed below. See Minn. Stat., § 14.115.

Pursuent to Minn. Stat. § 14.23, the Board has prepared this Statement of Need and Reasonableness which is available to the public. The Board will publish a Notice of Intent to Adopt Rules Without a Public Hearing in the State Register and mail copies of the notice and proposed rules to persons registered with the Minnesota Board of Medical Examiners pursuant to Minn. Stat. § 14.14, subd. 1a. The notice will include the following information: 1) that the public has thirty days in which to submit comments on the proposed rules and give information pertaining to the manner in which persons may comment; b) that no public hearing will be held pursuant to Minn. Stat. § 16A.128,

Subd. 2a, unless 20 percent of those affected request in writing a public hearing on the proposed rule within the 30 day comment period; 3) that the rule may be modified if modifications are supported by data and the view submitted; and 4) that notice of the date of submission of the proposed rules to the Attorney General for review will be mailed to any persons requesting to receive the notice and give information on how to request the notice.

With the passage of Laws of Minnesota for 1991, Chapter 292, Article 1, Section 10, Subd. 4, the Board is allowed to use, for fees fixed by rule in the biennium ending June 30, 1993, the procedure for noncontroversial rules in Minn. Stat. §§ 14.22 to 14.28, except that, notwithstanding the requirements of Minn. Stat. § 14.22, paragraph 3, no public hearing is required. This procedure will be used by the Board since the total fees estimated for the biennium did not exceed the sum of the direct appropriations, indirect costs, transfers in and salary supplements as required under the statute. As directed by the law, the Board's NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING states that no public hearing will be conducted.

ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance

Pursuant to Minn. Stat. § 16A.128, if a fee adjustment is required to be fixed by rule, the Commissioner of Finance must approve the adjustment and the Commissioner's approval must be contained in the Statement of Need and Reasonableness. The Commissioner's approval of the proposed new fees and fee amendments to Minn. Rule, pt. 5600.2500 is contained in Attachment H.

Small Business Considerations

It is the position of the Board of Medical Examiners that Minn. Stat. § 14.115 (1990), relating to small business considerations in rulemaking does not apply to the rules it promulgates. Minn. Stat. § 14.115, subd. 7(2), does not apply to "agency rules that do not affect small business directly." The Board's authority relates only to physicians and not to the businesses they operate.

The Board is also exempt from the provisions of section 14.115, pursuant to subdivision 7(3) which states that section 14.115 does not apply to "service businesses regulated by government bodies, for standards and cost, such as...providers of medical care." Physicians and physical therapists provide medical care and are regulated by the state for standards and cost. The Board regulates physicians and physical therapists for standards.

The Minnesota Department of Human Services regulates physicians and physical therapists for costs with respect to the Medicaid system.

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

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

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

c) the consolidation or simplification for 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;

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

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

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

Methods (a) to (c) of subdivision 2 relate to lessening compliance or reporting requirements for small businesses either by (a) establishing less stringent requirements (b) establishing less stringent schedules or deadlines for compliance with the requirements, or (c) consolidating or simplifying the requirement. 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 businesses. If, however, these proposed rules and amendments are viewed as compliance or reporting requirements for businesses, then the Board finds that it should be unworkable to lessen the requirements for those physicians and physical therapists who practice in the solo or clinic setting of fewer than 50 employees, since that would include the vast majority of licensees and registrants. Method (d) suggests replacing design or operational standards with performance standards for small

businesses. The Board's rules do not propose design or operational standards for small businesses as a replacement for design or operation standards that do not exist. Finally, method (e) suggests exempting small businesses from any or all requirements of the rules. The application of this provision would exempt most licensees and registrants from the purview of the rules, a result which would be absurd.

2. Reducing the impact of the proposed rules on small businesses would undermine the objectives of the Minnesota Licensing law for physicians and physical therapists.

Pursuant to Minn. Stat. §§ 147.01 et seq., the Board was designated as the agency for establishing requirements for licensure and for disciplinary action to govern the practices or behavior of all physicians. Pursuant to Minn. Stat. § 147.01, subd. 3., the Board is specifically mandated to promulgate rules as may be necessary to carry out the purposes of the Minn. Stat. §§ 147.01 to 147.33. The Board is also the agency pursuant to Minn. Stat. § 148.65 et seq., for establishing requirements for registration of physical therapists and is authorized under Minn. Stat. § 148.74 to promulgate rules to carry out the purpose of §§ 148.65 to 148.78. Given the statutory mandates, it is the Board's duty to establish licensure and registration qualifications and disciplinary standards which apply to and govern all applicants, licensees and registrants regardless of their practice. As it has been stated above, it is the Board's position that the proposed rules will not affect small businesses and certainly do not have the potential for imposing a greater impact on physicians and physical therapists in solo or small practice than those practices large enough to remove themselves from the definition of small business. It has also been explained above that the Board considers it infeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent that the proposed rules may affect the business operation of a physician/physical therapist group 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 these rules for the board to exempt one group of physicians or physical therapists indeed possibly the vast majority of physicians/physical therapists, from the requirement 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 standards for those physicians/physical therapists (which may consist of a non-existent class) who work in a large business setting and adopt another, less stringent set of standards to be applied to those physicians/physical therapists who practice in a solo or small clinic type of setting. It is the Board's view that these rules must apply equally to all physicians and physical therapists or the licensing system will be chaotic.

Licensees, or registrants, regardless of whether they are considered as individuals or small businesses, have had and will continue to have an opportunity to participate in the rulemaking process for the proposed rules and amendments. The Board has used a very open process to draft these rules. The Board has kept the various associations well informed of the proposed rules as they were developed and has also provided notices and articles about the proposed rules in its newsletter issued to all licensees and registrants.

(Finis)

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

OFFICE MEMORANDUM

DATE: October 22, 1991

TO: H. LEONARD BOCHE
Executive Director
Minnesota Board of Medical Examiners
2700 University Avenue West, Suite 106

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

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Fees

The above-referenced rule has been approved as to its legality by the Attorney General on October 15, 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: John A. Breviu
William Brown, Chief Judge
MaryAnn Hruby

Board of Medical Examiners

Adopted Permanent Rules Relating to Fees

Rules as Adopted

5600.2500 ANNUAL FEES.

The fees charged by the board are fixed at the following rates:

A. physician examination fee, full exam, $490;

B. physician examination fee, Part I only, $290;

C. physician examination fee, Part II only, $345;

D. physician application fee, $200;

E. physician annual license, $144;

F. physician certification to other states, $10;

G. physician verification to institutions, $5;

H. physician endorsement to other states, $40;

I. physician emeritus license, $50;

J. physician temporary licenses, $60;

K. physician late fee, $60;

L. physical therapist application fee, $75;

M. physical therapist examination fee, $110;

N. physical therapist annual registration, $35;

O. physical therapist late fee, $10;

P. physical therapist certification to other states, $10;

Q. physical therapist verification to institutions, $5;

R. physical therapist temporary permit, $10;

S. duplicate license or registration fee, $10;

T. education or training program approval fee, $25; and

U. special purpose examination fee, $345.

APPROVED AS TO FORM AND LEGALITY

October 15, 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene N. Hatch

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

OCT 18 1991

Joan Anderson Growe

Secretary of State

PB

4:20 PM

Bill Maingot 642-0588

16A.128, subd. 2a: Other fees not fixed by law must be fixed by rule according to ch. 14

subd. 1: The legislature, in setting or adjusting fees, or taking acts affecting the setting or adjusting of fees, should attempt to ensure that (1) agency fees and fee adjustments include only those service-related costs that provide a primary benefit to the individual fee payer + (2) service related costs that benefit the general community are borne by the agency.

147.01, subd. 3: The Bd (of Medical Examiners) shall have authority to adopt rules as may be necessary to carry out the purposes of this chapter

147.02, subd. 1(f): the applicant shall pay a fee established by the bd by rule

147.03, ~~subd~~ (d): the applicant shall pay a fee established by the bd by rule.

147.037 (a): finish all requirements of 147.02, subd. 1(f)

148.705: application process

148.73: every registered physical therapist shall, during Jan, apply to the bd for an extension of registration and pay a fee in the amt set by the bd.

Rules

148.74: The bd is authorized to adopt rules as may be necessary to carry out the purposes of 148.65 - 78. ... The bd shall set by rule the amts of the application fee and the annual registration fee. The fees collected by the bd must be sufficient to cover the costs of administering §§ 148.65 - .78

Fees

214.06 subd. 1: The Commr of health as authorized by § 214.13, all health-related licensing bds + all non-health-related licensing bds shall by rule, w/ the approval of the commr of finance, adjust any fee which the commr of health or the bd is empowered to assess a suff-amt so that the total fees collected by each bd will closely as poss equal anticipated expenditures during the fiscal biennium as provided in § 16A.128. For members of an occupation registered after 7-1-84, by the commr of health under the provs of § 214.13, the fee established must include an amt necessary to recover, over a 5-yr period, the commrs' direct expenditures for adoption of the rules providing for registration of members of the occupation

Important

not letting people request a hearing. That's what this notice is for.

Notice of Intent

E(4) - a ~~Statement~~ that if 25 or more ...

E(6) - a ~~Statement~~ that any person requesting a public hearing should state his or her name ...

E(9) — changed the wording - ~~That~~ their Notice of Intent states - Since no hearing is requested should be stated ~~If~~ no hearing is requested

10-7-91 - left a message

no letters to Senate Finance and House appropriations 16 A. 128

- includes fee adjustments

Talked to Jack Brevin

said they can't have a hearing by statute unless 20% of the doctors request it

Sent to SOLAR to LCAR per Bill Mauceri

10-10-91 Going to drop off affadavit of letters

10-11-91 - dropped out letters met the requirement of 16 A. 128 - notified the appropriate house appropriations and senate finance

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL EXAMINERS

In the Matter of the Proposed Rules Relating to Board Fees

AFFIDAVIT OF SERVICE OF THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND PROPOSED RULES RELATING TO BOARD FEES TO THE CHAIRS OF THE HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEES

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

William Robert Marczewski, BEING SWORN SAYS:

I hereby certify that, pursuant to Minn. Stat. § 16A.128 (1990), on the 3rd day of June, 1991, I personally delivered copies of the NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING and PROPOSED RULES RELATING TO BOARD FEES to the office of the chairs of the house appropriations committee and senate finance committee leaving a true and correct copy thereof.

William Robert Marczewski

William Robert Marczewski
Medical Regulations Analyst

Subscribed and sworn to before me

this 4th day of June, 1991

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

MINNESOTA BOARD OF MEDICAL EXAMINERS
2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538

June 3, 1991

To: Wayne Simoneau, Chair
House Appropriations Committee
365 State Office Building
St. Paul, MN 55155

From: H. Leonard Boche
Executive Director

Re: Proposed Rules and Amendments Relating to Board Fees

I am writing on behalf of the Minnesota Board of Medical Examiners.

Pursuant to Minnesota Statute, Section 16A.128, Subdivision 2a., I have attached a copy of the Board of Medical Examiners' Proposed Rules and Amendments Relating to Board Fees, and a copy of the Notice of Intent to Adopt Rules Without a Public Hearing.

The Board of Medical Examiners is seeking the following fee increases and new fees:

FEE INCREASES	From	To
Physician Annual License Fee	$115	$144
Full Physician Exam Fee	425	490
Part 1 Physician Exam	250	290
Part 2 Physician Exam	300	345
Physical Therapy Annual Registration	20	35
Physical Therapy Application	40	75

NEW FEES

Duplicate License	$ 10
Education/Training Program Approval	25
Special Purpose Examination	345

If you have any questions regarding these documents, please call me at 612/642/0538 or write to the above address.

H. Leonard Boche
Executive Director

HLB:blm
Attachments

AN EQUAL OPPORTUNITY EMPLOYER
PRINTED ON RECYCLED PAPER

MINNESOTA BOARD OF MEDICAL EXAMINERS
2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538

June 3, 1991

To: Gene Merriam, Chair
Senate Finance Committee
122 State Capitol
St. Paul, MN 55155

From: H. Leonard Boche
Executive Director

Re: Proposed Rules and Amendments Relating to Board Fees

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NEW FEES

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If you have any questions regarding these documents, please call me at 612/642/0538 or write to the above address.

H. Leonard Boche
Executive Director

HLB:blm
Attachments

AN EQUAL OPPORTUNITY EMPLOYER
PRINTED ON RECYCLED PAPER

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL - LICENSING

DATE : October 2, 1991

TO : PATRICIA NOLTE
Legal Assistant

FROM : JOHN A. BREVIU
Assistant Attorney General

PHONE : 296-8954

SUBJECT : In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Medical Practice Relating to Fees

Enclosed for your review, pursuant to Minn. Stat. § 14.26 (1990) and Minn. Rules pt. 2010.0300 (1991), are the following documents to support the above-referenced rules:

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

JAB:SIL:

Enclosures

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Medical Practice Relating to Fees

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

(1) Notice of the Minnesota Board of Medical Practice's (hereinafter "Board") intent to adopt the above-entitled rules was published in the State Register on June 17, 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. 1a and 14.22 on June 13, 1991. (2) The Statement of Need and Reasonableness was prepared before the Notice of Intent to Adopt Rules Without a Public Hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public. (3) Before the notice was submitted to the State Register, a copy of the Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules were sent to the chairs of the house appropriations committee and senate finance committee.

FINDINGS

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

2. No requests for a copy of the Statement of Need and Reasonableness were received by the Board.

3. No submissions or comments on the rules were received by the Board.

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

CONCLUSIONS

Based on the record before the Board, including the Statement of Need and Reasonableness which is incorporated herein as the Board's findings, the Board concludes that the above-captioned rules are both needed and reasonable.

NOW, THEREFORE, IT IS HEREBY ORDERED that the rules identified as Board of Medical Practice Rules Relating to Fees are adopted this 14th day of September, 1991, pursuant to authority vested in the Board by Minn. Stat. § 147.01, Subd. 3 (1990).

H. Leonard Boche
Executive Director

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Medical Examiners

Proposed Permanent Rules Relating to Fees

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Medical Examiners (hereinafter "Board") intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1990). The statutory authority to adopt the rules is *Minnesota Statutes* §§ 16A.128, 147.01, 147.02, 147.03, 147.037, 148.705, 148.73, 148.74, 214.06 and 214.12 (1990).

Pursuant to Laws of Minnesota for 1991, Chapter 292, Article 1, Section 10, Subd. 4, no public hearing will be held concerning the proposed rules.

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

Comments must be submitted to:

H. Leonard Boche, Executive Director
Minnesota Board of Medical Examiners
2700 University Avenue West, Suite 106
St. Paul, MN 55114
(612) 642-0528

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

A copy of the proposed rules is attached to this notice.

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 rules has been prepared and is available from H. Leonard Boche upon request.

Pursuant to *Minnesota Statutes* § 14.115, the Board's Statement of Need and Reasonableness addresses the effect these rules may have on small businesses.

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

Dated: June 3, 1991

H. Leonard Boche
Executive Director

Rules as Proposed

5600.2500 ANNUAL FEES.

The fees charged by the board are fixed at the following rates:

A. physician examination fee, full exam, ~~$425~~ $490;

B. physician examination fee, Part I only, ~~$250~~ $290;

C. physician examination fee, Part II only, ~~$300~~ $345;

D. physician application fee, $200;

E. physician annual ~~registration~~ license, ~~$115~~ $144;

F. physician certification to other states, $10;

G. physician verification to institutions, $5;

H. physician endorsement to other states, $40;

I. physician emeritus license, $50;

J. physician temporary licenses, $60;

K. physician late fee, $60;

L. physical therapist application fee, ~~$40~~ $75;

M. physical therapist examination fee, $110;

N. physical therapist annual registration, ~~$20~~ $35;

O. physical therapist late fee, $10;

P. physical therapist certification to other states, $10;

Q. physical therapist verification to institutions, $5; ~~and~~

R. physical therapist temporary permit, $10~~.~~;

S. duplicate license or registration fee, $10;

T. education or training program approval fee, $25; and

U. special purpose examination fee, $345.

Adopted Rules

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

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

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

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

Board of Private Detective and Protective Agent Services

Adopted Permanent Rules Relating to Board of Private Detective and Protective Agent Services

The rules proposed and published at *State Register*, Volume 15, Number 11, pages 612-618, September 10, 1990 (15 SR 612) are adopted with the following modifications:

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

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL EXAMINERS

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Medical Examiners Relating to Board Fees

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

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

William Robert Marczewski, being duly sworn says: I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Board of Medical Examiners rulemaking mailing list is accurate, complete, and current as of this 13th day of June, 1991.

That on the 13th day of June, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

William Robert Marczewski
Medical Regulations Analyst

Subscribed and sworn to before me this

13th day of June, 1991.

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

MN Speech, Language & Hearing Assn.
2810 Aquila Ave. South
St. Louis Park, MN 55427

Physicians Health Plan
5601 Smetana Drive
Minnetonka, MN 55345

Medcenters Health Plan
7760 France Avenue
Minneapolis, MN 55435

Group Health Plan, Inc.
2829 University Ave. S.E.
Minneapolis, MN 55414

SHARE Health Plan
3600 W. 80th St.
Bloomington, MN 55431

HMO Minnesota
3535 Blue Cross Road
P.O. Box 43179
St. Paul, MN 55164

GroupCare, Inc.
2829 University Ave. S.E.
Minneapolis, MN 55414

Coordinated Health Care, Inc.
17 West Exchange St.
St. Paul, MN 55102

MORE HMO PLAN
307 First Street No.
Virginia, MN 55792

Central Minnesota Group Health Plan
1245 15th Street North
St. Cloud, MN 56301

Minnesota Hospital Assn.
2221 University Ave. SE
Minneapolis, MN 55414

Family Health Plan
8500 Normandale Lake Blvd.
Minneapolis, MN 55437

Family Health Plan Trust
2817 St. Anthony Blvd.
St. Anthony, MN 55418

Preferred One
1000 Amhoist Tower
St. Paul, MN 55102

Margo Struthers, Esq.
Moss & Barnett Law Firm
4800 Norwest Center
Minneapolis, MN 55402

Gordon Apple, Esq.
2300 World Trade Center
30 East 7th Street
St. Paul, MN 55101

Ann L. Schlueter, Esq.
Opperman, Heins, & Paquin Law Firm
100 Washington Ave. So.
Minneapolis, MN 55401

Kathy Meyerle
Mayo Clinic
Mayo Foundation
Rochester, MN 55905

MN Assn. of Nurse Anes.
1224 87th Avenue North
Brooklyn Park, MN 55444

MN League for Nursing
1711 W. County Rd. B
Roseville, MN 55113

MN LPN Association
2700 University Ave. W.
St. Paul, MN 55114

Minnesota Nurses Assn.
1295 No. Bandana Blvd.
St. Paul, MN 55108

American College of Nurse-Midwives
1522 K St. NW - Suite 1120
Washington, D.C. 20005

National Bd. of Pediatric Nurse Practitioners & Asso
414 Hungerford Drive, #310
Rockville, MD 20850

MN Physical Therapy Assn.
1711 W. County Road B
Suite S-101
Roseville, MN 55113

MSPHA
2221 University Ave. SE
Room 326
Minneapolis, MN 55414

MN Psychological Assn.
525 Park Street
St. Paul, MN 55103

National Commission on
Certif. of Phys. Assts., Inc.
2845 Hederson Mill Road
Atlanta, GA 30341

Senior Health Plan
220 Atrium Bldg.
1295 No. Bandana Blvd.
St. Paul, MN 55108

MN Soc. of Respir. Care
American Lung Assn. of Henn.
1829 Portland Avenue
St. Paul, MN 55404

Kit Friedman
Fredrickson & Byron, PA
1100 International Center
Minneapolis, MN 55402

MN Social Service Association
1821 University Ave. West
St. Paul, MN 55104

Minnesota Medical Assn.
2221 Univ. Ave. SE, Suite 423
Minneapolis, MN 55414

Hennepin County Medical Society
2221 University Ave. S.E.
Minneapolis, MN 55414

Ramsey County Medical Society
Suite 215, Lowry Med. Arts Bldg.
350 St. Peter St.
St. Paul, MN 55102

Zumbro Valley Medical Society
200 lst St. S.W.
Rochester, MN 55905

CERTIFICATE OF THE
MINNESOTA BOARD OF MEDICAL PRACTICE
RESOLUTION ADOPTING RULES

I, Melvin E. Sigel, M.D., do hereby certify that I am a member and the president of the Minnesota Board of Medical Practice (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 14th day of September, 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 Fees are approved and adopted pursuant to authority vested in the Board by Minn. Stat. § 147.01 subd. 3 (1990). H. Leonard Boche, Executive Director of the Board, is authorized to sign the findings of fact, conclusions and order adopting the rules and further is authorized to modify the rules if necessary to obtain the approval of the rules by the Attorney General and to perform the necessary acts to provide that the rules shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of September, 1991.

Melvin E. Sigel, M.D.
President

Attest by one other Board Member

ATTACHMENTS

A. Minnesota Board of Medical Examiners 1992-93 Biennial Budget/ Department of Finance Fee Review Document.

B. Letters dated March 1, 1990 and March 28, 1990 from James R. Winn, M.D., Executive Vice President, Federation of State Medical Boards, regarding fee increases for the FLEX and SPEX examinations and 1991 Information Bulletin.

C. Physical Therapy Statutes and Rules.

D. Minn. Rule pt. 3100.2000 subp. 8.

E. Minn. Rule pt. 3100.2000 subp. 5 (A) and Minn. Rule pt. 6900.0250 (F.)

F. Proposed 1991 Amendments to Minn. Stat. § 147.03 and 147.031.

G. Minnesota Board of Medical Examiners UPDATE Spring 1991.

H. Commissioner of Finance Approval of Fees.

I. Laws of Minnesota for 1991, Chapter 292, Article 1, Section 10, Subd. 4.

ATTACHMENT A

Department of Finance
FEE REVIEW

Date Prepared: 1-18-91

Department/Agency: Board of Medical Examiners

Budget Activity: Board Operations

Fee Name: See Below

Legal Citation: M.S. 146, 147, 148, 319

Fee Set By: ☐ Law ☒ Agency

Purpose of Fee: To ensure that all physicians, physical therapists and physician assistants are properly licensed and to investigate complaints and impose any necessary disciplinary actions regarding violations of the Medical Practice Act.

☐ Dedicated ☒ Non-Dedicated

Revenue Code:

APID: 21512:00

Fund: 17

Accumulated Difference Thru 1988: 865

Dollars in Thousands (137,522=138)

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Actual/Anticipated Receipts	2,085	2,139	2,172	3,029	3,461
Less Actual/Anticipated Costs	1,931	2,056	2,426	2,893	3,034
Current Difference	154	83	(254)	136	427
Accumulated Difference	1,004	1,087	833	969	1,396
Number Paying Fee			See Below		
Present Fee			" "		
Date Fee Last Changed			10/87		

Remarks:

No. Paying Fee	Fee Explanation	Fee Amount
15,001	Annual Physician Registrations	115.00
141	Physical Therapy Examinations	90.00
197	Physician Assistant Annual Registration	20.00
22	Physician Assistant Applications	100.00
39	Physician Assistant Supervisory Agreements	30.00
Approx. 26	Civil Penalties	Approx. average 1,000.00
351	Physician Late Registration Fees	60.00
6	Physician Assistant Late Fees	5.00
71	Physical Therapist Late Fees	10.00
4	Osteopath Annual Registration	115.00

(Continued on attached page)

Department Authorized Signature: Leonard Boche

Finance Department Recommendation:

Executive Budget Officer Signature:

[redacted]-02 (3/90)

Department of Finance

FEE REVIEW - Details of Cost

Date Prepared: 11-9-90

Department/Agency: Board of Medical Examiners

Budget Activity: Board Operations

Fee Name: Various

Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-07 Dollars in Thousands (137,522 = 138)

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Agency Direct Expenditures	1,382	1,410	1,660	1,847	1,843
Salary Increases	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	172	183
Attorney General	512	611	707	818	946
Statewide Indirect	22	20	40	32	32
Agency Indirect	15	15	19	24	30
Totals: must agree with cost on Fee Review Form	1,931	2,056	2,426	2,893	3,034

Remarks:

FI-00195-20 (3/90)

Department of Finance

FEE REVIEW - Attachment

Date Prepared: 1-18-91

Department/Agency: Board of Medical Examiners

Budget Activity: Board Operations

Fee Name: See Below

Remarks:

No. Paying Fee	Fee Explanation	Fee Amount
977	Physician Applications	200.00
33	Emeritus Registrations	50.00
182	Miscellaneous Fees	10.00
84	Physician Examinations	387.50
6,683	License Endorsements & Verifications	6.35
360	Physician Temporary Permits	60.00
751	Medical Corporation Annual Registration	25.00
35	Medical Corporation Applications	100.00
2,629	Physical Therapy Annual Registration	20.00
194	Physical Therapy Applications	40.00

Proposed Fee Changes

15,001	**Physician Annual Registration	144.00
84	*Full Physician Exam	490.00
20	*Part 1 Physician Exam	290.00
20	*Part 2 Physician Exam	345.00
100	Duplicate License	10.00
2,510	Physical Therapy Annual Registration	35.00
200	Physical Therapy Applications	75.00
50	CME Program Approval	25.00
20	SPEX Exam	300.00

* The fee increase for examinations will not increase revenue. This increase in fees covers the additional cost of the examinations only.

** Renewal fees must be a multiple of twelve, since the Board will begin birth month renewals July 1, 1991.

MISSION:

The purpose of the agency is to protect the public by ensuring that all practitioners meet state competency standards through enforcement of M.S. 146, 147, 148 and 319.

Operations and Clientele:

The agency acts to protect the public through enforcement of Minnesota Statutes by: 1) testing and interviewing each candidate for licensure or registration as physician, physical therapist, mid-wife, physician assistant, or corporation; 2) registering annually every physician, surgeon, or osteopathic physician, physical therapist, mid-wife, physician assistant or medical corporation; 3) receiving and taking action on every complaint or report of malpractice alleging violation of the statutes, investigating allegations, conducting hearings, and taking disciplinary action as indicated; 4) endorsing applications of Minnesota residents to other states for licensure; certifying the status of licenses and registration to the public, drug enforcement agencies, state licensing boards, hospitals and clinics, specialty boards, medical societies, etc.; and 5) enforcing continuing medical education requirements.

MAJOR POLICY DRIVERS:

There are 3 major policy drivers effecting the operation of the agency. These are: 1) newly implemented federal mandate; 2) forthcoming additional state mandate; and 3) increasing complaint load and increasing numbers of physicians under order.

Federal Mandate. Beginning on 9-1-90 the Board of Medical Examiners will act as the state's recipient agency for the Federal Medical Data Bank. This is an obligation placed on the board by federal legislation. There is no option other than participation. The board will receive reports of disciplinary actions against physicians from all Minnesota medical institutions. The board's role is to receive these reports and to transmit 1 copy to the Data Bank while retaining 1 copy to be screened for possible investigation and disciplinary action by the board itself. Details of the cost of carrying out this mandate appear below in the section regarding Base Reallocation Decisions.

State Mandate. The Minnesota Department of Health is authorized to write administrative rules regarding the professional registration of respiratory care practitioners. These rules will be administered by the Board of Medical Examiners. This is an obligation placed on the board by existing state law. There is no option other than participation. Details of the cost of carrying out this mandate appear below in the section regarding Base Reallocation Decisions.

Increasing Complaint Load. Over the past several years, the Board of Medical Examiners has experienced a rapid increase in the number of complaints which it has received regarding physicians. In F.Y. 1985, the board received 305 complaints. In 1987, it received 505, in 1988 - 687, in 1989 - 1,044.

As a result of the increased complaint and disciplinary activity there has been a parallel increase in the number of physicians under order of the board with a current total of 523 orders regarding 311 physicians. These orders require continuous monitoring by Board staff to ensure that they physicians are in compliance with the corrective measures ordered by the board, and the board is seeking staff to accomplish this.

In an effort to limit the increase in complaints, the board has engaged in education outreach programs to its licensees, with some apparent success, and seeks to continue these efforts into the next biennium.

Details of both these effects of increasing complaint activity are provided below in the section regarding Base Reallocation Decisions.

Budget Issues and Alternatives. The operational statistics presented here pertain to the complaint review operations of the board. This is the area of board operations which has seen the most significant changes in volume and costs over the past 6 years and the area of operations which has the greatest impact on the board's budget. Figures for F.Y. 1987-88-89 and 1990 are actual figures. Figures for F.Y. 1991 are based on year to date figures for the first quarter and historical trends over the past 6 years. Figures for F.Y. 1992-93 are derived by the use of average annual changes over the past 6 years with adjustments for the spike in complaint volume in F.Y. 1989 (for an average annual increase of 38% to an increase of 52%) and the apparent leveling of complaint in F.Y. 1990 (4%).

A new category of action was implemented by the board in F.Y. 1989 called educational continuance. This is an informal action applied to cases where a physician has been found to have technically violated the Medical Practices Act, but where the behavior has not resulted in any patient harm. The case is continued for a specified period of time, during which the physician is encouraged to undergo specific types of retraining. At the close of the period, the physician is asked to make a return visit to the Complaint Review Committee and present information on how this training has impacted his or her practice. Depending on the outcome, the case may be dismissed, or continued monitoring or even formal discipline may result. This category of action is reflected in the activity statistics and is projected into the next biennium.

Activity Statistics:

Total Complaints Received

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
505	687	1,044	1,089	1,415*	1,840**	2,391**

Total Jurisdictional Complaints Reviewed by Discipline Committee

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
464	622	1,020	1,063	1,295*	1,677**	2,179**

Total Number of Complaints Referred to Office of the Attorney General for Investigation

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
223	323	309	316	425*	503**	654**

Total Discipline Committee Agenda Action Items

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
193	227	244	236	417**	493**	654**

Total Committee Decisions to Discipline

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
45	70	92	65	117*	138**	183**

Total Board Orders

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
48	60	81	76	129*	167**	218**

Educational Continuances

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
		61	65	104*	135**	177**

Total Actions

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
		142	141	233*	303**	395**

Committee Decisions to Discipline Which Have Not Yet Resulted In Board Orders

F.Y. 1987	F.Y. 1988	F.Y. 1989	F.Y. 1990	F.Y. 1991	F.Y. 1992	F.Y. 1993
	24	34	31	51*	60**	79**

* Based on year to date figures for first quarter and historical trends.

** Based on historical trends.

BASE REALLOCATION DECISIONS:

Staffing Issues

Federal Data Bank. Beginning on 9-1-90, the Board of Medical Examiners will be required by Federal legislation to act as the state's recipient agency for the federal Medical Data Bank. The board will receive reports of disciplinary actions against physicians from all Minnesota medical institutions. The board's role is to receive these reports and transmit 1 copy to the Data Bank while retaining 1 copy to be screened for possible investigation and disciplinary action. The bulk of this work will be clerical in nature. The volume of this work is anticipated to exceed the capacity of the current clerical staff by the beginning of the next biennium. In order to handle this new federally mandated obligation after July, 1991 without further limiting the board's existing programs in licensure and discipline of physicians, physical therapists, and physicians' assistants, the board requests $40,000 in F.Y. 1992 and $36,000 in F.Y.1993 and complement for 1 clerical position.

Respiratory Care Practitioners. The Minnesota Department of Health is currently authorized and funded to write administrative rules regarding the professional registration of respiratory care practitioners. These rules will be administered by the Board of Medical Examiners. This is an obligation placed on the board by existing state law. There is no option other than participation. The Department of Health currently anticipates that these rules will be effective 7-1-91. In order to carry out the initial registration and the on-going registration and disciplinary investigations of these health professionals, the board requests $42,000 in F.Y. 1992 and $38,000 in F.Y. 1993 and complement for 1 clerical position to accomplish this work.

The Minnesota Department of Health, which is the agency responsible for drafting the rules for Respiratory Care Practitioners, is proposing a fee schedule as follows:

Application Fee	$94
Annual Renewal	$94
Surcharge	$31 (for first 5 years of registration)

The surcharge is a fee that the Minnesota Department of Health is assessing to cover the cost of the rule writing process. The fees and surcharge were developed by the Department of Health and provided to the Board of Medical Examiners upon request during the budget preparation process. This would provide a total annual revenue of $125 per registrant (Application Fee, or Annual Renewal plus surcharge.) The Department of Health expects 600 registrants, however the professional organizations for the practitioners estimate that the number is higher. Using the numbers provided by the Department of Health annual revenue for the registration of Respiratory Care Practitioners for F.Y. 1992 and 1993 would be as follows:

F.Y. 1992 600 @ $94 Application Fee = $56,400
600 @ $31 Surcharge 18,600 (payable to MDH)
$75,000

F.Y. 1993 The identical revenue would be produced in the 2nd year of the biennium.

Compliance Staff. The board currently has 523 disciplinary orders regarding 311 physicians. Approximately two-thirds of these orders are active orders requiring the physician to provide regularly scheduled reports to the board, complete specified retraining programs, submit to biological fluid monitoring, etc. In order to ensure public safety and affirmatively determine that the physicians under order adhering to the board's requirements, it is necessary for the board staff to monitor these orders for compliance by the physician. Current board staff is insufficient to do this on a regular, systematic basis without curtailing other statutorily required functions. The board, therefore, needs complement and $51,000 in F.Y. 1992 and $47,000 in F.Y. 1993 for 1 professional position to carry out proper compliance monitoring of the board's orders.

POLICY ISSUES:

Educational Outreach. Over the past several years, the Board of Medical Examiners has experienced a rapid increase in the number of complaints which it has received regarding physicians. In F.Y. 1985, the board received 305 complaints. In 1987, it received 505. In 1988 - 687. 1989 - 1,044. The average annual increase, until 1989, was around 35%. In F.Y. 1989 it shot up to a 52% increase. The board considered various ways, not only to accommodate the increase complaint workload, but also to eliminate or control behavior in physicians which leads to complaints. As an experiment, the board initiated an educational outreach program during the second half of F.Y. 1989 aimed at providing the practicing community information which could be incorporated into clinical practice in a manner which could lessen the probability of practice patterns which result in complaints. This information was presented in a series of Continuing Medical Education Seminars in the spring of 1990. This series was so well received that it was repeated in the fall, for a total of 8 seminars.

The board received 1,089 complaints during F.Y. 1990, for an annual increase of 4%. While it's well understood that it's not possible to generalize from this 1 year of apparently stabilized complaint load regarding future trends, or the cause of the slowed growth, the board does believe that the education outreach program played a role in reducing the rate of increase, at least for that time period.

Based on the experience with the educational outreach program in the current biennium, the board is proposing to conduct similar programs in F.Y.s 1992 and 1993, which address issues brought to the board's attention through the complaint review process. The board is requesting $51,000 in F.Y. 1992 and $56,000 in F.Y. 1993 for this activity.

medexam.agy
11/28/90 2:03 pm jc

Department of Finance

FEE REVIEW

Date Prepared: 1-18-91

Department/Agency: Board of Medical Examiners

Budget Activity: Board Operations

Fee Name: See Below

Legal Citation: M.S. 146, 147, 148, 319

Fee Set By: ☐ Law ☒ Agency

Purpose of Fee: To ensure that all physicians, physical therapists and physician assistants are properly licensed and to investigate complaints and impose any necessary disciplinary actions regarding violations of the Medical Practice Act.

☐ Dedicated ☒ Non-Dedicated

Revenue Code:

APID:	Fund:	Accumulated Difference Thru 1988:	Dollars in Thousands (137,522=138)
21512:00	17	865	

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Actual/Anticipated Receipts	2,085	2,139	2,172	3,029	3,461
Less Actual/Anticipated Costs	1,931	2,056	2,426	2,893	3,034
Current Difference	154	83	2 (254)	136	427
Accumulated Difference	~~1,004~~ 6	~~0~~ 1,087	(254) ~~833~~	(118) ~~969~~	~~1,396~~ +.309
Number Paying Fee			See Below		
Present Fee			" "		
Date Fee Last Changed			10/87		

See Footnote on Last Page.

Remarks:

No. Paying Fee	Fee Explanation	Fee Amount
15,001	Annual Physician Registrations	115.00
141	Physical Therapy Examinations	90.00
197	Physician Assistant Annual Registration	20.00
22	Physician Assistant Applications	100.00
39	Physician Assistant Supervisory Agreements	30.00
Approx. 26	Civil Penalties	Approx. average 1,000.00
351	Physician Late Registration Fees	60.00
6	Physician Assistant Late Fees	5.00
71	Physical Therapist Late Fees	10.00
4	Osteopath Annual Registration	115.00

(Continued on attached page)

Department Authorized Signature: H. Leonard Boche

Finance Department Recommendation:

fees for F.Y. 92/93 recommended for approval

Executive Budget Officer Signature: Pamela W. Kulback

FI-00194-07 (3/90)

OK - BJR 4/2/91

FEE REVIEW - Attachment

Date Prepared: 1-18-91

Department/Agency: Board of Medical Examiners

Budget Activity: Board Operations

Fee Name: See Below

Remarks:

No. Paying Fee		Fee Explanation	Fee Amount
977		Physician Applications	200.00
33		Emeritus Registrations	50.00
182		Miscellaneous Fees	10.00
84	2	Physician Examinations	387.50
6,683		License Endorsements & Verifications	6.35
360		Physician Temporary Permits	60.00
751		Medical Corporation Annual Registration	25.00
35		Medical Corporation Applications	100.00
2,629	6	Physical Therapy Annual Registration	20.00
194	7	Physical Therapy Applications	40.00

Proposed Fee Changes

15,001	1	**Physician Annual Registration	144.00
84	2	*Full Physician Exam	490.00
20		*Part 1 Physician Exam	290.00
20		*Part 2 Physician Exam	345.00
100		Duplicate License	10.00
2,510	6	Physical Therapy Annual Registration	35.00
200	7	Physical Therapy Applications	75.00
50		CME Program Approval	25.00
20		*SPEX Exam	~~300.00~~ 345

* The fee increase for examinations will not increase revenue. This increase in fees covers the additional cost of the examinations only.

** Renewal fees must be a multiple of twelve, since the Board will begin birth month renewals July 1, 1991.

FCCM 95-02 (3/90)

Department of Finance

FEE REVIEW - Details of Cost

Date Prepared: 11-9-90

Department/Agency: Board of Medical Examiners

Budget Activity: Board Operations

Fee Name: Various

Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-07 Dollars in Thousands (137,522 = 138)

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Agency Direct Expenditures	1,382	1,410	1,660	1,847	1,843
Salary Increases	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	172	183
Attorney General	512	611	707	818	946
Statewide Indirect	22	20	40	32	32
Agency Indirect	15	15	19	24	30
Totals: must agree with cost on Fee Review Form	1,931	2,056	2,426	2,893	3,034

Remarks:

4 yr Cycle of rate increases.

AG costs investigative & Legal.

* Through fund Consolidation the 17 fund was established. The previous fund, the 12 fund, was abolished with part of the proceeds going to the Health fund and the remainder of surplus to the General Fund. The 17 fund must now cover all of its expenses, so the ~~Current~~ accumulated difference for f.y. 91 should be the same as the f.y. 91 Current difference. The accumulated difference starts again due to fund Consolidation in f.y. 91 - Please reflect this on any future Fee Review forms.

RJR
4/2/91

ATTACHMENT B

THE FEDERATION OF
STATE MEDICAL BOARDS
OF THE UNITED STATES

2630 WEST FREEWAY
SUITE 138
FORT WORTH, TEXAS
76102-7199

817 335-1141

JAMES R. WINN, MD
EXECUTIVE VICE PRESIDENT

DALE G BREADEN
ASSOCIATE EXECUTIVE
VICE PRESIDENT

I. KATHRYN HILL, MEd
ASSISTANT EXECUTIVE
VICE PRESIDENT

March 1, 1990

TO: Executive Directors/Secretaries - All Member Boards

FROM: James R. Winn, MD
Executive Vice President

RE: OFFICIAL NOTICE - FLEX Fees for 1991 through 1994

In accordance with provisions of the Federation's contract with the National Board of Medical Examiners (NBME), the NBME has recently notified the Federation of an increase in fees to be charged for provision of FLEX. The new fees represent an approximately 15% increase over fees for 1987 through 1990.

In accordance with provisions of the Federation's agreements with member boards, this will serve as an official notice of an increase in FLEX fees to become effective with the June 1991 examinations and to run through the 1994 examinations. The agreement provisions for advance notice were, of course, designed to give you the opportunity to make appropriate arrangements to accommodate a fee change.

The new FLEX fees are as follows:

Complete FLEX (Components 1 and 2).....	$ 420.00
Component 1 only.....	220.00
Component 2 only.....	275.00

Please feel free to contact me or Kate Hill, Executive Director of the FLEX Board, if you need further information at this time.

James R Winn, MD

cc: Board of Directors
FLEX Board
Sask. - Dennis A. Kendel, MD
CA - Terresa Ciau
FL - Mary Alice Palmer
IL - Mary Jo Southard
Anna Peceny - CTS
MD - Paul Roeger
MI - Marcia Malouin
Kara Schmidt, PhD
NY - Lawrence DeMers
PA - Adrienne Sager - LGR
TX - Ivan Hurwitz
VT - Kate Windom - AMS


FEB 1991
MN BOARD OF
MED EXAM

THE FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES

2630 WEST FREEWAY
SUITE 138
FORT WORTH, TEXAS
76102-7199

817 335-1141
FAX 817 332-1909

BRYANT L. GALUSHA, MD
EXECUTIVE VICE PRESIDENT

DALE G BREADEN
ASSOCIATE EXECUTIVE
VICE PRESIDENT

I. KATHRYN HILL, MEd
ASSISTANT EXECUTIVE
VICE PRESIDENT

FLEX BOARD

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JOHN H. MORTON, MD
CONSULTANT
ROCHESTER, NY

I. KATHRYN HILL, MEd
EXECUTIVE DIRECTOR/SECRETARY
FORT WORTH, TX

March 28, 1990

TO: Executive Directors/Secretaries - All Member Boards

FROM: James R. Winn, M.D.
Executive Vice President

RE: OFFICIAL NOTICE - SPEX Fees for 1991 through 1994

Through a previous memo of 1 March 1990, you were notified of an increase in Federation Licensing Examination (FLEX) fees for 1991 through 1994. The Federation has just been notified by the National Board of Medical Examiners (NBME) of a similar increase in the fee to be charged for the Special Purpose Examination (SPEX). As was the case for the FLEX fee increase, the new SPEX fee represents an approximately 15% increase over the fee for 1988 through 1990.

In accordance with provisions of the Federation's agreements with member boards, this will serve as an official notice of an increase in the SPEX fee to become effective with the March 1991 examination and to run through the 1994 examinations. The new SPEX fee is $275, the same as the new fee for FLEX Component 2.

Please feel free to contact me or Kate Hill, Executive Director of the FLEX Board, if you need further information at this time.

James R. Winn, M.D.

cc: Board of Directors
FLEX Board
Sask. - Dennis A. Kendel, MD
CA - Terresa Ciau
FL - Mary Alice Palmer
IL - Mary Jo Southard
Anna Pencey - CTS
MD - Paul Roeger
MI - Marcia Malouin
Kara Schmidt, PhD
NY - Lawrence DeMers
PA - Adrienne Sager - LGR
TX - Ivan Hurwitz
VT - Kate Windom - AMS

JRW/kbb


FEB1991
MN BOARD OF
MED EXAM

FLEX
and
SPEX

Information Bulletin

1991

The Federation of State Medical Boards
of the United States, Inc.
6000 Western Place, Suite 707
Fort Worth, Texas 76107-4618
(817) 735-8445

Examination Dates

Registration deadlines are determined by the individual licensing boards. In general, these deadlines are at least 10 weeks prior to each FLEX administration, 6 weeks prior to each SPEX administration.

FLEX Administration Dates

1991 Component 1 (1½ days)
— June 11 & 12 (Morning)
— December 3 & 4 (Morning)
Component 2 (1½ days)
— June 12 (Afternoon) & 13
— December 4 (Afternoon) & 5

1992 Component 1 (1½ days)
— June 16 & 17 (Morning)
— December 1 & 2 (Morning)
Component 2 (1½ days)
— June 17 (Afternoon) & 18
— December 2 (Afternoon) & 3

SPEX Administration Dates

1991	March 14	1991	March 19
	June 13		June 18
	September 12		September 17
	December 5		December 3

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THE FEDERATION LICENSING EXAMINATION (FLEX) and the SPECIAL PURPOSE EXAMINATION (SPEX)

The Federation of State Medical Boards of the United States, Inc., is a non-profit organization that was founded in 1912. Its membership is comprised of the medical licensing boards of all the states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands, and includes most of the sixteen separate osteopathic licensing boards in the United States.

In the United States and its territories, licensure to practice medicine is a privilege granted only by the individual licensing boards of the various jurisdictions. All jurisdictions require, as part of their licensing process, successful completion of an examination or other certification demonstrating qualification for licensure.

In 1968, as part of its continuing efforts to promote uniform standards for physician licensing, the Federation introduced the ***F***ederation ***L***icensing ***Ex***amination (FLEX). Through its elected FLEX Board, the Federation offered FLEX to licensing jurisdictions as a high-quality, nationally standardized examination to replace individual licensing board examinations. Currently, all medical licensing jurisdictions in the U.S. as well as the Canadian province of Saskatchewan use FLEX as their own qualifying examination for physician licensure.

In 1988, the Federation introduced the ***S***pecial ***P***urpose ***Ex***amination (SPEX). SPEX is offered for re-examination of **selected physicians** for whom a licensing board determines the need for a current demonstration of medical knowledge — for example, applicants for licensure by endorsement/reciprocity who are some years beyond initial examination, physicians seeking license reinstatement or reactivation after some period of professional inactivity (due to illness, disciplinary action, etc.). Currently, SPEX is routinely administered by several U.S. licensing jurisdictions and administered as needed by other jurisdictions.

ADMINISTRATIVE INFORMATION

Eligibility

Eligibility requirements for admission to FLEX and SPEX are established by the individual licensing boards pursuant to their statutory and regulatory provisions. Individuals wishing to sit for either examination should contact the licensing board from which they plan to seek license to determine their eligibility according to the requirements of the jurisdiction.

Applications and Fees

Applications for FLEX or SPEX must be obtained from the licensing board for which the examination is to be taken. Applications for the examinations are processed and approved by the individual licensing boards, not the Federation.

Examination fees for FLEX and SPEX are established by the individual licensing boards. Information on fees should be sought from the licensing board for which the examination is to be taken.

Administration Centers and Dates

FLEX and SPEX are administered at test centers established by the individual licensing boards. Information on test center locations should be sought from the licensing board for which the examination is to be taken.

FLEX is administered on the same dates in all jurisdictions. SPEX is administered on the same dates in all jurisdictions. Dates for examination administrations are established by the FLEX Board. Dates for examination administrations in the current year are listed on the inside front cover of this *Bulletin.*

FLEX is available to all jurisdictions for administration in June and December of each year, although some jurisdictions may not give the examination twice yearly. SPEX is available to all jurisdictions for administration in March, June, September and December of each year, although some jurisdictions may not give the examination four times yearly. Individuals should contact the licensing board for which the examination is to be taken to confirm the frequency of exam administrations in the jurisdiction.

Administrations may be cancelled or invalidated if satisfactory evidence is received that a break in the security of the examination has occurred. Such administrations may be resched-

uled at such time as the standard testing conditions necessary for meaningful and valid scores can be assured.

Courtesy Candidates

Some licensing boards will allow individuals to sit for FLEX or SPEX in their jurisdiction even though the examination is being taken as part of the licensing process of another jurisdiction. Individuals sitting for an examination in one jurisdiction for purposes of licensure in another jurisdiction are known as courtesy candidates.

Individuals wishing to take FLEX or SPEX as a courtesy candidate must contact the licensing board from which license is being sought. If the boards' regulations permit courtesy candidates arrangements for sitting the examination in another jurisdiction will be made through the licensing board from which license is being sought.

Examinees with Handicaps

Whenever possible and necessary, reasonable accommodations may be made for administration of FLEX or SPEX to examinees with visual or other physical handicaps. Individuals requiring such accommodations must contact the licensing board for which the examination is to be taken, submitting a request together with such documentation as may be required to substantiate the need. Requests for special accommodations should be submitted as early as possible, certainly prior to the jurisdiction's deadline for receipt of applications. Personal appearance before the licensing board may be required.

If approved, special arrangements, procedures and fees, if applicable, will be established and communicated to the examinee by the licensing board.

Information on FLEX eligibility requirements, application deadlines, test center locations, etc. in the various U.S. licensing jurisdictions is published in the Federation's *Exchange,* a yearly survey of all U.S. licensing board requirements for FLEX and physician licensure. See the back cover of this *Bulletin* for information on how to obtain this publication.

THE EXAMINATIONS

Purpose

The purpose of the FLEX Program is to provide a high-quality, objective and standardized examination for use by physician licensing boards as their own qualifying assessment for licensure. The purpose of SPEX is to provide a high-quality, objective and standardized cognitive examination to **assist** licensing jurisdictions in **their** assessement of current competence requisite for general, undifferentiated medical practice by physicians who hold or have held a valid, unrestricted license in a United States or Canadian jurisdiction. Such examinations provide uniform and equitable assessments in terms of content, levels of difficulty, and scoring practices, creating a rational basis for interstate endorsement/reciprocity.

Development of the Examinations

Development of examination materials is accomplished through a network of committees of medical experts, appointed by and working in collaboration with the National Board of Medical Examiners (NBME) at the direction of the Federation's FLEX Board. Members of the committees are selected for their expertise in their respective fields and are drawn from the academic, practice, and licensing communities. All of the test materials used in FLEX and SPEX are owned and copyrighted by the NBME, and any reproduction or distribution of these test materials without the express written authorization of the NBME is prohibited.

Development and regulation of policies and procedures necessary for implementation of FLEX and SPEX are the responsibility of the Federation through its elected FLEX Board. Members of the FLEX Board include highly qualified physicians from the academic and practice communities, all of whom have experience as licensing board members.

Description of FLEX

The FLEX Program consists of two complementary component examinations, each 1½ days in length.

Component 1 of the FLEX Program is de-

signed to evaluate measurable aspects of knowledge and understanding of basic and clinical science principles and mechanisms underlying disease and modes of therapy. This component places special emphasis on fundamental knowledge of the diseases and problems frequently encountered in a supervised setting on an inpatient basis, i.e., knowledge required of a physician assuming clinical responsibilities associated with post-graduate training.

Component 1 consists of approximately 580 multiple-choice questions in 4 books (Books A through D). Each book contains between 135 and 175 questions, with administration times ranging between 2 and 2½ hours per book. Examinees sitting for Component 1 will take the first book (Book A) on the morning of the first day in the three-day administration sequence, Books B and C on the afternoon of the first day, and Book D on the morning of the second day.

Recognizing that knowledge and understanding of the basic sciences and fundamental aspects of patient care in a supervised setting are assessed in Component 1, FLEX **Component 2** is designed to assess the additional knowledge and cognitive abilities required of a physician assuming independent responsibility for the general delivery of medical care to patients. This component focuses on a core of critical abilities and knowledge required for diagnosis and management of selected clinical problems most frequently encountered by the physician licensed for the independent, unrestricted practice of medicine.

Component 2 consists of approximately 700 multiple-choice questions, presented in 5 test books. Test Book E consists entirely of *sets* of questions and *case clusters,* totaling approximately 100 questions. Two hours are allowed for this test book. Each of the remaining 4 test books (F, G, H, I) contains 135-175 multiple-choice questions, and examinees are given 2 or 2½ hours to complete them. Examinees complete Books E and F on the afternoon of the second day of the three-day FLEX sequence. The remaining test books (G, H, and I) are completed the following day.

Assuring that the FLEX Program is comprised of questions at an appropriate level of difficulty increases the reliability of the pass/fail decisions based upon the examination. In order to do so, a modest number of questions for use in future

examinations are included within each component of the FLEX Program for "field testing." This process allows statistical data to be collected in advance to guide selection of appropriate questions for future examinations. Field test questions are not included in the regular scoring process — i.e., these questions do not "count" toward the calculation of final scores for the examinations. Questions included for field testing purposes are distributed throughout various books of the component examinations, and no distinction is apparent between field test questions and those questions to be used in calculating final scores.

Content of FLEX Components

The content of each component of the FLEX Program is organized around a set of cognitive competencies within a clinical context. Questions included in each component reflect evaluative objectives related to major physician tasks, including history taking, performing a physical examination, using laboratory tests and other diagnostic aids, defining problems to establish a diagnosis, and managing therapy. Basic science questions included in Component 1 reflect all the major basic science disciplines (e.g., anatomy, biochemistry, microbiology, pathology, pharmacology, physiology). All major clinical disciplines are reflected in Components 1 and 2 (e.g., family medicine, internal medicine, obstetrics and gynecology, pediatrics, preventive medicine and public health, psychiatry, surgery).

Reflecting the competencies they were designed to assess, the questions comprising Components 1 and 2 are devised to test not only the examinee's knowledge, but discrimination, judgment and reasoning. For example, some questions test the examinee's recognition of the similarities and differences among diseases, drugs, and biochemical, physiologic, behavioral, or pathologic processes. Other questions evaluate the examinee's judgment about cause and effect relationships. In addition to single multiple-choice questions, the components include presentation of laboratory situations or clinical problems in narrative, tabular, graphic and/or pictorial form, followed by a set of 2 or 3 questions designed to determine the examinee's knowledge, interpretation, and comprehension of the situation described. The case clusters included in Component 2 provide an additional evaluation of the

examinee's knowledge and strategies in diagnosis and management by presenting medical problems.

About one-fifth of Component 1 is devoted to assessment of fundamental basic science knowledge and understanding. About two-fifths of Component 1 focuses on the direct application of basic science knowledge to mechanisms of disease, integrating clinical and basic science knowledge of specific clinical problems. The remaining two-fifths of Component 1 emphasizes clinical tasks related to diseases and problems frequently encountered in the delivery of medical care to hospitalized patients.

Samples of the array of evaluative objectives and clinical encounters used to build Component 1 are given in the FLEX workbook entitled, *Guidelines, Strategies, and Sample Items.* See the inside back cover of this *Bulletin* for information on how to obtain the workbook.

Component 2 assesses additional knowledge and cognitive abilities in the context of diseases and problems frequently encountered by the physician licensed for the independent, unrestricted practice of medicine. About one-quarter of Component 2 is devoted to clinical encounters in an in-patient setting. The remaining three-quarters of Component 2 focuses on ambulatory encounters.

Samples of the evaluative objectives and clinical encounters used to build Component 2 are given in the FLEX workbook entitled, *Guidelines, Strategies, and Sample Items.* See the inside back cover of this *Bulletin* for information on how to obtain the workbook.

Description and Content of SPEX

SPEX is a one-day examination consisting of approximately 450 multiple-choice questions in 3 books (Books 1 through 3). Each book contains between 135 and 175 questions, with administration times ranging between 2 and 2½ hours per book.

The questions used in SPEX focus on a core of clinical knowledge and relevant, underlying basic science principles deemed necessary to form a reasonable foundation for the safe and effective practice of medicine. SPEX content is intended to reflect the knowledge and cognitive abilities required of all physicians, regardless of specialty practiced. Because FLEX and SPEX

have this principle in common, SPEX content specifications are based, in part, on FLEX content specifications (see above, Content of FLEX Components). The test question pool developed for FLEX is also used to produce SPEX. SPEX questions are specially selected by groups of experts to assess the requisite knowledge base of physicians who are five years or more beyond medical school graduation and are likely to be engaged in the practice of a particular medical specialty. This underlies another basic difference between FLEX and SPEX: currently one-fifth of FLEX Component 1 is devoted to assessment of fundamental basic science knowledge and understanding. This content area is not included in SPEX.

Preparation for the Examinations

As preparation for FLEX or SPEX, a well-planned and comprehensive review is recommended. Up-to-date textbooks, clinical review publications and periodicals are suggested.

Four basic test item types are used for the multiple-choice questions in FLEX Components 1 and 2 and in SPEX. These types are:

— One Best Answer — Single Item
— One Best Answer — Matching Items
— Comparison/Matching Sets
— Multiple True-False Items

FLEX Component 2 also includes the case cluster format. These sets of questions are intended to explore the extent of the examinee's knowledge of clinical situations and to test the ability to bring information from many different clinical and basic science areas to bear upon these situations.

A brief description and sample of each of these test item formats are included on pages 16 to 20 of this *Bulletin*.

The FLEX Board also produces a FLEX workbook, entitled *FLEX Guidelines, Strategies and Sample Items*, that may be purchased from the Federation of State Medical Boards. The workbook contains

— a description and sample of the content guidelines on which the component exams are based
— test-taking suggestions and specific strategies for completing the various

types of multiple-choice questions, including case clusters
— practice samples of Component 1 and Component 2 multiple-choice questions and case clusters, including answer keys

Information on how to obtain the FLEX workbook is shown on the inside back cover of this *Bulletin*.

Taking the Examinations

The examinee should try to answer all of the questions. Because there is no penalty for guessing, an examinee stands to gain from attempting to answer every question.

Special answer sheets are provided for each test book. For each question, one and only one choice should be marked; giving more than one response or no response is treated as a wrong answer. Answers marked on the test book pages, which are not properly marked on the answer sheet, cannot be counted for scoring. Markings on the answer sheets that are not clearly entered or readable by the scoring machine cannot be counted for scoring.

Testing Conditions

Although the Federation is not directly responsible for the selection of test centers, certain policies and procedures have been established for administration of the examination by the individual licensing boards. These procedures are established to assure that no examinee or group of examinees receives, inadvertently or otherwise, unfair advantage on the examination. Efforts are made to assure that the examinations are administered under standard conditions and in conformity with the principles on which the exam and its scoring are founded. If, in spite of these efforts, a situation arises in which the integrity of the examination process is jeopardized, the Federation reserves the right to invalidate all or part of an examination. FLEX and SPEX test centers are visited periodically by members of the Federation who observe and evaluate the facilities and operations of the center.

FLEX and SPEX are proctored examinations. Examinees must comply with all directions and/or instructions provided by the proctors. Examinees must not start writing before being told to do so by the proctors and must stop all writing

immediately when told to do so by the proctors. Reference materials (i.e., books, notes, papers, or other sources) are not permitted to be consulted. Examinees are not permitted to bring personal belongings into the seating area of the testing room. Calculators and electronic paging devices are prohibited. Watches with computer or memory capability are not needed and are not permitted. Telephone use during a testing session is prohibited. (Exception may be made, at the discretion of the Chief Proctor, only upon prior arrangement in cases of personal emergencies. However, any authorized telephone call initiated or received by an examinee during a testing session will be monitored to assure that information relating to the examination is neither transmitted nor received by the examinee.) The identity of each examinee is verified before he or she is admitted to the examination room. Seats are assigned at random, and, for FLEX, examinees are moved to different seats at least once during the course of the administration.

Another measure taken to achieve standard administration conditions is the construction of FLEX as a multiple-sequence examination. In a multiple-sequence examination, the questions in each test book are the same for all examinees. However, the test books vary in terms of the sequence in which questions are presented. The different forms are distributed in a manner such that copying answers from another examinee is likely to result in a score that is no better than one would obtain by random guessing.

Irregular Behavior/Invalidation

Irregular behavior, i.e., conduct that subverts or attempts to subvert the examination process, may constitute sufficient cause for a licensing board to terminate or invalidate an examinee's examination and/or license application or to take other appropriate action that may, in some instances, include disqualification for licensure.

Irregular behavior that occurs during an examination includes, but is not limited to, consulting notes or other reference materials during the administration, copying answers from another examinee, permitting one's answers to be copied, or in any way providing or receiving unauthorized information about the examination while it is in progress. Such irregular behavior during the examination may constitute sufficient cause

for a licensing board to terminate or invalidate an examinee's participation. Suspected irregular behavior during an examination is normally reported in writing by the Chief Proctor at the testing center in which the conduct was observed. Upon receipt of information suggesting that irregular behavior has occurred, the licensing boards will evaluate the information and may request a statistical analysis of an examinee's scores. Interpretation and use of such information, and any actions taken on the basis of it, are the responsibility of the licensing board. Records of such actions, however, are retained by the Federation and are communicated to other licensing boards as appropriate.

Other behavior that is considered irregular includes, but is not limited to, falsifying information, impersonating another examinee, or receiving unauthorized information about the content of the examination prior to its administration. The unauthorized reproduction, sale or other distribution of examination materials is not only considered irregular behavior, but may also constitute conduct that is the basis for appropriate legal action. Such actions on the part of individuals that infringe on the legal rights of the NBME, from whom the Federation obtains the test materials, extend beyond the scope of the policies or procedures described here. It should be understood that the NBME can and will take appropriate legal action when it is convinced that the legal rights of the National Board of Medical Examiners have been violated through infringement of the NBME copyright, theft of test materials, sale of test materials, etc. The Federation and the NBME are firmly committed to protecting the integrity of the FLEX and SPEX examinations and will take action appropriate for the fulfillment of this commitment.

All possible efforts are made to assure that FLEX and SPEX are administered under standard conditions and in conformity with the principles on which the examinations and their scoring are founded. Notwithstanding these efforts, situations may occur in which the integrity of the examination process is jeopardized. Under such circumstances, the Federation may invalidate all or part of an examination.

Scoring of the Examinations

Following each administration, completed examination materials are returned by the individual

licensing boards to a central scoring location. FLEX answer materials from all licensing boards are scored at one time. SPEX answer materials from all licensing boards are scored at one time.

Raw scores (number of questions answered correctly) are determined and then converted to scale scores for reporting purposes. The scaling procedure is a conversion process that yields a single two-digit scale score for each of the two component examinations and a single two-digit scale score for SPEX. The scores are truncated to a whole number (i.e., all decimal places are dropped).

Examinees failing to provide responses on each answer sheet for all sections of a FLEX Component examination and/or SPEX examination will not receive a numeric score. An appropriate indication of the incomplete submission of materials will be reported to the licensing board for which the examination was taken and will be maintained within the examinee's record in the Federation's Examination Data Bank.

Passing requirements on the examinations are established by the individual licensing boards, with recommendations from the FLEX Board of the Federation. It is important to remember, however, that scores are calculated in the same manner and at the same time for the entire group of examinees participating in a given FLEX or SPEX administration; scores are **NOT** calculated on an individual state-by-state basis. Accordingly, differences among states in the percentage of examinees who pass the examinations should not be interpreted as meaning that it is easier for an individual to pass the examinations in one state than it is in another.

A score of 75 is the minimum score recommended by the FLEX Board for passing SPEX and each component of FLEX. It should be noted that this figure is **NOT** "75%," but a value on a scale that meets the requirements of licensing board statutes and regulations. Generally, fewer than 75% of the questions need to be answered correctly in order to obtain a score of 75.

Reporting of Scores

FLEX scores are reported directly to the individual licensing boards approximately seven to eight weeks following each administration. SPEX scores are reported directly to the individual licensing boards approximately four to six weeks

following each administration. The licensing boards will then report exam results to their own examinees at some subsequent time. Please note that the individual licensing boards maintain FLEX and SPEX score records for their respective examinees, and scores are reported to examinees only by the licensing board for which the examination is taken. The Federation does not report scores directly to examinees.

The Federation maintains a computerized data bank of all FLEX and SPEX scores to facilitate reciprocity among jurisdictions. The Federation reserves the right to provide certified transcripts of scores to its member licensing boards as it deems appropriate. Also, for a fee, examinees may request that a certified transcript of their FLEX and/or SPEX scores be forwarded to other licensing boards from which they are seeking licensure and/or to other appropriate credentialing agencies or organizations.

Score Rechecks

The scoring and reporting techniques developed by the NBME and approved by the FLEX Board use a variety of checks and verification procedures. The FLEX Board is confident that the scores reported for each candidate are accurate reflections of the answers marked on the answer sheets turned in by that examinee. If an examinee has serious concern that the scores reported may be in error, the examinee may request a manual rescoring. However, a considerable amount of time is required to rescore the examination by hand and to compare the results with the scores calculated by computer.

Examinees wishing to have a score recheck performed must direct their request to the licensing board for which the examination was taken. If it approves the request, the licensing board will forward the request to the Federation. The Federation assesses a charge for rescoring, payable in advance to the Federation through the licensing board for which the examination was taken.

Re-examination Procedures

Re-examination eligibility and procedures for unsuccessful examinees are established by the individual licensing boards, pursuant to the boards' statutes and regulations. For FLEX, some boards require passage of both components

within a single sitting — i.e., if one component is failed, both must be retaken. Other boards have established component sequence requirements — i.e., Component 1 must be passed before a passing score on Component 2 can be accepted. Examinees should consult the licensing board from which license is being sought for that board's re-examination procedures.

NOTE: Passing FLEX scores achieved through separate component administrations may not be acceptable, even for later endorsement/reciprocity, to those licensing boards that require completion of FLEX within a single administration. Retake of both components may be required for fulfillment of these boards' examination requirements for licensure.

NOTE: The FLEX Board considers the latest scores achieved by an examinee to be the "official scores" for the respective examination and has made recommendations to this effect to the individual licensing boards. For FLEX Board purposes, then, scores achieved through FLEX re-examination replace earlier FLEX scores, and SPEX re-examination scores replace earlier SPEX scores. However, the individual licensing boards are ultimately responsible for determining what scores within an examinee's history meet the board's examination requirements for licensure. Because this is so, certified transcripts of FLEX and/or SPEX scores provided to licensing boards by the Federation currently list all FLEX and/or SPEX scores achieved by a given examinee.

INQUIRIES

The Executive Director of the FLEX Board and the Federation staff in Fort Worth, Texas, are available to answer questions and/or to assist in interpretation of information concerning FLEX and SPEX. Inquiries should be directed to:

Executive Director of the FLEX Board
Federation of State Medical Boards
6000 Western Place, Suite 707
Fort Worth, TX 76107-4618
(817) 735-8445

MULTIPLE-CHOICE ITEM TYPES USED IN FLEX AND SPEX

One Best Answer — Single Item

This is the traditional, most frequently used multiple-choice format. It consists of a statement or question followed by four or five options. In FLEX and SPEX examinations, the options in this item type are always lettered (i.e., A, B, C, D, E). The examinee is required to select the best answer to the item. Options other than the single best (correct) answer may be partially correct, but there is only one best answer to this item type.

> DIRECTIONS (Item 1): Each of the numbered items or incomplete statements in this section is followed by answers or by completions of the statement. Select the *ONE* lettered answer or completion that is *BEST* in each case and fill in the circle containing the corresponding letter on the answer sheet.

Sample Item 1

1. The most effective treatment for tinea capitis caused by *Trichophyton rubrum* is

   (A) epilation with radiation
   (B) griseofulvin, orally
   (C) antifungal ointment, topically
   (D) amphotericin B, intravenously
   (E) to await spontaneous involution

(answer B)

One Best Answer — Matching Sets

This item type usually consists of a list of entities (e.g., diseases, laboratory data) followed by several phrases or statements. As in the one best answer — single item type, there is one best answer. Options other than the correct answer may be partially correct. Examinees may also encounter pictorial materials (e.g., graphs, labeled photographs) that comprise the list of entities.

> DIRECTIONS (Items 2-3): Each group of items in this section consists of lettered headings followed by a set of numbered words or phrases. For each numbered word or phrase, select the *ONE* lettered heading that is most closely associated with it and fill in the circle containing the corresponding letter on the answer sheet. Each lettered

heading may be selected once, more than once, or not at all.

(***NOTE:*** Occasionally FLEX and SPEX include sets of matching items that require a one-to-one match, i.e., each lettered heading should be selected only once. Special directions to cover this situation appear within the individual set of items in the test book. Unless you encounter such special instructions, assume that each lettered heading may be selected once, more than once, or not at all.)

Sample Items 2-3
(A) Phenytoin
(B) Phenobarbital
(C) Valproic acid
(D) Diazepam
(E) Acetazolamide

2. Hepatitis is a potentially serious side effect

(answer C)

3. Hypertrophy of the gums is a common adverse effect

(answer A)

Comparison/Matching Sets

This item type consists of two entities (A) and (B), followed by (C) Both and (D) Neither. Examinees are required to decide whether an item is associated with the first entity only, the second entity only, both entities, or neither entity. As in the one best answer — matching type, the list of entities may include diseases, laboratory data, etc.

DIRECTIONS (Items 4-5): Each group of items in this section consists of lettered headings followed by a set of numbered words or phrases. For each numbered word or phrase, fill in the circle on the answer sheet containing

A if the item is associated with (A) *only,*
B if the item is associated with (B) *only,*
C if the item is associated with *both* (A) *and* (B),
D if the item is associated with *neither* (A) *nor* (B).

Sample Items 4-5
(A) L-dopa
(B) Dopamine

(C) Both
(D) Neither

4. Prescribed for the relief of tremor and rigidity

(answer A)

5. Fail(s) to cross the blood-brain barrier

(answer B)

Multiple True-False Questions

This item type consists of a statement or question followed by four numbered options. The examinee is required to determine whether each of the options is correct or incorrect. Responses are recorded according to a pattern of responses (repeated at the top of each page of this item type) that permits five combinations of responses. You must mark only one answer on the answer sheet.

DIRECTIONS (Item 6): For each of the items in this section, ONE or MORE of the numbered options is correct. On the answer sheet fill in the circle containing

A if only *1, 2, and 3* are correct,
B if only *1 and 3* are correct,
C if only *2 and 4* are correct,
D if only *4* is correct,
E if *all* are correct.

FOR EACH ITEM
FILL IN ONLY ONE CIRCLE
ON YOUR ANSWER SHEET

At the top of each subsequent page containing this item type, the following summary will appear:

DIRECTIONS SUMMARIZED				
A	B	C	D	E
1, 2, 3 only	1, 3 only	2, 4 only	4 only	All are correct

Sample Item 6

6. Contraindications to radical mastectomy for carcinoma of the breast include
   (1) hepatic metastases
   (2) "inflammatory" cancer
   (3) edema of the ipsilateral arm
   (4) spread of the tumor to the ipsilateral supraclavicular nodes

(answer E [all are correct])

CASE CLUSTERS USED IN FLEX

The *case cluster* format is used in Book E of FLEX Component 2. Each case cluster opens with a description of a clinical situation. The opening description may include results of physical examination (e.g., patient's vital signs), results of diagnostic studies (e.g., laboratory findings, radiologic findings), or other information relevant to the case.

The opening description is followed by a series of multiple-choice questions of the standard types used in FLEX, presented in a progression reflecting the manner in which issues might arise in the work-up or management of an actual case. Often, the multiple-choice questions are grouped according to the demands of the physician task. For example, questions relating to history-taking may be presented first, followed by a group of questions about the physical examination, which may be followed by another group of questions pertaining to laboratory studies. Additional case information may be provided between each task-related group of questions.

OTHER PUBLICATIONS CONCERNING FLEX

FLEX Guidelines, Strategies and Sample Component Examination Items

This FLEX workbook contains

- description and sample of the content guidelines on which the FLEX component exams are based
- test-taking suggestions and specific strategies for completing the various types of multiple-choice questions, including case clusters
- practice samples of Component 1 and Component 2 multiple-choice questions and case clusters, including answer keys

Cost of this workbook is $10, payable by MONEY ORDER made to the Federation of State Medical Boards. (Add $3 for shipment to locations outside the U.S., possessions of the U.S., Canada, and Mexico.)

Send request and payment, ATTENTION: GUIDELINES-5, to the Federation of State Medical Boards at the address shown on the front cover of this *Bulletin*.

OTHER PUBLICATIONS CONCERNING FLEX AND SPEX

(continued)

Federation Exchange

Section 1: FLEX and M.D. Licensing Requirements, a state-by-state survey of requirements for M.D.s.

Section 2: FLEX and D.O. Licensing Requirements, a state-by-state survey of requirements for D.O.s.

Section 3: Physician Licensing Boards and Physician Discipline, a state-by-state survey of licensing board structure, function, and responsibilities.

Cost of the ***Exchange,*** payable by MONEY ORDER made to the Federation of State Medical Boards, is:

$25 Section 1
$25 Section 2
$25 Section 3
$60 the complete Exchange (all 3 sections)
(Add $5 for shipment to locations outside the U.S., possessions of the U.S., Canada, and Mexico.)

Send requests and payment, ATTENTION: EXCHANGE-5, to the Federation of State Medical Boards at the address shown on the front cover of this *Bulletin.*

ATTACHMENT C

MINNESOTA BOARD

OF MEDICAL EXAMINERS

PHYSICAL THERAPY

STATUTES AND RULES

Printed November, 1990

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St. Paul, MN 55155

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CHAPTER 148
PUBLIC HEALTH OCCUPATIONS, LICENSING

PHYSICAL THERAPISTS

148.65	Definitions.
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148.67	Physical therapy council.
148.70	Applicants, qualifications.
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PHYSICAL THERAPISTS

148.65 DEFINITIONS.

Subdivision 1. **Physical therapy.** As used in sections 148.65 to 148.78 the term "physical therapy" means the evaluation or treatment or both of any person by the employment of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating a physical or mental disability. Physical measures shall include but shall not be limited to heat or cold, air, light, water, electricity and sound. Physical therapy includes evaluation other than medical diagnosis, treatment planning, treatment, documentation, performance of appropriate tests and measurement, interpretation of orders or referrals, instruction, consultative services, and supervision of supportive personnel. "Physical therapy" does not include the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01.

Subd. 2. **Physical therapist.** "Physical therapist" means a person who practices physical therapy as defined in sections 148.65 to 148.78.

HIST: 1951 c 479 s 1; 1980 c 412 s 1; 1985 c 182 s 1; 1987 c 384 art 2 s 1

148.66 STATE BOARD OF MEDICAL EXAMINERS, DUTIES.

The state board of medical examiners, as now or hereafter constituted, hereinafter termed "the board," in the manner hereinafter provided, shall administer the provisions of this law.

HIST: 1951 c 479 s 2

148.67 PHYSICAL THERAPY COUNCIL.

The board of medical examiners shall appoint a physical therapy council in carrying out the provisions of this law, regarding the qualifications and examination of physical therapists. The council shall consist of seven members, citizens and residents of the state of Minnesota, composed of three physical therapists, two licensed and registered doctors of medicine and surgery, one being a professor or associate or assistant professor from a program in physical therapy approved by the board of medical examiners, one aide or assistant to a physical therapist and one public member. The council shall expire, and the terms, compensation and removal of members shall be as provided in section 15.059.

HIST: 1951 c 479 s 3; 1975 c 136 s 20; 1976 c 222 s 66; 1976 c 239 s 71; 1980 c 412 s 2

148.70 APPLICANTS, QUALIFICATIONS.

It shall be the duty of the board of medical examiners with the advice and assistance of the physical therapy council to pass upon the qualifications of applicants for registration, continuing education requirements for reregistration, provide for and conduct all examinations following satisfactory completion of all didactic requirements, determine the applicants who successfully pass the examination, and duly register such applicants after the applicant has presented evidence satisfactory to the board that the applicant has completed a program of education or continuing education approved by the board.

HIST: 1951 c 479 s 6; 1973 c 725 s 17; 1975 c 136 s 21; 1980 c 412 s 3; 1986 c 444; 1988 c 549 s 1

148.705 APPLICATION.

An applicant for registration as a physical therapist shall file a written application on forms provided by the board together with a fee in the amount set by the board, no portion of which shall be returned.

An approved program for physical therapists shall include the following:

(a) A minimum of 60 academic semester credits or its equivalent from an accredited college, including courses in the biological and physical sciences;

(b) An accredited course in physical therapy education which has provided adequate instruction in the basic sciences, clinical sciences, and physical therapy theory and procedures, as determined by the board. In determining whether or not a course in physical therapy is approved, the board may take into consideration the accreditation of such schools by the appropriate council of the American Medical Association, the American Physical Therapy Association, or the Canadian Medical Association.

HIST: 1980 c 412 s 4

148.706 SUPERVISION OF ASSISTANTS AND AIDES.

Every physical therapist who uses the services of an assistant or aide for the purpose of assisting in the practice of physical therapy is responsible for functions performed by the assistant or aide while engaged in such assistance. The physical therapist shall permit the assistant or aide to perform only those functions which the therapist is authorized by rule to delegate to a physical therapist assistant or assign to a physical therapy aide and shall provide supervision as specified.
HIST: 1980 c 412 s 11; 1986 c 444

148.71 REGISTRATION.

Subdivision 1. **Qualified applicant.** The state board of medical examiners shall register as a physical therapist and shall furnish a certificate of registration to each applicant who successfully passes an examination provided for in sections 148.65 to 148.78 for registration as a physical therapist and who is otherwise qualified as required herein.

Subd. 2. **Temporary permit.** The board may, upon payment of a fee set by the board, issue a temporary permit to practice physical therapy under supervision to a physical therapist who is a graduate of an approved school of physical therapy and qualified for admission to examination for registration as a physical therapist. A temporary permit to practice physical therapy under supervision may be issued only once and cannot be renewed. It expires 90 days after the next examination for registration given by the board or on the date on which the board, after examination of the applicant, grants or denies the applicant a registration to practice, whichever occurs first. A temporary permit expires on the first day the board begins its next examination for registration after the permit is issued if the holder does not submit to examination on that date. The holder of a temporary permit to practice physical therapy under supervision may practice physical therapy as defined in section 148.65 if the entire practice is under the supervision of a person holding a valid registration to practice physical therapy in this state. The supervision shall be direct, immediate, and on premises.
HIST: 1951 c 479 s 7; 1980 c 412 s 5; 1988 c 557 s 4

148.72 EXAMINATIONS.

Subdivision 1. **Issuance of registration without examination.** On payment to the board of a fee in the amount set by the board and on submission of a written application on forms provided by the board, the board shall issue registration without examination to a person who is licensed or otherwise registered as a physical therapist by another state of the United States of America, its possessions, or the District of

Columbia, if the requirements for licensure or registration in the state, possession, or District were at the date of license or registration by the state substantially equal to the requirements set forth in sections 148.65 to 148.78.

Subd. 2. **Certificate of registration.** The board may issue a certificate of registration to a physical therapist without examination to an applicant who presents evidence satisfactory to the board of having passed an examination recognized by the board if the standards of the other state or foreign country are determined by the board to be as high as those of this state. At the time of making an application the applicant shall pay to the board a fee in the amount set by the board, no portion of which shall be returned.

Subd. 3. **Examinations.** The board shall give an examination to applicants who comply with section 148.70. The examination shall include a written examination which shall test the applicant's knowledge of the basic and clinical sciences as they relate to physical therapy, physical therapy theory and procedures, and such other subjects as the board may deem useful to test the applicant's qualifications to act as a physical therapist.

Subd. 4. **Issuance of registration after examination.** The board shall issue a certificate of registration to each applicant who passes the examination in accordance with standards established by the board and who is not disqualified to receive registration under the provisions of section 148.75.
HIST: 1951 c 479 s 8; 1980 c 412 s 6; 1986 c 444

148.73 RENEWALS.

Every registered physical therapist shall, during each January, apply to the board for an extension of registration and pay a fee in the amount set by the board. The extension of registration is contingent upon demonstration that the continuing education requirements set by the board under section 148.70 have been satisfied.
HIST: 1951 c 479 s 9; 1959 c 282 s 1; 1961 c 323 s 1; 1980 c 412 s 7; 1986 c 444; 1988 c 549 s 2

148.74 RULES.

The board is authorized to adopt rules as may be necessary to carry out the purposes of sections 148.65 to 148.78. The secretary of the board shall keep a record of proceedings under these sections and a register of all persons registered under it. The register shall show the name, address, date and number of registration, and the renewal thereof. Any other interested person in the state may obtain a copy of such list on request to the board upon payment of an amount as may be fixed by the board, which shall not exceed the cost of the list so furnished. The board shall provide blanks, books, certificates, and stationery and assistance as is necessary for the

transaction of the business of the board and the physical therapy council hereunder, and all money received by the board under sections 148.65 to 148.78 shall be paid into the state treasury as provided for by law. The board shall set by rule the amounts of the application fee and the annual registration fee. The fees collected by the board must be sufficient to cover the costs of administering sections 148.65 to 148.78.
HIST: 1951 c 479 s 10; 1977 c 305 s 45; 1980 c 412 s 8; 1985 c 248 s 70; 1988 c 549 s 3

148.75 CERTIFICATES; DENIAL, SUSPENSION, REVOCATION.

The state board of medical examiners may refuse to grant registration to any physical therapist, or may suspend or revoke the registration of any physical therapist for any of the following grounds:

(a) using drugs or intoxicating liquors to an extent which affects professional competence;

(b) been convicted of a felony;

(c) conviction for violating any state or federal narcotic law;

(d) procuring, aiding or abetting a criminal abortion;

(e) registration or attempted registration by fraud or deception;

(f) conduct unbecoming a person registered as a physical therapist or conduct detrimental to the best interests of the public;

(g) gross negligence in the practice of physical therapy as a physical therapist;

(h) treating human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state to practice medicine as defined in section 147.10, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of medical examiners rule;

(i) treating human ailments without referral by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(j) failure to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders specifying orders to "evaluate and treat";

(k) treating human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state;

(l) inappropriate delegation to a physical therapist assistant or inappropriate task assignment to an aide or inadequate supervision of either level of supportive personnel;

(m) treating human ailments other than by performing physical therapy procedures unless duly licensed or registered to do so under the laws of this state;

(n) practicing as a physical therapist performing medical diagnosis, the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01;

(o) failure to comply with a reasonable request to obtain appropriate clearance for mental or physical conditions which would interfere with the ability to practice physical therapy, and which may be potentially harmful to patients;

(p) dividing fees with, or paying or promising to pay a commission or part of the fee to, any person who contacts the physical therapist for consultation or sends patients to the physical therapist for treatment;

(q) engaging in an incentive payment arrangement, other than that prohibited by clause (p), that tends to promote physical therapy overutilization, whereby the referring person or person who controls the availability of physical therapy services to a client profits unreasonably as a result of patient treatment;

(r) practicing physical therapy and failing to refer to a licensed health care professional any patient whose medical condition at the time of evaluation has been determined by the physical therapist to be beyond the scope of practice of a physical therapist; and

(s) failure to report to the board other registered physical therapists who violate this section.

A certificate of registration to practice as a physical therapist is suspended if (1) a guardian of the person of the physical therapist is appointed by order of a probate court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the physical therapist; or (2) the physical therapist is committed by order of a probate court pursuant to 253B or sections 526.09 to 526.11. The certificate of registration remains suspended until the physical therapist is restored to capacity by a court and, upon petition by the physical therapist, the suspension is terminated by the board of medical examiners after a hearing.

HIST: 1951 c 479 s 11; 1967 c 119 s 1; 1969 c 6 s 27; 1969 c 927 s 7; 1974 c 61 s 1; 1974 c 406 s 23; 1980 c 412 s 9; 1982 c 581 s 24; 1985 c 182 s 2; 1986 c 444; 1987 c 384 art 2 s 1; 1988 c 549 s 4

148.76 PROHIBITED CONDUCT.

Subdivision 1. No person shall

(a) use the title of physical therapist without a

certificate of registration as a physical therapist issued pursuant to the provisions of sections 148.65 to 148.78;

(b) in any manner hold out as a physical therapist, or use in connection with the person's name the words or letters Physical Therapist, Physiotherapist, Physical Therapy Technician, Registered Physical Therapist, Licensed Physical Therapist, P.T., P.T.T., R.P.T., L.P.T., or any letters, words, abbreviations or insignia indicating or implying that the person is a physical therapist, without a certificate of registration as a physical therapist issued pursuant to the provisions of sections 148.65 to 148.78. To do so is a gross misdemeanor;

(c) employ fraud or deception in applying for or securing a certificate of registration as a physical therapist.

Nothing contained in sections 148.65 to 148.78 shall prohibit any person licensed or registered in this state under another law from carrying out the therapy or practice for which the person is duly licensed or registered.

Subd. 2. No physical therapist shall:

(a) treat human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state to practice medicine as defined in section 147.10, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of medical examiners rule;

(b) treat human ailments by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(c) utilize any chiropractic manipulative technique whose end is the chiropractic adjustment of an abnormal articulation of the body; and

(d) treat human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state.

HIST: 1951 c 479 s 12; 1980 c 412 s 10; 1985 c 182 s 3; 1986 c 444; 1988 c 549 s 5

148.77 VIOLATIONS.

Any person violating the provisions of section 148.76 is guilty of a gross misdemeanor.

HIST: 1951 c 479 s 13; 1980 c 412 s 12

148.78 PROSECUTION, ALLEGATIONS.

In the prosecution of any person for violation of sections 148.65 to 148.78 as specified in section 148.76, it shall not be necessary to allege or prove want of a valid certificate of

registration as a physical therapist, but shall be a matter of defense to be established by the accused.
HIST: 1951 c 749 s 14; 1980 c 412 s 13

CHAPTER 5600
BOARD OF MEDICAL EXAMINERS
LICENSURE

5600.2500 ANNUAL FEES.

5600.2500 ANNUAL FEES.

The fees charged by the board are fixed at the following rates:

A. physician examination fee, full exam, $425;

B. physician examination fee, Part I only, $250;

C. physician examination fee, Part II only, $300;

D. physician application fee, $200;

E. physician annual registration, $115;

F. physician certification to other states, $10;

G. physician verification to institutions, $5;

H. physician endorsement to other states, $40;

I. physician emeritus license, $50;

J. physician temporary licenses, $60;

K. physician late fee, $60;

L. physical therapist application fee, $40;

M. physical therapist examination fee, $110;

N. physical therapist annual registration, $20;

O. physical therapist late fee, $10;

P. physical therapist certification to other states, $10;

Q. physical therapist verification to institutions, $5; and

R. physical therapist temporary permit, $10.

STAT AUTH: MS s 16A.128; 146.13; 147.02; 148.74; 214.06

HIST: 10 SR 1476; 11 SR 777; 12 SR 846; 15 SR 1055

CHAPTER 5601
BOARD OF MEDICAL EXAMINERS
PHYSICAL THERAPY

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5601.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter the terms defined in this part have the meanings given them.

Subp. 2. **Board.** "Board" means the Board of Medical Examiners.

Subp. 3. **Physical therapist assistant.** "Physical therapist assistant" means a skilled technical worker who is a graduate of a physical therapist assistant educational program accredited by the American Physical Therapy Association or a comparable accrediting agency. The physical therapist assistant performs selected physical therapy treatments and related duties as delegated by the physical therapist to assist the physical therapist in patient-, client-, and resident-related activities.

Subp. 4. **Physical therapy aide.** "Physical therapy aide" means a supportive worker who has been trained on the job to perform tasks assigned by a supervising registered physical

therapist.

Subp. 5. **Licensed health care professional or licensed health care provider.** "Licensed health care professional" or "licensed health care provider" means a person licensed in good standing in Minnesota to practice medicine, osteopathy, chiropractic, podiatry, or dentistry.

Subp. 6. **Initiation of treatment.** "Initiation of treatment" means the initiation by a physical therapist of physical measures, therapeutic exercises, and rehabilitation procedures, as defined by Minnesota Statutes, section 148.65, without the express direction or supervision of a health care professional.

Subp. 7. **Previously diagnosed condition.** "Previously diagnosed condition" means a lifelong and ongoing condition diagnosed by a health care professional which requires physical therapy treatment.

Subp. 8. **Clinical experience.** "Clinical experience" means practice under a physician's direction or supervision as verified by the board's records.

Subp. 9. **Contact hour.** "Contact hour" means an instructional session of 60 minutes, excluding coffee breaks, registration, meals with a speaker or without a speaker, and other social activities.

STAT AUTH: MS s 148.70; 148.74
HIST: 8 SR 2573; 15 SR 1055

5601.0200 APPLICATION.

An applicant for admission to a registration examination to practice physical therapy shall file an application with the board. If the board finds that the application is complete and that all of the requirements of Minnesota Statutes, section 148.70 and this chapter have been met, it shall advise the applicant of the date and place of the examination.

STAT AUTH: MS s 148.70
HIST: 8 SR 2573

5601.0300 CONTENTS OF APPLICATION.

The application must be submitted on forms prepared by the board together with the fees described under part 5600.2500, items L and M. To be complete, the application must include the following information:

A. a notarized or certified copy of the original diploma, degree, or certificate or evidence satisfactory to the board, taking into consideration the qualifications for applicants set out in Minnesota Statutes, section 148.70, indicating that the applicant has satisfactorily completed an approved curriculum in physical therapy as set out in Minnesota Statutes, section 148.705, clauses (a) and (b) and has been graduated from a school of physical therapy approved by the board;

B. a recommendation of the applicant's ethical and moral character by two physical therapists duly registered to practice physical therapy in the United States or Canada;

C. a recent full-faced photograph of the applicant attached to the application with the affidavit on the form completed and notarized;

D. an accounting of the applicant's high school, college, and board-approved physical therapy school education listing the names, locations, dates of attendance, and diplomas, degrees, or certificates awarded;

E. an accounting of the applicant's postgraduate work and military service;

F. a listing of the states or countries in which the applicant is currently licensed or registered including the applicant's license or registration certificate number, the date the license or registration was obtained, and the method by which the license or registration was received;

G. an accounting of the applicant's current and previous physical therapy practice experience;

H. an accounting of disciplinary action taken on past complaints, refusal of licensure or registration, or denial of examination eligibility by another state board or physical therapy society against the applicant;

I. an accounting of the applicant's personal use or administration of any controlled substances and treatment for alcohol or drug abuse;

J. an accounting by the applicant of any disease, illness, or injury that impairs the applicant's ability to practice physical therapy;

K. an accounting of any convictions for crimes related to the practice of physical therapy, felonies, gross misdemeanors, and crimes involving moral turpitude;

L. a listing of any memberships in a physical therapy society;

M. the applicant's name and address;

N. the applicant's social security number, if the applicant chooses to voluntarily provide the number to the board for identification purposes, or the applicant's alien registration card number, whichever is applicable, or notification to the board if no social security number or alien registration card number is assigned to or available from the applicant;

O. completed copies of credentials verification forms provided by the board; and

P. any other information judged necessary by the board to evaluate the applicant.

STAT AUTH: MS s 148.70; 148.74

HIST: 8 SR 2573; 15 SR 1055

5601.0400 APPLICATION DEADLINE.

All applications for examination must be fully completed in accordance with part 5601.0300 and forwarded to the secretary of the board. An application must be postmarked not later than 45 days before the date of the examination.

STAT AUTH: MS s 148.70; 148.74

HIST: 8 SR 2573; 15 SR 1055

5601.0500 EXAMINATION.

The examination, as described in Minnesota Statutes, section 148.72, subdivision 3, must be the professional examination service physical therapy examination or a comparable nationally recognized examination. The passing score is one standard deviation below the mean of all persons taking the examination.

STAT AUTH: MS s 148.70

HIST: 8 SR 2573

5601.0600 INELIGIBILITY FOR EXAMINATION.

If the board determines that an applicant is ineligible for examination, the board shall notify the applicant of this determination and the grounds for it. The applicant may be granted a hearing in accordance with the provisions of part 5615.0300 of the Board of Medical Examiners by filing a statement of issues with the board within 20 days after receiving notice from the board. After the hearing, the board shall notify the applicant in writing of its decision.

STAT AUTH: MS s 148.70

HIST: 8 SR 2573

5601.0700 REGISTRATION WITHOUT EXAMINATION.

The board may register a person as a physical therapist in this state without examination if that person completes or presents evidence satisfactory to the board of having passed an examination in accordance with Minnesota Statutes, section 148.70 administered by a state licensing agency. An applicant for registration without examination shall submit an application on forms provided by the board together with the fees described in part 5600.2500. The form must include the following information:

A. a notarized or certified copy of a current license or certificate to practice physical therapy, if any, issued by the duly accredited examining agency of the state or foreign country in which the applicant has been licensed or certified;

B. an original or certified copy of a diploma, degree, or certificate or evidence satisfactory to the board indicating that the applicant has satisfactorily completed an approved curriculum in physical therapy as provided in Minnesota Statutes, section 148.70 and has been graduated from a school of physical therapy approved by the board; and

C. the information required by part 5601.0300, items B to P.

STAT AUTH: MS s 148.70; 148.74
HIST: 8 SR 2573; 15 SR 1055

5601.0800 REQUIREMENTS FOR FOREIGN-TRAINED APPLICANTS.

Subpart 1. **Scope and documentation.** An applicant for registration who is a foreign-trained physical therapist must fulfill the requirements in subparts 2 to 5, providing certified English translations of board-required relevant documentation.

Subp. 2. **Education evaluation.** The applicant must present evidence of completion of physical therapy schooling equivalent to that required in Minnesota Statutes, section 148.705 and part 5601.0500. This evidence will be evaluated by the Physical Therapy Council with the assistance of a credentials evaluation service familiar with educational standards and professional qualification. Agencies providing evaluation services must be approved by the American Physical Therapy Association or meet its standards. The applicant shall be responsible for the expenses incurred as a result of the evaluation.

Subp. 3. **English test.** The applicant must achieve a score of at least 550 on the TOEFL (Test of English as a Foreign Language) examination administered by the Educational Testing Service, Inc., Princeton, New Jersey, or a passing score on a comparable nationally recognized examination approved by the board.

Subp. 4. **Experience.** The applicant must have practiced satisfactorily for at least six months under the supervision of a registered physical therapist at a board-approved facility. A facility that offers such practice must provide a broad base of experience including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient diagnoses. Supervision must be provided by a registered physical therapist with at least three years of clinical experience. A proposed outline of clinical experiences must be approved by the Physical Therapy Council before the facility begins offering the experience.

Subp. 5. **Examination.** The applicant must satisfactorily complete the board-approved examination as stated in Minnesota Statutes, section 148.72, subdivision 3.

STAT AUTH: MS s 148.70; 148.74
HIST: 8 SR 2573; 15 SR 1055

5601.0900 ADDRESS.

Every physical therapist shall provide the board with a current address. A physical therapist who moves from the address on the physical therapist's registration shall notify the board of the change within 30 days.

STAT AUTH: MS s 148.70

HIST: 8 SR 2573

5601.1000 [Repealed, 15 SR 1055]

5601.1100 [Repealed, 15 SR 1055]

5601.1200 REPORTS.

The physical therapist shall submit reports to a licensed health care provider for periodic review at least every two years. Reports should include, but are not limited to, an initial evaluation, progress notes, and a discharge note. Reports by the physical therapist must be made more frequently if the patient's condition warrants. The physical therapist shall retain dated records evidencing submission of reports to a licensed health care provider for periodic review.

STAT AUTH: MS s 148.70; 148.74

HIST: 8 SR 2573; 15 SR 1055

5601.1300 RETENTION OF PATIENT RECORDS.

All patient records including directions and orders within the control of the physical therapist shall be retained for at least seven years, or six years after the patient's majority. The physical therapist shall provide access to these records to the board.

STAT AUTH: MS s 148.70

HIST: 8 SR 2573

5601.1400 DELEGATION OF DUTIES.

The physical therapist may delegate patient treatment procedures only to a physical therapist assistant who has sufficient didactic and clinical preparation. The registered physical therapist may not delegate the following activities to the physical therapist assistant or to other supportive personnel: patient evaluation, treatment planning, initial treatment, change of treatment, and initial or final documentation.

The registered physical therapist must observe the patient's status before and after the treatment administered by a physical therapy aide. The physical therapy aide may perform tasks related to preparation of patient and equipment for treatment, housekeeping, transportation, clerical duties, departmental maintenance, and selected treatment procedures. The tasks must be performed under the direct supervision of a registered physical therapist who is readily available for advice, instruction, or immediate assistance.

The registered physical therapist is responsible for all duties delegated to the physical therapist assistant or tasks assigned to the physical therapy aide.

STAT AUTH: MS s 148.70

HIST: 8 SR 2573

5601.1500 OBSERVATION AND DOCUMENTATION OF DELEGATED DUTIES.

When components of a patient's treatment are delegated to a physical therapist assistant, a registered physical therapist must provide on-site observation of the treatment and documentation of its appropriateness at least every six treatment sessions.

STAT AUTH: MS s 148.70
HIST: 8 SR 2573

5601.1600 SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS.

A registered physical therapist may supervise no more than two physical therapist assistants.

STAT AUTH: MS s 148.70
HIST: 8 SR 2573

5601.1700 RENEWAL OF REGISTRATION.

When they renew their registrations each year in compliance with Minnesota Statutes, section 148.73, physical therapists must submit lists of locations or institutions where they have practiced during the past five years. Applicants for reregistration who have not practiced the equivalent of eight full weeks during the past five years are required to achieve a passing score on retaking the registration examination or complete no less than eight weeks of council-approved clinical experience with a broad base of treatment modalities and patient diagnoses. In addition, every two years, the applicant must submit verification of compliance with the continuing education requirements of parts 5601.2100 to 5601.2500. An application submitted after the reregistration deadline date must be accompanied by the late fee described in part 5600.2500.

STAT AUTH: MS s 148.70; 148.74
HIST: 8 SR 2573; 15 SR 1055

5601.1800 INITIATION OF TREATMENT FOR A CONDITION NOT PREVIOUSLY DIAGNOSED.

A. A physical therapist who has had more than one year of clinical experience may initiate treatment of a patient for a condition not previously diagnosed for up to 30 calendar days from the date of initial treatment once within a four-month period without referring to a licensed health care professional. Subsequent treatments for a condition not previously diagnosed of up to 30 calendar days within a four-month period beginning with the start of the initial treatment may only be made if the patient's complaint and symptoms are unrelated to the complaint and symptoms of the original treatment.

B. Item A does not apply to patients who have been referred for physical therapy treatment by order or referral of a licensed health care professional.

STAT AUTH: MS s 148.74

HIST: 15 SR 1055

5601.1900 INITIATION OF TREATMENT FOR A PREVIOUSLY DIAGNOSED CONDITION.

A. A physical therapist who has had more than one year of clinical experience may initiate treatment of a patient for a lifelong and ongoing previously diagnosed condition warranting physical therapy treatment.

B. Verification of the diagnosis under item A must be obtained from medical records or a licensed health care professional by the physical therapist within 30 calendar days of the initial admission.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2000 LIMITATIONS ON PRACTICE.

If a patient's medical condition is determined by the physical therapist to be beyond the scope of practice of that physical therapist, the physical therapist must refer the patient to a licensed health care professional. A physical therapist shall modify or terminate treatment of a patient that is not beneficial to the patient or that is not tolerated by the patient and shall notify the patient's health care provider of the modification or termination of treatment.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2100 CONTINUING EDUCATION REQUIREMENT.

Every two years, each physical therapist registered by the board shall obtain 20 contact hours of continuing education credit as required by parts 5601.2200 to 5601.2600.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2200 TWO-YEAR CONTINUING EDUCATION CYCLE.

Subpart 1. **Initial registration on or after January 1, 1991.** For physical therapists initially registered on or after January 1, 1991, the first two-year continuing education cycle begins on the January 1 following the date of initial registration. Future cycles will run consecutively from that point. Continuing education courses taken between the date of initial registration and January 1 of the following year may be credited toward the first cycle.

Subp. 2. **Initial registration before January 1, 1991.** For physical therapists renewing their registrations on or after January 1, 1991, but who were initially registered before that date, the first two-year continuing education cycle begins as described in item A or B and runs consecutively from that date.

A. If the physical therapist's month of birth occurs in the months of January to June, the cycle begins on January 1,

1992.

B. If the physical therapist's month of birth occurs in the months of July to December, the cycle begins on January 1, 1993. In the first cycle, ending December 31, 1994, a physical therapist in this group shall submit 30 hours of credit.

For purposes of this subpart, continuing education courses taken between January 1, 1991, and January 1 of the physical therapist's first two-year continuing education cycle may be credited toward the first cycle.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2300 CATEGORIES OF CREDITED ACTIVITIES.

Continuing education credit may be obtained from the following activities:

A. Category 1: No less than ten hours of credit must be obtained in a cycle by attendance at educational activities recognized by the board under part 5601.2400. Physical therapists who must submit 30 hours of credit under part 5601.2200, subpart 2, item B, must obtain no less than 15 hours of credit under this item.

B. Category 2: No more than ten hours of credit may be obtained in a cycle through in-service educational activities sponsored by organizations or individuals not designated in Category 1. Physical therapists who must submit 30 hours of credit under part 5601.2200, subpart 2, item B, must obtain no more than 15 hours of credit under this item.

C. Category 3: No more than four hours of credit may be obtained in a cycle through teaching, lecturing, or similar presentation programs. Physical therapists who must submit 30 hours of credit under part 5601.2200, subpart 2, item B, must obtain no more than six hours of credit under this item.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2400 CATEGORY 1 CREDIT.

Subpart 1. **Courses.** The board shall grant Category 1 continuing education credit meeting the standards of part 5601.2500 for educational activities in items A to C:

A. any course planned, sponsored, or cosponsored by an accredited university or college, medical school, state or national medical or osteopathic association, or a national medical specialty society;

B. any course planned, sponsored, or cosponsored by the American Physical Therapy Association or other national or state physical therapy association; and

C. any course planned, sponsored, or cosponsored by the Arthritis Foundation, American Heart Association, or other national or state health organization.

Subp. 2. **Other educational activity.** Any educational

activity not included under subpart 1 that meets the standards of part 5601.2500 shall be approved for Category 1 continuing education credit by the board.

An individual or organization seeking board approval of an educational activity for Category 1 continuing education credit as provided under this subpart shall provide to the board documents describing the name and address of the organization sponsoring the activity, the name and address of the facility at which the activity will be presented, the name and credentials of each instructor or person making a presentation, and the course content in detail, including a time schedule for the activity.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2500 CREDIT STANDARDS.

The board shall grant continuing education credit for any educational activity that meets the standards in items A to E.

A. The educational activities must have significant intellectual or practical content dealing primarily with matters directly related to the practice of physical therapy or to the professional responsibility or ethical obligations of the participants.

B. Each person making a presentation shall be qualified by practical or academic experience to teach the subject the person covers.

C. Participants shall attend educational activities in a classroom or other setting suitable for the activity. Video, motion picture, or sound presentations may be used.

D. One hour of credit shall be given for each 60 minutes actually spent on educational activities.

E. Credit shall not be given for entertainment or recreational activities or programs, employment orientation sessions, holding an office or serving as an organizational delegate, individual self-directed study programs, management seminars not directly concerning physical therapy operations, meetings for the purpose of making policy, or noneducational association meetings.

Any course planned, sponsored, or cosponsored as provided under part 5601.2400, subpart 1, shall be presumed to meet the standards in items A to E. This presumption may be withdrawn by the board if it determines that a college, university, association, or specialty has sought credit for a course not meeting these standards.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2600 VERIFICATION OF COMPLIANCE.

At the January registration renewal immediately following their two-year continuing education cycle, registrants shall

provide a signed statement to the board on a form provided by the board indicating compliance with parts 5601.2100 to 5601.2500. The board shall also accept certification of other state regulatory agencies whose continuing education requirements are equal to or greater than those in parts 5601.2100 to 5601.2500.

Periodically, the board shall select a sample of the registered physical therapists and request evidence of the continuing education to which they attested. Documentation may come directly from the registrant or from state or national organizations that maintain those types of records.

A registrant failing to submit a statement or who submits a statement that, on its face, indicates noncompliance with parts 5601.2100 to 5601.2500 may be subject to the disciplinary provisions in part 5601.2700.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2700 PENALTIES FOR NONCOMPLIANCE.

The board shall refuse to renew or grant, or shall suspend, condition, limit, or qualify the registration of any person who the board determines has failed to comply with parts 5601.2100 to 5601.2600.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2800 HEARING UPON REFUSAL TO RENEW.

A registrant whose registration renewal materials fail to comply with the requirements of part 5601.1700 as determined by the board shall be notified of this determination and the grounds for it and may be granted a hearing under part 5615.0300 by filing a statement of issues with the board within 20 days after receipt of notice from the board. After the hearing, the board shall notify the applicant in writing of its decision.

STAT AUTH: MS s 148.74
HIST: 15 SR 1055

5601.2900 TEMPORARY PERMIT.

Subpart 1. **Who may apply.** Applicants who have complied completely with the informational requirements in part 5601.0300, items A to P, or 5601.0700, items A to C, may apply for a temporary permit to practice physical therapy under supervision. Foreign-trained applicants must comply completely with part 5601.0800 in addition to the information requirements of part 5601.0300, items A to P, or 5601.0700, items A to C.

Subp. 2. **Application.** The application for a temporary permit to practice physical therapy under supervision must be submitted on forms prepared by the board together with the fee described in part 5600.2500.

Subp. 3. **Contents of application.** To be complete, an

application for a temporary permit to practice physical therapy under supervision must include the following information:

A. an original or certified copy of a diploma, degree, or certificate; or evidence satisfactory to the board indicating that the applicant has satisfactorily completed an approved curriculum in physical therapy as provided in Minnesota Statutes, section 148.70, and has been graduated from a school of physical therapy approved by the board;

B. if the applicant is providing evidence of compliance of the informational requirements of part 5601.0700, a notarized or certified copy of a current license or certificate to practice physical therapy issued by the duly accredited examining agency of the state or foreign country in which the applicant has been licensed or certified; and

C. the information required by part 5601.0300, items B to P.

STAT AUTH: MS s 148.74

HIST: 15 SR 1055

Minnesota Board of Medical Examiners
2700 University Avenue West, #106
St. Paul, MN 55114-1080

ATTACHMENT D

3100.2000 FEES.

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

A. dentist application, $75;

B. dental hygienist application, $30; and

C. dental assistant application, $20.

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

A. dentist, $70;

B. dental hygienist, $25; and

C. registered dental assistant, $17.

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

A. dentist, $275; and

B. dental hygienist, $80.

Subp. 4. **Annual license or registration late fee.** Applications for renewal of any license or registration received after the time specified in part 3100.1700 are subject to a late fee equal to 50 percent of the annual renewal fee.

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

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

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

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

A. dentist, $75;

B. dental hygienist, $30; and

C. registered dental assistant, $20.

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

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

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

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

Statutory Authority: *MS s 16A.128; 150A.04 subd 5; 150A.06; 150A.09 subd 1; 214.06 subd 1*

History: *9 SR 1098; 10 SR 955; 10 SR 1612; 12 SR 952*

ATTACHMENT E

3100
NTISTRY
, AND ASSISTANTS

3100.4100 CONTINUING DENTAL EDUCATION.
3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.
3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.
3100.8700 DENTAL HYGIENISTS.

this chapter and unless the context
o 21 have the meanings given them.
nnesota 1969, chapter 974, codified
150A.12.
see M.R. 1989]

ard of Dentistry.
, see M.R. 1989]

hnician" means a person other than
ie services described in Minnesota

13, see M.R. 1989]

rations Act. "Minnesota Profession-
tutes, sections 319A.01 to 319A.22.
ard" means an examination adminis-
d.
ee M.R. 1989]

Registered dental assistant" means an
Minnesota Statutes, section 150A.06,

20, see M.R. 1989]

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ion:
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d in treatment by concurrently per-

dentist is in the dental office, person-
personally authorizes the procedure,
es the performance of the auxiliary.
he dentist is in the office, authorizes
while the procedures are being per-

he dentist has authorized the proce-
ordance with the dentist's diagnosis

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06*

History: *14 SR 1214*

3100.1400 APPLICATION FOR LICENSURE BY CREDENTIALS.

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

[For text of items A to C, see M.R. 1989]

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

[For text of items E to J, see M.R. 1989]

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06*

History: *14 SR 1214*

3100.2000 FEES.

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

A. dentist application, $100;

B. dental hygienist application, $45; and

C. dental assistant application, $25.

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

A. dentist, $80;

B. dental hygienist, $30; and

C. registered dental assistant, $20.

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

A. dentist, $425; and

B. dental hygienist, $100.

[For text of subp 4, see M.R. 1989]

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

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

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

Subp. 6. **Reinstatement fee.** No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked shall have

151.19 subd 3

l gases by registered distributors of prescription or order of a licensed ıust be maintained for at least two ınd must be readily retrievable and rmacy. The prescription must bear ıte, name and quantity of legend s of the prescriber. Refills of legend t's prescription record. The distrib- ining authority for refills from the

151.19 subd 3

CHAPTER 6900
BOARD OF PODIATRY
LICENSURE

6900.0250 FEES.

6900.0250 FEES.

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

A. licensure, $200;

B. reexamination by the board under an original application for licensure, $200;

C. renewal of a license, $225;

D. late renewal of a license, an additional $50;

E. temporary permit, $200; and

F. replacement of an original license or renewal certificate, $10.

[For text of subp 2, see M.R. 1989]

Statutory Authority: *MS s 153.02; 214.06*

History: *13 SR 2687*

ATTACHMENT F

A bill for an act

relating to occupations and professions; changing requirements for reciprocal licensing of physicians from other states and foreign medical school graduates; authorizing physicians to cancel licenses in good standing; requiring the cancellation of physicians' licenses for nonrenewal; changing licensing requirements for midwifery; changing the name of the board of medical examiners; amending Minnesota Statutes 1990, sections 147.03; 147.037, subdivision 1; 148.31; and 148.32; proposing coding for new law in Minnesota Statutes, chapter 147.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 147.03, is amended to read:

147.03 [LICENSURE BY ENDORSEMENT; RECIPROCITY.]

The board, with the consent of six of its members, may issue a license to practice medicine to any person who satisfies the following requirements:

(a) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (b), (d), (e), and (f).

(b) The applicant shall ~~present evidence satisfactory to the board that the applicant has a valid license to practice medicine issued by the proper agency in another state or by a province of Canada, or is a diplomate of~~:

(1) within ten years prior to application have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, the

National Board of Osteopathic Examiners ~~for osteopathic physicians and surgeons~~, or the ~~licensure~~ Medical Council of Canada~~.~~; or

(2) have a current license from the equivalent licensing agency in another state or Canada; and

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties.

~~(c) The applicant shall present evidence satisfactory to the board that the applicant passed an examination as determined by the endorsing examining board or licensing agency. The board, at its discretion, may establish by rule passing grade levels higher than those determined by an examining board or agency or may require the applicant to be examined in subjects not previously covered in an examination.~~

~~(d)~~ The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

~~(e)~~ (d) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action in another state. If an applicant does not satisfy the requirements stated in this clause, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

The board may issue a temporary permit to practice medicine to a physician eligible for licensure under this section upon payment of a fee set by the board. The permit remains valid only until the next meeting of the board.

Sec. 2. Minnesota Statutes 1990, section 147.037, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] The board shall, with the consent of six of its members, issue a license to practice medicine to any person who satisfies the following requirements:

(a) The applicant shall satisfy all the requirements

established in section 147.02, subdivision 1, paragraphs (a), (e), (f), and (g).

(b) The applicant shall present evidence satisfactory to the board that the applicant is a graduate of a medical or osteopathic school approved by the board as equivalent to accredited United States or Canadian schools based upon its faculty, curriculum, facilities, accreditation, or other relevant data.

(c) The applicant shall present evidence satisfactory to the board that the applicant has been awarded a certificate by the educational council for foreign medical graduates, and the applicant has a working ability in the English language sufficient to communicate with patients and physicians and to engage in the practice of medicine.

(d) The applicant shall present evidence satisfactory to the board of the completion of two years of graduate, clinical medical training in a program located in the United States, its territories, or Canada and accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization. This requirement shall not apply to an applicant who is admitted as a permanent immigrant to the United States as a person of exceptional ability in the sciences pursuant to rules of the United States Department of Labor and who has completed one year of the graduate, clinical medical training required by this paragraph.

(e) The applicant must:

(1) within ten years prior to application have passed an examination prepared and graded by the Federation of State Medical Boards, or the ~~licensure~~ Medical Council of Canada;

or ~~shall establish eligibility through reciprocity with another state using an examination equivalent to Minnesota's at the time the applicant was licensed in that state;~~

(2) have a current license from the equivalent licensing agency in another state or Canada; and

(i) pass the Special Purpose Examination of the Federation

of State Medical Boards with a score of 75 or better; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties.

Sec. 3. [147.038] [CANCELLATION OF LICENSE IN GOOD STANDING.]

Subdivision 1. [BOARD APPROVAL; REPORTING.] A person holding an active license to practice medicine in the state may, upon approval of the board, be granted license cancellation if the board is not investigating the person as a result of a complaint or information received or if the board has not begun disciplinary proceedings against the person. Such action by the board shall be reported as a cancellation of a license in good standing.

Subd. 2. [FEES NONREFUNDABLE.] A person who receives board approval for license cancellation is not entitled to a refund of any license fees paid for the licensure year in which cancellation of the license occurred.

Subd. 3. [NEW LICENSE AFTER CANCELLATION.] If a person who has been granted board approval for license cancellation desires to resume the practice of medicine in Minnesota, that person must obtain a new license by applying for licensure and fulfilling the requirements then in existence for obtaining an initial license to practice medicine in Minnesota.

Sec. 4. [147.039] [CANCELLATION OF LICENSE FOR NONRENEWAL.]

The board of medical practice shall not renew, reissue, reinstate, or restore a license that has lapsed on or after January 1, 1989, and has not been renewed within two annual license renewal cycles starting July 1, 1991. A licensee whose license is canceled for nonrenewal must obtain a new license by applying for licensure and fulfilling all requirements then in existence for an initial license to practice medicine in Minnesota.

Sec. 5. Minnesota Statutes 1990, section 148.31, is amended to read:

148.31 [LICENSES.]

A person desiring to practice midwifery in this state, if not already authorized so to do, shall apply to the ~~state board of medical examiners~~ commissioner of health for a license. This license shall be granted upon the production of a diploma from a school of midwifery recognized by the ~~board~~ commissioner or, after examination of the applicant, ~~upon the consent of seven members thereof. Examinations shall be held concurrently with those provided for applicants for physicians' licenses. The fee for a license granted on diploma shall be $1, and on examination, $2~~ and compliance with other requirements that the commissioner may reasonably impose for the protection of the public. The commissioner is authorized to adopt rules as may be necessary to carry out the purposes of sections 148.30 to 148.32.

Sec. 6. Minnesota Statutes 1990, section 148.32, is amended to read:

148.32 [LICENSES; DENIAL, REVOCATION, REFUSAL.]

All licenses to practice midwifery heretofore or hereafter issued by the ~~board of medical examiners~~ commissioner of health must be renewed and a fee paid for each renewal as set by the ~~board~~ commissioner. Licenses may be revoked, suspended, conditioned, limited, qualified or restricted, or renewals refused by the ~~board~~ commissioner for unprofessional or dishonorable conduct, or neglect to make proper returns to agents of a board of health as authorized under section 145A.04 of births, deaths, puerperal fever, and other contagious diseases.

A license to practice midwifery is suspended if (1) a guardian of the person of a licensee is appointed by order of a probate court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a probate court pursuant to 253B or sections 526.09 to 526.11. The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the ~~board~~ commissioner after a hearing.

Sec. 7. [REVISOR'S INSTRUCTION.]

In the next editions of Minnesota Statutes and Minnesota Rules, the revisor of statutes is instructed to change the term "board of medical examiners" and similar terms to "board of medical practice."

ATTACHMENT G

MINNESOTA BOARD OF MEDICAL EXAMINERS UPDATE

Spring 1991

BIRTH MONTH LICENSE RENEWAL

On January 28, 1991, after completion of the required rulemaking requirements, Board Rules took effect providing for a birth month license renewal cycle for physician licensees. Previously, all licensees were required to renew their license in or before January of each year. The birth month license renewal cycle will have licensees annually renew their month of birth.

The reason for changing to a birth month license renewal cycle is to allow the Board to more efficiently handle the large number of renewals received. With about 15,000 licensees, the sheer volume of renewals each January caused the processing of renewals to take longer. By spreading renewals on a monthly basis (about 1200 per month), the Board avoids the processing problems of the January renewal without having to increase licensing staff.

The Rules provide for a transition payment process from the annual January license renewal cycle to the birth month renewal cycle. The transition will begin in July 1991 with licensees having a July birthdate. Because all licensees have paid for the 1991 license year in January 1991, licensees with birth months from July to December 1991 will be billed for only the portion of their birth month renewal cycle occurring in 1992 with the 1991 portion already credited. Thus, July licensees would be billed $72 to cover the six months in 1992 prior to their birth month. As the birth months get closer to January 1992, licensees would pay a fee reflecting more months in 1992 which precede their birth month. January licensees would pay a full year's fee ($144) without any proration.

Continued on page 6

TASK FORCE ON HIV POSITIVE PHYSICIAN'S CONVENED

For approximately a decade HIV has been a headline public health issue. For much of that decade, the health care industry has been concerned about the transmission and risk of transmission of HIV to health care workers by infected patients through occupational exposure. Many documented cases of such transmission are available and much work has been done to establish protocols designed to minimize the risk of such transmissions.

During this time the health care world has known that transmission of HIV from infected health care worker to patient was not only a possible but a probable occurrence, however, until very recently, there have been no documentable cases involving transmission from health care worker to patient.

This has all changed with the now well known case of the Florida dentist whose practice has generated at least three patients with no independent risk factors who have tested positive for the same generic isolate of HIV as the dentist himself had.

In the wake of this occurrence, the attention of the health care industry, the public, and lawmakers has focused on this aspect of dealing with HIV. Issues which have been identified include:

- the scientific assessment of the risk of transmission
- the fear and prejudice associated with a stigmatized disease which is always fatal

Continued on page 3

OBLIGATION TO REPORT IMPAIRMENT

The Medical Practices Act, section § 147.111 subd. 4 requires licensed health professionals to report personal knowledge of any physician who has breached any grounds for disciplinary action listed in the Act itself.

Included in that section is § 147.091 subd. 1 (I) "Inability to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals,... or as the result of any mental or physical condition..." In other words, any impairment.

As commonly thought of, and indeed, as commonly reflected in Board orders, this section is usually cited in cases of chemical dependency or abuse. There are, however, numerous other causes of impairment which degrade a physician's ability to practice with skill and safety, including many forms of physical and mental illnesses.

Since the advent of an apparently well documented case of the transmission of HIV from a Florida dentist to at least three of his patients, the transmission of HIV and Hepatitis B have held the spotlight in the popular and professional press, and has precipitated many inquiries regarding the reportability of cases of these diseases.

The answer is that, as with any other disease or condition which degrades a physician's skill or a patient's safety, cases of HIV or Hepatitis B in a practicing physician must be reported to the Board of Medical Examiners, and all other provisions of the practice act which deal with impairment apply.

The exception to this requirement, or the "safe harbor provision" is the same for these cases as for any other form of impairment. A physician who is in a physician/patient relationship with a physician stricken with one of these diseases is relieved from the obligation to report, so long as he or she successfully counsels the physician who is ill to limit or withdraw from practice to the extent required by the impairment.

All other licensed health professionals outside the physician/patient relationship who have personal knowledge of the condition are obligated to report. This includes colleagues, employers, friends, etc.

As is well known, the Board of Medical Examiners is required by law to publish any order it issues regarding the discipline of a physician. The exception to this requirement is discipline related to impairment or chemical dependency. These orders are exempt from publication, but are public documents.

The obvious question raised by all of this is what is meant by "limit or withdraw from practice to the extent required by the impairment." Unfortunately, the answer is not obvious, since there are many, many variables within a physician's practice type, setting patient population, etc., compounded by many variables in the manifestations of the diseases. In the instance of Hepatitis B, the Centers for Disease Control have issued guidelines which have been available for some time and which have served this Board and other entities well regarding this disease. These guidelines are obtainable either from the Centers offices in Atlanta or from the Minnesota Department of Health.

In the instance of HIV there is much less in terms of accepted or agreed upon guidelines. In recent months, both the American Dental Association and the American Medical Association have issued statements containing some guidelines. Both statements have been regarded as controversial. The Centers for Disease Control is currently at work on a set of guidelines, expected later this spring. The Minnesota Medical Association is also currently developing policy on the matter.

What does all this mean?

The Board has a clear obligation to act to protect the public.

The profession has a clear interest in promoting patient well being and safety.

The Board has the authority to discipline a physician who fails to report a matter determined to be the subject of Board action.

In this matter, as in others regarding the reportability of physician conduct or illness, the Board would urge that consideration of patient and public safety be the main guideline, and that if it is necessary to err, that you err on the side of safety.

ATTACHMENT H

SF-00006-05 (4/86)

DEPARTMENT : of Finance

STATE OF MINNESOTA

Office Memorandum

DATE : April 30, 1991

TO : William R. Marczewski, Medical Regulations Analyst
Board of Medical Examiners

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

PHONE : 296-5188

SUBJECT : Proposed Fee Schedule

The following fee schedule is modified and approved effective July 1, 1991 as requested per your letter of April 24, 1991.

FEES FOR MEDICAL EXAMINERS

FEE	PRESENT AMOUNT	APPROVED PROPOSED AMOUNT
Physician Annual Registrations	$ 115	$ 144
Full Physician Examinations	425	490
Part 1 Physician Examinations	250	290
Part 2 Physician Examinations	300	345
Duplicate License	-	10
Physical Therapy Annual Registrations	20	35
Physical Therapy Applications	40	75
Education or Training Program Approval	-	25
Special Purpose Examinations	-	345

cc: H. Leonard Boche
Anne Barry
Pam Wheelock
Glenn Olson


MAY 1991
MN BOARD OF
MED EXAM

ATTACHMENT I

CHAPTER No. 292
H.F. No. 719

AN ACT

relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, human rights, housing finance, and other purposes with certain conditions; amending Minnesota Statutes 1990, sections 3.922, subdivisions 3 and 8; 3.9223, subdivision 1; 3.9225, subdivision 1; 3.9226, subdivision 1; 3.98, subdivision 1; 3.982; 13.46, subdivision 2; 15.46; 103I.235; 116C.04, by adding a subdivision; 136A.121, subdivision 2; 136A.162; 144.335, subdivision 1; 144.871, subdivisions 2 and 7; 144.873, subdivision 1; 144.874, subdivisions 1, 2, 3, and by adding subdivisions; 144A.071, subdivision 3, and by adding a subdivision; 144A.10, subdivision 4; 144A.31; 144A.46, subdivisions 1 and 4; 144A.49; 144A.51, subdivision 5; 144A.53, subdivision 1; 145.924; 145.925, by adding a subdivision; 148B.01, subdivision 7; 148B.03; 148B.04, subdivisions 3 and 4; 148B.05, subdivision 1; 148B.06, subdivisions 1 and 3; 148B.07; 148B.08; 148B.12; 148B.13; 148B.17; 148B.18, subdivision 10; 148B.23, subdivision 1; 148B.33, subdivision 1; 148B.38, subdivision 3; 157.031, subdivisions 2, 3, 4, and 9; 171.29, subdivision 2; 176.104, subdivision 1; 198.007; 214.04, subdivision 3; 237.70, subdivision 7; 241.022; 244.16; 245.461, subdivision 3, and by adding a subdivision; 245.462, subdivisions 6 and 18; 245.465; 245.4711, by adding a subdivision; 245.472, subdivision 2, and by adding a subdivision; 245.473, by adding subdivisions; 245.484; 245.487, subdivision 4, and by adding a subdivision; 245.4871, subdivisions 27, 31, and by adding a subdivision; 245.4873, subdivision 6; 245.4874; 245.4881, subdivision 1; 245.4882, by adding subdivisions; 245.4884, subdivision 1; 245.4885, subdivisions 1, 2, and by adding a subdivision; 245.697, subdivision 1; 246.18, subdivision 4, and by adding a subdivision; 246.23; 246.64, subdivision 3; 251.011, subdivisions 3 and 4a; 252.24, by adding a subdivision; 252.27, subdivisions 1a and 2a; 252.275; 252.28, subdivisions 1, 3, and by adding a subdivision; 252.32; 252.46, subdivisions 3, 6, 14, and by adding a subdivision; 252.478, subdivisions 1 and 3; 252.50, subdivision 2; 253.015, subdivision 2; 253C.01, subdivisions 1 and 2; 254A.17, subdivision 3; 254B.04, subdivision 1; 254B.05, by adding a subdivision; 256.01, subdivisions 2, 11, and

by adding a subdivision; 256.025, subdivisions 1, 2, 3, and 4; 256.031; 256.032; 256.033; 256.034; 256.035; 256.036, subdivisions 1, 2, 4, and 5; 256.045, subdivision 10; 256.482, subdivision 1; 256.736, subdivision 3a; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256.936, by adding a subdivision; 256.9365, subdivisions 1 and 3; 256.9685, subdivision 1; 256.9686, subdivisions 1 and 6; 256.969, subdivisions 1, 2, 2c, 3a, and 6a; 256.9695, subdivision 1; 256.98, by adding a subdivision; 256.983; 256B.031, subdivision 4, and by adding a subdivision; 256B.04, subdivision 16; 256B.055, subdivisions 10 and 12; 256B.057, subdivisions 1, 2, 3, 4, and by adding a subdivision; 256B.0575; 256B.0625, subdivisions 2, 4, 7, 13, 17, 19, 20, 24, 25, 28, 30, and by adding subdivisions; 256B.0627; 256B.064, subdivision 2; 256B.0641, by adding a subdivision; 256B.08, by adding a subdivision; 256B.092; 256B.093; 256B.19, subdivision 1, and by adding subdivisions; 256B.431, subdivisions 21, 3e, 3f, and by adding subdivisions; 256B.48, subdivision 1; 256B.49, by adding a subdivision; 256B.491, by adding a subdivision; 256B.50, subdivision 1d; 256B.501, subdivisions 8, 11, and by adding a subdivision; 256B.64; 256C.24, subdivision 2; 256C.25; 256D.03, subdivisions 2, 2a, 3, and 4; 256D.05, subdivisions 1, 2, 6, and by adding a subdivision; 256D.051, subdivisions 1, 1a, 2, 3, 3a, 6, and 8; 256D.052, subdivisions 3 and 4; 256D.06, subdivision 1b; 256D.07; 256D.10; 256D.101, subdivisions 1 and 3; 256D.111; 256D.36, subdivision 1; 256D.44, by adding a subdivision; 256F.01; 256F.02; 256F.03, subdivision 5; 256F.04; 256F.05; 256F.06; 256F.07, subdivisions 1, 2, and 3; 256H.02; 256H.03; 256H.05; 256H.08; 256H.15, subdivisions 1, 2, and by adding a subdivision; 256H.18; 256H.20, subdivision 3a; 256H.21, subdivision 10; 256H.22, subdivision 2, and by adding a subdivision; 256I.04, by adding a subdivision; 256I.05, subdivision 2, and by adding subdivisions; 257.071, subdivision 1a; 257.352, subdivision 2; 257.57, subdivision 2; 260.165, by adding a subdivision; 261.035; 268.022, subdivision 2; 268.39; 268.914; 268.975, subdivision 3, and by adding a subdivision; 268.977; 268.98; 268A.03; 268A.06, by adding a subdivision; 270A.04, subdivision 2; 270A.08, subdivision 2; 273.1398, subdivision 1; 299A.21, subdivision 6; 299A.23, subdivision 2; 299A.27; 393.07, subdivisions 10 and 10a; 401.13; 462A.02, subdivision 13; 462A.03, subdivisions 10, 13, 16, and by adding a subdivision; 462A.05, subdivisions 14, 20, and by adding subdivisions; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, 14, and by adding a subdivision; 462A.22, subdivision 9; 462A.222, subdivision 3; 471.705, subdivision 1; 474A.048, subdivision 2; 518.551, subdivision 5, and by adding subdivisions; 518.64; 609.52, by adding a subdivision; 631.425, subdivisions 3 and 7; 638.04; 638.05; 638.06; 643.29, subdivision 1; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 689, article 2, section 256, subdivision 1; Laws 1989, chapters 290, article 1, section 3, subdivision 2; and 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapters 144; 148B; 214; 241; 245; 252; 256; 256B; 256D; 256H; 257; 462A; proposing coding for new law as Minnesota Statutes, chapter 144B; repealing Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 148B.01, subdivisions 2, 5, and 6; 148B.02; 148B.16; 148B.171; 148B.40; 148B.41; 148B.42; 148B.43; 148B.44; 148B.45; 148B.46; 148B.47; 148B.48; 157.031, subdivision 5; 245.476, subdivisions 1, 2, and 3; 246.18,

subdivisions 3 and 3a; 252.275, subdivision 2; 256.032, subdivisions 5 and 9; 256.035, subdivisions 6 and 7; 256.036, subdivision 10; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091; 256B.431, subdivision 6; 256B.71, subdivision 5; 256D.051, subdivisions 1b, 3c, and 16; 256D.09, subdivision 4; 256D.101, subdivision 2; 256H.25; 256H.26; 268A.05, subdivision 2; 462A.05, subdivisions 28 and 29; and Laws 1990, chapter 568, article 6, section 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

APPROPRIATIONS

Section 1. [HUMAN RESOURCES; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1992" and "1993" where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1992, or June 30, 1993, respectively.

SUMMARY BY FUND

	1992	1993	TOTAL
General	$1,786,990,000	$1,894,841,000	$3,681,831,000
State Government Special Revenue	6,314,000	6,462,000	12,776,000
Metropolitan Landfill	168,000	168,000	336,000
Trunk Highway	1,487,000	1,486,000	2,973,000
Total	1,794,959,000	1,902,957,000	3,697,916,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1992	1993
Sec. 2. COMMISSIONER OF HUMAN SERVICES		
Subdivision 1. Appropriation by Fund		
General Fund	1,496,147,000	1,596,183,000

The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.

Federal money received in excess of the estimates shown in the 1991-1993

commissioner may assess a licensing fee surcharge on nursing home beds and boarding care beds for which an initial or renewal license is issued during fiscal year 1992 and fiscal year 1993. The surcharge shall be $2.12 per bed in fiscal 1992 and $2.73 per bed in fiscal 1993. The surcharge shall not continue beyond fiscal 1993.

Subd. 4. Health Support Services

General Fund

4,002,000 4,051,000

Metropolitan Landfill Contingency Fund

22,000 22,000

Trunk Highway Fund

86,000 86,000

Sec. 10. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation

State Government Special Revenue Fund	5,859,000	5,949,000

Fees generated by the health-related licensing boards or the commissioner of health under Minnesota Statutes, section 214.06, must be credited to the health occupations licensing account within the state government special revenue fund.

The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.

Unless otherwise designated, all appropriations in this section are from the state government special revenue fund.

Subd. 2. Board of Chiropractic Examiners	283,000	291,000
Subd. 3. Board of Dentistry	586,000	586,000
Subd. 4. Board of Medical Examiners	1,958,000	1,951,000

For the biennium ending June 30, 1993, fees set by the board of medical examiners pursuant to Minnesota

Statutes, section 214.06, must be fixed by rule. The procedure for noncontroversial rules in Minnesota Statutes, sections 14.22 to 14.28 may be used except that, notwithstanding the requirements of Minnesota Statutes, section 14.22, paragraph (3), no public hearing may be held. The notice of intention to adopt the rules must state that no hearing will be held. This procedure may be used only when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required for adjustments of fees spent under open appropriations of dedicated receipts.

Subd. 5. Board of Nursing	1,375,000	1,412,000
Subd. 6. Board of Examiners for Nursing Home Administrators	165,000	193,000
Subd. 7. Board of Optometry	69,000	71,000
Subd. 8. Board of Pharmacy	544,000	599,000

Deficiency: $16,000 is appropriated for fiscal year 1991 to the board of pharmacy from the state government special revenue fund.

Subd. 9. Board of Podiatry	28,000	28,000
Subd. 10. Board of Psychology	237,000	206,000

Deficiency: $30,000 is appropriated for fiscal year 1991 to the board of psychology from the state government special revenue fund.

Subd. 11. Board of Marriage and Family Therapy	94,000	94,000
Subd. 12. Board of Social Work	410,000	410,000
Subd. 13. Board of Veterinary Medicine	110,000	108,000
Sec. 11. COUNCIL ON DISABILITY	568,000	583,000
Sec. 12. COUNCIL ON BLACK MINNESOTANS	195,000	200,000
Sec. 13. COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE	213,000	220,000

During the biennium ending June 30, 1993, council publications may contain advertising. Funds derived from advertising are appropriated to the council for purposes of council publications.

For the biennium ending June 30, 1993, the council shall report to the legislature on the revenues and expenditures from advertising by February 15 each year.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL EXAMINERS

In the Matter of the Proposed Adoption of Rules of the Minnesota Board of Medical Examiners Relating to Board Fees

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Board of Medical Examiners (hereinafter "Board") intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1990). The statutory authority to adopt the rules is Minn. Stat. §§ 16A.128, 147.01, 147.02, 147.03, 147.037, 148.705, 148.73, 148.74, 214.06 and 214.12 (1990).

Pursuant to Laws of Minnesota for 1991, Chapter 292, Article 1, Section 10, Subd. 4, no public hearing will be held concerning the proposed rules.

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

Comments must be submitted to:

H. Leonard Boche, Executive Director
Minnesota Board of Medical Examiners
2700 University Avenue West, Suite 106
St. Paul, MN 55114
(612) 642-0528

(8) The proposed rules may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rules as noticed.

(11) A copy of the proposed rules is attached to this notice.

(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 rules has been prepared and is available from H. Leonard Boche upon request.

(14) Pursuant to Minn. Stat. § 14.115, the Board's Statement of Need and Reasonableness addresses the effect these rules may have on small businesses.

Since no hearing is required, (9) upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules must submit the written request to H. Leonard Boche.

Date: June 3, 1991

H. Leonard Boche
Executive Director

Board of Medical Examiners

Proposed Permanent Rules Relating to Fees

Rules as Proposed

5600.2500 ANNUAL FEES.

The fees charged by the board are fixed at the following rates:

A. physician examination fee, full exam, ~~$425~~ $490;

B. physician examination fee, Part I only, ~~$250~~ $290;

C. physician examination fee, Part II only, ~~$300~~ $345;

D. physician application fee, $200;

E. physician annual ~~registration~~ license, ~~$115~~ $144;

F. physician certification to other states, $10;

G. physician verification to institutions, $5;

H. physician endorsement to other states, $40;

I. physician emeritus license, $50;

J. physician temporary licenses, $60;

K. physician late fee, $60;

L. physical therapist application fee, ~~$40~~ $75;

M. physical therapist examination fee, $110;

N. physical therapist annual registration, ~~$20~~ $35;

O. physical therapist late fee, $10;

P. physical therapist certification to other states, $10;

Q. physical therapist verification to institutions, $5; ~~and~~

R. physical therapist temporary permit, $10~~.~~;

S. duplicate license or registration fee, $10;

T. education or training program approval fee, $25; and

U. special purpose examination fee, $345.

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Fees

AGENCY: Board of Medical Examiners

MINNESOTA RULES: Chapter 5600

The attached rules are approved for
publication in the State Register

Carla M. Riehle
Assistant Revisor

CERTIFICATE OF THE

MINNESOTA BOARD OF MEDICAL EXAMINERS

AUTHORIZING RESOLUTION

I, Melvin E. Sigel, M.D., do hereby certify that I am a member and the president of the Minnesota Board of Medical Examiners (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 5th 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 H. Leonard Boche, Executive Director of the Board, is hereby granted the authority and directed to sign and to give Notice of the Intent to Adopt Rules Without a Public Hearing relating to Board Fees to all persons who have registered their names with the Board for that purpose, to publish the notice and rules in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 5th day of January, 1991.

MELVIN E. SIGEL
PRESIDENT

Attest by one other Board Member

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

In the Matter of the
Proposed Adoption of
Rules of the Board of
Medical Practice Relating
to Fees

DECLARATION OF COUNSEL

I, John A. Breviu, Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0480.

Dated: October 1, 1991.

JOHN A. BREVIU
Assistant Attorney General