

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJM
1/28/92

RULE REVIEW CHECKLIST

File No. 1891
DATE RECEIVED 1-28-92
REVIEW DATE ~~2-11-92~~ 2/6/92
DUE DATE 2-11-92
(DIS)APPROVED MJM 2.11.92
WITHDRAWN

Docket No. 05 0009 1930
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 1/28/92
REVISOR (DIS)APPROVED
FILED W/SEC. OF STATE 2/11/92
RETURNED TO AGENCY 2/11/92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
July 9, 1990 Date published in State Register
✓ Comments

Petition for Adoption of a Rule

Board's ~~Authorizing~~ Resolution
Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
147.34 Statutory Authority
✓ Small Business Statement
Expenditure of public money statement
11-13-91 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
✓ Fees - § 16A.128 Sent letters to House Appropriation & Senate Finance and approval from Finance

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
November 27, 1991 Dated (30)/25 days before adopting
Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
December 2, 1991 Date (30)/25 days before adopting

see my notes
180-day deadline from:
see notes 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
Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
January 16, 1992 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Rick Wexler Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

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

OFFICE MEMORANDUM

DATE: February 11, 1992

TO: ANNETTE SPENCER
Health Care Delivery Systems
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis

FROM: MARY JO MURRAY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Physician Assistants Registration

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

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

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

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

MJM:jj
Enclosures
cc: Richard A. Wexler
William Brown, Chief Judge
MaryAnn Hruby

Department of Health

Adopted Permanent Rules Relating to Physician Assistants Registration

Rules as Adopted

5600.2600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5600.2600 to 5600.2670, the following terms have the meanings given them.

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

Subp. 2a. **Administer.** "Administer" means to deliver by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, excluding controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means.

Subp. 3. **Agreement.** "Agreement" means a document signed by the physician and the physician assistant which includes contents specified in part 5600.2635, subpart 3. If there is a delegation of prescribing and administering of legend drugs and medical devices, the agreement includes the delegation form in part 5600.2670, subpart 6.

Subp. 4. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant agreement who is responsible for supervising the physician assistant when the supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subp. 5. **Board.** "Board" means the Minnesota Board of Medical Practice.

[For text of subps 6 and 7, see M.R.]

Subp. 7a. **Delegation form.** "Delegation form" refers to the form in part 5600.2670, subpart 6, used to indicate the

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categories of drugs for which the authority to prescribe and administer has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement as defined in subpart 3.

[For text of subp 8, see M.R.]

Subp. 8a. **Drug.** "Drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 5, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 8b. **Drug category.** "Drug category" means one of the categories listed on the form in part 5600.2670, subpart 6.

[For text of subp 9, see M.R.]

Subp. 9a. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing and administering of legend drugs and medical devices and lists the specific drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe and administer.

Subp. 9b. **Legend drug.** "Legend drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 17, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 9c. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient and that are restricted by federal law to use upon prescription by a licensed practitioner.

[For text of subp 10, see M.R.]

Subp. 11. **Physician assistant; registered physician assistant.** "Physician assistant" or "registered physician assistant" means a person registered pursuant to parts 5600.2600 to 5600.2670 who is qualified by academic or practical training or both to provide patient services as listed in part 5600.2615 under the supervision of a supervising physician.

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Subp. 11a. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subp. 11b. **Prescription.** "Prescription" means a signed written order, or an oral order reduced to writing, given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required by part 5600.2670, subpart 4, item C.

Subp. 12. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications specified in parts 5600.2600 to 5600.2670.

Subp. 13. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement approved by the board and pursuant to part 5600.2615. Supervising physician includes "alternate supervising physician" for the purposes of parts 5600.2600 to 5600.2670.

5600.2605 PURPOSE.

The purpose of parts 5600.2600 to 5600.2670 is to establish the administrative structure, the procedures, and the requirements for the registration of people qualified to be physician assistants and the requirements which must be met before a physician assistant may prescribe and administer legend drugs and medical devices.

5600.2610 RESTRICTIONS ON USE OF TITLE OF REGISTERED PHYSICIAN ASSISTANT.

Subpart 1. **Physician assistant identification.** Only a registered physician assistant in active status may use the title "physician assistant" or "registered physician assistant" without restriction. A registered physician assistant in active status shall be identified at the practice site by using a name tag or name plate or some other identifying device bearing the

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title "registered physician assistant."

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

5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE.

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

Subp. 2. **Descriptive list of allowed services.** Patient services must be limited to:

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

F. providing instructions and guidance regarding medical care matters to patients;

G. assisting the supervising physician in the delivery of services to patients requiring medical care in the home and in health care institutions, including recording patient progress notes, issuing diagnostic orders which must be countersigned by the supervising physician within 24 hours, and transcribing or executing specific orders at the direction of the supervising physician; and

H. prescribing and administering legend drugs other than controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4, and medical devices if this function has been delegated to the physician assistant by the supervising physician and approved by the board, pursuant to and subject to the limitations of Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Contents of agreement.** The agreement must include at least the following:

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

D. a statement by the supervising physician regarding the delegation or nondelegation of the functions of prescribing and administering legend drugs and medical devices to the physician assistant, and, if delegation is specified, the completed delegation form as required by part 5600.2670;

E. a statement that the supervising physician and

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alternate supervising physician assume full medical responsibility for all patient services provided by the physician assistant; and

F. any other information which will assist the board in determining whether the physician assistant will be adequately supervised by the supervising physician.

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

Subp. 5. **Procedure to obtain delegation of prescribing and administering functions.** To obtain delegation of prescribing and administering functions, a physician assistant must:

A. submit an agreement indicating delegation of prescribing and administering functions;

B. submit a copy of the physician assistant's certification card from the National Commission on Certification of Physician Assistants showing current certification;

C. submit the completed and signed delegation form in part 5600.2670, subpart 6; and

D. submit the fees required by part 5600.2655.

The board shall review each application for approval of agreements containing delegation of prescribing in a timely manner and notify the applicant in writing of action taken on the application. If the agreement is not approved, the board must indicate the grounds for its action in the notice to the applicant.

5600.2645 APPLICATION PROCESS FOR REREGISTRATION.

A physician assistant's registration expires each year on July 1. Each physician assistant must reregister on or before July 1 of each year by submitting a completed application for reregistration on a form provided by the board together with the annual reregistration fee. Physician assistants with authority to prescribe and administer legend drugs and medical devices must also provide a copy of a current certification card issued by the National Commission on Certification of Physician Assistants. The information supplied on the application for reregistration must be sufficient for the board to determine

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whether the physician assistant continues to meet the requirements for registration in part 5600.2625 or 5600.2640. In addition, the applicant must meet the continuing education requirements of part 5600.2650. The board may request a physician assistant to submit additional information to clarify information presented in the application for reregistration. An application submitted after the reregistration deadline date must be accompanied by a late fee.

5600.2655 APPLICATION FEES.

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

Subp. 4. **Fee for approval of agreements.** The fee for approval of an agreement between a physician and physician assistant by the board shall be:

A. $30 for agreements not containing delegation of prescribing and administering functions; or

B. $86 for agreements containing delegation of prescribing and administering functions. The delegation form must accompany the agreement.

[For text of subps 5 and 6, see M.R.]

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

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

Subp. 2. **Disciplinary options of board.** The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant if the assistant:

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

E. violates parts 5600.2600 to 5600.2670;

F. is unable to perform patient services with reasonable skill and safety to patients due to physical or mental illness or use of alcohol, drugs, or other substance;

G. violates state or federal laws regarding prescribing or administering legend drugs or medical devices;

H. prescribes or administers legend drugs or medical devices in a manner other than under the procedures in parts 5600.2600 to 5600.2670;

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I. prescribes or administers legend drugs or medical devices in a manner which is inconsistent with the training and experience of the physician assistant or in a manner which falls below the community standard of care; or

J. prescribes or administers legend drugs or medical devices in violation of the agreement.

Subp. 3. **Disciplinary actions.** If the board finds that a physician assistant should be disciplined pursuant to subpart 2, the board may take any one or more of the following actions:

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

E. condition, limit, or restrict a registration;

F. place the physician assistant on probation, which probation may be vacated upon compliance with such reasonable terms as the board may impose; or

G. refuse to approve delegation of prescribing and administering authority, revoke, suspend, restrict, or condition prescribing and administering authority.

Subp. 4. **Consequences of disciplinary action.** Upon the revocation or suspension, the registrant shall return to the board the registrant's certificate and current renewal document.

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

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint seven persons to a physician assistant advisory council. The seven persons must include:

A. two public members, as defined in Minnesota Statutes, section 214.02;

B. three physician assistants registered under parts 5600.2600 to 5600.2670; and

C. two licensed physicians one of whom must be a representative of the board.

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

Subp. 3. **Duties.** The council shall:

A. advise the board regarding physician assistant registration standards;

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B. advise the board on enforcement of parts 5600.2600 to 5600.2670;

C. provide for distribution of information regarding physician assistant registration standards;

D. review applications and recommend applicants for registration or reregistration;

E. receive and process complaints about applicants and registrants according to Minnesota Statutes, sections 214.10 and 214.13, subdivisions 6 and 7;

F. perform disciplinary investigations;

G. perform other duties authorized for the council by Minnesota Statutes, chapter 214, as directed by the board; and

H. review delegation of prescribing and administering authority in agreements, request a copy of the internal protocol or other additional information for clarification of delegation terms if necessary, and recommend approval, disapproval, or modification of the agreement based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670.

5600.2670 DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subpart 1. **Delegation.** A physician assistant may prescribe and administer legend drugs and medical devices under the following conditions:

A. the physician assistant is currently certified by the National Commission on Certification of Physician Assistants as evidenced by a copy of the certification card with expiration date;

B. the physician assistant is registered with the board;

C. the physician assistant's supervising physician and the physician assistant have completed and signed the delegation form in subpart 6;

D. the agreement has been approved by the board based upon the standards in Minnesota Statutes, section 147.34 and

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parts 5600.2600 to 5600.2670; and

E. the physician assistant's prescription writing privileges are not currently restricted by the board.

Subp. 2. **Documentation.** The physician assistant shall enter each prescription on the patient's chart.

The supervising physician shall retrospectively review the physician assistant's prescribing and administering practices on a daily basis. Review may either be in person or by telecommunication.

A. If the supervising physician performs this review in person, the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record.

B. For facilities staffed by the physician assistant that are separate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record. At each site visit, the supervising physician shall document by signature and date on the patient's chart or other permanent practice record that the physician assistant's prescribing and administering practices have been reviewed.

Subp. 3. **Termination and reinstatement of prescribing authority.**

A. The authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when:

(1) the agreement is terminated;

(2) the authority to prescribe and administer is terminated or withdrawn by the supervising physician; or

(3) the physician assistant reverts to inactive status, loses National Commission on Certification of Physician Assistants certification, or loses or terminates registration status.

B. The physician assistant must notify the board in writing within ten days of the occurrence of any of the

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circumstances listed in item A.

C. Physician assistants whose authority to prescribe and administer has been terminated shall reapply for approval of the agreement under part 5600.2635 and meet the requirements of subpart 1, and any other requirements established by the board prior to reinstatement of the prescribing and administering authority.

Subp. 4. **Other requirements and restrictions.**

A. The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each drug or medical device the physician assistant may prescribe and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subpart 6. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

B. The supervising physician and physician assistant shall review delegation of prescribing and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

C. Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

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(5) the name, address, and telephone number of the prescribing physician assistant and of the physician serving as supervisor.

D. In prescribing and administering legend drugs and medical devices, a physician assistant must conform with the agreement, Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

Subp. 5. **Notification of pharmacies.**

A. The board shall, within six months of adoption of parts 5600.2600 to 5600.2670 and annually thereafter, provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe legend drugs and medical devices.

B. The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.

C. The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.

D. The board shall provide the form in subpart 6 to pharmacies upon request.

Subp. 6. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain the following:

DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING

The below-named physician assistant may prescribe and administer drugs and medical devices as indicated on this form. This form is hereby made a part of the agreement as required by Minn. Stat. section 147.34 and Minn. Rules part 5600.2635, subpart 3, item D.

Physician Assistant _____

Minn. Registration # _____

Supervising Physician _____

Minn. License # _____

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The physician assistant may prescribe from those categories checked in the following list:

Restrictions applicable to each category:

A. Drugs*

01	___	Anesthetics	01 _____
02	___	Antiinfectives	02 _____
03	___	Antineoplastics/Immunosuppressants	03 _____
04	___	Cardiovascular Medications	04 _____
05	___	Autonomic and Central Nervous System Drugs	05 _____
06	___	Dermatological Medications	06 _____
07	___	Diagnostic Agents	07 _____
08	___	Ear-Nose-Throat Medications	08 _____
09	___	Endocrine Medications	09 _____
10	___	Gastrointestinal Medications	10 _____
11	___	Immunologicals and Vaccines	11 _____
12	___	Musculoskeletal Medications	12 _____
13	___	Nutritional Products, Blood Modifiers and Electrolytes	13 _____
14	___	Obstetrical and Gynecological Medications	14 _____
15	___	Opthalmic Medications	15 _____
16	___	Respiratory Medications	16 _____
17	___	Urological Medications	17 _____
B.	__	Medical Devices	B. _____

Physician assistants may not prescribe controlled substances regulated under Minn. Stat. Chapter 152. Other specific drugs or medical devices which the physician assistant may **not** prescribe include:

_____

_____

_____ _____

Supervising Physician (sign) Physician Assistant (sign)

_____ _____

(type name/date) (type name/date)

_____ _____

address address

telephone # _____ telephone # _____

1. _____ 7. _____

Alternate Supervising Physician Alternate Supervising Physician

_____ _____

(type name/date) (type name/date)

2. _____ 8. _____

Alternate Supervising Physician Alternate Supervising Physician

_____ _____

(type name/date) (type name/date)

3. _____ 9. _____

Alternate Supervising Physician Alternate Supervising Physician

_____ _____

(type name/date) (type name/date)

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4. _____
Alternate Supervising Physician
_____
(type name/date)

5. _____
Alternate Supervising Physician
_____
(type name/date)

6. _____
Alternate Supervising Physician
_____
(type name/date)

10. _____
Alternate Supervising Physician
_____
(type name/date)

11. _____
Alternate Supervising Physician
_____
(type name/date)

12. _____
Alternate Supervising Physician
_____
(type name/date)

* The listed drug categories are based upon the chapter heading used in the Physicians Health Plan Drug Formulary:

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APPROVED AS TO FORM AND LEGALITY

Feb 11 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 11 1992

Joan Anderson Growe
Secretary of State

9:25 AM
PRB

LARRY W. KOTEK MD
1930 EAST 86TH ST. APT 210
MPLS, MN. 55425

January 8, 1992

Patricia Nolte
Attorney Generals office
525 Park St.
Suite 500
St, Paul, Mnn 55103

Dear Mrs. Nolte,

This letter is in regards to proposed rules for delegation of prescription writing to physicians assistants. (Minnesota Statutes Section 214.13 minnesota Rules parts 5600.2600 to 5600.2665.)

I understand you will be reviewing there rules as to their legality. I have also enclosed a letter written to Annette Spencer at the Department of Health requesting a public hearing and expressing my views on this issue. The required 25 people requesting a public hearing by January 3, 1992 was not obtained. However I feel that if Physicians, nurses, and Pharmacists were properly notified that there would have been far greater interest than the required 25 people.

I understand that the Minnesota medical association, Minnesota Nurses association and Minnesota Pharmacists Association were notified. However these associations do not speak for all Physicians, Nurses, and Pharmacists especially on this issue.

In addition all physicians, nurses, and pharmacists do not belong to these organizations. All licensed physicians, pharmacists, and nurses should have been notified because this an issue that has to do with the delivery of quality care.

The process used to make these rules final did not include a mechanism of obtaining thoughtful, informed input from the majority of physicians, nurses, and pharmacists.

The legislation was passed in the first place after the professional associations approved its form. Consequently to only inform these same associations hierarchy regarding public comment is really a conflict of interest.

I feel that the use of non-physicians to practice medicine is wrong for the reasons stated in the enclosed letter. I also feel that the majority of people both professional medical people and non-medical people feels as I do if given the opportunity to be presented with the facts.

Please inform me of your decision or if you are not involved with this process please forward to the appropriate person.

Respectfully Submitted

Larry W Kotek MD.

LARRY W. KOTEK MD.
1930 E. 86TH ST. APT. 210
MPLS. MN 55425

854-4550 HOME
625-6970 WORK

LARRY W. KOTEK MD.
1930 EAST 86 TH. ST.
APT 210
MPLS, MN 55425

December 28, 1991

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. BOX 9441
717 Delaware St. Southeast
mpls, mn 55440

Dear Mrs. Spencer,

The purpose of this letter is to request a public hearing regarding the proposed rules for delegation of prescription writing to physician assistants.

Furthermore, I do not feel that adequate notification of the proposed rules has been made to the people that are directly responsible for the delivery of high quality medical care to their patients ie. Physicians. I am a practicing licensed physician in the State of Minnesota. I did not receive notification of the proposed rules regarding physician assistants. I learned about the proposed rules from a pharmacist.

In reading this material it appears that only pharmacists and physician assistants were notified of the proposed rules. It would be in the physician assistant's self interest to increase the scope of their practice Consequently, physician assistants are not going to ask for a public hearing. It is in the self interest of pharmacists to go along with the proposed rules to increase their business. In addition pharmacists acquiesce to what they believe are the desires of Physicians

and unfortunately many physicians themselves are likely to promote the use of physician assistants purely and only for economic reasons. The physician sees a way of charging the patient physician level fees without having to take time to see the patient by having a non-physician see the patient. ie. physician income increases by use of physician assistants.

The only people that will be asking for a public hearing of these proposed rules are the physicians and pharmacists that put their self interest aside in favor of the delivery of high quality medical care.

Consequently, since physicians were not included in the notification process of the proposed rules I feel that the following should occur:

#1 all licensed physicians in the State of Minnesota should be notified and given time to request a public hearing.

#2 even if the required 25 persons are obtained without physician notification, that physicians be given the opportunity to participate in the public hearing by being properly notified.

#3 if the required 25 persons is not obtained by January 3, 1992 that this deadline be extended in order to notify physicians of the proposed rules.

There is not a shortage of physicians to see each and every patient in the state of Minnesota. The shortage of physician argument is a fallacy.

The use of physician assistants and expanding their scope of practice is a mistake because it lowers the overall quality of medical care services to the patient.

Patients do not present themselves to clinics or emergency rooms with a tag stating they have a problem that can be solved by a person with less training than a physician.

It is a fact that physician have more training, more knowledge, more experience regarding the diagnosis and treatment options of patients than physician assistants. It is a fact that physicians have more knowledge about medications being prescribed such as drug side effects, drug-drug interactions, adjusting drug dosages relevant to concomitant patient diseases etc. than physician assistants.

The patient expects and deserves to be seen by the person with the greatest knowledge base regarding the practice of medicine ie the physician.

A surrogate to the physician is not the same regardless of the level of supervision.

One of the assurances people had in the past was that when they went to the "Doctor" they were going to be seeing a doctor ie physician. Most people still believe this to be the case and are unaware of the substitution of non-physicians for physician that is taking place or are surprised and have no choice in the matter and do not know the difference in training or knowledge of the two and are charged physician level fees regardless.

Their is no mechanism possible for adequate supervision of non-physicians practising medicine. The patients cannot adequately determine the quality of care they receive and no amount of regulation can assure quality care by non-physicians.

Quality care is achieved by having people practice medicine with the most medical knowledge and at the present time physicians and only physicians have the training to make that statement.

Sincerely,

Larry W. Kotek MD.
LARRY W. KOTEK MD.
1930 EAST 86th St.
APT. 210
MPLS, MN 55425
854-4550 Home
625-6970 Work.

1990 Minnesota Statutes

147.162 MEDICAL CARE FACILITIES; EXCLUSION.

Each physician shall file with the board a list of the inpatient and outpatient medical care facilities at which the physician has medical privileges. The list shall be updated when the physician applies for license renewal. Nothing in this chapter grants to any person the right to be admitted to the medical staff of a health care facility.

History: *1976 c 222 s 40; 1985 c 247 s 11,25; 1986 c 444*

147.17 [Repealed, 1985 c 247 s 26]
147.171 [Repealed, 1990 c 576 s 6]
147.18 [Repealed, 1985 c 247 s 26]
147.19 [Repealed, 1985 c 247 s 26]
147.20 [Repealed, 1985 c 247 s 26]

147.21 REGISTRATION FEES FOR OSTEOPATHS.

Every doctor of osteopathy licensed by the state board of osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, and not licensed to practice medicine under this chapter shall annually register with the board in the manner prescribed in section 146.13.

History: *1963 c 45 s 9*

147.22 TRANSFER RECORDS, ASSETS, AND POWERS.

The records, assets, and powers of the state board of osteopathy are transferred to the state board of medical examiners.

History: *1963 c 45 s 10; 1976 c 2 s 63*

147.23 [Repealed, 1985 c 247 s 26]
147.24 [Repealed, 1990 c 576 s 6]
147.25 [Repealed, 1990 c 576 s 6]
147.26 [Repealed, 1990 c 576 s 6]
147.27 [Repealed, 1990 c 576 s 6]
147.28 [Repealed, 1990 c 576 s 6]
147.29 [Repealed, 1990 c 576 s 6]
147.30 [Repealed, 1990 c 576 s 6]
147.31 [Repealed, 1990 c 576 s 6]
147.32 [Repealed, 1990 c 576 s 6]
147.33 [Repealed, 1990 c 576 s 6]

147.34 PHYSICIAN ASSISTANTS; DELEGATED AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subdivision 1. **Delegation of authority to prescribe and administer drugs and medical devices.** (a) A supervising physician may delegate to a physician assistant who is registered with the board of medical examiners and certified by the National Commission on Certification of Physician Assistants and who is under the supervising physician's supervision, the authority to prescribe and administer legend drugs and medical devices, subject to the requirements in this section and other requirements established by the commissioner of health in rules.

(b) The agreement between the physician assistant and supervising physician and any alternate supervising physicians must include a statement by the supervising physician regarding delegation or nondelegation of the functions of prescribing and administering of legend drugs and medical devices to the physician assistant. The statement must include a protocol indicating categories of drugs for which the supervising physician delegates prescriptive authority. The delegation must be appropriate to the physician assistant's practice and within the scope of the physician assistant's training. The

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History: *1990 c 524*

NOTE: Subdivision 1, parag

S; EXCLUSION.
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ELEGATED AUTHORITY TO PRESCRIBE
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commissioner of health shall identify categories of drugs, if any, for which delegated prescribing is inappropriate. Physician assistants who have been delegated the authority to prescribe and administer legend drugs and medical devices shall provide evidence of current certification by the National Commission on Certification of Physician Assistants when registering or reregistering as physician assistants. Supervising physicians shall retrospectively review, on a daily basis, the prescribing and administering of legend drugs and medical devices by physician assistants, when this authority has been delegated to the physician assistant as part of the delegation agreement between the physician and the physician assistant. During each on-site visit required under Minnesota Rules, the supervising physician shall document by signature and date that the prescriptive practice of the physician assistant has been reviewed.

(c) The commissioner of health shall establish by rule:

(1) a system of identifying physician assistants eligible to prescribe drugs and medical devices;

(2) a method of determining the categories of prescription drugs and medical devices that each physician assistant is allowed to prescribe; and

(3) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe prescription drugs and medical devices and the types of drugs and medical devices they are allowed to prescribe.

Subd. 2. **Authority to adopt rules.** The commissioner of health may adopt or amend rules to implement this section, including the amendment of rules previously adopted under section 214.13. The commissioner may delegate to the board of medical examiners the authority to implement and enforce the rules.

History: *1990 c 524 s 1*

NOTE: Subdivision 1, paragraphs (b) and (c), are effective June 1, 1991. See Laws 1990, chapter 524, section 5.

NT

Volume 3

of a

Stat Authority 147.34

See attached authority copies of authority in front of Statutes and authority in pocket part note authority in 1990 Statutes states that subdivision 1, paragraphs (b) and (c) are effective June 1, 1991.

comment period ending January 3, 1992

Notice of Intent

indicates rules may have an economic impact on small businesses

OR

180 deadline

Normally these are amendments so 14.12 doesn't apply but in the 1990 MN Statutes authority Statutes sub 1 par (b) and (c) are effective June 1, 1991 — (b) and (c) which are the rules - also there is authority that the Commissioner shall (c) and then subd 2 states may adopt or amend rules if this does apply June 2 - Dec 1

submitted they show

June 2-30	= 29	
July	31	60
Aug	31	91
Sept	30	121
Oct	31	152
Nov	30 + 28	= November 28 Thanksgiving
Dec 2	1 183	
	183 days	

Lets talk about it

↓

1st Wed Jan

SPEED LETTER® 44-902

WilsonJones® Carbonless Snap-A-Way® Forms

SPEED LETTER®

TO
Patty Nolte
Public Fin. Div

FROM
Dick Wexler
Health Div

SUBJECT Phy. Asst Prescribing Rules

- FOLD NO. 9 or 10

MESSAGE

Attached & hereby submitted to you is the rulemaking record for the above subject rule amendmts. In addition to the items listed in Annette Spencer's letter of 1/22/92, also include are a ltr of 11/7/91 from Annette to the LCRAR and an affidavit of svc of appropriate documents on the chairs of the House Appropriations & Sen Finance Committees. As we discussed yesterday, pls let me know if there are any problems. DATE 1/28/92 SIGNED Dick Wexler

REPLY

Thanks.

RECEIVED

JAN 28 1992

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

- FOLD FOR NO. 9

- FOLD FOR NO. 10

DATE SIGNED

WilsonJones • Carbonless • MADE IN U.S.A.

RECIPIENT: RETAIN WHITE COPY, RETURN PINK COPY

Minnesota Department of Health
717 Delaware Street Southeast
P.O. Box 9441
Minneapolis, MN 55440-9441
(612) 623-5000

January 22, 1992

Patti Nolte
Office of the Attorney General
Public Finance Division
Capitol Office Building
525 Park Street
St. Paul, MN 55103

Re: In the Matter of the Proposed Adoption of Rules of the Department of Health Governing the Delegation of Prescription Writing to Physician Assistants

Dear Ms. Nolte:

Pursuant to Minnesota Rules, part 2010.0300, please find the following documents enclosed:

1. Notice of intent to solicit information as published in the State Register;
2. Proposed rules as certified by the Revisor;
3. Notice of rulemaking as mailed;
4. Statement of need and reasonableness;
5. Affidavit of mailing rulemaking notice;
6. Notice of rulemaking as published in the State Register;
7. Four copies of the rule as adopted;
8. Findings of fact, conclusions and order;
9. Written comments received; and
10. Declaration of counsel.

A petition for adoption of the rule is not enclosed as none was filed pursuant to Minnesota Statutes, section 14.09 and part 2010.0600. The Department of Health is not a multimember agency as defined by Minnesota Statutes, section 15.0597, subdivision 1a, therefore no certificate of resolution is enclosed. No requests for notice of submission to the Attorney General were received therefore, no notice of submission of the rule to the attorney general nor affidavit of mailing such notice have been enclosed.

RECEIVED

JAN 28 1992

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

Please contact me at 623-5131 if you have any questions of need additional information regarding this matter.

Sincerely,

Annette Spencer

Annette Spencer
Health Occupations Program
Health Care Delivery Systems Division

Enclosures

cc: Richard Wexler
Tom Hiendlmayr

The matching requirement was viewed in all committee and floor discussion as well as in the Conference Committee on H.F. 2666, as another tool to better implement Minnesota's campaign finance system. By requiring a candidate who chooses to receive the public subsidy to match a portion of the subsidy it was the intent of the author (me) to protect the integrity of the publicly financed subsidy by ensuring at least to a small degree that candidates be "serious" and not file for office and the subsequent subsidy just to use public money for extra-district political activities.

At no time was there any intention or even suggestion that Section 10A.25, subd. 10 be subverted or affected. Indeed language in Laws 1990, Chapter 608, Article 3, section 26, subd. 1, para (c) was included to clarify legislative intent on that subject.

I think what it boils down to is this: it does not make sense to view establishment of a matching requirement as a condition for receiving a public subsidy for a campaign as a way to thwart the intent of Section 10A.25, subd. 10. While some would argue with the policy of releasing a candidate from spending limits and allowing them to receive the public subsidy, I would argue that that policy is meant to act as one more incentive for all candidates to agree to abide by the spending limits. Surely it is not incompatible to encourage holding down campaign spending and at the same time encourage candidates to be sincere about their candidacies and raise some money to match in part the public subsidy.

The Board may wish to discuss the somewhat ambiguous phrase "otherwise eligible" and convey to me and others any improvement that might be made there. Please keep me posted on any of your decisions or questions.

Thank you for all your hard work.

Department of Health

Notice of Intention to Solicit Outside Opinion for Amendment of Rules Relating to Physician Assistant Prescription Writing Privileges

NOTICE IS HEREBY GIVEN that the Department of Health is seeking information or opinions from sources outside of the agency in preparing to amend the Physician Assistant registration rules (*Minnesota Rules*, Parts 5600.2600 through 5600.2665). Amendment of these rules is occurring pursuant to 1990 Minnesota Session Laws, Chapter 524, which require the Commissioner of Health to adopt or amend rules to provide for the delegation of prescription writing privileges from supervising physicians to certain physician assistants.

All interested or affected persons or groups are invited to submit statements of information in writing or comment orally to:

Annette C. Spencer
Rule Development Specialist
Health Systems Development
Department of Health
P.O. Box 9441
717 Delaware Street S.E.
Minneapolis, MN 55440
Telephone: (612) 623-5131

All statements of information and comment shall be accepted until further notice. Any written materials received by the Department of Health shall be made part of the rulemaking record.

Department of Labor and Industry

Labor Standards Division

Notice of Correction to Prevailing Wage Rates

The prevailing wage rate certified June 11, 1990 for labor classifications 214—FRONT END LOADER OPERATOR in Scott county for Highway/heavy construction project has been corrected.

Copies of the corrected certifications may be obtained by connecting the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155.

Ken Peterson, Commissioner
Department of Labor and Industry

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91 NOV -4 PM 2:13
ADMINISTRATIVE
HEARINGS

Department of Health

Proposed Permanent Rules Relating to Physician Assistants Registration

Rules as Proposed

5600.2600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670, the following terms have the meanings given them.

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

Subp. 2a. **Administer.** "Administer" means to deliver by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, excluding controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means.

Subp. 3. **Agreement.** "Agreement" means a document signed by the physician and the physician assistant which includes contents specified in part 5600.2635, subpart 3. If there is a delegation of prescribing and administering of legend drugs and medical devices, the agreement includes the delegation form in part 5600.2670, subpart 6.

Subp. 4. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant agreement who ~~shall be~~ is responsible for supervising the physician assistant when the supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subp. 5. **Board.** "Board" means the Minnesota Board of Medical ~~Examiners~~ Practice.

[For text of subps 6 and 7, see M.R.]

Subp. 7a. **Delegation form.** "Delegation form" refers to

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the form in part 5600.2670, subpart 6, used to indicate the categories of drugs for which the authority to prescribe and administer has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement as defined in subpart 3.

[For text of subp 8, see M.R.]

Subp. 8a. **Drug.** "Drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 5, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 8b. **Drug category.** "Drug category" means one of the categories listed on the form in part 5600.2670, subpart 6.

[For text of subp 9, see M.R.]

Subp. 9a. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing and administering of legend drugs and medical devices and lists the specific drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe and administer.

Subp. 9b. **Legend drug.** "Legend drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 17, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 9c. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient.

[For text of subp 10, see M.R.]

Subp. 11. **Physician assistant; registered physician assistant.** "Physician assistant" or "registered physician assistant" means a person registered pursuant to parts 5600.2600 to ~~5600.2665~~ 5600.2670 who is qualified by academic or practical training or both to provide patient services as listed in part 5600.2615 under the supervision of a supervising physician.

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Subp. 11a. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subp. 11b. **Prescription.** "Prescription" means a signed written order, or an oral order reduced to writing, given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required by part 5600.2670, subpart 4, item C.

Subp. 12. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications specified in parts 5600.2600 to ~~5600.2665~~ 5600.2670.

Subp. 13. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement approved by the board and pursuant to part 5600.2615. "Supervising physician" ~~shall include~~ includes "alternate supervising physician" for the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670.

5600.2605 PURPOSE.

The purpose of parts 5600.2600 to ~~5600.2665~~ 5600.2670 is to establish the administrative structure, the procedures, and the requirements for the registration of people qualified to be physician assistants and the requirements which must be met before a physician assistant may prescribe and administer legend drugs and medical devices.

5600.2610 RESTRICTIONS ON USE OF ~~THE~~ TITLE OF REGISTERED PHYSICIAN ASSISTANT.

Subpart 1. **Physician assistant identification.** Only a registered physician assistant in active status may use the title "physician assistant" or "registered physician assistant" without restriction. A registered physician assistant in active status shall ~~identify himself or herself~~ be identified at the practice site by using a name tag or name plate or some other

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identifying device bearing the title "registered physician assistant."

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

5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE.

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

Subp. 2. **Descriptive list of allowed services.** Patient services must be limited to:

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

F. providing instructions and guidance regarding medical care matters to patients; ~~and~~

G. assisting the supervising physician in the delivery of services to patients requiring medical care in the home and in health care institutions, including recording patient progress notes, issuing diagnostic orders which must be countersigned by the supervising physician within 24 hours, and transcribing or executing specific orders at the direction of the supervising physician; and

H. prescribing and administering legend drugs other than controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4, and medical devices if this function has been delegated to the physician assistant by the supervising physician and approved by the board, pursuant to and subject to the limitations of Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Contents of agreement.** The agreement must include at least the following:

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

D. a statement by the supervising physician regarding the delegation or nondelegation of the functions of prescribing and administering legend drugs and medical devices to the physician assistant, and, if delegation is specified, the completed delegation form as required by part 5600.2670;

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E. a statement that the supervising physician and alternate supervising physician assume full medical responsibility for all patient services provided by the physician assistant; and

~~E.~~ F. any other information which will assist the board in determining whether the physician assistant will be adequately supervised by the supervising physician.

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

Subp. 5. **Procedure to obtain delegation of prescribing and administering functions.** To obtain delegation of prescribing and administering functions, a physician assistant must:

A. submit an agreement indicating delegation of prescribing and administering functions;

B. submit a copy of the physician assistant's certification card from the National Commission on Certification of Physician Assistants showing current certification;

C. submit the completed and signed delegation form in part 5600.2670, subpart 6; and

D. submit the fees required by part 5600.2655.

The board shall review each application for approval of agreements containing delegation of prescribing in a timely manner and notify the applicant in writing of action taken on the application. If the agreement is not approved, the board must indicate the grounds for its action in the notice to the applicant.

5600.2645 APPLICATION PROCESS FOR REREGISTRATION.

A physician assistant's registration expires each year on July 1. Each physician assistant must reregister on or before July 1 of each year by submitting a completed application for reregistration on a form provided by the board together with the annual reregistration fee. Physician assistants with authority to prescribe and administer legend drugs and medical devices must also provide a copy of a current certification card issued by the National Commission on Certification of Physician Assistants. The information supplied on the application for

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reregistration must be sufficient for the board to determine whether the physician assistant continues to meet the requirements for registration in part 5600.2625 or 5600.2640. In addition, the applicant must meet the continuing education requirements of part 5600.2650. The board may request a physician assistant to submit additional information to clarify information presented in the application for reregistration. An application submitted after the reregistration deadline date must be accompanied by a late fee.

5600.2655 APPLICATION FEES.

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

Subp. 4. **Fee for approval of agreements.** The fee for approval of an agreement between a physician and physician assistant by the board shall be:

A. $30 for agreements not containing delegation of prescribing and administering functions; or

B. $86 for agreements containing delegation of prescribing and administering functions. The delegation form must accompany the agreement.

[For text of subps 5 and 6, see M.R.]

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

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

Subp. 2. **Disciplinary options of board.** The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant if the assistant:

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

E. violates parts 5600.2600 to ~~5600.2665~~ 5600.2670; ~~or~~

F. is unable to perform patient services with reasonable skill and safety to patients due to physical or mental illness or use of alcohol, drugs, or other substance;

G. violates state or federal laws regarding prescribing or administering legend drugs or medical devices;

H. prescribes or administers legend drugs or medical

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devices in a manner other than under the procedures in parts 5600.2600 to 5600.2670;

I. prescribes or administers legend drugs or medical devices in a manner which is inconsistent with the training and experience of the physician assistant or in a manner which falls below the community standard of care; or

J. prescribes or administers legend drugs or medical devices in violation of the agreement.

Subp. 3. **Disciplinary actions.** If the board finds that a physician assistant should be disciplined pursuant to subpart 2, the board may take any one or more of the following actions:

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

E. condition, limit, or restrict a registration; ~~or~~

F. place the physician assistant on probation, which probation may be vacated upon compliance with such reasonable terms as the board may impose; or

G. refuse to approve delegation of prescribing and administering authority, revoke, suspend, restrict, or condition prescribing and administering authority.

Subp. 4. **Consequences of disciplinary action.** Upon the revocation or suspension, the registrant shall return to the board ~~his or her~~ the registrant's certificate and current renewal document.

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

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint seven persons to a physician assistant advisory council. The seven persons must include:

A. two public members, as defined in Minnesota Statutes, section 214.02;

B. three physician assistants registered under parts 5600.2600 to ~~5600.2665~~ 5600.2670; and

C. two licensed physicians one of whom must be a representative of the board.

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

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by Revisor _____

Subp. 3. **Duties.** The council shall:

A. advise the board regarding physician assistant registration standards;

B. advise the board on enforcement of parts 5600.2600 to ~~5600.2665~~ 5600.2670;

C. provide for distribution of information regarding physician assistant registration standards;

D. review applications and recommend applicants for registration or reregistration;

E. receive and process complaints about applicants and registrants ~~in accordance with~~ according to Minnesota Statutes, sections 214.10 and 214.13, subdivisions 6 and 7;

F. perform disciplinary investigations; ~~and~~

G. perform other duties authorized for the council by Minnesota Statutes, chapter 214, as directed by the board; and

H. review delegation of prescribing and administering authority in agreements, request a copy of the internal protocol or other additional information for clarification of delegation terms if necessary, and recommend approval, disapproval, or modification of the agreement based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670.

5600.2670 DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subpart 1. **Delegation.** A physician assistant may prescribe and administer legend drugs and medical devices under the following conditions:

A. the physician assistant is currently certified by the National Commission on Certification of Physician Assistants as evidenced by a copy of the certification card with expiration date;

B. the physician assistant is registered with the board;

C. the physician assistant's supervising physician and the physician assistant have completed and signed the

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delegation form in subpart 6;

D. the agreement has been approved by the board based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670; and

E. the physician assistant's prescription writing privileges are not currently restricted by the board.

Subp. 2. **Documentation.** The physician assistant shall enter each prescription on the patient's chart.

The supervising physician shall retrospectively review the physician assistant's prescribing and administering practices on a daily basis. Review may either be in person or by telecommunication.

A. If the supervising physician performs this review in person, the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record.

B. For facilities staffed by the physician assistant that are separate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record. At each site visit, the supervising physician shall document by signature and date on the patient's chart or other permanent practice record that the physician assistant's prescribing and administering practices have been reviewed.

Subp. 3. **Termination and reinstatement of prescribing authority.**

A. The authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when:

(1) the agreement is terminated;

(2) the authority to prescribe and administer is terminated or withdrawn by the supervising physician; or

(3) the physician assistant reverts to inactive status, loses National Commission on Certification of Physician Assistants certification, or loses or terminates registration

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status.

B. The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in item A.

C. Physician assistants whose authority to prescribe and administer has been terminated shall reapply for approval of the agreement under part 5600.2635 and meet the requirements of subpart 1, and any other requirements established by the board prior to reinstatement of the prescribing and administering authority.

Subp. 4. **Other requirements and restrictions.**

A. The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each drug or medical device the physician assistant may prescribe and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subpart 6. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

B. The supervising physician and physician assistant shall review delegation of prescribing and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

C. Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

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(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name, address, and telephone number of the prescribing physician assistant and of the physician serving as supervisor.

D. In prescribing and administering legend drugs and medical devices, a physician assistant must conform with the agreement, Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

Subp. 5. **Notification of pharmacies.**

A. The board shall, within six months of adoption of parts 5600.2600 to 5600.2670 and annually thereafter, provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe legend drugs and medical devices.

B. The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.

C. The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.

D. The board shall provide the form in subpart 6 to pharmacies upon request.

Subp. 6. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain the following:

DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING

The below-named physician assistant may prescribe and administer drugs and medical devices as indicated on this form. This form is hereby made a part of the agreement as required by Minn. Stat. section 147.34 and Minn. Rules part 5600.2635, subpart 3, item D.

Approved by Revisor _____

Physician Assistant _____
Minn. Registration # _____

Supervising Physician _____
Minn. License # _____

The physician assistant may prescribe from those categories checked in the following list:			Restrictions applicable to each category:
A.		Drugs*	
01	___	Anesthetics	01 _____
02	___	Antiinfectives	02 _____
03	___	Antineoplastics/Immunosuppressants	03 _____
04	___	Cardiovascular Medications	04 _____
05	___	Autonomic and Central Nervous System Drugs	05 _____
06	___	Dermatological Medications	06 _____
07	___	Diagnostic Agents	07 _____
08	___	Ear-Nose-Throat Medications	08 _____
09	___	Endocrine Medications	09 _____
10	___	Gastrointestinal Medications	10 _____
11	___	Immunologicals and Vaccines	11 _____
12	___	Musculoskeletal Medications	12 _____
13	___	Nutritional Products, Blood Modifiers and Electrolytes	13 _____
14	___	Obstetrical and Gynecological Medications	14 _____
15	___	Opthalmic Medications	15 _____
16	___	Respiratory Medications	16 _____
17	___	Urological Medications	17 _____
B.	__	Medical Devices	B. _____

Physician assistants may not prescribe controlled substances regulated under Minn. Stat. Chapter 152. Other specific drugs or medical devices which the physician assistant may **not** prescribe include:

_____

_____

_____ _____
Supervising Physician (sign) Physician Assistant (sign)

_____ _____
(type name/date) (type name/date)

_____ _____
address address

telephone # _____ telephone # _____

1. _____ 7. _____
Alternate Supervising Physician Alternate Supervising Physician

_____ _____
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* The listed drug categories are based upon the chapter heading used in the Physicians Health Plan Drug Formulary:

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Physician Assistants Registration

AGENCY: Department of Health

MINNESOTA RULES: Chapter 5600

The attached rules are approved for publication in the State Register

Marie E. O'Neill

Marie E. O'Neill
Assistant Revisor

Supplement

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.

History: *1991 c 106 s 3*

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.

History: *1991 c 106 s 4*

147.34 PHYSICIAN ASSISTANTS; DELEGATED AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subdivision 1. **Delegation of authority to prescribe and administer drugs and medical devices.** (a) A supervising physician may delegate to a physician assistant who is registered with the board of medical examiners and certified by the National Commission on Certification of Physician Assistants and who is under the supervising physician's supervision, the authority to prescribe and administer legend drugs and medical devices, subject to the requirements in this section and other requirements established by the commissioner of health in rules.

(b) The agreement between the physician assistant and supervising physician and any alternate supervising physicians must include a statement by the supervising physician regarding delegation or nondelegation of the functions of prescribing and administering of legend drugs and medical devices to the physician assistant. The statement must include a protocol indicating categories of drugs for which the supervising physician delegates prescriptive authority. The delegation must be appropriate to the physician assistant's practice and within the scope of the physician assistant's training. The commissioner of health shall identify categories of drugs, if any, for which delegated prescribing is inappropriate. Physician assistants who have been delegated the authority to prescribe and administer legend drugs and medical devices shall provide evidence of current certification by the National Commission on Certification of Physician Assistants when registering or reregistering as physician assistants. Supervising physicians shall retrospectively review, on a daily basis, the prescribing and administering of legend drugs and medical devices by physician assistants, when this authority has been delegated to the physician assistant as part of the delegation agreement between the physician and the physician assistant. During each on-site visit required under Minnesota Rules, the supervising physician shall document by signature and date that the prescriptive practice of the physician assistant has been reviewed.

(c) The commissioner of health shall establish by rule:

(1) a system of identifying physician assistants eligible to prescribe drugs and medical devices;

(2) a method of determining the categories of prescription drugs and medical devices that each physician assistant is allowed to prescribe; and

(3) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe prescription drugs and medical devices and the types of drugs and medical devices they are allowed to prescribe.

Subd. 2. **Authority to adopt rules.** The commissioner of health may adopt or amend rules to implement this section, including the amendment of rules previously adopted under section 214.13. The commissioner may delegate to the board of medical examiners the authority to implement and enforce the rules.

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147.35 PHYSI

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History: *199*

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missioner of health may adopt or amend amendment of rules previously adopted delegate to the board of medical examine rules.

Subd. 3. **Permanent registration of physician assistants.**

The board of medical examiners shall register those physician assistants who were granted temporary registration under Minnesota Rules, part 5600.2640, subpart 1, but who have been unable to meet the requirements of Minnesota Rules, part 5600.2640, subpart 2, within the designated time due to a change in certification examination eligibility requirements made by the National Commission on Certification of Physician Assistants. These individuals shall be allowed to reregister under Minnesota Rules, part 5600.2645, without having to meet the requirements of Minnesota Rules, part 5600.2640, subpart 2. The board shall register as a physician assistant any person who as of August 24, 1987:

(1) had at least seven years of experience practicing as a physician assistant or surgical assistant; and

(2) had been certified as a physician assistant by the national commission on certification of physician assistants, whether or not the person is currently certified.

History: *1990 c 524 s 1,3*

147.35 PHYSICIAN ASSISTANTS; LIMITATION ON LIABILITY.

A physician assistant who is registered with the board of medical examiners is exempt from prosecution under laws regulating the practice of any occupation licensed by the state or prohibiting the performance of any acts as long as the physician assistant acts within the scope of the registration system, the supervising physician agreement, and other requirements of Minnesota Rules, parts 5600.2600 to 5600.2665.

History: *1991 c 202 s 9*

Department of Health

Proposed Permanent Rules Relating to Physician Assistants Registration

Rules as Proposed

5600.2600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670, the following terms have the meanings given them.

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

Subp. 2a. **Administer.** "Administer" means to deliver by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, excluding controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means.

Subp. 3. **Agreement.** "Agreement" means a document signed by the physician and the physician assistant which includes contents specified in part 5600.2635, subpart 3. If there is a delegation of prescribing and administering of legend drugs and medical devices, the agreement includes the delegation form in part 5600.2670, subpart 6.

Subp. 4. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant agreement who ~~shall~~ be is responsible for supervising the physician assistant when the supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subp. 5. **Board.** "Board" means the Minnesota Board of Medical ~~Examiners~~ Practice.

[For text of subps 6 and 7, see M.R.]

Subp. 7a. **Delegation form.** "Delegation form" refers to

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the form in part 5600.2670, subpart 6, used to indicate the categories of drugs for which the authority to prescribe and administer has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement as defined in subpart 3.

[For text of subp 8, see M.R.]

Subp. 8a. **Drug.** "Drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 5, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 8b. **Drug category.** "Drug category" means one of the categories listed on the form in part 5600.2670, subpart 6.

[For text of subp 9, see M.R.]

Subp. 9a. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing and administering of legend drugs and medical devices and lists the specific drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe and administer.

Subp. 9b. **Legend drug.** "Legend drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 17, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 9c. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient.

[For text of subp 10, see M.R.]

Subp. 11. **Physician assistant; registered physician assistant.** "Physician assistant" or "registered physician assistant" means a person registered pursuant to parts 5600.2600 to ~~5600.2665~~ 5600.2670 who is qualified by academic or practical training or both to provide patient services as listed in part 5600.2615 under the supervision of a supervising physician.

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Subp. 11a. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subp. 11b. **Prescription.** "Prescription" means a signed written order, or an oral order reduced to writing, given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required by part 5600.2670, subpart 4, item C.

Subp. 12. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications specified in parts 5600.2600 to ~~5600.2665~~ 5600.2670.

Subp. 13. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement approved by the board and pursuant to part 5600.2615. "Supervising physician" ~~shall include~~ includes "alternate supervising physician" for the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670.

5600.2605 PURPOSE.

The purpose of parts 5600.2600 to ~~5600.2665~~ 5600.2670 is to establish the administrative structure, the procedures, and the requirements for the registration of people qualified to be physician assistants and the requirements which must be met before a physician assistant may prescribe and administer legend drugs and medical devices.

5600.2610 RESTRICTIONS ON USE OF ~~THE~~ TITLE OF REGISTERED PHYSICIAN ASSISTANT.

Subpart 1. **Physician assistant identification.** Only a registered physician assistant in active status may use the title "physician assistant" or "registered physician assistant" without restriction. A registered physician assistant in active status shall ~~identify himself or herself~~ be identified at the practice site by using a name tag or name plate or some other

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identifying device bearing the title "registered physician assistant."

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

5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE.

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

Subp. 2. **Descriptive list of allowed services.** Patient services must be limited to:

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

F. providing instructions and guidance regarding medical care matters to patients; and

G. assisting the supervising physician in the delivery of services to patients requiring medical care in the home and in health care institutions, including recording patient progress notes, issuing diagnostic orders which must be countersigned by the supervising physician within 24 hours, and transcribing or executing specific orders at the direction of the supervising physician; and

H. prescribing and administering legend drugs other than controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4, and medical devices if this function has been delegated to the physician assistant by the supervising physician and approved by the board, pursuant to and subject to the limitations of Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Contents of agreement.** The agreement must include at least the following:

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

D. a statement by the supervising physician regarding the delegation or nondelegation of the functions of prescribing and administering legend drugs and medical devices to the physician assistant, and, if delegation is specified, the completed delegation form as required by part 5600.2670;

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E. a statement that the supervising physician and alternate supervising physician assume full medical responsibility for all patient services provided by the physician assistant; and

~~E.~~ F. any other information which will assist the board in determining whether the physician assistant will be adequately supervised by the supervising physician.

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

Subp. 5. **Procedure to obtain delegation of prescribing and administering functions.** To obtain delegation of prescribing and administering functions, a physician assistant must:

A. submit an agreement indicating delegation of prescribing and administering functions;

B. submit a copy of the physician assistant's certification card from the National Commission on Certification of Physician Assistants showing current certification;

C. submit the completed and signed delegation form in part 5600.2670, subpart 6; and

D. submit the fees required by part 5600.2655.

The board shall review each application for approval of agreements containing delegation of prescribing in a timely manner and notify the applicant in writing of action taken on the application. If the agreement is not approved, the board must indicate the grounds for its action in the notice to the applicant.

5600.2645 APPLICATION PROCESS FOR REREGISTRATION.

A physician assistant's registration expires each year on July 1. Each physician assistant must reregister on or before July 1 of each year by submitting a completed application for reregistration on a form provided by the board together with the annual reregistration fee. Physician assistants with authority to prescribe and administer legend drugs and medical devices must also provide a copy of a current certification card issued by the National Commission on Certification of Physician Assistants. The information supplied on the application for

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reregistration must be sufficient for the board to determine whether the physician assistant continues to meet the requirements for registration in part 5600.2625 or 5600.2640. In addition, the applicant must meet the continuing education requirements of part 5600.2650. The board may request a physician assistant to submit additional information to clarify information presented in the application for reregistration. An application submitted after the reregistration deadline date must be accompanied by a late fee.

5600.2655 APPLICATION FEES.

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

Subp. 4. **Fee for approval of agreements.** The fee for approval of an agreement between a physician and physician assistant by the board shall be:

A. $30 for agreements not containing delegation of prescribing and administering functions; or

B. $86 for agreements containing delegation of prescribing and administering functions. The delegation form must accompany the agreement.

[For text of subps 5 and 6, see M.R.]

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

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

Subp. 2. **Disciplinary options of board.** The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant if the assistant:

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

E. violates parts 5600.2600 to ~~5600.2665~~ 5600.2670; ~~or~~

F. is unable to perform patient services with reasonable skill and safety to patients due to physical or mental illness or use of alcohol, drugs, or other substance;

G. violates state or federal laws regarding prescribing or administering legend drugs or medical devices;

H. prescribes or administers legend drugs or medical

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devices in a manner other than under the procedures in parts 5600.2600 to 5600.2670;

I. prescribes or administers legend drugs or medical devices in a manner which is inconsistent with the training and experience of the physician assistant or in a manner which falls below the community standard of care; or

J. prescribes or administers legend drugs or medical devices in violation of the agreement.

Subp. 3. **Disciplinary actions.** If the board finds that a physician assistant should be disciplined pursuant to subpart 2, the board may take any one or more of the following actions:

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

E. condition, limit, or restrict a registration; ~~or~~

F. place the physician assistant on probation, which probation may be vacated upon compliance with such reasonable terms as the board may impose; or

G. refuse to approve delegation of prescribing and administering authority, revoke, suspend, restrict, or condition prescribing and administering authority.

Subp. 4. **Consequences of disciplinary action.** Upon the revocation or suspension, the registrant shall return to the board ~~his or her~~ the registrant's certificate and current renewal document.

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

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint seven persons to a physician assistant advisory council. The seven persons must include:

A. two public members, as defined in Minnesota Statutes, section 214.02;

B. three physician assistants registered under parts 5600.2600 to ~~5600.2665~~ 5600.2670; and

C. two licensed physicians one of whom must be a representative of the board.

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

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Subp. 3. **Duties.** The council shall:

A. advise the board regarding physician assistant registration standards;

B. advise the board on enforcement of parts 5600.2600 to ~~5600.2665~~ 5600.2670;

C. provide for distribution of information regarding physician assistant registration standards;

D. review applications and recommend applicants for registration or reregistration;

E. receive and process complaints about applicants and registrants ~~in accordance with~~ according to Minnesota Statutes, sections 214.10 and 214.13, subdivisions 6 and 7;

F. perform disciplinary investigations; ~~and~~

G. perform other duties authorized for the council by Minnesota Statutes, chapter 214, as directed by the board; and

H. review delegation of prescribing and administering authority in agreements, request a copy of the internal protocol or other additional information for clarification of delegation terms if necessary, and recommend approval, disapproval, or modification of the agreement based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670.

5600.2670 DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subpart 1. **Delegation.** A physician assistant may prescribe and administer legend drugs and medical devices under the following conditions:

A. the physician assistant is currently certified by the National Commission on Certification of Physician Assistants as evidenced by a copy of the certification card with expiration date;

B. the physician assistant is registered with the board;

C. the physician assistant's supervising physician and the physician assistant have completed and signed the

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delegation form in subpart 6;

D. the agreement has been approved by the board based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670; and

E. the physician assistant's prescription writing privileges are not currently restricted by the board.

Subp. 2. **Documentation.** The physician assistant shall enter each prescription on the patient's chart.

The supervising physician shall retrospectively review the physician assistant's prescribing and administering practices on a daily basis. Review may either be in person or by telecommunication.

A. If the supervising physician performs this review in person, the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record.

B. For facilities staffed by the physician assistant that are separate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record. At each site visit, the supervising physician shall document by signature and date on the patient's chart or other permanent practice record that the physician assistant's prescribing and administering practices have been reviewed.

Subp. 3. **Termination and reinstatement of prescribing authority.**

A. The authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when:

(1) the agreement is terminated;

(2) the authority to prescribe and administer is terminated or withdrawn by the supervising physician; or

(3) the physician assistant reverts to inactive status, loses National Commission on Certification of Physician Assistants certification, or loses or terminates registration

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status.

B. The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in item A.

C. Physician assistants whose authority to prescribe and administer has been terminated shall reapply for approval of the agreement under part 5600.2635 and meet the requirements of subpart 1, and any other requirements established by the board prior to reinstatement of the prescribing and administering authority.

Subp. 4. **Other requirements and restrictions.**

A. The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each drug or medical device the physician assistant may prescribe and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subpart 6. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

B. The supervising physician and physician assistant shall review delegation of prescribing and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

C. Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

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(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name, address, and telephone number of the prescribing physician assistant and of the physician serving as supervisor.

D. In prescribing and administering legend drugs and medical devices, a physician assistant must conform with the agreement, Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

Subp. 5. **Notification of pharmacies.**

A. The board shall, within six months of adoption of parts 5600.2600 to 5600.2670 and annually thereafter, provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe legend drugs and medical devices.

B. The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.

C. The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.

D. The board shall provide the form in subpart 6 to pharmacies upon request.

Subp. 6. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain the following:

DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING

The below-named physician assistant may prescribe and administer drugs and medical devices as indicated on this form. This form is hereby made a part of the agreement as required by Minn. Stat. section 147.34 and Minn. Rules part 5600.2635, subpart 3, item D.

Approved by Revisor _____

Physician Assistant _____
Minn. Registration # _____

Supervising Physician _____
Minn. License # _____

The physician assistant may prescribe from those categories checked in the following list:			Restrictions applicable to each category:
A.		Drugs*	
01	___	Anesthetics	01 _____
02	___	Antiinfectives	02 _____
03	___	Antineoplastics/Immunosuppressants	03 _____
04	___	Cardiovascular Medications	04 _____
05	___	Autonomic and Central Nervous System Drugs	05 _____
06	___	Dermatological Medications	06 _____
07	___	Diagnostic Agents	07 _____
08	___	Ear-Nose-Throat Medications	08 _____
09	___	Endocrine Medications	09 _____
10	___	Gastrointestinal Medications	10 _____
11	___	Immunologicals and Vaccines	11 _____
12	___	Musculoskeletal Medications	12 _____
13	___	Nutritional Products, Blood Modifiers and Electrolytes	13 _____
14	___	Obstetrical and Gynecological Medications	14 _____
15	___	Opthalmic Medications	15 _____
16	___	Respiratory Medications	16 _____
17	___	Urological Medications	17 _____
B.	___	Medical Devices	B. _____

Physician assistants may not prescribe controlled substances regulated under Minn. Stat. Chapter 152. Other specific drugs or medical devices which the physician assistant may not prescribe include:

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_____

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Supervising Physician (sign) Physician Assistant (sign)

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(type name/date) (type name/date)

_____ _____
address address

telephone # _____ telephone # _____

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* The listed drug categories are based upon the chapter heading used in the Physicians Health Plan Drug Formulary:

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Physician Assistants Registration

AGENCY: Department of Health

MINNESOTA RULES: Chapter 5600

The attached rules are approved for publication in the State Register

Marie E. O'Neill

Marie E. O'Neill
Assistant Revisor

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of the Proposed Adoption of Rules of the Department of Health Governing the Delegation of Prescription Writing to Physician Assistants

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

This statement of need and reasonableness is prepared pursuant to the requirements set forth in Minnesota Statutes, sections 14.131 and 14.23. It contains a summary of the evidence and arguments in support of the need for and reasonableness of amendments to the physician assistant rules addressing physician delegation of authority to physician assistants to prescribe and administer legend drugs and medical devices. Also included is a statement addressing the impact of these rules on small businesses.

BACKGROUND

In 1987 a registration system for physician assistants was implemented in Minnesota. Since then, approximately 150 individuals have registered as physician assistants with the Board of Medical Practice (Board). The scope of physician assistant practice is limited to the provision of services within the training or experience of the physician assistant and to those services customary to the practice of the supervising physician and delegated by the supervising physician. Minnesota Rules, part 5600.2615, subpart 1. Currently, the scope of

practice includes developing comprehensive medical status reports; performing physical examinations; determining patient management and treatment; initiating diagnostic procedures; performing therapeutic procedures; instructing patients in medical care; and otherwise assisting the physician in the delivery of services to patients. See Minnesota Rules, part 5600.2615, subpart 2. Prescription writing for and administration of legend drugs and medical devices were not included in the original scope of physician assistant practice.

In 1989 the Minnesota Academy of Physician Assistants (MAPA) sought legislation which would allow physicians to delegate to physician assistants the authority to prescribe and administer legend drugs and medical devices. Prior to doing so, the organization conducted a survey of supervising physicians to determine their opinions regarding the delegation of prescriptive and administrative practices to physician assistants. Approximately 90% of the physicians responding to the survey were in favor of delegating prescriptive and administrative practices to physician assistants, providing the physician assistant is certified by the National Commission for Certification of Physician Assistants (NCCPA), registered with the Minnesota Board of Medical Examiners, and restricted from prescribing controlled substances. Nearly all of the physician assistants responding to the survey supported the delegation of prescriptive and administrative practices to physician assistants. MAPA, "A Survey of Minnesota Physicians Supervising Physician Assistants

Regarding Delegation of Prescriptive Practice to Physician Assistants", Jan., 1990.

One of the factors supporting the concept of physician assistant prescriptive and administrative practices is the shortage of physicians in the rural areas of Minnesota. Seventy per cent of the MAPA Fellow Members work in primary care. Of these, nearly 50% work in communities with populations of less than 60,000 people. Allowing delegation of the prescribing and administering of legend drugs and medical devices expands the utilization of physician assistants in these areas of need.

Twenty five states and the District of Columbia have provisions for the delegation of prescriptive privileges to physician assistants. Various regulatory schemes exist. NCCPA certification is generally required and some states require additional experience, education, or training. Restrictions on prescribing may exist and include limitation to areas of need; limitation to certain formularies; and restrictions on refilling the prescription, duration of the prescription, or amount of the drug which can be prescribed. Fourteen states allow the prescription of controlled substances under varying conditions.

The National Board of Medical Examiners' Physician Assistant Clinical Pharmacology Task Force determined in 1981 that the NCCPA examination adequately measures the physician assistant's knowledge in "clinical therapeutics". Examination content includes actions, indications, and contraindications of drugs across all body systems. Additional testing for pharmacology was

determined to be unnecessary by the task force. Minutes of the Physician Assistant Clinical Pharmacological Task Force meeting of October 21, 1981, Philadelphia, PA.

The Committee on Allied Health Education and Accreditation Essentials, used for determining accreditation of physician assistant training programs, indicate that pharmacology must be included within the physician assistant's training in order for the training program to receive accreditation. American Medical Association, "Essentials and Guidelines for an Accredited Educational Program for the Physician Assistant," revised 1990.

STATUTORY AUTHORITY

In 1990 the legislature mandated that the Commissioner of Health (Commissioner) promulgate rules to 1) identify physician assistants eligible to prescribe drugs and medical devices; 2) establish a method of determining the categories of drugs and medical devices that each physician assistant is allowed to prescribe; and 3) establish a system of transmitting information to pharmacies regarding those physician assistants eligible to prescribe drugs and medical devices and the types of drugs and medical devices they are allowed to prescribe. Minnesota Statutes, section 147.34, subdivision 1 (c). The legislature specifically authorized the Commissioner to promulgate rules to implement this law and to do so by amending the physician assistant registration rules previously adopted under the authority of Minnesota Statutes, section 214.13. Minnesota Statutes, section 147.34, subdivision 2.

COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

General Procedures

The Department is proceeding according to the procedures in Minnesota Statutes, Chapter 14 in the preparation of these rule amendments. A notice of intention to solicit outside opinion concerning the proposed rule amendments was published in the State Register on July 9, 1991.

The Board of Medical Practice and the Physician Assistant Advisory Council were provided with a draft of the proposed rules January 4, 1991 according to Minnesota Statutes, section 214.13, subdivision 2. The Physician Assistant Advisory Council responded with comments for modifications of the proposed rules. These comments were taken into consideration in revision of the rules amendments.

In accordance with Minnesota Statutes, section 214.13, subdivision 1, the Board of Nursing and the Board of Pharmacy were provided copies of the draft rules and were asked to respond with any comments as evidenced by correspondence dated January 23, 1991. No written comments were received from the Board of Pharmacy or the Board of Nursing. The directors of each of these boards was contacted by telephone and no objections to the proposed rule amendments were voiced nor were any suggestions offered for rule modifications.

The Department has attempted to involve individuals and organizations which will most likely be affected by these rules. An advisory group was formed for consultation regarding technical

aspects of these rules. This group consisted of representatives from the Minnesota Academy of Physician Assistants, the Minnesota Medical Association, the Minnesota State Pharmaceutical Association, and the Board of Medical Practice. A group of pharmacists from various settings was also consulted in the process to determine which information would need to be reported to them and the best method for communicating the information to pharmacies in Minnesota. Their information was incorporated into the development of these rules.

The Department is proceeding under Minnesota Statutes, Chapter 14. A dual-track notice will be published in the State Register and notice mailed to those who have registered with the Department pursuant to Minnesota Statutes, section 14.14, subdivision 1a, to those physician assistants registered with the Minnesota Board of Medical Practice, and members of the Minnesota Academy of Physician Assistants. The notice will indicate the Department's intention to proceed to adopt the rules without a public hearing, and, in the alternative, notice that the Department will adopt the rules following a public hearing should 25 requests for a hearing be received within the 30 day comment period.

This Statement of Need and Reasonableness was filed with the Legislative Commission to Review Administrative Rules prior to publication of the proposed rule amendments and according to the requirements of Minnesota Statutes, section 14.131.

Approval of Commissioner of Finance

According to Minnesota Statutes, section 16A.128, subdivision 1a, if a fee is to be fixed by rule, the Commissioner of Finance must approve the fee, and the Commissioner's approval must be included in the statement of need and reasonableness. The Commissioner of Finance's approval of the fee for approval of an agreement containing a delegation of prescribing authority is contained in Appendix A which is incorporated into this statement of need and reasonableness.

Special Notice of Rulemaking

Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of these rules nor have an impact on agricultural land. The proposed rules will require the payment of fees by physician assistants to the Board of Medical Practice and no other expenses. While a small number of physician assistants may be employed by facilities supported by local public bodies, these facilities are not being required to pay any monies; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

Small Business Considerations

Minnesota Statutes, section 14.115 requires an administrative agency to examine whether proposed rules will affect small businesses, and, if so, consider methods to lessen the impact of the rules on small businesses. It is the

Commissioner's position with respect to these rules that the provisions of Minnesota Statutes, section 14.115 do not apply.

Minnesota Statutes, section 14.115, subdivision 7 specifies four types or classes of rules to which the small business requirements of section 14.115 are inapplicable. The proposed rules come within the exception in subdivision 7 (2) which states that agency rules that do not affect small businesses directly are not subject to small business considerations in rulemaking. These rules also come within the exemption for service businesses which are regulated by government bodies for standards and cost. Minnesota Statutes, section 14.115, subdivision 7 (3).

The proposed rules do not regulate small businesses directly but regulate individual physician assistants. Physician assistants are employees, supervised by physicians and cannot operate independently either as individuals or as small business entities. These rules therefore do not directly affect small businesses.

The rules also fall under the exemption for service businesses regulated by government bodies for standards and cost. Physicians and other employers of physician assistants are providers of medical care which are regulated by government bodies for standards and costs. Providers of medical care are specifically mentioned within the exception to the small business requirements for rulemaking. It is the Commissioner's position that any small businesses which may be affected by these proposed rules are exempted from small business protection because they

are providers of medical services regulated by government bodies for standards and costs.

Involvement of pharmacies in the physician assistant prescribing scheme does not cause these rules to be subject to small business considerations. The rules regulate physician assistants; pharmacies are not being regulated by these rules. No additional compliance or reporting requirements are being imposed on pharmacies. It is a requirement that the Board transmit information to pharmacies. Pharmacies are not required to report any information to the Board.

Although it is the Commissioner's position that these rules are exempt from the small business requirements, the Commissioner has nevertheless considered the five methods in section 14.115 for reducing the impact of the rules on small businesses. These five methods include: a) less stringent compliance or reporting requirements; b) less stringent schedules or deadlines for compliance or reporting requirements; c) simplification of compliance or reporting requirements; d) establishment of performance standards for small businesses to replace required design or operational standards; or e) exemption of small businesses from any or all requirements of the rule. Minnesota Statutes, section 14.115, subdivision 2.

The Commissioner has considered the feasibility of implementing each of the five methods for reducing the impact of the proposed rule amendments on small businesses, considered whether any of these methods are consistent with the statutory

objectives that are the basis for this rulemaking, and concluded that it would not be feasible to incorporate any of the five methods into these proposed rules. The Commissioner has also concluded that reducing the impact of these rules on small businesses would undermine the duty to protect the public through regulating the prescribing and administering of legend drugs and controlled substances as well as the statutory objectives that are the basis of these rules. Minnesota Statutes, section 14.115, subdivision 3.

Methods (a) through (c) of Minnesota Statutes, section 14.115, subdivision 2 relate to lessening compliance or reporting requirements for small businesses. The reporting requirements proposed by the Commissioner request provision of additional information by the supervising physician and physician assistant for inclusion in the agreement which is submitted to the Board. This agreement is submitted to the Board upon physician assistant registration and when the agreement is modified by the physician assistant and supervising physician. The additional information on physician assistant prescribing is essential to allow delegation of authority to prescribe and cannot be eliminated, further simplified, or requested on a less frequent basis if the public health, safety, and welfare is to be protected. For the same reason, standards cannot be reduced for small businesses nor small businesses exempted from the requirements of these rules.

It would be contrary to protection of the public health, safety, and welfare to reduce requirements or standards or to

exempt small businesses from these rules. A physician or medical group has the option of withholding authority to prescribe and administer legend drugs and medical devices from its physician assistants if it does not want to assume the responsibility of physician assistant prescribing. Because of the public health, safety, and welfare concerns, the Commissioner considers any of the five methods for reducing impact on small businesses as infeasible for implementation with these rules.

Should it be determined that the Commissioner is not exempt from the requirements of Minnesota Statutes, section 14.115, notice is hereby provided pursuant to Minnesota Statutes, section 14.115, subdivision 4 (a) that the rules may have an economic impact on small businesses. These rule amendments should result in time savings, therefore cost savings, for supervising physicians who choose to delegate prescribing and administering functions to the physician assistant. By allowing physician assistants to relieve physicians of more routine work, the physician is able to devote attention to more complicated medical problems.

GENERAL STATEMENT OF NEED AND REASONABLENESS

Supervising physician delegation of the authority to prescribe and administer drugs and medical devices to physician assistants was permitted, in part, to alleviate the shortage of physicians in rural Minnesota. This is consistent with recommendations made in the Final Report on Regulation of

Physician Assistants issued by the Minnesota Department of Health in April, 1990. Delegation of prescribing is critical to expanding the role of physician assistants and providing access to health care in rural areas. With prescription writing authority, the physician assistant will be able to perform a wider scope of duties and better support physician practice, relieving the physician from more routine duties and permitting him or her to attend to patients with more complex conditions and to provide specialized medical care. The proposed rules are needed to provide guidelines for supervising physicians and physician assistants in the delegation and exercise of this authority, assuring protection of the public from practices which do not meet medical standards or comply with legal regulations.

SPECIFIC STATEMENT OF NEED AND REASONABLENESS

5600.2600 DEFINITIONS

Subpart 2a. ADMINISTER. "ADMINISTER" MEANS TO DELIVER BY A PHYSICIAN ASSISTANT AUTHORIZED TO PRESCRIBE LEGEND DRUGS, A SINGLE DOSE OF A LEGEND DRUG, EXCLUDING CONTROLLED SUBSTANCES, TO A PATIENT BY INJECTION, INHALATION, INGESTION, OR BY ANY OTHER IMMEDIATE MEANS.

This term is necessary because it is used in these rules to identify an activity within the scope of physician assistant practice. This definition is reasonable because it consistent with the language used in Minnesota Statutes, section 152.01, subdivision 3 which defines the term for practitioners who are allowed to handle controlled substances. Since physician assistants will be performing the same activity, although not

with controlled substances, it is reasonable that the activity be described in terms that are familiar to health care providers.

Subpart 3. AGREEMENT. "AGREEMENT MEANS A DOCUMENT SIGNED BY THE PHYSICIAN AND THE PHYSICIAN ASSISTANT WHICH INCLUDES CONTENTS SPECIFIED IN PART 5600.2635, SUBPART 3. IF THERE IS A DELEGATION OF PRESCRIBING AND ADMINISTERING OF LEGEND DRUGS AND MEDICAL DEVICES, THE AGREEMENT INCLUDES THE DELEGATION FORM IN 5600.2670, SUBPART 6.

Identification of the delegation form as a part of the agreement is necessary because the form contains information required by Minnesota Statutes, section 147.34 and is required by this statute to be included in the agreement. It is reasonable to use a specified form in order to assure consistent means of identifying the information needed.

Subpart 7a. DELEGATION FORM. "DELEGATION FORM" REFERS TO THE FORM IN PART 5600.2670, SUBPART 6, USED TO INDICATE THE CATEGORIES OF DRUGS FOR WHICH THE AUTHORITY TO PRESCRIBE AND ADMINISTER HAS BEEN DELEGATED TO THE PHYSICIAN ASSISTANT AND SIGNED BY THE SUPERVISING PHYSICIAN, ANY ALTERNATE SUPERVISING PHYSICIANS, AND THE PHYSICIAN ASSISTANT. THIS FORM IS PART OF THE AGREEMENT AS DEFINED IN SUBPART 3.

It is necessary and reasonable to include this definition because the term is used in the rules to refer to a specific form to be used by physicians and physician assistants in the delegation of authority to prescribe and administer legend drugs and medical devices.

Subpart 8a. DRUG. "DRUG" HAS THE MEANING GIVEN IT IN MINNESOTA STATUTES, SECTION 151.02, SUBDIVISION 5, EXCLUDING CONTROLLED SUBSTANCES AS DEFINED IN MINNESOTA STATUTES, SECTION 152.01, SUBDIVISION 4.

The definition of drug is necessary because it is used within the rules to identify an item which physician assistants can be authorized to prescribe or administer. Because drugs,

except for controlled substances, are regulated by Minnesota Statutes, Chapter 151, it is reasonable that the definition provided in Minnesota Statues, section 151.01, subdivision 5 be used for consistency and clarity.

Subpart 8b. DRUG CATEGORY. "DRUG CATEGORY" MEANS ONE OF THE CATEGORIES LISTED ON THE FORM IN PART 5600.2670, SUBPART 6.

This term needs to be defined because it is used in these rules to identify the parameters of physician assistant prescribing. It is reasonable that the form in 5600.2670, Subpart 6 is used as it contains a standardized organization for listing of drugs which is commonly used by various practitioners for prescribing.

Subpart 9a. INTERNAL PROTOCOL. "INTERNAL PROTOCOL" MEANS A DOCUMENT WRITTEN BY THE SUPERVISING PHYSICIAN AND PHYSICIAN ASSISTANT WHICH SPECIFIES THE POLICIES AND PROCEDURES WHICH WILL APPLY TO THE PHYSICIAN ASSISTANT'S PRESCRIBING AND ADMINISTERING OF LEGEND DRUGS AND MEDICAL DEVICES, AND LISTS THE SPECIFIC DRUGS AND MEDICAL DEVICES, WITH ANY EXCEPTIONS OR CONDITIONS, THAT THE PHYSICIAN ASSISTANT IS AUTHORIZED TO PRESCRIBE AND ADMINISTER.

Definition of this term is necessary and reasonable because it is used in the rules to identify a process required for those supervising physicians and physician assistants who wish to include the delegation of authority to prescribe or administer legend drugs or medical devices in their practice.

Subpart 9b. LEGEND DRUG. "LEGEND DRUG" HAS THE MEANING GIVEN IT IN MINNESOTA STATUTES, SECTION 151.01, SUBDIVISION 17, EXCLUDING CONTROLLED SUBSTANCES AS DEFINED IN MINNESOTA STATUTES, SECTION 152.01, SUBDIVISION 4.

It is necessary to define this term because it is used within the rules to identify an item which physician assistants can be authorized to prescribe. Because legend drugs, except for

controlled substances are regulated by Minnesota Statutes, Chapter 151, it is reasonable to use the definition in Minnesota Statutes, section 151.01, subdivision 17 for these rules so that the regulations governing prescription writing are clear and consistent with the statute.

Subpart 9c. MEDICAL DEVICE. "MEDICAL DEVICE" MEANS DURABLE MEDICAL EQUIPMENT, AND ASSISTIVE OR REHABILITATIVE APPLIANCES, OBJECTS, OR PRODUCTS THAT ARE REQUIRED TO IMPLEMENT THE OVERALL PLAN OF CARE FOR THE PATIENT.

Definition of this term is necessary because it is used in the rules to identify a category of items which physician assistants may prescribe. It is reasonable to include durable medical equipment because physician assistants often treat patients who need such equipment. Assistive or rehabilitative appliances, objects, or products are reasonably included because physician assistants may need to prescribe such items to initiate or complete a course of treatment for a patient. Inclusion of a detailed listing of each medical device would be lengthy and unduly burdensome for the delegation process. Prescribing or administering of medical devices by the physician assistant will be limited by the physician assistant's training and experience, the services customary to the practice of the supervising physician, and the delegation by the supervising physician.

Subpart 11a. PRESCRIBE. "PRESCRIBE" MEANS TO DIRECT, ORDER, OR DESIGNATE BY MEANS OF A PRESCRIPTION THE PREPARATION, USE OF, OR MANNER OF USING A DRUG OR MEDICAL DEVICE.

This term is necessary because it is used in these rules to identify an activity within the scope of physician assistant practice. It is reasonable to define prescribe as including

directing, ordering or designating because these are the means used by a physician assistant to provide a prescription.

Subpart 11b. PRESCRIPTION. "PRESCRIPTION" MEANS A SIGNED WRITTEN ORDER, OR AN ORAL ORDER REDUCED TO WRITING, GIVEN BY A PHYSICIAN ASSISTANT AUTHORIZED TO PRESCRIBE DRUGS FOR PATIENTS IN THE COURSE OF THE PHYSICIAN ASSISTANT'S PRACTICE, ISSUED FOR AN INDIVIDUAL PATIENT AND CONTAINING THE INFORMATION REQUIRED BY PART 5600.2670, SUBPART 4, ITEM C.

This definition is necessary because the term is used in the rules. The definition is reasonable for consistency and clarity because it contains language similar to that used in Minnesota Statutes, section 151. It is reasonable to substitute the language "physician assistant authorized to prescribe" instead of "practitioner licensed to prescribe" because physician assistants are not licensed to prescribe but may be authorized by their supervising physicians to prescribe. Inclusion of the name, address, and telephone number of the physician serving as supervisor is necessary and reasonable because this information may be needed by the pharmacist and it is not unduly burdensome for the physician assistant to provide.

5600.2605 PURPOSE

THE PURPOSE OF PARTS 5600.2600 TO ~~5600.2665~~ 5600.2670 IS TO ESTABLISH THE ADMINISTRATIVE STRUCTURE, THE PROCEDURES, AND THE REQUIREMENTS FOR THE REGISTRATION OF PEOPLE QUALIFIED TO BE PHYSICIAN ASSISTANTS AND THE REQUIREMENTS WHICH MUST BE MET BEFORE A PHYSICIAN ASSISTANT MAY PRESCRIBE AND ADMINISTER LEGEND DRUGS AND MEDICAL DEVICES.

It is reasonable and necessary to amend the statement of purpose for these rules because the scope of physician assistant practice has been modified by Minnesota Statutes, section 147.34. The amendment to this subpart incorporates the new and expanded

purpose of these rules.

5600.2610 RESTRICTIONS ON USE OF ~~THE~~ TITLE OF REGISTERED PHYSICIAN ASSISTANT

Subpart 1. PHYSICIAN ASSISTANT IDENTIFICATION. ONLY A REGISTERED PHYSICIAN ASSISTANT IN ACTIVE STATUS MAY USE THE TITLE "PHYSICIAN ASSISTANT" OR "REGISTERED PHYSICIAN ASSISTANT" WITHOUT RESTRICTION. ONLY A REGISTERED PHYSICIAN ASSISTANT IN ACTIVE STATUS SHALL ~~IDENTIFY HIMSELF OR HERSELF~~ BE IDENTIFIED AT THE PRACTICE SITE BY USING A NAME TAG OR NAME PLATE OR SOME OTHER IDENTIFYING DEVICE BEARING THE TITLE "REGISTERED PHYSICIAN ASSISTANT."

It is necessary and reasonable to add the word "only" to the rules to make clear what the statute already requires. Minnesota Statutes, section 214.001, subdivision 3 (c) restricts the use of titles protected by rules to those who meet predetermined qualifications. Part 5600.2610, as originally written, and standing apart form the statute, does not make it sufficiently clear that non-registered persons may not call themselves physician assistants. It is important to clarify this because the statutory authority for prescribing and administering only applies to persons who are registered.

5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE

Subpart 2. PATIENT SERVICES MUST BE LIMITED TO:

...

H. PRESCRIBING AND ADMINISTERING LEGEND DRUGS OTHER THAN CONTROLLED SUBSTANCES AS DEFINED IN MINNESOTA STATUTES, SECTION 152.01, SUBDIVISION 4, AND MEDICAL DEVICES IF THIS FUNCTION HAS BEEN DELEGATED TO THE PHYSICIAN ASSISTANT BY THE SUPERVISING PHYSICIAN AND APPROVED BY THE BOARD, PURSUANT TO AND SUBJECT TO THE LIMITATIONS OF MINNESOTA STATUTES, SECTION 147.34 AND CHAPTER 151, AND PARTS 5600.2600 TO 5600.2670.

It is necessary to include the prescription and administration of drugs and medical devices in this section because the scope of physician assistant practice has been

expanded by the legislature to permit the delegation of these functions to physician assistants under certain conditions. This rule puts practitioners and the public on notice of this fact.

It is reasonable to place restrictions on physician assistant prescribing because physician assistants are a physician-dependent health care occupation, performing their job functions under the direction and supervision of a physician. The rules necessarily exclude delegating prescription of controlled substances because the legislature did not provide statutory language permitting such delegation. Minnesota physician assistants are unable to obtain Drug Enforcement Agency numbers allowing them to prescribe controlled substances because the state has not granted <u>independent</u> prescribing authority to physician assistants.

5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT

Subpart 3. CONTENTS OF AGREEMENT. THE AGREEMENT MUST INCLUDE AT LEAST THE FOLLOWING:

...

<u>D. A STATEMENT BY THE SUPERVISING PHYSICIAN REGARDING THE DELEGATION OR NONDELEGATION OF THE FUNCTIONS OF PRESCRIBING AND ADMINISTERING LEGEND DRUGS AND MEDICAL DEVICES TO THE PHYSICIAN ASSISTANT, AND, IF DELEGATION IS SPECIFIED, THE COMPLETED DELEGATION FORM AS REQUIRED BY PART 5600.2670.</u>

It is necessary that a statement regarding delegation of prescribing functions be included in the physician/physician assistant agreement along with a separate form addressing delegation of prescribing so that the Board can, as required by law, inform pharmacies which physician assistants will be prescribing and which categories of drugs they may prescribe. It

is reasonable to require the supervising physician and physician assistant to carefully consider the functions of prescribing and administering in order to protect the public from potential harm. It is reasonable that the agreement contain such a statement and form because it is not unduly burdensome for the physician and physician assistant to provide this information regarding their practice. It is also reasonable that the primary responsibility for determining the parameters of physician assistant prescribing be placed on the supervising physician and physician assistant rather than the Board or Physician Assistant Advisory Council because the supervising physician and physician assistant can best determine the appropriate prescribing practice for their situation based upon the scope of the practice and the physician assistant's abilities and training. The Board and Advisory Council have a secondary responsibility to assure compliance with the rules and statute.

Minnesota Statutes, section 147.34, subdivision 1, c, (2) requires rules to establish method indicating which substances may not be prescribed and this is done by eliminating controlled substances.

This amendment to the rule is necessary and reasonable to clarify the requirement that the delegation of authority to prescribe and administer must be contained in the agreement terms and must be submitted to the Board for approval.

Subpart 5. PROCEDURE TO OBTAIN DELEGATION OF PRESCRIBING AND ADMINISTERING FUNCTIONS. TO OBTAIN DELEGATION OF PRESCRIBING AND ADMINISTERING FUNCTIONS, A PHYSICIAN ASSISTANT MUST:

A. SUBMIT AN AGREEMENT INDICATING DELEGATION OF

PRESCRIBING AND ADMINISTERING FUNCTIONS;

B. SUBMIT A COPY OF THE PHYSICIAN ASSISTANT'S CERTIFICATION CARD FROM THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS SHOWING CURRENT CERTIFICATION;

C. SUBMIT THE COMPLETED AND SIGNED DELEGATION FORM IN PART 5600.2670, SUBPART 6; AND

D. SUBMIT THE FEES REQUIRED BY 5600.2655.

THE BOARD SHALL REVIEW EACH APPLICATION FOR APPROVAL OF AGREEMENTS CONTAINING DELEGATION OF PRESCRIBING IN A TIMELY MANNER AND NOTIFY THE APPLICANT IN WRITING OF ACTION TAKEN ON THE APPLICATION. IF THE AGREEMENT IS NOT APPROVED, THE BOARD MUST INDICATE THE GROUNDS FOR ITS ACTION IN THE NOTICE TO THE APPLICANT.

This section is necessary and reasonable to set forth the procedure to be used in applying for prescribing and administering functions.

5600.2645 APPLICATION PROCESS FOR REREGISTRATION

A PHYSICIAN ASSISTANT'S REGISTRATION EXPIRES EACH YEAR ON JULY 1. EACH PHYSICIAN ASSISTANT MUST REREGISTER ON OR BEFORE JULY 1 OF EACH YEAR BY SUBMITTING A COMPLETED APPLICATION FOR REREGISTRATION ON A FORM PROVIDED BY THE BOARD TOGETHER WITH THE ANNUAL REREGISTRATION FEE. PHYSICIAN ASSISTANTS WITH AUTHORITY TO PRESCRIBE AND ADMINISTER LEGEND DRUGS AND MEDICAL DEVICES MUST ALSO PROVIDE A COPY OF A CURRENT CERTIFICATION CARD ISSUED BY THE NATIONAL COMMISSION OF CERTIFICATION OF PHYSICIAN ASSISTANTS. THE INFORMATION SUPPLIED ON THE APPLICATION FOR REREGISTRATION MUST BE SUFFICIENT FOR THE BOARD TO DETERMINE WHETHER THE PHYSICIAN ASSISTANT CONTINUES TO MEET THE REQUIREMENTS FOR REGISTRATION IN PART 5600.2625 OR 5600.2640. iN ADDITION,THE APPLICANT MUST MEET THE REQUIREMENTS OF PART 5600.2650. THE BOARD MAY REQUEST A PHYSICIAN ASSISTANT TO SUBMIT ADDITIONAL INFORMATION TO CLARIFY INFORMATION PRESENTED IN THE APPLICATION FOR REREGISTRATION. AN APPLICATION SUBMITTED AFTER THE REREGISTRATION DEADLINE DATE MUST BE ACCOMPANIED BY A LATE FEE.

It is necessary to require physician assistants to submit proof of current certification by the National Commission on Certification of Physician Assistants upon reregistration because it is required by Minnesota Statutes, section 147.34, subdivision 1 (b). It is reasonable to require physician assistants who will be prescribing or administering legend drugs and medical devices

to provide proof of continued qualification to perform this function.

5600.2655 APPLICATION FEES

Subpart 4. FEE FOR APPROVAL OF AGREEMENTS. THE FEE FOR APPROVAL OF AN AGREEMENT BETWEEN A PHYSICIAN AND PHYSICIAN ASSISTANT BY THE BOARD SHALL BE ~~$30.~~:

A. $30 FOR AGREEMENTS NOT CONTAINING DELEGATION OF PRESCRIBING AND ADMINISTERING FUNCTIONS; OR

B. $86 FOR AGREEMENTS CONTAINING DELEGATION OF PRESCRIBING AND ADMINISTERING FUNCTIONS. THE DELEGATION FORM MUST ACCOMPANY THE AGREEMENT.

It is necessary and reasonable that the fee for approval of agreements containing delegation of prescribing is greater than that for approval of agreements not containing delegation of prescribing to recover the extra costs associated with reviewing an agreement containing prescribing protocol. The Board has indicated that it will incur additional costs for administering those agreements containing the delegation of prescribing to the physician assistant including additional time spent in review of agreements, mailing costs for notifying pharmacies of prescribing physician assistants and anticipated disciplinary costs. It is reasonable that the fee be assessed to those actually requiring the extra administrative work; those physician assistants with prescribing protocol contained in their agreements.

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION

Subpart 2. DISCIPLINARY OPTIONS OF BOARD. THE BOARD SHALL REFUSE TO GRANT OR RENEW A REGISTRATION, OR SHALL SUSPEND OR REVOKE A REGISTRATION, OR USE ANY LESSER REMEDY AGAINST A PHYSICIAN ASSISTANT IF THE ASSISTANT:

...

G. VIOLATES STATE OR FEDERAL LAWS REGARDING PRESCRIBING OR ADMINISTERING LEGEND DRUGS OR MEDICAL DEVICES;

H. PRESCRIBES OR ADMINISTERS LEGEND DRUGS OR MEDICAL

DEVICES IN A MANNER OTHER THAN UNDER THE PROCEDURES IN PARTS 5600.2600 TO 5600.2670.

I. PRESCRIBES OR ADMINISTERS LEGEND DRUGS OR MEDICAL DEVICES IN A MANNER WHICH IS INCONSISTENT WITH THE TRAINING AND EXPERIENCE OF THE PHYSICIAN ASSISTANT OR IN A MANNER WHICH FALLS BELOW THE COMMUNITY STANDARD OF CARE; OR

J. PRESCRIBES OR ADMINISTERS LEGEND DRUGS OR MEDICAL DEVICES IN VIOLATION OF THE AGREEMENT.

It is necessary and reasonable that the grounds for discipline available to the Board be expanded to specify and include illegal or inappropriate prescribing and administering of drugs and medical devices so that the Board can act appropriately to protect the public from a physician assistant who has demonstrated an inability to abide by professional and legal standards for prescribing.

Subpart 3. DISCIPLINARY ACTIONS. IF THE BOARD FINDS THAT A PHYSICIAN ASSISTANT SHOULD BE DISCIPLINED PURSUANT TO SUBPART 2, THE BOARD MAY TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:

...

G. REFUSE TO APPROVE DELEGATION OF PRESCRIBING AND ADMINISTERING AUTHORITY, REVOKE, SUSPEND, RESTRICT, OR CONDITION PRESCRIBING AND ADMINISTERING AUTHORITY.

It is necessary that the Board be able to remove or limit a physician assistant's prescribing and administering practice in order to protect the public should an individual demonstrate inadequate qualifications or inappropriate prescribing practices. This rule is reasonable because it allows the Board a variety of disciplinary options which can be tailored to the particular situation. It is also reasonable to designate the statutory standards for disciplining physician assistants to provide adequate notice of the expected standards of conduct in prescribing and administering practice.

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL

Subpart 3. DUTIES. THE COUNCIL SHALL:

...

H. REVIEW DELEGATION OF PRESCRIBING AND ADMINISTERING AUTHORITY IN AGREEMENTS, REQUEST A COPY OF THE INTERNAL PROTOCOL OR OTHER ADDITIONAL INFORMATION FOR CLARIFICATION OF DELEGATION TERMS IF NECESSARY, AND RECOMMEND APPROVAL, DISAPPROVAL, OR MODIFICATION OF THE AGREEMENT BASED UPON THE STANDARDS IN MINNESOTA STATUTES, SECTION 147.34 AND PARTS 5600.2600 TO 5600.2670.

This rule is necessary because the Board has delegated the review of agreements to the advisory council and delegation of prescribing authority will be contained in the agreement. It is reasonable that the advisory council have this function delegated to it because its members have the technical expertise needed to review the delegation protocol and determine whether it meets the standards set forth in law and rules. It is reasonable to designate the standards for this review to assure consistency in council review of the delegation.

5600.2670 DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES

Subpart 1. DELEGATION. A PHYSICIAN ASSISTANT MAY PRESCRIBE AND ADMINISTER LEGEND DRUGS AND MEDICAL DEVICES UNDER THE FOLLOWING CONDITIONS:

A. THE PHYSICIAN ASSISTANT IS CURRENTLY CERTIFIED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS AS EVIDENCED BY A COPY OF THE CERTIFICATION CARD WITH EXPIRATION DATE.

B. THE PHYSICIAN ASSISTANT IS REGISTERED WITH THE BOARD.

C. THE PHYSICIAN ASSISTANT'S SUPERVISING PHYSICIAN AND THE PHYSICIAN ASSISTANT HAVE COMPLETED AND SIGNED THE DELEGATION FORM IN SUBPART 6.

D. THE AGREEMENT HAS BEEN APPROVED BY THE BOARD BASED UPON THE STANDARDS IN MINNESOTA STATUTES, SECTION 147.34, AND PARTS 5600.2600 TO 5600.2670; AND

E. THE PHYSICIAN ASSISTANT'S PRESCRIPTION WRITING PRIVILEGES ARE NOT CURRENTLY RESTRICTED BY THE BOARD.

It is necessary to include language specifying the conditions under which a physician may delegate the prescription and administration of legend drugs and medical devices to physician assistants because the legislature has determined that supervising physicians may delegate these functions to physician assistants. It is reasonable to indicate in the rule that these functions are delegated only under certain conditions in order to protect the public. These conditions are aimed at making sure the physician assistant possesses adequate knowledge and training to enable him or her to safely and effectively perform these functions.

Minnesota Statutes, section 147.34, subdivision 1 (a) and (b) establishes conditions which a physician assistant must meet before being delegated prescribing and administering authority for drugs and medical devices. It is reasonable and necessary to restate the conditions in rule so that all persons affected by the rules have notice of all the requirements.

It is necessary and reasonable that the agreement be subject to the review of the Board because they have the expertise to determine whether the agreement conforms to the limitations in the physician assistant scope of practice as described in Minnesota Rules, part 5600.2615, subpart 1. It is also reasonable to designate the statutory standards for review of the agreement to provide guidelines for consistent review.

It is necessary and reasonable for the protection of the

public health and safety that the prescribing and administering of legend drugs and medical devices be limited to those physician assistants who have demonstrated adequate qualifications for assumption of prescribing. Physician assistants subject to restrictions on prescribing privileges have demonstrated an inability to prescribe within professional and/or legal guidelines and are therefore not qualified to prescribe.

Subpart 2. DOCUMENTATION. THE PHYSICIAN ASSISTANT SHALL ENTER EACH PRESCRIPTION ON THE PATIENT'S CHART.

THE SUPERVISING PHYSICIAN SHALL RETROSPECTIVELY REVIEW THE PHYSICIAN ASSISTANT'S PRESCRIBING AND ADMINISTERING PRACTICES ON A DAILY BASIS. REVIEW MAY EITHER BE IN PERSON OR BY TELECOMMUNICATION.

A. IF THE SUPERVISING PHYSICIAN PERFORMS THIS REVIEW IN PERSON, THE SUPERVISING PHYSICIAN SHALL DOCUMENT THE RETROSPECTIVE REVIEW BY SIGNATURE ON THE PATIENT'S CHART OR OTHER PERMANENT PRACTICE RECORD.

B. FOR FACILITIES STAFFED BY THE PHYSICIAN ASSISTANT THAT ARE SEPARATE FROM THE USUAL PRACTICE SITE OF THE SUPERVISING PHYSICIAN, THE PHYSICIAN ASSISTANT OR THE SUPERVISING PHYSICIAN SHALL DOCUMENT THE RETROSPECTIVE REVIEW BY SIGNATURE ON THE PATIENT'S CHART OR OTHER PERMANENT PRACTICE RECORD. AT EACH SITE VISIT, THE SUPERVISING PHYSICIAN SHALL DOCUMENT BY SIGNATURE AND DATE ON THE PATIENT'S CHART OR OTHER PERMANENT PRACTICE RECORD THAT THE PHYSICIAN ASSISTANT'S PRESCRIBING AND ADMINISTERING PRACTICES HAVE BEEN REVIEWED.

It is necessary to require documentation of review of physician assistant practices because it is required by Minnesota Statutes, section 147.34, subdivision 1 (b). Documentation helps to assure that drugs and medical devices are being properly prescribed and administered. It also assures that the supervising physician remains aware of the physician assistant's exercise of prescribing and administering authority.

Since it is required that the supervising physician regularly review and document the physician assistant prescribing

and administering practices, it is reasonable to provide alternate means of documentation. If only one method were provided, it would likely be unduly burdensome in some practice settings. The alternatives provided allow for development of a procedure for review by the supervising physician and physician assistant which will comply with the statutory requirements and fit the unique characteristics of individual practice settings. It is also reasonable that supervising physicians and physician assistants working in facilities separate from the physician's usual practice site be provided with flexibility of reporting to meet their special needs and circumstances.

Subpart 3. TERMINATION AND REINSTATEMENT OF PRESCRIBING AUTHORITY.

A. THE AUTHORITY OF A PHYSICIAN ASSISTANT TO PRESCRIBE AND ADMINISTER LEGEND DRUGS AND MEDICAL DEVICES SHALL END IMMEDIATELY WHEN:

(1) THE AGREEMENT IS TERMINATED;

(2) THE AUTHORITY TO PRESCRIBE AND ADMINISTER IS TERMINATED OR WITHDRAWN BY THE SUPERVISING PHYSICIAN; OR

(3) THE PHYSICIAN ASSISTANT REVERTS TO INACTIVE STATUS, LOSES NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS CERTIFICATION, OR LOSES OR TERMINATES REGISTRATION STATUS.

B. THE PHYSICIAN ASSISTANT MUST NOTIFY THE BOARD IN WRITING WITHIN 10 DAYS OF THE OCCURRENCE OF ANY OF THE CIRCUMSTANCES LISTED IN ITEM A.

C. PHYSICIAN ASSISTANTS WHOSE AUTHORITY TO PRESCRIBE AND ADMINISTER HAS BEEN TERMINATED SHALL REAPPLY FOR APPROVAL OF THE AGREEMENT UNDER PART 5600.2635 AND MEET THE REQUIREMENTS OF SUBPART 1, AND ANY OTHER REQUIREMENTS ESTABLISHED BY THE BOARD PRIOR TO REINSTATEMENT OF THE PRESCRIBING AND ADMINISTERING AUTHORITY.

It is necessary that the authority to prescribe is terminated if one of the above conditions occurs because the physician assistant is a physician-dependent health care professional and cannot operate independent of physician

supervision. It is also necessary to terminate prescribing authority if one of the above conditions occurs because they are statutory prerequisites for delegation of prescription writing privileges. It is reasonable to require a physician assistant to cease prescribing under these conditions in order to assure the health and safety of the public. It is necessary and reasonable to include these provisions in the rule so that supervising physicians and physician assistants have notice of when prescription authority expires and the requirements for regaining authority. It is necessary and reasonable to require the physician assistant notify the Board within a definite period of time to protect the public health and safety. The physician assistant has the information regarding termination of authority and it is not unduly burdensome for him or her to notify the Board.

Subpart 4. OTHER REQUIREMENTS AND RESTRICTIONS

A. THE SUPERVISING PHYSICIAN AND THE PHYSICIAN ASSISTANT MUST COMPLETE, SIGN, AND DATE AN INTERNAL PROTOCOL WHICH LISTS EACH DRUG OR MEDICAL DEVICE THE PHYSICIAN ASSISTANT MAY PRESCRIBE AND ADMINISTER. THE SUPERVISING PHYSICIAN AND PHYSICIAN ASSISTANT SHALL SUBMIT THE INTERNAL PROTOCOL TO THE BOARD UPON REQUEST. THE SUPERVISING PHYSICIAN MAY AMEND THE INTERNAL PROTOCOL AS NECESSARY, WITHIN THE LIMITS OF THE COMPLETED DELEGATION FORM IN SUBPART 6. THE SUPERVISING PHYSICIAN AND PHYSICIAN ASSISTANT MUST SIGN AND DATE ANY AMENDMENTS TO THE INTERNAL PROTOCOL. ANY AMENDMENTS RESULTING IN A CHANGE TO THE DELEGATION FORM IN SUBPART 6 MUST BE SUBMITTED TO THE BOARD ACCORDING TO PART 5600.2635, SUBPART 4 ALONG WITH THE FEE REQUIRED IN PART 5600.2655.

It is necessary that the supervising physician and physician assistant have a mutual understanding of and articulate how the physician assistant will be prescribing within a particular

practice. This rule provision requires them to detail and render the understanding in writing in the form of an internal protocol. Because this protocol specifies how prescribing will be done in the workplace rather than the parameters or scope of prescribing delegation, it need not be submitted to the Board unless the Board requests. The internal protocol is meant to relate to the internal operating procedures of the medical provider setting which may be unique and/or vary greatly among settings. This rule, in order to apply adequate safeguards to protect the public, is reasonable because it is not unduly burdensome for the supervising physician and physician assistant and because it provides an extra measure of precaution in the delegation of prescribing authority.

B. THE SUPERVISING PHYSICIAN AND PHYSICIAN ASSISTANT SHALL REVIEW DELEGATION OF PRESCRIBING AND ADMINISTERING AUTHORITY ON AN ANNUAL BASIS AT THE TIME OF REREGISTRATION. THE INTERNAL PROTOCOL MUST BE SIGNED AND DATED BY THE SUPERVISING PHYSICIAN AND PHYSICIAN ASSISTANT AFTER REVIEW. ANY AMENDMENTS TO THE INTERNAL PROTOCOL RESULTING IN CHANGES TO THE DELEGATION FORM IN SUBPART 6 MUST BE SUBMITTED TO THE BOARD ACCORDING TO PART 5600.2635, SUBPART 4, ALONG WITH THE FEE REQUIRED IN PART 5600.2655.

This rule is necessary to assure that prescribing practices of physician assistants are reviewed and updated at least on an annual basis with submission of any changes to the Board. It is necessary to inform the Board of any changes so that it may provide accurate information to pharmacies regarding those physician assistants who are prescribing and have information available regarding the categories of drugs from which they will be prescribing. It is reasonable to require an annual review by

the supervising physician and physician assistant because it is not unduly burdensome for them to conduct such a review and have it coincide with reregistration of the physician assistant.

C. EACH PRESCRIPTION INITIATED BY A PHYSICIAN ASSISTANT SHALL INDICATE THE FOLLOWING:

(1) THE DATE OF ISSUE;

(2) THE NAME AND ADDRESS OF THE PATIENT;

(3) THE NAME AND QUANTITY OF THE DRUG PRESCRIBED;

(4) DIRECTIONS FOR USE; AND

(5) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PRESCRIBING PHYSICIAN ASSISTANT AND OF THE PHYSICIAN SERVING AS SUPERVISOR.

This rule is necessary because it clearly identifies the information that is to be included on a prescription written by a physician assistant. It is necessary and reasonable to require this information because it is the type of information needed by a pharmacist to verify that the prescription has been issued by a legally authorized individual.

D. IN PRESCRIBING AND ADMINISTERING LEGEND DRUGS AND MEDICAL DEVICES, A PHYSICIAN ASSISTANT MUST CONFORM WITH THE AGREEMENT, MINNESOTA STATUTES, SECTION 147.34 AND CHAPTER 151, AND PARTS 5600.2600 TO 5600.2670.

It is necessary and reasonable that the physician and physician assistant confine their practice to current legal regulations because the laws were written to assure the safe prescription of legend drugs. This rule is also reasonable to provide guidelines for consistent review and approval of the delegation of prescription writing in the agreement.

Subpart 5. NOTIFICATION OF PHARMACIES

Minnesota Statutes, section 147.34, subdivision 1 (c) (3) requires the Commissioner to develop a method for transmitting information regarding prescribing physician assistants to

pharmacies. These rules provide a practical method of notification which is not unduly burdensome for the Board.

A. THE BOARD SHALL, WITHIN SIX MONTHS OF ADOPTION OF PARTS 5600.2600 TO 5600.2670 AND ANNUALLY THEREAFTER, PROVIDE TO THE BOARD OF PHARMACY AND TO REGISTERED PHARMACIES WITHIN THE STATE A LIST OF THOSE PHYSICIAN ASSISTANTS WHO ARE AUTHORIZED TO PRESCRIBE LEGEND DRUGS AND MEDICAL DEVICES.

This rule is necessary because the Commissioner is required by Minnesota Statutes, section 147.34, subdivision 1 (c) (3) to establish a system for transmitting to pharmacies a listing of those physician assistants eligible to prescribe. It is reasonable that the Board provide this listing because the Board will have this information available to them. It is reasonable that the Board provide this listing on an annual basis because physician assistants submit an application for reregistration to the Board on an annual basis therefore the Board will have current information needed by pharmacies.

B. THE BOARD SHALL PROVIDE TO THE BOARD OF PHARMACY A LIST OF PHYSICIAN ASSISTANTS AUTHORIZED TO PRESCRIBE LEGEND DRUGS AND MEDICAL DEVICES EVERY TWO MONTHS IF ADDITIONAL PHYSICIAN ASSISTANTS ARE AUTHORIZED TO PRESCRIBE OR IF PHYSICIAN ASSISTANTS HAVE AUTHORIZATION TO PRESCRIBE WITHDRAWN.

Updating the list of physician assistants authorized to prescribe on an interim basis is necessary because there may be physician assistants who receive authorization to prescribe prior to the annual release of the list to pharmacies. In addition, there may be physician assistants who have authorization to prescribe withdrawn prior to annual release of the list. It is reasonable to designate a schedule of six times per year because the Board will be meeting and reviewing delegations of

prescribing authority no more than every other month throughout the year. Pharmacies will be able to acquire current information from the Board or the Board of Pharmacy so that prescriptions can be lawfully filled.

C. THE LIST MUST INCLUDE THE NAME, ADDRESS, TELEPHONE NUMBER, AND MINNESOTA REGISTRATION NUMBER OF THE PHYSICIAN ASSISTANT, AND THE NAME, ADDRESS, TELEPHONE NUMBER, AND MINNESOTA LICENSE NUMBER OF THE SUPERVISING PHYSICIAN.

It is necessary and reasonable to require provision of this information so that pharmacies have a means of identifying the prescribing physician assistant and contacting the prescribing physician assistant should additional information be needed to correctly fill the prescription. Each pharmacy need not have a copy of each delegation form listing the drug categories the physician assistant may prescribe; it would be unduly burdensome for the Board to provide such information and information provided in this manner is not likely to be helpful to or utilized by pharmacists. The delegation form is available from the Board should the pharmacy wish to have this information.

D. THE BOARD SHALL PROVIDE THE FORM IN SUBPART 6 TO PHARMACIES UPON REQUEST.

This rule is necessary because the Commissioner is required to provide a system for transmission to pharmacies of a list of the drugs which physician assistants are allowed to prescribe. Minnesota Statutes, section 147.34, subdivision 1 (c) (3). It is reasonable to require the Board to disseminate the information since it will have the form in its possession. It is not unduly burdensome for the Board to provide this information to

pharmacies on a request basis.

Subpart 6. DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING. THE DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING MUST CONTAIN THE FOLLOWING:

(Please see next page)

DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING

The below-named physician assistant may prescribe and administer drugs and medical devices as indicated on this form. This form is hereby made a part of the agreement as required by Minn. Stat. section 147.34 and Minn. Rules part 5600.2635, subpart 3, item D.

Physician Assistant _____ Minn. Registration # _____
Supervising Physician _____ Minn. License # _____

The physician assistant may prescribe from those categories checked in the following list:	Restrictions applicable to each category:
A. Drugs*	
01 ____ Anesthetics	01 _____
02 ____ Antiinfectives	02 _____
03 ____ Antineoplastics/Immunosuppressants	03 _____
04 ____ Cardiovascular Medications	04 _____
05 ____ Autonomic & Central Nervous System Drugs	05 _____
06 ____ Dermatological Medications	06 _____
07 ____ Diagnostic Agents	07 _____
08 ____ Ear-Nose-Throat Medications	08 _____
09 ____ Endocrine Medications	09 _____
10 ____ Gastrointestinal Medications	10 _____
11 ____ Immunologicals & Vaccines	11 _____
12 ____ Musculoskeletal Medications	12 _____
13 ____ Nutritional Products, Blood Modifiers & Electrolytes	13 _____
14 ____ Obstetrical & Gynecological Medications	14 _____
15 ____ Ophthalmic Medications	15 _____
16 ____ Respiratory Medications	16 _____
17 ____ Urological Medications	17 _____
B. ____ Medical Devices	B. _____

Physician assistants may not prescribe controlled substances regulated under Minn. Stat. Chapter 152. Other specific drugs or medical devices which the physician assistant may not prescribe include:

_____
_____

_____	_____
Supervising Physician (sign)	Physician Assistant (sign)
_____	_____
(type name/date)	(type name/date)
_____	_____
address	address
telephone # _____	telephone # _____

1. _____
Alternate Supervising Physician

_____
(type name/date)

2. _____
Alternate Supervising Physician

_____
(type name/date)

3. _____
Alternate Supervising Physician

_____
(type name/date)

4. _____
Alternate Supervising Physician

_____
(type name/date)

5. _____
Alternate Supervising Physician

_____
(type name/date)

6. _____
Alternate Supervising Physician

_____
(type name/date)

7. _____
Alternate Supervising Physician

_____
(type name/date)

8. _____
Alternate Supervising Physician

_____
(type name/date)

9. _____
Alternate Supervising Physician

_____
(type name/date)

10. _____
Alternate Supervising Physician

_____
(type name/date)

11. _____
Alternate Supervising Physician

_____
(type name/date)

12. _____
Alternate Supervising Physician

_____
(type name/date)

*The listed drug categories are based upon the chapter heading used in the Physicians Health Plan Drug Formulary:
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It is necessary to include this form in the agreement because it indicates what the physician assistant may prescribe as required by Minnesota Statutes, section 147.34, subdivision 1 (b). The form represents a balance between the need for sufficiently detailed information on the extent of delegation and the need for a form that will not burden physicians, physician assistants, pharmacies, and pharmacists to such an extent so as to make delegation not feasible and impractical.

Identification of the physician assistant is necessary so that the Board may determine whether the physician assistant meets the requirements for delegation of legend drug and medical device prescribing and administering as set forth in Minnesota Statutes, section 147.34, subdivision 1, (b). A listing of categories from which a physician assistant may prescribe is necessary to provide a clear and orderly indication of delegated prescribing and administering functions and to meet the requirements of Minnesota Statutes, section 147.34. The Physicians Health Plan format is being used with its permission as evidenced by correspondence from K. James Ehlen dated October 16, 1990 to identify categories of drugs which may be prescribed because it provides an orderly and consistent way of identifying those categories of drugs which will be prescribed by a particular physician assistant. This format is also used by the Minnesota Department of Human Services in the Medical Assistance and General Assistance Medical Care Provider Manual and is therefore familiar to medical providers. The column for

restrictions and the space for designating drugs or medical devices which the physician assistant may not prescribe are necessary to provide the supervising physician and physician assistant an opportunity to tailor the form to meet any limitations required by their individual practice situation. It is necessary to require the signatures of the physician assistant, supervising physician, and alternate supervising physicians because, by signing the form, the individuals indicate their agreement regarding the physician assistant's prescribing practices. It is necessary and reasonable that the physicians sign this form because they retain ultimate responsibility for the physician assistant's prescribing.

10/29/91
Date

Marlene E. Marschall
Commissioner of Health

ADDENDUM

STATEMENT OF NEED AND REASONABLENESS

Need

Minnesota Statutes, section 147.34, subdivision 2, authorizes the Commissioner to promulgate rules to implement the delegation of prescribing to physician assistants. Minnesota Statutes, section 214.13, subdivision 3, authorizes the Commissioner to assess fees. The Commissioner is empowered to assess an amount sufficient to recoup anticipated costs. See Minnesota Statutes, section 214.06, subdivision 1.

Reasonableness

The Department has proposed to adopt a fee for approval of the prescribing agreement. This fee was determined by totalling the costs for rulemaking ($15,980.56) and dividing the total by 5 to spread the costs of rulemaking over a five year period. See Minnesota Statutes, section 214.06. The resulting amount ($3,196.11) was added to the total yearly administrative costs ($7,503.00). The sum ($10,699.11) was divided by the number of physician assistants estimated to apply for prescribing authority (125) resulting in a fee for approval of a prescribing agreement of $86.

Upon review of the above information justifying the reasonableness of the proposed fee and pursuant to the authority vested in the Department of Finance under Minnesota Statutes, section 16A.128, the fee set forth in this proposal of the Department of Health is hereby approved.

9-19-91
Date

Bruce Reddeman, Director
Budget Operations

PHYSICIAN ASSISTANT PRESCRIBING COSTS

ITEM	EXPLANATION	COST
Rulemaking Costs		
MDH Staff		
Health Program Rep. Prncpl.		$2,325.58
MA II		8,924.47
Clerk Typist 3		1,788.96
Supplies and Expenses		785
		$13,824.01
Indirect Costs	Subtotal - Equipment x .156	2,156.55
		$15,980.56
Board of Medical Practice Administration Costs		
Postage	$.29 x 1100 pharmacies	$ 319
Labels		135
Envelopes	$.03 x 1100 pharmacies	33
Printing	$.03 x 6 pages x 1100 pharmacies	198
Stuffing Envelopes		160
Staff Time		
Physician Assistant Agenda	$25. x 10 hrs. x 6 meetings	1,500
Board of Medical Examiners Agenda	$25. x 5 hrs. x 6 meetings	750
Follow-up	$25. x 20 hrs. x 6 meetings	3,000
Complaints		
Licensure Staff	$25. x 7 hrs.	175
Disciplinary Staff	$50. x 6 hrs.	300
Computer (12 hours of programming)		750
		$7,320
Indirect Costs	Subtotal - Equipment x .025	183
		$7,503

- Rule administration costs based upon information provided by the Board of Medical Practice.
- Anticipated number of physician assistants applying for prescribing = 125.
- Anticipated disciplinary rate for prescriptive practices is 2% (based upon rates found in other states with physician assistant prescribing).

- Rulemaking costs divided over a five year period per Minnesota Statutes, section 214.06.
Fee calculation and estimate - Rulemaking costs ($15,980.56) divided by 5 = $3,196.11/ year + Yearly administration costs $7,503 = $10,699.11. Divided by estimated number of physician assistants (125) = $85.60.

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

MEMORANDUM

TO: Interested Party

FROM: Annette Spencer AS

DATE: November 27, 1991

RE: Proposed Rules for Delegation of Prescription Writing to Physician Assistants

Enclosed for your information please find a copy of the Alternative Notices for delegation of prescription writing to physician assistants. Also enclosed is a copy of the proposed rule amendments. Deletions to the current physician assistant rules are marked by strikeouts and additions are marked by underlining.

These rules are being proposed according to 1990 Minnesota Laws Chapter 524. The law requires the Commissioner of Health to establish by rule:

1) a system of identifying physician assistants eligible to prescribe drugs and medical devices;
2) a method of determining the categories of prescription drugs and medical devices that each physician assistant is allowed to prescribe; and
3) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe prescription drugs and the types of drugs and medical devices they are allowed to prescribe.

1990 Minnesota Laws Chapter 524 further requires the physician assistant:

1) be registered with the Board of Medical Practice;
2) be certified by the NCCPA; and
3) have an agreement in place with a supervising physician which delegates prescription writing. Daily, retrospective review by the supervising physician of the physician assistant's prescribing is also required by law and has been addressed in these rule amendments.

If you are a physician assistant, please provide this information to your supervising physician and employer.

If you have any questions, please contact me at the telephone number or address contained in the attached notice.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Department of Health Governing Delegation of Prescription Writing to Physician Assistants

ALTERNATIVE NOTICES

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

I

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minnesota Statutes, sections 14.22 to 14.28. However, if 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minnesota Statutes, section 14.25, and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to Minnesota Statutes, sections 14.131 to 14.20. The hearing will, of course, be cancelled if 25 or more people do not request that one be held. The hearing will also be cancelled if a sufficient number of people withdraw their requests for a hearing. With the comment period closing on January 3, 1992 there will be 7 days before the scheduled hearing date which is January 10, 1992. This seven day period will give interested persons ample time to contact the

Department to find out whether the hearing will be cancelled and to plan accordingly.

II.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Department proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

Interested persons shall have until January 3, 1992 to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rule by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing

be held on only a portion of the rules, it is requested that the Department be informed of the specific amendments on which the hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by January 3, 1992. If a hearing is required, it will be held in accordance with the provisions of Minnesota Statutes, sections 14.131 to 14.20 and the hearing notice provided in Part III below.

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

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440
(612) 623-5131

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, section 147.34. As authorized by section 147.34, the Department is implementing prescribing and administering delegation by amending Minnesota Rules parts 5600.2600 to 5600.2665 (physician assistant rules) promulgated under Minnesota Statutes, section 214.13.

A copy of the proposed rules is attached to this notice. In general, the proposed rules will: 1) establish a system of identifying physician assistants eligible to prescribe and

administer drugs and medical devices; 2) establish categories of drugs and medical devices that each physician assistant is allowed to prescribe and administer; 3) provide guidelines for documentation of prescribing and administering activities; 4) designate grounds for disciplinary actions related to physician assistant prescribing and administering; and 5) establish a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe and the types of drugs and medical devices they are allowed to prescribe.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules has been prepared and may be obtained from the Department by writing or telephoning Annette Spencer at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

It is the position of the Department that these proposed rules are not subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subd. 2 for reducing the impact of the proposed

rules if they are subject to Minnesota Statutes, section 14.115, are addressed in the statement of need and reasonableness.

Should it be determined that these rules are subject to Minnesota Statutes, section 14.115, notice is hereby provided that the rules may have an economic impact on small businesses. Although there is a fee for review of agreements containing delegation of prescribing and administering, these rules should result in time savings, and therefore cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant.

If no hearing is required, upon adoption of the rules, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the amendments as adopted should submit a written request to Annette Spencer at the address listed above.

III

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

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULES WITHIN THE 30 DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON JANUARY 10, 1992, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to Minnesota Statutes, sections 14.131 to 14.20 and Minnesota Rules, parts 1400.0200 to 1400.1200, in Veteran's Conference Room D, fifth floor of the Veteran's Service Building, 20 West 12th Street, St. Paul, Minnesota on January 10, 1992 commencing at 1:00 p.m. All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record should be mailed to:

Barbara L. Neilson
Administrative Law Judge
Office of Administrative Hearings
Fifth Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415
(612) 341-7604

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. Any

written material or responses submitted must be received at the office no later than 4:30 p.m. on the final day. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

A copy of the proposed rules is attached to this notice. In general, the proposed rules will: 1) establish a system of identifying physician assistants eligible to prescribe and administer drugs and medical devices; 2) establish categories of drugs and medical devices that each physician assistant is allowed to prescribe and administer; 3) provide guidelines for documentation of prescribing and administering activities; 4) designate grounds for disciplinary actions related to physician assistant prescribing and administering; and 5) establish a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe and the types of drugs and medical devices they are allowed to prescribe.

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, section 147.34. As authorized by section 147.34, the Department is implementing prescribing and administering delegation by amending Minnesota Rules, parts 5600.2600 to 5600.2665 (physician assistant rules) promulgated under Minnesota Statutes, section 214.13.

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

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. The statute provides certain exceptions. Questions should be directed to:

Ethical Practices Board
625 North Robert Street
St. Paul, Minnesota 55101-2520
(612) 296-5148

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

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a

written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

It is the position of the Department that these proposed rules are not subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subd. 2 for reducing the impact of the proposed rules if they are subject to Minnesota Statutes, section 14.115, are addressed in the statement of need and reasonableness.

Should it be determined that these rules are subject to Minnesota Statutes, section 14.115, notice is hereby provided that the rules may have an economic impact on small businesses. Although there is a fee for review of agreements containing delegation of prescribing and administering, these rules should

result in time savings, and therefore cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant.

IV

NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE. ALSO, THE HEARING WILL BE CANCELLED IF A SUFFICIENT NUMBER OF PEOPLE WITHDRAW REQUESTS FOR A HEARING IN RESPONSE TO PROPOSED REVISIONS OF THE PROPOSED RULES BY THE DEPARTMENT.

To be informed whether the hearing in Part III above will be held, please telephone Annette Spencer at the telephone number listed above in Part II of this notice before January 3, 1992 and leave your name, address, and telephone number. You will be notified if the hearing has been cancelled. You may also telephone Annette Spencer after January 3, 1992 for oral confirmation regarding the scheduled hearing.

Dated: 11/13/91

Marlene E. Marschall
Commissioner of Health

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

RECEIVED
91 DEC 16 PM 1:18
ADMINISTRATIVE
HEARINGS

November 7, 1991

Maryanne Hruby
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

HAND DELIVERED

Re: Proposed Rules of the Department of Health Governing the Delegation of Prescription Writing to Physician Assistants

Dear Ms. Hruby:

Enclosed please find a copy of the proposed rules and statement of need and reasonableness for the above-mentioned matter. These rules are being filed with the LCRAR pursuant to Minnesota Statutes, section 14.131. If you have any questions regarding these documents please contact me at 623-5131.

Sincerely,

Annette Spencer

Annette Spencer

Enclosures

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Department of Health Governing Delegation of Prescription Writing to Physician Assistants

ALTERNATIVE NOTICES

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

I

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minnesota Statutes, sections 14.22 to 14.28. However, if 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minnesota Statutes, section 14.25, and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to Minnesota Statutes, sections 14.131 to 14.20. The hearing will, of course, be cancelled if 25 or more people do not request that one be held. The hearing will also be cancelled if a sufficient number of people withdraw their requests for a hearing. With the comment period closing on January 3, 1992 there will be 7 days before the scheduled hearing date which is January 10, 1992. This seven day period will give interested persons ample time to contact the

Department to find out whether the hearing will be cancelled and to plan accordingly.

II.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Department proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

(2) Interested persons shall have until January 3, 1992 to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. (3) Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rule by the comment. (8) The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the comment period that a hearing be held on the proposed rules. (6) Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing

be held on only a portion of the rules, it is requested that the Department be informed of the specific amendments on which the hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by January 3, 1992. (7) If a hearing is required, it will be held in accordance with the provisions of Minnesota Statutes, sections 14.131 to 14.20 and the hearing notice provided in Part III below.

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

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440
(612) 623-5131

(1) The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, section 147.34. As authorized by section 147.34, the Department is implementing prescribing and administering delegation by amending Minnesota Rules parts 5600.2600 to 5600.2665 (physician assistant rules) promulgated under Minnesota Statutes, section 214.13.

(11) A copy of the proposed rules is attached to this notice. In general, the proposed rules will: 1) establish a system of identifying physician assistants eligible to prescribe and

administer drugs and medical devices; 2) establish categories of drugs and medical devices that each physician assistant is allowed to prescribe and administer; 3) provide guidelines for documentation of prescribing and administering activities; 4) designate grounds for disciplinary actions related to physician assistant prescribing and administering; and 5) establish a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe and the types of drugs and medical devices they are allowed to prescribe.

(12) A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules has been prepared and may be obtained from the Department by writing or telephoning Annette Spencer at the address or telephone number listed above.

(13) Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

(14) It is the position of the Department that these proposed rules are not subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subd. 2 for reducing the impact of the proposed

rules if they are subject to Minnesota Statutes, section 14.115, are addressed in the statement of need and reasonableness.

Should it be determined that these rules are subject to Minnesota Statutes, section 14.115, notice is hereby provided that the rules may have an economic impact on small businesses. Although there is a fee for review of agreements containing delegation of prescribing and administering, these rules should result in time savings, and therefore cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant.

(9) If no hearing is required, upon adoption of the rules, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the amendments as adopted should submit a written request to Annette Spencer at the address listed above.

III

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING

IF 25 OR MORE PERSONS REQUEST A HEARING

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULES WITHIN THE 30 DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON JANUARY 10, 1992, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to Minnesota Statutes, sections 14.131 to 14.20 and Minnesota Rules, parts 1400.0200 to 1400.1200, in Veteran's Conference Room D, fifth floor of the Veteran's Service Building, 20 West 12th Street, St. Paul, Minnesota on January 10, 1992 commencing at 1:00 p.m. All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record should be mailed to:

Barbara L. Neilson
Administrative Law Judge
Office of Administrative Hearings
Fifth Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415
(612) 341-7604

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. Any

written material or responses submitted must be received at the office no later than 4:30 p.m. on the final day. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

A copy of the proposed rules is attached to this notice. In general, the proposed rules will: 1) establish a system of identifying physician assistants eligible to prescribe and administer drugs and medical devices; 2) establish categories of drugs and medical devices that each physician assistant is allowed to prescribe and administer; 3) provide guidelines for documentation of prescribing and administering activities; 4) designate grounds for disciplinary actions related to physician assistant prescribing and administering; and 5) establish a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe and the types of drugs and medical devices they are allowed to prescribe.

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, section 147.34. As authorized by section 147.34, the Department is implementing prescribing and administering delegation by amending Minnesota Rules, parts 5600.2600 to 5600.2665 (physician assistant rules) promulgated under Minnesota Statutes, section 214.13.

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

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. The statute provides certain exceptions. Questions should be directed to:

Ethical Practices Board
625 North Robert Street
St. Paul, Minnesota 55101-2520
(612) 296-5148

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

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a

written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

It is the position of the Department that these proposed rules are not subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subd. 2 for reducing the impact of the proposed rules if they are subject to Minnesota Statutes, section 14.115, are addressed in the statement of need and reasonableness.

Should it be determined that these rules are subject to Minnesota Statutes, section 14.115, notice is hereby provided that the rules may have an economic impact on small businesses. Although there is a fee for review of agreements containing delegation of prescribing and administering, these rules should

result in time savings, and therefore cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant.

IV

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PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE. ALSO, THE HEARING WILL BE CANCELLED IF A SUFFICIENT NUMBER OF PEOPLE WITHDRAW REQUESTS FOR A HEARING IN RESPONSE TO PROPOSED REVISIONS OF THE PROPOSED RULES BY THE DEPARTMENT.

To be informed whether the hearing in Part III above will be held, please telephone Annette Spencer at the telephone number listed above in Part II of this notice before January 3, 1992 and leave your name, address, and telephone number. You will be notified if the hearing has been cancelled. You may also telephone Annette Spencer after January 3, 1992 for oral confirmation regarding the scheduled hearing.

Dated: 11/13/91

Marlene E. Marschall
Commissioner of Health

RECEIVED
91 DEC 16 PM 1:05
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Department of Health Governing Delegation of Prescription Writing to Physician Assistants

AFFIDAVIT OF MAILING RULEMAKING NOTICE AND CERTIFICATION OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Annette Spencer, being duly sworn says:

I hereby certify that the attached list of persons and associations, which includes the names of those who have requested, pursuant to Minnesota Statutes, sections 14.14, subd. 1a, 14.22 or 14.30, that their names be placed on the Department of Health's rulemaking mailing list, as well as the names of others interested in the Department's proposed rules, was accurate, complete, and current as of the 25th day of October, 1991.

That on the 27th of November, 1991, at the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING, NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING 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.

Annette Spencer

Subscribed and sworn to before me
this 27th day of November, 1991.

Joan M. Osell

JOAN M. OSELL
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES MARCH 6, 1997

Michael J. Ahern
4800 Norwest Center
90 S. 7th St.
Minneapolis, MN 55402-4119

Donna M. Anderson
Dakota County Public
Health Department
33 E. Wentworth Ave. #345
West St. Paul, MN 55118

Anoka County Environmental
Services
% Robert Hutchison
Courthouse - 4th Floor
Anoka, MN 55303

Walter A. Baldus
Woodale Management
Services
P.O. Box 1047
Austin, MN 55912

June Barron
115 Cottage Downs
Hopkins, MN 55343

Lester Block
School of Public Health
Box 197 Mayo
University of Minnesota
Minneapolis, MN 55455

William Bond
MN Pharmacists Assoc.
2550 University Ave. W.
#320N
Minneapolis, MN 55414

Marge Scudder Brchan
Morrison County Public
Health Services
808 S.E. Third Street
Little Falls, MN 56345
Broeker, Geer, Fletcher
& LaFond, Limited
Attn: Sue Gilgenbach
8500 Normandale Blvd,
Suite 1510
Bloomington, MN 55437

Mark J. Brunner
Minnesota Manufactured
Housing Association
555 Park Street, Ste. 400
St. Paul, MN 55103

William R. Carter, III
POST Board
1600 University Avenue
Suite 200
St. Paul, MN 55104

Rebecca A. Comstock
Dorsey & Whitney
2200 First Bank Place East
Minneapolis, MN 55402

William Conley
114 Mackubin Street
St. Paul, MN 55102

D.E.F.F.B.A.M.
P.O. Box 11855
St. Paul, Mn 55111

Mary Davies, Director
Dakota Mental Health Ctr
744 - 19th Avenue North
So. St. Paul, MN
55075-1390

Judith S. Douglas
The Phoenix Residence Inc
135 Colorado Street East
St. Paul, MN 55107

John E. Drawz
1500 Northland Plaza Bldg.
3800 West 80th Street
Minneapolis, MN 55431-4409

Michael J. Duffy, Director
Community Health Board
325 Lake Avenue South
Suite 604
Duluth, MN 55802

Doug Ewald
26 East Exchange Street
St. Paul, MN 55101

Carol Fielders, Nursing
Director
St. Louis County Health
Department
222 East Superior Street
Duluth, MN 55802-2134

Bob Fitzgerald, D.C.
133 West Lake Street
Minneapolis, MN 55408

Pamela A. Foster,
Supervising Sanitarian
City of Crystal
4141 Douglas Drive North
Crystal, MN 55422

Iris C. Freeman
MN Alliance For Health
Care Consumers
5609 Lyndale Ave. So.
Minneapolis, MN 55419

Cynthia R. Fremgord
QSS, Inc.
P.O. Box 838
Faribault, MN 55021

Jerry Gross
Community Living, Inc.
P.O. Box 130
Victoria, MN 55386

Lois Hacker, Prg. Spec.
Anoka Co. Community Health
and Social Services
Courthouse - Fourth Floor
Anoka, MN 55303

Bob Hamper
Dept. of Human Services
444 Lafayette Road
St. Paul, MN 55155

Robert A. Harder
MN Dental Association
2236 Marshall Avenue
St. Paul, MN 55104

Ms. Elisabeth Hennessey
Executive Director
Arc Olmsted County
903 West Center Street
Rochester, MN 55902

Mr. John W. Henrich
Bergerson Caswell
5115 Industrial Street
Maple Plain, MN 55359

Charles B. Hoffman
Director-Env. Affairs
Pickands Mather & Co.
Ste 811-200 W. Superior
St. Duluth, MN 55802

Hope Residence Inc.
Box 63
Waterville, MN 56096

Gaynold Jensen, R.D.
8400 Pennsylvania Rd #327
Minneapolis, MN 55438

Joel D. Johnson
14920 Paul Ave. No.
Mrne St. Crx., MN
55047-9751

Sharon Kannenberg
252 W. Wabasha Street
Winona, MN 55987

Bob Kent
Lakeland Drilling
Route 1, Box 67-C
Wrenshall, MN 55797

David R. Kiely
% A.R.R.M.
26 E. Exchange St. #503
St. Paul, MN 55101

Karen Knepper
N. Memorial Medical Ctr
3300 North Oakdale
Robbinsdale, MN 55422

Jim Koesling
Capitol Supply Co.
600 Lafayette Road
St. Paul, MN 55101

Julie Krause
Todd County Public Health
Nursing Service
119 Third Street
Long Prairie, MN 56347

Vicki Kunerth
3426 - 39th Ave. So.
Minneapolis, MN 55406

Sue Kvendru
MN Senior Federation
1885 University Avenue
St. Paul, MN 55104

Byron Laher
404 South 8th Street
Minneapolis, MN 55404

Wayne Larson
Mt. Olivet Rolling Acres
7200 Rolling Acres Road
Excelsior, MN 55317

Ernest K. Lehmann &
Associates, Inc.
Attn: Land Department
430 First Ave. N.-Ste. 790
Minneapolis, MN 55401

Virgil H. Lee, R.Ph., M.S.
St. Marys Hospital
Pharmacy
1216 Second St. S.W.
Rochester, MN 55902

Dakota's Children Inc.
Attn: Kathleen LeMay
400 West Marie
West St. Paul, MN 55118

Karen Lenander
Northern States Power Co.
A.S. King Plant
210 N. 10th Avenue
Bayport, MN 55003

Shirley K. Loucks
Assisi Residences, Inc.
Box 454
Blue Earth, MN 56013

David Lurie
Commissioner of Health
City of Minneapolis
250 S. 4th Street
Minneapolis, MN 55415-1372

Mary Luth, Washington
County Public Health Dir.
14900 N. 61st Street
Stillwater, MN 55082

MBW Company
513 Center Street
New Ulm, MN 56073

Manty/A Well Drilling Inc.
1392 St. Croix Tr. No.
Box 797
Lakeland, MN 55043

Ms. Mary Martin
GRAY, PLANT, MOOTY, MOOTY
& BENNETT
3400 City Center
33 South Sixth Street
Minneapolis, MN 55402

Angie McCollum
444 Lafayette Road
St. Paul, MN 55155-3843

Minnesota Chiropractic
Association
Attn: Scott Mayer
1700 W. Hwy. 36, #130
Roseville, MN 55113-4057

NASW Alan Ingram, Ex. Dir.
480 Concordia Ave.
St. Paul, MN 55103

Karen L. Nelson
620 - 7th St. N.E.
Staples, MN 56479

Toni Nelson
Pine Ridge Homes, Inc.
915 - 18th Street
Cloquet, MN 55720

Phillip C. Newberg
MN Bd Nsg Home Admin.
2700 University Ave. W.
#104
St. Paul, MN 55114-1082

Lyonel Norris, Family &
Children's Service
414 South 8th Street
Minneapolis, MN 55404

Pine River Group
Home, Inc.
Box 96
Pine River, MN 56474

Nancy Publicover
Scott-Levin Assoc.
60 Blacksmith Road
New Town, PA 18940

Kathryn Selseth-Kill
Presbyterian Family
Foundation
901 Memorial Parkway
Willmar, MN 56201

Sue Zuidem
Hennepin County Community
Health Department
525 Portland Ave. South
Level 3
Minneapolis, MN 55415

Public Affairs Department
Care Providers of MN
2850 Metro Drive, #200
Minneapolis, MN 55425

So. Center Manor
508 Park Island
Box 386
Center City, MN 55012

Daniel McInerney
Leonard, Street & Deinard,
Suite 2300
150 South 5th Street
Minneapolis, MN 55402

Public Health Service
Goodhue/Wabasha
419 Bush Street
Red Wing, MN 55066

Dominic Sposeto
2824 Irving Ave. S.
Minneapolis, MN 55408

Neil A. Rowland
923 South Main Street
Chatfield, MN 55923

Michael J. Steffl
8370 Hwy 23 N.E.
Willmar, MN 56201

Brian Sachse
3600 West 80th Street
Route 9003
Bloomington, MN 55431

HA Swift
5165 N. St. Albans
St. Paul, MN 55126

Vickie Schleuning
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55343

James Temple
Chrestomathy Center Inc.
310 East 38th Street
Minneapolis, MN 55409

Jeri Schoonover
LSS/Residence
945 Amble Road
Shoreview, MN 55126

Jerry Thelen
Minneapolis Health Dept.
250 South Fourth Street
Minneapolis, MN 55415

Jackie Schwietz
4249 Nicollet Avenue
Minneapolis, MN 55409

Torgerson Well Co., Inc.
6855 Dogwood Street
Rockford, MN 55373

Jean Searles
38 - 7th Avenue North
Hopkins, MN 55343

Eric Weller, Director
South Central MN EMS
Box 3367
Mankato, MN 56001

Randy S. Sellers
Strategic Coordinator
D.E.F.F.B.A.M.
1935 Wilson Ave. #102
St. Paul, MN 55119

Colleen Wieck
State Planning Agency
300 Centennial Office Bldg
658 Cedar Street
St. Paul, MN 55155

#83 - Revised 4/4/91

MAPA91: imPAct:
Jo Ellen Anywaush, PA-C
White Earth, MN 56591-

MAPA91: imPAct:
Jay Charles, PA-C
902 E. Travelers Trail
Burnsville, MN 55337-

MAPA91:Fe imPAct:93.01
Bonnie R. Bata-Jones, PA-C
25775 Valleywood Lane
Excelsior, MN 55331-9427

MAPA91:Fe imPAct:92.01
Kent C.J. Dalzell, PA-C
1617 Fourth St. NW
Apartment 306
Rochester, MN 55901-

MAPA91: imPAct:
Thomas L. Cureton, PA-C
12309 Fiona Rd.
White Bear Lake, MN 55110-1147

MAPA91: imPAct:
Daryl R. Bjelde, PA-C
PO Box 228
Hayfield, MN 55940-

MAPA91:nd imPAct:
Steven Blum, PA-S
1027 Doral Drive
Bemidji, MN 56601-

MAPA91:Fe imPAct:93.01
Bernard J. Connor, PA-C
206 West Arrowhead Road
Duluth, MN 55803-

MAPA91: imPAct:
Gayle Breutzman, PA-C
5301 Chicago Ave. S.
Apt. 202
Minneapolis, MN 55417-

MAPA91: imPAct:
Mary Kidd Gochberg, PA-C
1962 Fairmount Avenue
Saint Paul, MN 55105-1540

MAPA91:St imPAct:92.01
Diana M Bussey, PA-S
4200 Park Avenue
Apartment B9 #4
Des Moines, IA 50321-

MAPA91: imPAct:
Barb A. Clemens, PA-C
HCR 70
Box 697
LaPorte, MN 56461-

MAPA91: imPAct:91.01
Robert C. Covington, PA-C
4519 Perry Ave. N.
Robbinsdale, MN 55422-1132

MAPA91: imPAct:
David J. Cushman, PA-C
17800 Jamica Circle
Lakefield, MN 55044-

MAPA91: imPAct:
Debra J. Danger-Bender, PA-C
3324 10th Ave. S.
Apt. 1
Minneapolis, MN 55407-

MAPA91: imPAct:
Russel E. Blomdahl, PA-C
Route 1
Fosston, MN 56542-

MAPA91:zz imPAct:
James Haag, PA
Austin Medical Clinic
101-14th Street NW
Austin, MN 55912-

MAPA91: imPAct:
Rebecca Breazier, PA-C
3711 Columbus Ave.
Apartment 3
Minneapolis, MN 55407-2554

MAPA91: imPAct:
Robert J. Brindley, PA-C
7336 Ontario Blvd.
Eden Prarie, MN 55344-5732

MAPA91:St imPAct:92.01
Rusty R. Burress, PA-S
Route 2 Box 348
Litchfield, MN 55355-

MAPA91: imPAct:
Linda Shaw Haller, PA-C
7141 Valley View Rd.
Edina, MN 55435-2859

MAPA91:St imPAct:92.01
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Pfannenstein,Thomas M	Po Box 297	Mountain Lake	MN 56159
Poppen,Carroll F	5753 Longboat Rd Nw	Rochester	MN 55901
Poulson,Gary L	2001 Falcon Terrace	Stewartville	MN 55976
Powers,Laura A	1050 W Larpenteur Ave	St Paul	MN 55113
Racette,John W	1515 W. Yakima Avenue	Yakima	MN 98902
Radin,Barry A	1700 9Th Ave S	St Cloud	MN 56301
Radke,James A	4503 13Th Ave Nw	Rochester	MN 55901
Randleman,Jeffrey S	W14B Mayo Clinic 200 1St St Sw	Rochester	MN 55905
Rapatz,Jennifer J	3314 Mcnair Dr	Robbinsdale	MN 55422
Rice,Timothy J	Rt 3 Box 214	Fergus Falls	MN 56537
Robinson,Marianne J	10601 Smetana Rd #102	Minnetonka	MN 55343

Rooney,Paula E	4028 Utica Ave S	St Louis Park	MN	55416
Rosenquist,Edward E	7021 Pima Lane	Chanhassen	MN	55317
Rucks,Neal C	1255 Se Willmar Ave	Willmar	MN	56201
Saul Jr,Herman J	883 Charles Ave	St Paul	MN	55104
Schlichting,Kenneth V	Gladstone Fam. Med. Ctr. 128 Michigan A	Gladstone	MI	49837
Schmidt,Elizabeth A	1235 Peony Lane	Plymouth	MN	55447
Schnee,Bradley K	1427 Osceola Avenue	St. Paul	MN	55105
Scott,Steven J	223 South 11Th	David City	NE	68632
Seroshek,Toni S	Po Box 622	Park Rapids	MN	56470
Shepherd,Ole V	127 Mulberry St	Springfield	MA	01105
Shoemaker,Mark A	3204 7th Avenue North	Anoka	MN	55303
Sigwarth,Lynn S	Mayo Clinic Dept E14A 200 1St St Sw	Rochester	MN	55905
Sinton,Timothy N	521 1st Avenue NE	Hillsboro	ND	58045
Skalsky,Ronald L	1255 Horseshoe Dr	Willmar	MN	56201
Smith,Janice J	43 18Th Ave N	Fargo	ND	58102
Snyder,James R	11901 Lofton Ave S	Hastings	MN	55033
Soderlund,Raymond C	1405 Sw 10Th St	Willmar	MN	56201
Sonkowsky,Steven R	6457 Rice Court	Lino Lakes	MN	55014
Sprecher-Galka,Pamela L	10 Pueblo Court	Madison	WI	53719
Starr,Bryan G	7778 Woodlawn Drive	Moundsview	MN	55112
Stepan,Gary J	915 Ridge Pass	Hudson	WI	54016
Straight Jr,Richard G	4852 Caribou Lake Rd	Saginaw	MN	55779
Strain,Dean S	Rr 1 Box 65	Racine	MN	55967
Stroetz,Lucinda M	5604 26Th Ave Nw	Rochester	MN	55901
Stuefen,Myrna B	816 9th Avenue	Brookings	SD	57006
Tangen,Kathleen	Box 259 A Rr 1	Wanamingo	MN	55983
Tarr,Dara L	4357 Buckingham Court	Vadnais Heights	MN	55127
Tchida,Michael C	21820 Iden Ave N	Forest Lake	MN	55025
Thomas,Stephen M	7535 Douglas Dr N	Brooklyn Park	MN	55443
Thompson,Roger	10601 18Th Ave Nw	Oronoco	MN	55960
Thorley,Evan R	171 Westover Circle	Novato	CA	94949
Tierney,Bridget M	8930 Goodrich Road 213	Bloomington	MN	55473
Tillman,Lester J	1121 Lincoln Ave	St Paul	MN	55105
Tilton,April	2240 Skillman Ave E 312	North St Paul	MN	55109
Tommeraas,Reider P	Rt 1 Box 176B	Zumbro Falls	MN	55991
Tracy,Jay F	4500 Yorktown Lane	Plymouth	MN	55442
Truchinski,Patrick E	3859 Main St Ne	Columbia Heights	MN	55421
Velimirovich,Sacha M	737 Broadway	Fargo	ND	58123
Volkman,Dale A	3947 65Th Street N.E.	Rochester	MN	55906
Walker,Sara G	1060 Aston Circle	Burnsville	MN	55337
Wandersee,Stephen C	6785 Arlene Ave	Inver Grove Hgth	MN	55075
Weiss,Jane E	2528 35Th Ave S	Minneapolis	MN	55406
Wenner,Paul	1302 Se Riverside Dr	St Cloud	MN	56304
Weslander,Eunice B	1012 Bong Blvd	Duluth	MN	55811
Westerbeck,Michael W	105 Bordeaux Court	Woodbury	MN	55125
Westholm,Fred C	Ortho Dept W-14A Mayo Clinic	Rochester	MN	55905
Weymiller,John E	Box 432	Eitzen	MN	55931
Willock,Lyle D	31 110Th Lane Nw	Coon Rapids	MN	55433
Woodruff,Deann E	119 West Dale 8	Waterloo	IA	50703
Worm,Stanley C	Rt 1 Fairway Drive	Willmar	MN	56201

Young Jr,Russell E	12353 Flex St. N.W.	Coon Rapids	MN 55448
Zachel,Grethcen	315 2Nd Ave Se 2	Rochester	MN 55904
Zamjahn,David B	7506 77Th St	Chaska	MN 55318
Zellmer,Mark R	2277 Bevans Circle	Red Wing	MN 55066

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.

Department of Health

Proposed Permanent Rules Relating to Physician Assistants Registration

Alternative Notices

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

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes*, sections 14.22 to 14.28. However, if 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes*, section 14.25, and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will, of course, be cancelled if 25 or more people do not request that one be held. The hearing will also be cancelled if a sufficient number of people withdraw their requests for a hearing. With the comment period closing on January 3, 1992 there will be 7 days before the scheduled hearing date which is January 10, 1992. This seven day period will give interested persons ample time to contact the Department to find out whether the hearing will be cancelled and to plan accordingly.

II.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Department proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

Interested persons shall have until January 3, 1992 to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rule by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the rules, it is requested that the Department be informed of the specific amendments on which the hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by January 3, 1992. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes*, sections 14.131 to 14.20 and the hearing notice provided in Part III below.

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

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440
(612) 623-5131

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, section 147.34. As authorized by section 147.34, the Department is implementing prescribing and administering delegation by amending *Minnesota Rules* parts 5600.2600 to 5600.2665 (physician assistant rules) promulgated under *Minnesota Statutes*, section 214.13.

A copy of the proposed rules is attached to this notice. In general, the proposed rules will: 1) establish a system of identifying physician assistants eligible to prescribe and administer drugs and medical devices; 2) establish categories of drugs and medical devices that each physician assistant is allowed to prescribe and administer; 3) provide guidelines for documentation of prescribing and administering activities; 4) designate grounds for disciplinary actions related to physician assistant prescribing and administering; and 5) establish a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe and the types of drugs and medical devices they are allowed to prescribe.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules has been prepared and may be obtained from the Department by writing or telephoning Annette Spencer at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11.

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subd. 2 for reducing the impact of the proposed rules if they are subject to *Minnesota Statutes*, section 14.115, are addressed in the statement of need and reasonableness.

Should it be determined that these rules are subject to *Minnesota Statutes*, section 14.115, notice is hereby provided that the rules may have an economic impact on small businesses. Although there is a fee for review of agreements containing delegation of prescribing and administering, these rules should result in time savings, and therefore cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant.

If no hearing is required, upon adoption of the rules, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the amendments as adopted should submit a written request to Annette Spencer at the address listed above.

III.

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

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULES WITHIN THE 30 DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON JANUARY 10, 1992, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 and *Minnesota Rules*, parts 1400.0200 to 1400.1200, in Veteran's Conference Room D, fifth floor of the Veteran's Service Building, 20 West 12th Street, St. Paul, Minnesota on January 10, 1992 commencing at 1:00 p.m. All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record should be mailed to:

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.

Barbara L. Neilson
Administrative Law Judge
Office of Administrative Hearings
Fifth Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415
(612) 341-7604

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. Any written material or responses submitted must be received at the office no later than 4:30 p.m. on the final day. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

A copy of the proposed rules is attached to this notice. In general, the proposed rules will: 1) establish system of identifying physician assistants eligible to prescribe and administer drugs and medical devices; 2) establish categories of drugs and medical devices that each physician assistant is allowed to prescribe and administer; 3) provide guidelines for documentation of prescribing and administering activities; 4) designate grounds for disciplinary actions related to physician assistant prescribing and administering; and 5) establish a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe and the types of drugs and medical devices they are allowed to prescribe.

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, section 147.34. As authorized by section 147.34, the Department is implementing prescribing and administering delegation by amending *Minnesota Rules*, parts 5600.2600 to 5600.2665 (physician assistant rules) promulgated under *Minnesota Statutes*, section 214.13.

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

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. The statute provides certain exceptions. Questions should be directed to:

Ethical Practices Board
625 North Robert Street
St. Paul, Minnesota 55101-2520
(612) 296-5148

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

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

Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11.

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subd. 2 for reducing the impact of the proposed rules if they are subject to *Minnesota Statutes*, section 14.115, are addressed in the statement of need and reasonableness.

Should it be determined that these rules are subject to *Minnesota Statutes*, section 14.115, notice is hereby provided that the rules may have an economic impact on small businesses. Although there is a fee for review of agreements containing delegation of prescribing and administering, these rules should result in time savings, and therefore cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant.

IV.

NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE. ALSO, THE HEARING WILL BE CANCELLED IF A SUFFICIENT NUMBER OF PEOPLE WITHDRAW REQUESTS FOR A HEARING IN RESPONSE TO PROPOSED REVISIONS OF THE PROPOSED RULES BY THE DEPARTMENT.

To be informed whether the hearing in Part III above will be held, please telephone Annette Spencer at the telephone number listed above in Part II of this notice before January 3, 1992 and leave your name, address, and telephone number. You will be notified if the hearing has been cancelled. You may also telephone Annette Spencer after January 3, 1992 for oral confirmation regarding the scheduled hearing.

Dated: 13 November 1991

Marlene E. Marschall
Commissioner of Health

Rules as Proposed

5600.2600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670, the following terms have the meanings given them.

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

Subp. 2a. **Administer.** "Administer" means to deliver by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, excluding controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means.

Subp. 3. **Agreement.** "Agreement" means a document signed by the physician and the physician assistant which includes contents specified in part 5600.2635, subpart 3. If there is a delegation of prescribing and administering of legend drugs and medical devices, the agreement includes the delegation form in part 5600.2670, subpart 6.

Subp. 4. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant agreement who ~~shall be~~ is responsible for supervising the physician assistant when the supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subp. 5. **Board.** "Board" means the Minnesota Board of Medical ~~Examiners~~ Practice.

[For text of subps 6 and 7, see M.R.]

Subp. 7a. **Delegation form.** "Delegation form" refers to the form in part 5600.2670, subpart 6, used to indicate the categories of drugs for which the authority to prescribe and administer has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement as defined in subpart 3.

[For text of subp 8, see M.R.]

Subp. 8a. **Drug.** "Drug" has the meaning given it in *Minnesota Statutes*, section 151.01, subdivision 5, excluding controlled substances as defined in *Minnesota Statutes*, section 152.01, subdivision 4.

Subp. 8b. **Drug category.** "Drug category" means one of the categories listed on the form in part 5600.2670, subpart 6.

[For text of subp 9, see M.R.]

Subp. 9a. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing and administering of legend drugs and medical devices and lists the specific drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe and administer.

Subp. 9b. **Legend drug.** "Legend drug" has the meaning given it in *Minnesota Statutes*, section 151.01, subdivision 17, excluding controlled substances as defined in *Minnesota Statutes*, section 152.01, subdivision 4.

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.

Subp. 9c. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient.

[For text of subp 10, see M.R.]

Subp. 11. **Physician assistant; registered physician assistant.** "Physician assistant" or "registered physician assistant" means a person registered pursuant to parts 5600.2600 to ~~5600.2665~~ 5600.2670 who is qualified by academic or practical training or both to provide patient services as listed in part 5600.2615 under the supervision of a supervising physician.

Subp. 11a. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subp. 11b. **Prescription.** "Prescription" means a signed written order, or an oral order reduced to writing, given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required by part 5600.2670, subpart 4, item C.

Subp. 12. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications specified in parts 5600.2600 to ~~5600.2665~~ 5600.2670.

Subp. 13. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement approved by the board and pursuant to part 5600.2615. "Supervising physician" ~~shall include~~ includes "alternate supervising physician" for the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670.

5600.2605 PURPOSE.

The purpose of parts 5600.2600 to ~~5600.2665~~ 5600.2670 is to establish the administrative structure, the procedures, and the requirements for the registration of people qualified to be physician assistants and the requirements which must be met before a physician assistant may prescribe and administer legend drugs and medical devices.

5600.2610 RESTRICTIONS ON USE OF ~~THE~~ TITLE OF REGISTERED PHYSICIAN ASSISTANT.

Subpart 1. **Physician assistant identification.** Only a registered physician assistant in active status may use the title "physician assistant" or "registered physician assistant" without restriction. A registered physician assistant in active status shall ~~identify himself or herself~~ be identified at the practice site by using a name tag or name plate or some other identifying device bearing the title "registered physician assistant."

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

5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE.

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

Subp. 2. **Descriptive list of allowed services.** Patient services must be limited to:

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

F. providing instructions and guidance regarding medical care matters to patients; ~~and~~

G. assisting the supervising physician in the delivery of services to patients requiring medical care in the home and in health care institutions, including recording patient progress notes, issuing diagnostic orders which must be countersigned by the supervising physician within 24 hours, and transcribing or executing specific orders at the direction of the supervising physician; and

H. prescribing and administering legend drugs other than controlled substances as defined in *Minnesota Statutes*, section 152.01, subdivision 4, and medical devices if this function has been delegated to the physician assistant by the supervising physician and approved by the board, pursuant to and subject to the limitations of *Minnesota Statutes*, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Contents of agreement.** The agreement must include at least the following:

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

D. a statement by the supervising physician regarding the delegation or nondelegation of the functions of prescribing and administering legend drugs and medical devices to the physician assistant, and, if delegation is specified, the completed delegation form as required by part 5600.2670;

E. a statement that the supervising physician and alternate supervising physician assume full medical responsibility for all patient services provided by the physician assistant; and

~~E.~~ F. any other information which will assist the board in determining whether the physician assistant will be adequately supervised by the supervising physician.

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

Subp. 5. **Procedure to obtain delegation of prescribing and administering functions.** To obtain delegation of prescribing and administering functions, a physician assistant must:

A. submit an agreement indicating delegation of prescribing and administering functions;

B. submit a copy of the physician assistant's certification card from the National Commission on Certification of Physician Assistants showing current certification;

C. submit the completed and signed delegation form in part 5600.2670, subpart 6; and

D. submit the fees required by part 5600.2655.

The board shall review each application for approval of agreements containing delegation of prescribing in a timely manner and notify the applicant in writing of action taken on the application. If the agreement is not approved, the board must indicate the grounds for its action in the notice to the applicant.

5600.2645 APPLICATION PROCESS FOR REREGISTRATION.

A physician assistant's registration expires each year on July 1. Each physician assistant must reregister on or before July 1 of each year by submitting a completed application for reregistration on a form provided by the board together with the annual reregistration fee. Physician assistants with authority to prescribe and administer legend drugs and medical devices must also provide a copy of a current certification card issued by the National Commission on Certification of Physician Assistants. The information supplied on the application for reregistration must be sufficient for the board to determine whether the physician assistant continues to meet the requirements for registration in part 5600.2625 or 5600.2640. In addition, the applicant must meet the continuing education requirements of part 5600.2650. The board may request a physician assistant to submit additional information to clarify information presented in the application for reregistration. An application submitted after the reregistration deadline date must be accompanied by a late fee.

5600.2655 APPLICATION FEES.

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

Subp. 4. **Fee for approval of agreements.** The fee for approval of an agreement between a physician and physician assistant by the board shall be:

A. $30 for agreements not containing delegation of prescribing and administering functions; or

B. $86 for agreements containing delegation of prescribing and administering functions. The delegation form must accompany the agreement.

[For text of subps 5 and 6, see M.R.]

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

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

Subp. 2. **Disciplinary options of board.** The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant if the assistant:

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

E. violates parts 5600.2600 to ~~5600.2665~~ 5600.2670; ~~or~~

F. is unable to perform patient services with reasonable skill and safety to patients due to physical or mental illness or use of alcohol, drugs, or other substance;

G. violates state or federal laws regarding prescribing or administering legend drugs or medical devices;

H. prescribes or administers legend drugs or medical devices in a manner other than under the procedures in parts 5600.2600 to 5600.2670;

I. prescribes or administers legend drugs or medical devices in a manner which is inconsistent with the training and experience of the physician assistant or in a manner which falls below the community standard of care; or

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

J. prescribes or administers legend drugs or medical devices in violation of the agreement.

Subp. 3. **Disciplinary actions.** If the board finds that a physician assistant should be disciplined pursuant to subpart 2, the board may take any one or more of the following actions:

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

E. condition, limit, or restrict a registration; ~~or~~

F. place the physician assistant on probation, which probation may be vacated upon compliance with such reasonable terms as the board may impose; or

G. refuse to approve delegation of prescribing and administering authority, revoke, suspend, restrict, or condition prescribing and administering authority.

Subp. 4. **Consequences of disciplinary action.** Upon the revocation or suspension, the registrant shall return to the board ~~his or her~~ the registrant's certificate and current renewal document.

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

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint seven persons to a physician assistant advisory council. The seven persons must include:

A. two public members, as defined in *Minnesota Statutes*, section 214.02;

B. three physician assistants registered under parts 5600.2600 to ~~5600.2665~~ 5600.2670; and

C. two licensed physicians one of whom must be a representative of the board.

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

Subp. 3. **Duties.** The council shall:

A. advise the board regarding physician assistant registration standards;

B. advise the board on enforcement of parts 5600.2600 to ~~5600.2665~~ 5600.2670;

C. provide for distribution of information regarding physician assistant registration standards;

D. review applications and recommend applicants for registration or reregistration;

E. receive and process complaints about applicants and registrants ~~in accordance with~~ according to *Minnesota Statutes*, sections 214.10 and 214.13, subdivisions 6 and 7;

F. perform disciplinary investigations; ~~and~~

G. perform other duties authorized for the council by *Minnesota Statutes*, chapter 214, as directed by the board; and

H. review delegation of prescribing and administering authority in agreements, request a copy of the internal protocol or other additional information for clarification of delegation terms if necessary, and recommend approval, disapproval, or modification of the agreement based upon the standards in *Minnesota Statutes*, section 147.34 and parts 5600.2600 to 5600.2670.

5600.2670 DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subpart 1. **Delegation.** A physician assistant may prescribe and administer legend drugs and medical devices under the following conditions:

A. the physician assistant is currently certified by the National Commission on Certification of Physician Assistants as evidenced by a copy of the certification card with expiration date;

B. the physician assistant is registered with the board;

C. the physician assistant's supervising physician and the physician assistant have completed and signed the delegation form in subpart 6;

D. the agreement has been approved by the board based upon the standards in *Minnesota Statutes*, section 147.34 and parts 5600.2600 to 5600.2670; and

E. the physician assistant's prescription writing privileges are not currently restricted by the board.

Subp. 2. **Documentation.** The physician assistant shall enter each prescription on the patient's chart.

The supervising physician shall retrospectively review the physician assistant's prescribing and administering practices on a daily basis. Review may either be in person or by telecommunication.

A. If the supervising physician performs this review in person, the supervising physician shall document the retrospective

review by signature on the patient's chart or other permanent practice record.

B. For facilities staffed by the physician assistant that are separate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record. At each site visit, the supervising physician shall document by signature and date on the patient's chart or other permanent practice record that the physician assistant's prescribing and administering practices have been reviewed.

Subp. 3. **Termination and reinstatement of prescribing authority.**

A. The authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when:

(1) the agreement is terminated;

(2) the authority to prescribe and administer is terminated or withdrawn by the supervising physician; or

(3) the physician assistant reverts to inactive status, loses National Commission on Certification of Physician Assistants certification, or loses or terminates registration status.

B. The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in item A.

C. Physician assistants whose authority to prescribe and administer has been terminated shall reapply for approval of the agreement under part 5600.2635 and meet the requirements of subpart 1, and any other requirements established by the board prior to reinstatement of the prescribing and administering authority.

Subp. 4. **Other requirements and restrictions.**

A. The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each drug or medical device the physician assistant may prescribe and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subpart 6. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

B. The supervising physician and physician assistant shall review delegation of prescribing and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

C. Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name, address, and telephone number of the prescribing physician assistant and of the physician serving as supervisor.

D. In prescribing and administering legend drugs and medical devices, a physician assistant must conform with the agreement, *Minnesota Statutes*, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

Subp. 5. **Notification of pharmacies.**

A. The board shall, within six months of adoption of parts 5600.2600 to 5600.2670 and annually thereafter, provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe legend drugs and medical devices.

B. The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.

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

C. The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.

D. The board shall provide the form in subpart 6 to pharmacies upon request.

Subp. 6. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain the following:

DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING

The below-named physician assistant may prescribe and administer drugs and medical devices as indicated on this form. This form is hereby made a part of the agreement as required by *Minnesota Statute* section 147.34 and *Minnesota Rules* part 5600.2635, subpart 3, item D.

Physician Assistant _____
Minn. Registration # _____

Supervising Physician _____
Minn. License # _____

The physician assistant may prescribe from those categories checked in the following list:	Restrictions applicable to each category:
A. Drugs*	
01 ____ Anesthetics	01 _____
02 ____ Antiinfectives	02 _____
03 ____ Antineoplastics/Immunosuppressants	03 _____
04 ____ Cardiovascular Medications	04 _____
05 ____ Autonomic and Central Nervous System Drugs	05 _____
06 ____ Dermatological Medications	06 _____
07 ____ Diagnostic Agents	07 _____
08 ____ Ear-Nose-Throat Medications	08 _____
09 ____ Endocrine Medications	09 _____
10 ____ Gastrointestinal Medications	10 _____
11 ____ Immunologicals and Vaccines	11 _____
12 ____ Musculoskeletal Medications	12 _____
13 ____ Nutritional Products, Blood Modifiers and Electrolytes	13 _____
14 ____ Obstetrical and Gynecological Medications	14 _____
15 ____ Opthalmic Medications	15 _____
16 ____ Respiratory Medications	16 _____
17 ____ Urological Medications	17 _____
B. ____ Medical Devices	B. _____

Physician assistants may not prescribe controlled substances regulated under *Minnesota Statutes* Chapter 152. Other specific drugs or medical devices which the physician assistant may not prescribe include:

_____

_____

_____	_____
Supervising Physician (sign)	Physician Assistant (sign)
_____	_____
(type name/date)	(type name/date)
_____	_____
address	address
telephone # _____	telephone # _____

1. _____
Alternate Supervising Physician

_____
(type name/date)

2. _____
Alternate Supervising Physician

_____
(type name/date)

3. _____
Alternate Supervising Physician

_____
(type name/date)

4. _____
Alternate Supervising Physician

_____
(type name/date)

5. _____
Alternate Supervising Physician

_____
(type name/date)

6. _____
Alternate Supervising Physician

_____
(type name/date)

7. _____
Alternate Supervising Physician

_____
(type name/date)

8. _____
Alternate Supervising Physician

_____
(type name/date)

9. _____
Alternate Supervising Physician

_____
(type name/date)

10. _____
Alternate Supervising Physician

_____
(type name/date)

11. _____
Alternate Supervising Physician

_____
(type name/date)

12. _____
Alternate Supervising Physician

_____
(type name/date)

* The listed drug categories are based upon the chapter heading used in the Physicians Health Plan Drug Formulary: Copyright 1988. United HealthCare Corporation. Used with permission of copyright owner.

Department of Human Services

Proposed Permanent Rules Relating to Prior Authorization under Medical Assistance and General Assistance Medical Care

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above entitled rule amendment without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is in *Minnesota Statutes*, sections 256.991 and 256D.03.

All persons have 30 days or until 4:30 p.m. on January 2, 1992 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed
Adoption of Rules of the
Department of Health Governing
Delegation of Prescription
Writing and Physician Assistants

DECLARATION OF COUNSEL

I, Richard A. Wexler, Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed without exception. For Attorney General billing purposes, the four-digit docket client code is 1930.

Dated: Jan 28, 1992.

RICHARD A. WEXLER
Assistant Attorney General

RECEIVED
91 DEC 16 PM 1:05
ADMINISTRATIVE
HEARINGS

MATERIALS RECEIVED FOLLOWING NOTICE OF INTENT TO SOLICIT INFORMATION
JULY 9, 1990 TO DECEMBER 2, 1991

Minnesota Nurses Association
1295 BANDANA BLVD. NO., SUITE 140
ST. PAUL, MINNESOTA 55108-5115
(612) 646-4807

RECEIVED
91 DEC 16 PM 1:05
ADMINISTRATIVE HEARINGS

RECEIVED
JUL 23 1990
Health Systems Development Division
MN Department of Health

July 20, 1990

Annette C. Spencer
Rule Development Specialist
Health Systems Development
Department of Health
P. O. Box 9441
717 Delaware St. SE
Minneapolis, MN 55440

Dear Ms. Spencer,

I'm responding to the notice in the july 9 State Register of the department's intent to amend the Physician Assistant registration rules related to prescription writing privileges. While MNA has so specific comments at this time we would appreciate being kept informed during the rule development process.

Sincerely,

Gretchen Musicant

Gretchen Musicant, RN, MPH
Staff Specialist, Governmental Affairs

GM:caa

Community Clinic Consortium
450 N. Syndicate, Suite 5
Saint Paul, Minnesota 55104
644-6555

RECEIVED
91 DEC 16 PM 1:05
ADMINISTRATIVE
HEARINGS

JUL
MN Dept. of Health
EXECUTIVE
OFFICE

July 11, 1990

Mary Madonna Ashton, Commissioner
MN Department of Health
717 Delaware S.E.
Minneapolis, MN 55414

Dear Commissioner:

Laws of Minnesota 1990, Chapter 524, provides for the drafting of rules to implement authority of physician assistants to prescribe and administer legend drugs under certain conditions.

The Consortium would like to play an active role in the drafting of those rules, and requests the opportunity to place a delegate on the Rules Advisory Committee.

Would you let me know, please, if this will be possible and your intended timetable for initiating the drafting?

Thank you for your consideration.

Respectfully,

John Clawson
Executive Director

JC:rd

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91 DEC 16 PM 1:05
ADMINISTRATIVE
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Beverly Frye
3711 Pierce St N.E.
Columbia Heights
MN. 55421

RECEIVED
AUG 27 1990
Health Systems Development Division
MN Department of Health

Annette Spencer
Department of Health
717 Delaware St
Minneapolis
MN. 55440

August 23, 1990

Dear Ms. Spencer:

Unfortunately the letter of invitation to attend the meeting on August 27 did not reach me until yesterday, thus making it impossible for me to arrange time away from work. I would very much like to have been able to participate in person. While it is of value to have a persons thoughts on paper it is much more valuable to be able to respond to the exchange of ideas that takes place during active discussion. I understand that at least two fellow physician assistants will be in attendance, so I'm certain MAPA's views will be well represented. The following are some personal opinions.

Suggestion "A" . . . . . At first glance this would appear to be the optimal route "individualized plans . . . ." However, I have some concerns. Having worked in Wisconsin for several years (although not in a practice setting that warrented delegated prescriptive privilege) I have some familiarity with their system. At least at the outset the expectation was that each PA would provide a very detailed protocol; so detailed that many PAs choose to submit a copy of a popular "guidelines for physician extenders handbook" as their protocol. This listed diagnosis, drug, and dose. That seems highly impractical to me. Each time a new drug comes on the market the protocol requires revision. To have to include specific diagnosis, drug, and dose is more of a "cook book" approach; thus leaving little if any room for individualization which is essential. It is also unnecessarily tedious. If the pharmacist has any concerns about the dose of medication he/she can certainly withold filling the prescription until verifying it (which would most likely be less time consuming in the long run than having to review each PAs protocol as each prescription comes through to make sure what appears to be a normal dose is included). It is my understanding that pharmacists would prefer a clear cut, consistent approach. Leaving the format open to absolute (as opposed to relative) individualization would not be consistent with that goal.

Suggestion "B" . . . . . This has the most appeal, seems the most workable, and is most consistent with what I believe the physician assistants of Minnesota invisioned when approaching the legislature to request delegated prescriptive privilege. Specific drug categories would be identified by the Department of Health. The supervising physician would be required to identify which categories the individual PA has been delegated authority to prescribe from; and any specific exclusions. This would allow relative individualization within the broad framework. It would require the MD/PA team to specifically discuss each category during the revision of their supervisory agreement to determine 1) if the listed category is appropriate for delegation within that practice setting and 2) if their are any exclusions necessary. I believe it would be inappropriate for the list generated by the Department of Health to automatically list exclusions (except for controlled substances, which are excluded by law). Physician assistants work in extremely varied practice settings. Because the types of settings are constantly expanding there are probably no drugs or medical devices that may not, in a given practice setting, be appropriate.

Suggestion "C" . . . . . This approach implies a listing of allowed drugs. While the example from North Carolina lists classes with subsequent exclusions I am fearful that the interpretation of the word "fomulary" would come to mean a specific listing of allowed drugs, ie. the "cook book" approach. And, as I stated in the previous paragraph, I don't believe it is appropriate to put into Rule absolute exclusions.

What would I, ideally, like to see?
1) a "master list" of categories (see attached suggestions for inclusion -- I readily recognize that this brief, personally generated list is not complete)
2) a section within the supervisory agreement regarding the delegation of prescriptive authority
3) inclusion of the "master list" of categories showing which have been delegated and any exclusions from that category
4) provision of the "master list" to all pharmacies along with a roster of physician assistants (identified along with their NCCPA number) with delegated prescriptive authority and any categories excluded or specific exclusions within delegated categories (conversly it may be felt more appropriate to list categories included -- that should be left up to pharmacy representatives to determine what is more workable for them).
5) a system, left as much as possible to the discretion of the MD/PA team, of retrospective review

Again, I wish I could be present on Monday but that isn't possible. If you have any questions about my comments please feel free to call me at 588-4625. If a subsequent meeting is scheduled I will look forward to attending.

Sincerely,

Bev Lyng

Categories of Drugs and Medical Devices

analgesics

antianginals

antibiotics

anticoagulants

anticonvulsants

antidepressants

antidiarrheals

antihelmintics

antihistamines

antihypertensives

antineoplastic agents

antispasmodics

anxiolytics

autonomic drugs

bronchodilators

contraceptives

cough suppressants

decongestants

diagnostic agents

diuretics

expectorants

H2 blockers

hemorrhoidal preparations

hormones

laxatives

mineral supplements

mucolytic agents

nonsteroidal antinflamatories

opthalmic preparationms

otic preparations

sedatives

steroids

vitamin supplements

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SEP 10 1990
Systems Development
Department of He

September 8, 1990

Annette Spencer
Minnesota Dept. of Health
717 E. Delaware St.
P.O. Box 9441
Minneapolis, MN55440

Dear Ms Spencer:

Thank you for your correspondence regarding implementation of rules regarding physician assistant prescriptive practice. I too am sorry I missed the August 27th meeting. Your letter informing me of the upcoming meeting arrived after I left for a 10 day vacation, and I returned after the fact.

My personal feeling is that the supervision that a PA functions under is the crucial element in prescription writing. Ultimate responsibility will rest, as always, with the supervising physician. A prescription pad which requires the name,address, and phone number of both PA and physician would be the preferred tool to implement this law. Further restriction, such as that proposed is going to make the process cumbersome and unwieldy with little if any additional protection of the public. I'm confidant this the best way of implementing the law.

However, I am a realist, and the rest of the medical community in Minnesota has yet see the value of full integration of PAs in our health care system. So, with all of that off my chest I believe a checklist type of system such as outlined in your letter of September 5,1990 is a reasonable alternative. I do not think much is gained by trying to be too specific (i.e. drug by drug) as the implentation of such a system would be horrendously complicated.

I would think the Rx pad itself should be required to carry the categories approved to simplify compliance if such a system is to be implemented.

I hope this is helpful. I would welcome your discussion if you think it would be helpful.

Sincerely,

Craig Maki PA-C
210 Highland Court
Tyler,MN 56178 (507-247-5921)

MSPhA
Minnesota State Pharmaceutical Association
William E. Bond, Executive Director
2221 University Avenue, SE, Suite 326, Minneapolis, Minnesota 55414 · (612) 378-1414 or 1-800-451-8349
Fax (612) 378-1454

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SEP 12 1990
Health Systems Development Division
MN Department of Health

September 10, 1990

Ms. Annette Spencer
Minnesota Department of Health
717 Delaware Street
P.O. Box 9441
Minneapolis, Minnesota 55440

Dear Ms. Spencer:

As we recently discussed on the telephone, please find below the names of pharmacists who have agreed to assist you in developing the implementation of the physicians assistants prescribing rules. Specifically, the individuals listed below would be helpful in assisting in your determination of what system or systems to implement to inform pharmacists of eligible physicians assistants, the drug category definitions and other issues we discussed at the meeting we had recently.

The pharmacists you may contact directly and reference this letter are as follows:

Steve Huff
AppleCom Pharmacy
2325 Endicott Street
St. Paul, MN 55114
Business Phone: 645-1699

Gary Schneider
Desnick Brothers Drug
445 No. Lexington Pkwy
St. Paul, MN
Business Phone:645-3443

Suzanne Blackburn
United Healthcare Corporation
PHP Pharmacy Department
Route 8011 P.O. 1459
Minneapolis, MN 55440
Business Phone: 936-3623

Bruce Whitehouse
Walgreen's
9916 West 74th Street
Eden Prairie, MN 55344
Business Phone: 944-9282

Once you have met with these individuals and developed some preliminary thoughts, I would be very interested in meeting with you to discuss your conclusions and recommendations for the proposed draft rules at your earliest convenience.

I'm hopeful that this is helpful to you in your consideration of the proposed rules, Annette. Please contact me should there be questions.

Cordially,

William E. Bond
Executive Director

WEB/mje

cc: MSPhA Board of Directors
S. Huff
G. Schneider
S. Blackburn
B. Whitehouse

THE MINNESOTA ACADEMY OF PHYSICIAN ASSISTANTS

Eagle Bend Clinic • Eagle Bend, MN 56446
(W) 218-738-2804 • (H) 218-338-9162

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M.A.P.A.

September 11, 1990

Annette Spencer
Rural Development Specialist
Minnesota Department of Health
717 SE Delaware Street
P. O. Box 9441
Minneapolis, MN 55440

SEP 13 1990
Systems Development
Department of H

Dear Ms. Spencer:

I have reviewed the Department of Human Services' listing of categories for medications. Without listing each and every known medication, this listing of categories and subdivisions is general enough to make its application easy and yet specific enough to allow a physician to tailor it to a specific physician assistant's practice. The Academy would support this type of "protocol."

Respectfully yours,

Mark A. Helgeson, P.A.-C.
President
Minnesota Academy of Physician Assistants

MAH:jl

MMA
MINNESOTA MEDICAL ASSOCIATION
612/378-1875
FAX 612/378-3875

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HEARINGS

Richard B. Tompkins, M.D.
President
Thomas A. Stolee, M.D.
President-Elect
Andrew J. K. Smith, M.D.
Chairman of the Board
Paul S. Sanders, M.D.
Chief Executive Officer

September 13, 1990

RECEIVED
SEP 14 1990
Health Systems Development Division
MN Department of Health

Ms. Annette Spencer
Rural Development Specialist
Minnesota Department of Health
717 Southeast Delaware Street
P.O. Box 9441
Minneapolis, MN 55440

Dear Ms. Spencer:

This is in response to your request for comments on the use of the Department of Human Services Drug Formulary as a listing of drug categories within the physician assistants (P.A.) prescribing rules.

As I understand, the list you sent for review is the table of contents of the entire DHS Drug Formulary, which includes both schedule and non-schedule drugs. Also, as I understand, you have not made any attempt to remove any possible drug categories listed in the DHS Formulary which may be inappropriate for P.A. prescribing. Therefore, I am assuming that it is not your intent to use this list in it's entirety in the proposed rules.

With those prefacing remarks, we have reviewed this list, at this time looking only as to whether this listing of "drug categories" is detailed enough to give adequate guidance to both physicians and P.A.'s in developing their practice agreements. We have not had the time, at this point, to go through this list and eliminate any drug category which we believe should be prohibited from being delegated to P.A.'s. The DHS Drug Formulary does seem to have sufficient detail in these drug categories to be used in the P.A. rules.

I must state again, as I did at the recent meeting, that while the MMA can support the use of drug categories in the P.A. rules when used as a listing of the types of drugs allowed to be delegated, we strongly believe that each individual practice agreement between a physician and a P.A. must be individual drug specific. Therefore, while the rule would list the drug categories from which a physician would be allowed to delegate, there must be a statement in the rulewhich very clearly states the individual drugs the physician is delegating to the P.A. and the context in which those drugs shall be used. This position was very clearly stated by the MMA Board of Trustees at its July meeting when discussing the issue of delegated prescribing authority.

I hope these comments are helpful to you as you are developing the rules. We look forward to further contact with you as drafts of the rules are written.

Sincerely,

Dave Renner
Lobbyist

DR/geg
cc: Dr. Paul Sanders

Physicians Health Plan®
of Minnesota

9900 Bren Road East
P.O. Box 1459
Minneapolis, Minnesota 55440

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91 DEC 16 PM 1:06
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HEARINGS

RECEIVED
OCT 22 1990
Health Systems Development Division
MN Department of Health

October 16, 1990

Ms. Annette Spencer
Health Systems Development
Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Dear Ms. Spencer,

Please consider this letter authorization for the Minnesota Department of Health and the State of Minnesota Board of Medical Examiners to use the Physicians Health Plan of Minnesota Drug Formulary format. Copyright use permission has been previously granted to the Department of Human Services, in developing the Physician Assistant rules, which address the delegation of prescription writing privileges, and any forms necessary to implement the rules.

Sincerely,

K. James Ehlen, M.D.
CEO Chairman
Physicians Health Plan of Minnesota

KJE/jjs

Physicians Health Plan®
of Minnesota

9900 Bren Road East
P.O. Box 1459
Minneapolis, Minnesota 55440

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RECEIVED
JAN 8 1991
Health Systems Development Division
MN Department of Health

January 7, 1991

Annette Spencer
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street, S.E.
Minneapolis, MN 55440

Dear Ms. Spencer:

As you requested, enclosed is a Physicians Health Plan of Minnesota Drug Formulary document. The document will be used to assist you in the development of Physician Assistant standard prescribing practices.

If you have any questions regarding the Formulary content or format, please do not hesitate to give me a call.

Sincerely,

Suzanne Blackburn

Suzanne Blackburn, R.Ph.
Director, Pharmacy Programs

SB:kas
enclosure: Drug Formulary

MMA
MINNESOTA MEDICAL ASSOCIATION
612/378-1875
FAX 612/378-3875

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Richard B. Tompkins, M.D.
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Thomas A. Stolee, M.D.
President-Elect
Andrew J. K. Smith, M.D.
Chairman of the Board
Paul S. Sanders, M.D.
Chief Executive Officer

January 22, 1991

RECEIVED
JAN 24 1991
Health Systems Development Division
MN Department of Health

Tom Hiendlmayr
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440

Dear Mr. Hiendlmayr,

This is in response to our phone conversation on January 17, regarding the proposed Physicians Assistant (PA) prescribing rules. I am enclosing the proposed addition to the rule which we discussed and a copy of the memorandum of understanding between the Minnesota Medical Association (MMA) and the Minnesota Nurses Association (MNA).

The policy of the MMA has been consistent throughout the legislative process and rule development related to delegated prescribing authority to both the nurse practitioners and the physician assistants. Our position has been that there must be appropriate written protocols between the delegating physician and the N.P. or P.A. Therefore, each individual prescribing agreement must be drug specific, be signed and dated by both the supervising physician and the N.P. or P.A., and kept on file with the supervising physician and the N.P. or P.A.

In order to reduce the administrative difficulties of requiring a drug specific agreement be filed with the Board of Medical Examiners (or the Board of Nursing for N.P.s), the MMA is not opposed to the use of the drug category list which you are suggesting to be completed and filed with the Board of Medical Examiners.

The enclosed language is an attempt to add a new paragraph C, under Subpart 1 of part 5600.XXXX (page 12 of the January 10, 1991 rule draft). I have talked to Mark Zellmer, from the Minnesota Academy of Physician Assistants (MAPA) and discussed this addition. He indicated that he had mentioned the idea to other MAPA members and had not heard any opposition, however, MAPA will be taking a formal position on it at their February 1, 1991 board meeting.

I have also enclosed a copy of the standards for practice agreements to which MMA and MNA have agreed. The same requirement for a drug specific agreement is found on page 3, paragraph 6, with additional language on page 4 stating that this individual agreement should not be required to be submitted to the Board on Nursing.

I hope this information is helpful to you. If you have any further questions, please feel free to contact me.

Sincerely,

Dave Renner

Dave Renner

DR:wo

Enclosures

cc: Mark Zellmer, MAPA

Prescribing Rules
Proposed Physician Assistant Prescribing Rules
January 22, 1991

5600.XXXX DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES

Subpart 1. Delegation of functions. A supervising physician may delegate the authority to prescribe and administer legend drugs and medical devices with retrospective physician review to a physician assistant under the following conditions:

A. The physician assistant is certified by the National Commission on Certification of Physician Assistants (NCCPA) and registered as a physician assistant with the board. The physician assistant shall submit proof of certification by the NCCPA to the board with the application for registration or renewal of registration.

B. The agreement between the supervising physician and physician assistant includes the completed form in subpart 4, containing the protocol indicating the categories of drugs from which the physician assistant may prescribe and any drugs or medical devices which the physician assistant may not prescribe or administer.

PROPOSED NEW PARAGRAPH C

C. The supervising physician and the physician assistant must complete an internal protocol which lists each drug or device the physician assistant may prescribe. This protocol shall be signed and dated by both the supervising physician and the physician assistant. This internal protocol is not required to be submitted to the board of medical examiners and can be amended as needed by the supervising physician, within the limits of the completed form in subpart 4. Any amendments must be signed and dated by both the supervising physician and the physician assistant.

~~C~~ D. Prescribing and administering of legend drugs and medical devices is done in conformity with the agreement and Minnesota Statutes, section 147.34, Minnesota Statues, chapter 151 and Minnesota Rules, parts 5600.2600 to 5600.XXXX.

~~D~~ E. The agreement has been reviewed and approved by the board based upon the standards and protocol in Minnesota Statutes, section 147.34 and Minnesota Rules, part 5600.2600 to 5600.XXXX.

~~E~~ F. The physician assistant has not had his or her prescription writing privileges restricted by the board.

Subpart 2. Other requirements and restrictions.

A. The physician assistant shall enter each prescription on the patient's chart. the supervising physician shall retrospectively review each physician assistant prescription on a daily basis. The physician assistant shall document the daily review on the patient's chart. During each on-site visit the supervising physician shall document in the patient's chart, by signing and dating a statement, that the prescriptive practice of the physician assistant has been reviewed.

B. The authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when the physician assistant terminates employment with the supervising physician, has authority to prescribe or administer terminated or withdrawn by the supervising physician, reverts to inactive status, loses NCCPA certification, or loses or terminates registration status.

C. The supervising physician and physician assistant shall review delegation of prescribing and administering authority on a yearly basis at the time of registration renewal. ~~and submit any changes in prescribing authority to the board on the completed form in subpart 4.~~ The supervising physician and the physician assistant shall sign and date the internal protocol after reviewing it for changes. Any changes to the form in subpart 4 shall be submitted to the board.

D. The physician assistant shall use preprinted forms for prescribing which include the name, address, and phone number of the physician serving as supervisor and the physician assistant. The physician assistant shall sign his or her name on the prescription and circle the name of the physician then serving as supervisor.

Subpart 3. The board shall provide to registered pharmacies within the state the completed form in subpart 4 for those physician assistants who have been approved to write prescriptions. Additional forms shall be distributed every two months if new physician assistants are approved to write prescriptions or if modifications in individual prescribing practices are reviewed and approved by the board.

Subpart 4. Form for physician delegation of prescribing authority.

MINNESOTA NURSES ASSOCIATION/ MINNESOTA MEDICAL ASSOCIATION

NURSE PRACTITIONER PRESCRIBING

MEMORANDUM OF UNDERSTANDING

STANDARDS FOR WRITTEN PRACTICE AGREEMENTS

Nurse Practitioner/Physician Model Practice Agreement

This joint Memorandum of Understanding has been developed to assure minimum standards in the preparation of agreements for the delegation by physicians of prescribing authority to qualified nurse practitioners. The legislation passed by the 1990 Legislature very clearly allows the delegation of prescribing authority but not the total delegation of physician responsibility. As part of the delegation of prescribing, the physician has responsibility to supervise the performance of that delegated prescribing function and the nurse practitioner has responsibility to act within the nurse practitioner scope of practice and within their individual practice agreement. The supervising physician and the nurse practitioner need to be acutely aware of the relationship between themselves and the need for a detailed, thoroughly discussed practice agreement. This Memorandum of Understanding directs the minimum amount of information to be contained in the physician/nurse practitioner agreements. Physicians and nurse practitioners are encouraged to be as specific as possible when describing their individual arrangements.

Development. Development of a practice agreement is a complex task. The practice agreement reflects mutual trust and effort between a nurse practitioner and a physician and the knowledge and experience of a nurse practitioner as well as that of a physician.

A therapeutics resource manual may be used as a guideline in the development of practice agreements.

Practice agreements must be developed jointly by nurse practitioner and physician. Each nurse practitioner must have a signed practice agreement with at least one supervisory physician.

A separate practice agreement must exist with each nurse practitioner.

A practice agreement must be developed and executed prior to delegation of prescribing to a nurse practitioner.

Annual Review

Nurse Practitioners and physicians must jointly review, sign, and date their practice agreements at least annually, and whenever the situation calls for amendment.

Previously Existing Practice Agreements

Practice agreements existing prior to the 1990 amendments to Minnesota Statutes, Chapter 148 must be reviewed and brought into line with the current MNA/MMA Memorandum of Understanding. Any existing practice agreements should be reviewed and date following the execution of this memorandum of understanding

Practice Agreements

Must Include:

1. Name of nurse practitioner, practice address(es) and phone number(s)

2. Specialty certification of nurse practitioner

3. Name of supervising physician(s), practice address(es) and phone number(s)

4. Specialty of supervising physician(s)

5. The practice agreement shall contain general statements describing the nurse practitioner's practice, e.g., nature and size of the practice, acuity of patients, geographic location, experience and specialty of the nurse practitioner and physician.

6. Each drug or device which the nurse practitioner may prescribe and the total numbers of refills without the physician's review shall be listed in the practice agreement along with any other specific limitations placed by the supervising physician.

7. The supervising physician and nurse practitioner will regularly review the nurse practitioner's prescriptive practice to assure that the standard of care to which the physician is held is maintained. Practice agreement shall establish minimum frequencies and schedules for review of prescriptive practice based on the nature of the practice, patient acuity, geographic location, experience and specialty of the providers.

MNA/MMA Review

This Memorandum of Understanding will take the place of any previously existing memorandum and will be reviewed again by the Minnesota Nurses Association and the Minnesota Medical Association by July 1, 1993.

Paul S. Sanders, M.D., CEO
Minnesota Medical Associaton

Date

Sonja Meyerholz, RN, CEO
Minnesota Nurses Association

Date

ADDENDUM TO MNA/MMA MEMORANDUM OF UNDERSTANDING

- The Minnesota Medical Association and the Minnesota Nurses Association believe that nurse practitioners should not be required to file practice agreements with the Board of Nursing; however,

- The Board of Medical Examiners and the Board of Nursing may, from time to time, have access to physician/nurse practitioner practice agreements, each through their respective licensees.

Paul S. Sanders, M.D., CEO Minnesota Medical Associaton	Sonja Meyerholz, RN, CEO Minnesota Nurses Association
Date	Date

nur7.ck

MINNESOTA BOARD OF PHARMACY

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ADMINISTRATIVE HEARINGS

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2700 University Ave. W., #107 • St. Paul, MN 55114-1079 • Telephone: (612) 642-0541

February, 8, 1991

RECEIVED
FEB 12 1991
Health Systems Development Division
MN Department of Health

Tom Hiendlmayr
Minnesota Department of Health
P.O. Box 9441
717 Delaware St. SE
Minneapolis, MN 55440

Dear Mr. Hiendlmayr:

Thank you for sending me a copy of the draft amendments to the physician assistant rules addressing delegation of drug and medical device prescribing and administration to physician assistants.

From the Board of Pharmacy's perspective I think the draft rules look fine. They seem to contain adequate safeguards regarding the delegation and appear to provide a mechanism for pharmacists, who might receive such prescriptions, to identify not only the physician assistant, but the supervising physician as well.

At this time, I do not have any suggested changes for your consideration.

Very truly yours,

David Holmstrom

David E. Holmstrom
Executive Director

DEH:ekp

THE INTERSTATE MEDICAL CENTER, P.A.

P.O. Box 54 Highway 61 West Red Wing, Minn. 55066
Phone 388-3503

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ADMINISTRATIVE HEARINGS

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FEB 12 1991
Health Systems Development Division
MN Department of Health

FAX TRANSMITTAL COVER LETTER

PLEASE DELIVER TO: Tom Hiendlmayr

COMPANY: MDH, Health Occupations Division

FAX NUMBER: 612 623 5043

FROM: Mark Zellmer, MAPA

DATE/TIME: 2/12/91 9:15 am

TOTAL PAGES INCLUDING COVER: 3

If you have any questions pertaining to this transmittal, please call (612) 388-3503, extension 202, or from the Twin Cities 292-1023, extension 202.

INTERSTATE MEDICAL CENTER'S FAX NUMBER IS

(612) 388-0996

I will call later today to discuss those items.

Mark

Comments on Draft PA Prescriptive Practice Rules from MDH

5600.2660 Subp. 2 Disciplinary Options of board. Items G. - J.

Appropriately adds items relating to prescriptive activity to the list of misdeeds for which BME may discipline the PA. Note that, in item I, that PAs will be judged against the "community standard of care" in the professional aspects of prescribing. This is the same standard of care by which physicians are judged.

5600.XXXX Delegation of Authority to Prescribe and Administer Drugs and Medical Devices. Subp. 1.

Lists conditions which must be met for delegated prescribing to occur:
A. NCCPA certification: the verb IS indicates, as does the statute, current certification is required, not just passing the initial certification exam.

E. The following is one of the conditions which must be met in order for BME to permit delegatory prescribing: "The PA has not had his or her prescriptive privileges restricted by BME." This seems problematic because it appears that any PA who had EVER been restricted, could never have delegated prescriptive privilege even after the restrictions are ended. More appropriate language would be: "The PA's prescribing priveleges are not <u>currently</u> under disciplinary restrictions."

In a related matter, 5600.2615, Subpart 1B, limits the PA's scope of practice to those services "customary to the practice of the supervising physician". Thus if a supervising physician were restricted by BME from performing certain aspects of the practice of medicine, it would seem the MD could not delegate these restricted aspects to a PA. For physicians under BME disciplinary restriction, are there any additional restrictions which should apply to that physician's use of a PA?

5600.XXXX Subp 2. Other requirements and restrictions.

A. Sentence 1: Appropriately the PA is required to document prescription in the medical record.

Sentence 2: Uses "each". The statutory language specifically does not say "each", rather it says the MD "shall retrospectively review, on a daily basis, the prescribing and administering". The use of EACH makes no allowances should a chart be misfiled in the review process and a physician not cosign that record of a prescription, despite there being a good faith effort to review record of EACH prescription. The following language would be more appropriate for sentence 2: "The supervising physician shall retrospectively review, on a daily basis, the prescribing and administering of legend drugs by the PA."

Sentence 3: "The <u>PA</u> shall document the daily review on the patient's chart." Should not the <u>MD's</u> signature the PA's chart constitute adequate documentation of the review? Does documentation of review need to be on the patient's chart? It could be more efficent for some practices to document review of prescriptive practice on a seperate "PA Prescription Log". This document could then be maintained as a permanent part of the clinic's records though not a part of the patient's medical record. Probably use of "The PA <u>or MD</u> shall document the daily review." would be more appropriate.

This section's sentence 4 appears to relate only to remote "satellite clinics". However, with its placement in the section dealing with "non-remote" clinics,

it becomes unclear which items are required in all clinics and which apply only to remote clinics. If sentences 1-3 as proposed by MDH apply to satellite practice, it would appear the PA documenting a phone conversation with the MD discussing his prescriptive activity would satisfy these requirements. (So long as "EACH" prescription was discussed.) For clarity a seperate section for remote clinics listing requirements in these situations would be helpful.

Sentence 4: Again, is the documentation required to be on the chart? Why does there need to be "a statement"? Will not the MD signature document the review? The statutory language does not mention "a statement", only MD signature and date. Why does the documentation for the on site visit physician review of PA prescriptive activity need to be in the patient's chart, particularly if the PA's notes in the chart are signed by the MD prior to the on site visit?

A modification of sentence 4 that would be acceptable is "During each on-site visit required in Minnesota Rules, Part 5600.2620, Item C., the supervising physician shall document, by signature and date, review of the prescriptive practice of the PA." This eliminates reference to "in the patient's chart" and "a statement" the potentially troublesome aspects, while continuing to require that the review take place and be documented.

B. This item lists several circumstances which would terminate a PA's authority to prescribe. All but one appear to be appropriate. Introducing the concept of "employment with the supervising physician" is not appropriate. In some cases the PA is employed by the hospital or other corporation but supervised by the physician. Probably the language should be "...shall end immediately when the supervisory relationship between PA and physician is terminated,...".

C. Requires annual review of the delegation not just paying the fee.

D. "The PA SHALL use preprinted forms for prescribing which include... and SHALL SIGN his or her name and CIRCLE the name of the.." This does not appear to permit telephoned prescriptions. Use of "The PA MAY" instead of "SHALL" would be one solution. And saying "INDICATE" rather than "CIRCLE" the name of the physician would be better. Insertion of the following sentence before the sentence modified above would be appropriate: "Prescriptions initiated by the physician assistant shall include the name of the physician providing supervision at the time the prescription is initiated along with the name of the physician assistant."

5600.XXX, Subpart 4.

Category 08 "Durable Medical Equipment" should be changed to "Medical Devices" as it is in the Nurse Practitioner rules. Would a diaphragm, insulin syringe or oxygen cannula be considered "durable"?

Categories 01-18 are believed to be all inclusive with the exception of controlled substances. In using this form the physician will either delegate, or choose not to delgate each category and then list any further restrictions within the delgated categories. The statement at the end of the form "Other specific drugs or medical devices which the physician assistant may NOT prescribe include:" thus becomes redundent. If these "other specific drugs or medical devices" are in a delegated category they should be listed above on the right. If they are in a non-delgated category it is very redundent to list them when the category has not been delgated.

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

RECEIVED
STATE OF MN
ADMINISTRATIVE
HEARINGS

TO: H. Leonard Boche
Dick Auld

FROM: Jeanne Hoffman

DATE: February 12, 1991

SUBJECT: PA Registration Administrative Costs

In view of the new PA prescribing rule setting forth the requirement to distribute PA prescribing agreements to all 1100 pharmacies in Minnesota, I have put a pencil to paper in order to determine the implementation costs. The current draft specifies the distribution of the agreements six times per year to coincide with the bimonthly Council meetings. The estimated expenses are as follows:

Item	1st Yr.	Ongoing
Postage ($.40 x 1100 pharmacies x 6)	$2,640	$2,640
Labels ($135 x 6)	810	810
Stuffing envelopes	960	960
Printing ($.03 x N PAs x 1100 pharmacies)	4,125	1,320
Staff time		
PA agenda (10 hrs. x 6 x $25)	1,500	1,500
Bd agenda (5 hrs. x 6 x $25)	750	750
Follow-up (20 hrs. x 6 x $25)	3,000	3,000
TOTAL	$13,785	$10,980
PER APPLICANT	$110	$275
N=	125*	40**

In addition, there is anticipated to be a 10% rate of complaints as a result of the delegation of the prescribing authority. Estimated staff time dedicated to processing the complaints is 30 hours licensure staff and 25 hours for discipline staff for a total of $2,000. Based on 125 prescribing agreements, this amounts to $16 per registrant annually.

The FY 1991 balance sheet for the administering the physician assistant registration system was:

Revenue		Expenses	
Applications	$1,500	Application form	$ 1,000
Renewals	6,980	Council meetings	3,000
Agreements	1,140	Staff time	16,500
TOTAL	$9,620	Computer	10,000
		TOTAL	$30,500

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For these reasons, I recommend raising the annual fee to at least $65 and request that Tom Heindlmayr incorporate a $110 fee in the proposed rules to cover the costs of administering the prescribing agreement and an annual $16 fee to cover estimated enforcement costs. Some consideration should be given to revising the rules to require distribution of the agreement twice per year rather than six times, particularly after the first year when the rate of new agreements decreases. This would reduce costs by 21%. There is no fee included in the proposed prescribing rule to cover our costs.

*assumes 100 of eligible PAs will submit prescribing agreements
**assumes rate of new agreements will remain constant

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

91 DEC 16 PM 1:17
ADMINISTRATIVE
HEARINGS

March 28, 1991

RECEIVED
MAR 29 1991
Health Systems Development Division
MN Department of Health

Tom Hiendlmayr
Minnesota Department of Health
717 SE Delaware Street
PO Box 9441
Minneapolis, MN 55440

Dear Mr. Hiendlmayr:

Thank you for attending the Physician Assistant Council meeting to discuss the proposed physician assistant prescribing rule amendments. The Council requests the following modifications to the amendments:

1. The rules must state that the physician assistant be currently certified by the National Commission on Certification of Physician Assistants.

2. The supervising physician and physician assistant are responsible to see that chart review occurs and a mechanism to document that it has occurred. Whether the chart review is accomplished through a log sheet or actual chart review should be left up to them.

3. The rules must also state that the authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when the physician assistant terminates agreement (not employment) with the supervising physician.

4. Finally, the board needs the authority to ask for elaboration or clarification of drug categories.

In an attempt to cover our current and anticipated costs, I am requesting the following changes in the fee schedule:

annual registration renewal	$ 65
prescribing application	110
annual prescribing renewal	16

As always, please keep me apprised of the status of the rules.

Sincerely,

Jeanne Hoffman

Jeanne Hoffman
Licensure Coordinator

cc: H. Leonard Boche
Richard Auld

THE MINNESOTA ACADEMY OF PHYSICIAN ASSISTANTS

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ADMINISTRA
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Red Wing, MN 55066-0054
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Home
2277 Bevan's Circle
Red Wing, MN 55066-3901
(612) 388-4115

April 12, 1991

RECEIVED
APR 17 1991
lth Systems Development Div
Department of

Mr. Tom Hiendlmayr
Health Occupations Division
Minnesota Department of Health
717 SE Delaware Street
P.O. Box 8441
Minneapolis, MN 55440

Dear Mr. Hiendlmayr:

I appreciated being able to speak with you a few weeks ago regarding progress on the implementing rules for physician assistant prescribing. Since that time we have received a copy of the nurse practitioners rules implementing similar legislation also passed in the 1990 legislative session. We had discussed concerns regarding the cost of sending notification to all pharmacies in the state regarding those physician assistants eligible to prescribe and the drug categories in which they may prescribe. As you know we had planned on informing pharmacies after each Board of Medicine meeting of any changes in those PA's prescribing. I find it interesting to note that in the nurse practitioners rules this notification to the pharmacies occurs only biennially with changes between notifications simply being forwarded to the Board of Pharmacy. I wonder if it would be reasonable, from a cost stand point, to consider similar format for physician assistants prescribing.

I have enclosed a copy of those proposed rules for your reference, along with the current memorandum of understanding between the nursing association and medication association under which nurse practitioners are currently operating.

I look forward to speaking to you again as this rule implementation process proceeds.

Sincerely,

Mark Zellmer, PA-C
President

MZ:tjd

DRAFT

CHAPTER 6340
BOARD OF NURSING
NURSE PRACTITIONERS PRESCRIBING AUTHORITY

6340.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 6340.100 to 6340.0700, the following terms have the meanings given them.

Subp. 2. **Attachments.** "Attachments" means the materials that must be submitted with the application for approval for prescriptive writing authority. The materials include a copy of the certificate, completion document and written agreement.

Subp. 3. **Board.** "Board" means the Minnesota Board of Nursing.

Subp. 4. **Certificate.** "Certificate" means the document issued by a national nursing organization which certifies nurse practitioners.

Subp. 5. **Collaborating physician.** "Collaborating physician" means an individual physician licensed under Minnesota Statutes, chapter 147 who agrees to delegate prescribing authority to the nurse practitioner by giving direction and review consistent with the written agreement.

Subp. 6. **Drug.** "Drug" means all medicinal substances and preparations recognized by the United States pharmacopoeia and national formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals, and all substances and preparations, other than food, intended to affect the structure or any function of the bodies of humans or other animals.

Subp. 7. **Drug categories/drug types.** "Drug categories/drug types" means the major therapeutic classifications in which medications are organized. The drug categories are anesthetics, antiinfectives, antineoplastic and immunosuppressant medications, cardiovascular medications, autonomic and central nervous system medications, dermatological medications, ear-nose-throat medications, endocrine medications, gastrointestinal medications, immunologicals and vaccines, muskoloskeletal medications, nutritional products, blood modifiers and electrolytes, obstetrical and gynecological medications, ophthalmic medications, respiratory medications, urological medications, and diagnostic and miscellaneous medications.

Subp. 8. **Licensure.** "Licensure" means the process by which the board confers legal authority upon an individual authorizing the person to engage in professional nursing, thereby certifying that those licensed have attained the minimal degree of competency necessary to ensure that the public health, safety and welfare will be reasonably well protected.

Subp. 9. **Nurse Practitioner.** "Nurse Practitioner" means a registered nurse who has graduated from a program of study designed to prepare a registered nurse for advanced practice as a nurse practitioner and who is certified through a national professional nursing organization.

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Subp. 10. **Practice setting.** "Practice setting" means the office address or physical location that the nurse practitioner and identified collaborating physician utilize to see patients and/or meet regularly to discuss clinical management issues relating to patients.

Subp. 11. **Practice specialty.** "Practice specialty" means the area in which the nurse practitioner is certified.

Subp. 12. **Prescribe.** "Prescribe" means to direct, order or designate by means of a prescription the preparation, use of, or manner of using a drug or therapeutic device.

Subp. 13. **Prescription.** "Prescription" means a signed written order, or an oral order reduced to writing, given by a practitioner licensed to prescribe drugs for patients in the course of the practitioner's practice, issued for an individual patient and containing the following: the date of issue, name and address of the patient, name and quantity of the drug prescribed, directions for use, and the name and address of the prescriber.

Subp. 14. **Program of study.** "Program of study" means a formal organized nursing curriculum composed of didactic and supervised clinical experience that specifically prepares nurse practitioners. The program of study must be affiliated with a recognized educational organization, have a formal admission procedure and recognize the graduate by means of a completion document such as a transcript or certificate.

Subp. 15. **Registration.** "Registration" means the process by which the names and original license numbers of individuals licensed by the board are listed as individuals authorized to engage in professional nursing during a registration period.

Subp. 16. **Registration renewal.** "Registration renewal" means the periodic process whereby an individual who is licensed and registered with the board to practice professional nursing requests and obtains registration for the next registration period.

Subp. 17. **Therapeutic devices.** "Therapeutic devices" means durable medical equipment, assistive or rehabilitative appliances, objects or products that are required to implement the overall plan of care for the patient.

Subp. 18. **Written agreement.** "Written agreement" means a written document developed jointly by the nurse practitioner and collaborating physician that contains statements describing the nurse practitioner's existing practice and the current delegated prescribing authority as outlined by the standards established by the Minnesota Medical Association and the Minnesota Nurses Association.

6340.0200 ELIGIBILITY CRITERIA FOR PRESCRIPTIVE WRITING AUTHORITY.

Subpart 1. **Licensure and current registration.** An applicant must be licensed and currently registered to practice professional nursing in Minnesota.

Subp. 2. **Graduation.** An applicant must have completed a program of study designed to prepare a registered nurse for advanced practice as a nurse practitioner.

Subp. 3. **Certification.** An applicant must be certified by the American Nurses Association, the National Certification Board of Pediatric Nurse Practitioners and Nurses, or the Nurses Association of American College of Obstetrics and Gynecology Certification Corporation as a nurse practitioner. An applicant must have a current certificate from the national nursing organization that granted certification.

Subp. 4. **Written agreement.** An applicant must have a written agreement with a collaborating physician that is signed and dated by the nurse practitioner and the collaborating physician.

6340.0300 APPLICATION PROCEDURE

Subpart 1. **Application.** An applicant shall obtain the application forms and instruction for filing from the board. Information required on the application include the nurse practitioner's name, nursing license number, home and business address, home and business telephone number, name of collaborating physician, drug categories that the nurse practitioner has been authorized to prescribe and the practice specialty of the nurse practitioner. The application must be notarized. An applicant must submit true, complete and accurate information. An application and attachments must be submitted for each written agreement.

Subp. 2. **Fee.** An applicant must submit a fee of $ with the application. The fee must be paid to the board in United States currency, cashier's check, or money order. Personal checks are not accepted. If for any reason the applicant is not eligible for prescriptive writing authority, the fee is not refundable.

Subp. 3. **Certificate.** A notarized copy of the current certificate issued by the national nursing organization must be submitted with the application.

Subp. 4. **Graduation verification.** A notarized copy of a document such as a diploma, letter or certificate that indicates completion of a nurse practitioner program must be submitted with the application. An official transcript may be submitted in lieu of the notarized document providing that the transcript clearly indicates that the education prepared the individual for practice as a nurse practitioner.

Subp. 5. **Written agreement.** A copy of the written agreement between the nurse practitioner and the collaborating physician must be submitted.

6340.0400 CONFIRMATION OF ELIGIBILITY.

Subpart 1. **Document.** The board shall issue a document to a nurse practitioner who has submitted the required evidence to demonstrate that the nurse practitioner is eligible to prescribe drugs and therapeutic devices. The document is in effect until the expiration of the nurse practitioner's

registration certificate or until loss of eligibility as specified in 6340.0600. A document will be issued each time the nurse practitioner submits the required evidence to demonstrate eligibility to prescribe drugs and therapeutic devices.

Subp. 2. **Identification number.** The board shall issue an identification number to a nurse practitioner who has submitted the required evidence to demonstrate that the nurse practitioner is eligible to prescribe drugs and therapeutic devices.

6340.0500 VERIFICATION OF CONTINUING ELIGIBILITY.

Subpart 1. **Cycle.** Continuing prescriptive authority eligibility must be demonstrated at the time of renewal of registered nurse registration. A form for demonstrating ongoing eligibility will be mailed by the board with the renewal of registration application.

Subp. 2. **Required Information.** Information required on the verification of continuing eligibility form include the nurse practitioner's name, nursing license number, home and business addresses, home and business telephone numbers, name of collaborating physician, drug categories that the nurse practitioner has been authorized to prescribe and the practice specialty of the nurse practitioner. An applicant must submit true, complete and accurate information. A verification must be submitted for each written agreement. In addition, a copy of the current certificate issued by the national nursing organization and a copy of the current written agreement, signed and dated must be submitted.

Subp. 3. **Fee.** The nurse practitioner must submit a fee of $ with the verification of continuing eligibility. The fee must be paid to the board.

6340.0600 LOSS OF ELIGIBILITY. The nurse practitioner is not authorized to prescribe if one or more of the following occur:

A. Change of collaborating physician within the practice setting.

B. Failure to renew registration as a registered nurse.

C. Failure to renew nurse practitioner certificate issued by the national nursing organization.

D. Change of employer.

E. Termination of the written agreement by the collaborating physician or the nurse practitioner.

6340.0700 PROCEDURE FOLLOWING LOSS OF ELIGIBILITY

Subpart 1. For loss of eligibility as listed in 6340.0600 A-C, documentation is required as follows:

A. Change of collaborating physician within the practice setting. Submit a copy of the written agreement that includes the name of the current collaborating physician.

B. Failure to renew registration as a registered nurse. Renew registered nurse registration.

C. Failure to renew certification. Renew certification and submit a copy of the current certificate.

Subp. 2. For loss of eligibility as listed in 6340.0600 D-E, the following is required:

A. Application. An applicant shall obtain the application forms and instruction for filing from the board. Information required on the application include the nurse practitioner's name, nursing license number, home and business addresses, home and business telephone numbers, name of collaborating physician, drug categories that the nurse practitioner has been authorized to prescribe and the practice specialty of the nurse practitioner. The application must be notarized. An applicant must submit true, complete and accurate information. An application and attachments must be submitted for each written agreement.

B. Fee. An applicant must submit a fee of $ with the application. The fee must be paid to the board in United States currency, cashier's check, or money order. Personal checks are not accepted. If for any reason the applicant is not eligible for prescriptive writing authority, the fee is not refundable.

C. Certificate. A copy of the current certificate issued by the national nursing organization must be submitted with the application.

D. Written agreement. A copy of the written agreement between the nurse practitioner and the collaborating physician must be submitted.

6340.0800 CHANGES REQUIRING NOTIFICATION OF THE BOARD.

Subpart. 1. **Name change.** The licensee who has changed names shall notify the board in writing within 30 days.

Subp. 2. **Address change.** The nurse practitioner who has changed home address shall notify the board in writing within 30 days.

Subp. 3. **Telephone number change.** The nurse practitioner whose home or business telephone number changes should notify the board in writing within 30 days.

Subp. 4. **Change in categories of drugs.** The nurse practitioner who adds or deletes categories of drugs must notify the board in writing within 30 days.

Subp. 5. **Changes in the written agreement.** Changes such as addition or deletion of drugs should be initialed and dated. A copy of the written agreement must be submitted at the time of renewal of registration.

6340.0900 IDENTIFICATION

Subpart 1. **Identification.** In writing prescriptions the nurse practitioner should include the nurse practioner's name, practice setting and telephone number.

Subp. 2. **Professional organizations with the authority to certify registered nurses as nurse practitioners.** The following organizations are those adopted by the board under section 62A.15, subdivision 3a that certify nurse practitioners:

A. American Nurses Association:
   (1). gerontological nurse practitioner,
   (2). adult nurse practitioner,
   (3). family nurse practitioner,
   (4). school nurse practitioner,
   (5). pediatric nurse practitioner.

B. National Certification Board of Pediatric Nurse Practitioners and Nurses: pediatric nurse practitioner

C. Nurses Association of American College of Obstetrics and Gynecology Certification Corporation:
   (1). obstetric-gynecological nurse practitioner
   (2). neonatal nurse practitioner

Subp. 3. **Initials.** The abbreviation "NP" with the prefix letter designating the specialty of practice should be used as follows:

A. Gerontological nurse practitioner, "GNP";

B. Adult nurse practitioner, "ANP";

C. Family nurse practitioner, "FNP";

D. School nurse practitioner, "SNP";

E. Pediatric nurse practitioner, PNP";

F. Obstetric-gynecological nurse practitioner, "OGNP";

G. Neonatal nurse practitioner, "NNP."

6340.1000 NOTIFICATION OF PHARMACISTS.

Subpart 1. **Initial notification.** On , 1991 and every two years thereafter the board shall mail a list of all authorized nurse practitioners with prescriptive writing authority to all pharmacies in the state of

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Minnesota. The list shall include the name of the nurse practitioner, identification number, practice specialty, office address and office phone number. The list shall also be transmitted to the Board of Pharmacy.

Subp. 2. **Maintaining notification.** After the initial and the biennial notification, the board shall notify the Board of Pharmacy on a monthly basis of changes in the list of authorized nurse practitioners . The change list must include additional nurse practitioners who are eligible to prescribe, those nurse practitioners who have lost eligibility to prescribe and those nurse practitioners who have regained their eligibility to prescribe.

Subp. 3. **Master record.** The board shall maintain information on each nurse practitioner that includes the drug categories that the nurse practitioner is authorized to prescribe. This information shall be made available to pharmacists on request.

1/28/91

JAN 1991
BOARD OF NURSING

MINNESOTA NURSES ASSOCIATION/ MINNESOTA MEDICAL ASSOCIATION

NURSE PRACTITIONER PRESCRIBING

MEMORANDUM OF UNDERSTANDING

STANDARDS FOR WRITTEN PRACTICE AGREEMENTS

Nurse Practitioner/Physician Model Practice Agreement

This joint Memorandum of Understanding has been developed to assure minimum standards in the preparation of agreements for the delegation by physicians of prescribing authority to qualified nurse practitioners. The legislation passed by the 1990 Legislature very clearly allows the delegation of prescribing authority but not the total delegation of physician responsibility. As part of the delegation of prescribing, the physician has responsibility to supervise the performance of that delegated prescribing function and the nurse practitioner has responsibility to act within the nurse practitioner scope of practice and within their individual practice agreement. The supervising physician and the nurse practitioner need to be acutely aware of the relationship between themselves and the need for a detailed, thoroughly discussed practice agreement. This Memorandum of Understanding directs the minimum amount of information to be contained in the physician/nurse practitioner agreements. Physicians and nurse practitioners are encouraged to be as specific as possible when describing their individual arrangements.

Development. Development of a practice agreement is a complex task. The practice agreement reflects mutual trust and effort between a nurse practitioner and a physician and the knowledge and experience of a nurse practitioner as well as that of a physician.

A therapeutics resource manual may be used as a guideline in the development of practice agreements.

Practice agreements must be developed jointly by nurse practitioner and physician. Each nurse practitioner must have a signed practice agreement with at least one supervisory physician.

A separate practice agreement must exist with each nurse practitioner.

A practice agreement must be developed and executed prior to delegation of prescribing to a nurse practitioner.

Annual Review

Nurse Practitioners and physicians must jointly review, sign, and date their practice agreements at least annually, and whenever the situation calls for amendment.

Previously Existing Practice Agreements

Practice agreements existing prior to the 1990 amendments to Minnesota Statutes, Chapter 148 must be reviewed and brought into line with the current MNA/MMA Memorandum of Understanding. Any existing practice agreements should be reviewed and date following the execution of this memorandum of understanding

Practice Agreements

Must Include:

1. Name of nurse practitioner, practice address(es) and phone number(s)

2. Specialty certification or nurse practitioner

3. Name of supervising physician(s), practice address(es) and phone number(s)

4. Specialty of supervising physician(s)

5. The practice agreement shall contain general statements describing the nurse practitioner's practice, e.g., nature and size of the practice acuity of patients, geographic location, experience and specialty of the nurse practitioner and physician.

6. Each drug or device which the nurse practitioner may prescribe and the total numbers of refills without the physician's review shall be listed i the practice agreement along with any other specific limitations placed by the supervising physician.

7. The supervising physician and nurse practitioner will regularly review the nurse practitioner's prescriptive practice to assure that the standar of care to which the physician is held is maintained. Practice agreement shall establish minimum frequencies and schedules for review of prescriptive practice based on the nature of the practice, patient acuity, geographic location, experience and specialty of the providers.

MNA/MMA Review

This Memorandum of Understanding will take the place of any previously existing memorandum and will be reviewed again by the Minnesota Nurses Association and the Minnesota Medical Association by July 1, 1993.

Paul S. Sanders, M.D., CEO
Minnesota Medical Associaton

1/21/91
Date

Sonja Meyerholz, RN, CEO
Minnesota Nurses Association

1/24/91
Date

ADDENDUM TO MNA/MNA MEMORANDUM OF UNDERSTANDING

- The Minnesota Medical Association and the Minnesota Nurses Association believe that nurse practitioners should not be required to file practice agreements with the Board of Nursing; however,

- The Board of Medical Examiners and the Board of Nursing may, from time to time, have access to physician/nurse practitioner practice agreements, each through their respective licensees.

Paul S. Sanders, M.D., CEO
Minnesota Medical Associaton

1/21/91
Date

Sonja Meyerholz, RN, CEO
Minnesota Nurses Association

1/24/91
Date

nur7.ck

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

RECEIVED
APR 29 1991
ADMINISTRATIVE
HEARINGS

April 29, 1991

RECEIVED
APR 29 1991
Health Systems Development Division
MN Department of Health

Tom Hiendlmayr
Minnesota Department of Health
717 SE Delaware Street
PO Box 9441
Minneapolis, MN 55440

Dear Mr. Hiendlmayr:

Our Board members have reviewed the proposed physician assistant prescribing rule amendments and recommend the following changes:

1. Anti-depressant drugs should be included on the list of drug categories.

2. See attached recommended changes.

Thanks, Tom.

Sincerely,

Jeanne

Jeanne Hoffman
Licensure Coordinator

AN EQUAL OPPORTUNITY EMPLOYER
PRINTED ON RECYCLED PAPER

5600.2600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5600.2600 to 5600.2665, the following terms have the meanings given them.

Subp. 2. **Active status.** "Active status" means the status of a person who has met all the qualifications of a physician assistant and has a physician-physician assistant agreement in force and approved by the board.

Subp. 3. **Agreement.** "Agreement" means a document signed by the physician and the physician assistant which includes contents specified in part 5600.2635, subpart 3.

Subp. 4. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant agreement who shall be responsible for supervising the physician assistant when the supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subp. 5. **Board.** "Board" means the Minnesota Board of Medical Examiners.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Department of Health.

Subp. 7. **Contact hour.** "Contact hour" means an instructional session of 60 consecutive minutes, excluding coffee breaks, registration, meals with a speaker or without a speaker, and other social activities.

Subp. 8. **Diagnostic order.** "Diagnostic order" means a directive to perform a procedure or test, the purpose of which is to determine the cause and nature of a pathological condition or disease.

Subp. 9. **Inactive status.** "Inactive status" means the status of a person who has met all the qualifications of a physician assistant but does not have a physician-physician assistant agreement in force and approved by the board.

Subp. 10. **Physician.** "Physician" means a person currently licensed in good standing as a physician or osteopath under Minnesota Statutes, chapter 147.

Subp. 11. **Physician assistant; registered physician assistant.** "Physician assistant" or "registered physician assistant" means a person registered pursuant to parts 5600.2600 to 5600.2665 5600.XXXX who is qualified by academic or practical training or both to provide patient services as listed in part 5600.2615 under the supervision of a supervising physician.

Subp. 12. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications specified in parts 5600.2600 to 5600.2665.

Subp. 13. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical

responsibility for the performance, practice, and activities of a physician assistant under an agreement approved by the board and pursuant to part 5600.2615. "Supervising physician" shall include "alternate supervising physician" for the purposes of parts 5600.2600 to 5600.2665 5600.XXXX.

STAT AUTH: MS s 214.13
HIST: 10 SR 476

5600.2605
5600.2605 PURPOSE.

The purpose of parts 5600.2600 to 5600.2665 5600.XXXX is to establish the administrative structure, the procedures, and the requirements for the registration of people qualified to be physician assistants.

STAT AUTH: MS s 214.13
HIST: 10 SR 476

5600.2610
5600.2610 RESTRICTIONS ON USE OF THE TITLE OF REGISTERED PHYSICIAN ASSISTANT.

Subpart 1. **Physician assistant identification.** Only a registered physician assistant in active status may use the title "physician assistant" or "registered physician assistant" without restriction. Only a registered physician assistant in active status shall identify himself or herself at the practice site by using a name tag or name plate or some other identifying device bearing the title "registered physician assistant."

Subp. 2. **Inactive status.** A registered physician assistant in inactive status may not use the title "registered physician assistant" in connection with the delivery of health care services. A registered physician assistant in inactive status may not use the title on a name tag or name plate at any medical or health care facility or office in providing patient services.

STAT AUTH: MS s 214.13
HIST: 10 SR 476

5600.2615
5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE.

Subpart 1. **General limitation on scope of practice.** Patient services must be limited to:

A. services within the training or experience of the physician assistant;

B. services customary to the practice of the supervising physician; and

C. services delegated by the supervising physician.

Subp. 2. **Descriptive list of allowed services.** Patient services must be limited to:

A. taking complete, detailed, and accurate patient histories and reviewing patient records to develop comprehensive medical status reports;

B. performing physical examinations and recording all pertinent patient data;

C. interpreting and evaluating patient data as authorized by the supervising physician for the purpose of determining management and treatment of patients;

D. initiating requests for, or performing, diagnostic procedures as indicated by pertinent data, and as authorized by the supervising physician;

E. performing therapeutic procedures as authorized by the supervising physician;

F. providing instructions and guidance regarding medical care matters to patients; and

G. assisting the supervising physician in the delivery of services to patients requiring medical care in the home and in health care institutions, including recording patient progress notes, issuing diagnostic orders which must be countersigned by the supervising physician within 24 hours, and transcribing or executing specific orders at the direction of the supervising physician; and

H. prescribing and administering legend d
devices subject to the limitations of Minnesot
147.34, Minnesota Statues, chapter 151 and Min
5600.2600 to 5600.XXXX (excluding controlled s
function has been delegated to the physician a
supervising physician and approved by the boar

does "controlled substances" have a statutory or rule definition somewhere

STAT AUTH: MS s 214.13
HIST: 10 SR 476

5600.2620
5600.2620 REQUIREMENTS FOR ADEQUATE SUPERVISION.

To ensure the supervising physician assumes full medical responsibility for patient services provided by the physician assistant, the supervising physician shall instruct and direct the physician assistant in the assistant's duties, oversee and check the assistant's work, and provide general direction to the assistant. The physician assistant and supervising physician shall comply with at least the following criteria:

A. A supervising physician must be able to be contacted within 15 minutes either in person or by telecommunication for consultation with the assistant.

B. A supervising physician shall review and evaluate patient services provided by the physician assistant on a daily basis from information in patient charts or records. Review may either be in person or by telecommunication.

C. A supervising physician shall be on site at facilities staffed by a physician assistant if they are separate from the usual practice site of the supervising physician at least twice a week for at least eight hours a week during patient contact time.

D. A supervising physician may not supervise more than two physician assistants.

E. The prescribing, administering, and dispensing of legend drugs shall only be done in accordance with Minnesota Statutes, chapters 151 and 152.

F. The physician assistant and supervising physician shall ensure that an alternate physician is available to supervise if the supervising physician is absent.

STAT AUTH: MS s 214.13
HIST: 10 SR 476

5600.2625
5600.2625 REQUIREMENTS FOR REGISTRATION.

Subpart 1. **Requirements for registration in active status.** An applicant for registration as a physician assistant in active status shall:

A. Successfully complete a physician assistant training program recognized by the board as approved by a national accrediting body for physician assistant training. To be recognized by the board the accrediting body must meet the following criteria:

(1) It must be capable of evaluating physician assistant training programs throughout the United States.

(2) It must be capable of conducting site visits to evaluate the facilities used by the physician assistant training program, including evaluation of libraries and laboratories.

(3) It must be capable of evaluating the quality of the academic programs offered as well as evaluating the faculty.

(4) It must use standards that ensure that graduates of the training program have the knowledge and training to practice as a physician assistant within the scope of practice defined by these rules.

(5) It may not be affiliated with any individual physician assistant training program.

B. Successfully complete an examination which has been approved by the board as assessing physician assistant skills. The examination must meet the following criteria:

(1) The examination must be validated by a content validity study which consists of data showing that the examination covers a representative sample of the job tasks, work behavior, or performance skills essential to the job for which the applicant is to be evaluated; or the examination must be validated by a criterion-related validity study which consists of empirical data demonstrating that the selection is predictive of, or significantly correlated with job performance and which has a validity coefficient significant at the 0.05 level of significance.

(2) Validity studies must be based upon a review of information about the job for which the examination is to be used. The review must include at least an analysis of job tasks, work behavior, or performance skills that are relevant to the job.

(3) Job tasks, work behaviors, or performance skills used as a basis for test developments or validity studies must include at least the procedures and techniques which may be delegated to physician assistants as outlined in part 5600.2615.

(4) The examination must be determined to be reliable utilizing the parallel forms or internal consistency methods of estimating reliability and the reliability coefficient must be not less than 0.70.

(5) The examination must be revised or a new form must be issued when technical advances indicate the examination should be updated to acknowledge related changes in the scope of authorized practice of a physician assistant as outlined in part 5600.2615.

(6) The examination must be revised or a new form must be issued when it is necessary to meet additional standards or knowledge requirements adopted by the commissioner.

C. Have an agreement between the physician and physician assistant which complies with part 5600.2635, subpart 3.

Subp. 2. **Requirements for registration in inactive status.** An applicant for registration as a physician assistant in inactive status must meet the requirements of subpart 1, items A and B. A physician assistant in inactive status may apply for registration in active status when the requirements of subpart 1, item C are met.

STAT AUTH: MS s 214.13

HIST: 10 SR 476

5600.2630

5600.2630 APPLICATION PROCESS FOR INITIAL REGISTRATION.

Subpart 1. **Form required.** All applicants for initial registration as physician assistants shall submit an application on forms provided by the board together with fees described under part 5600.2655. The application must include information sufficient to permit a complete evaluation of each applicant to determine whether the applicant meets the requirements for registration and must include information sufficient to permit an evaluation by the board of the proposed supervision of the physician assistant. For the purpose of confirming the applicant's qualifications or to clarify the proposed supervisory relationship, the board shall request that an applicant submit additional information if it is necessary to clarify incomplete or ambiguous information presented in the application.

Subp. 2. **Contents of application form.** The application form must include questions which require the applicant to do the following:

A. provide demographic information as deemed necessary by the board;

B. list or describe areas of specialization or special training or experience of the physician assistant including previous work history;

C. provide certification from the director of the program or dean of the school of successful completion of an approved program as described in part 5600.2625, subpart 1, item A;

D. provide certification demonstrating successful completion of an approved examination as described in part 5600.2625, subpart 1, item B; and

E. provide the names and addresses of two individuals who can be contacted for a reference about the applicant, one of whom is a physician or osteopath licensed in the United States, other than the supervising physician, who personally know the applicant.

STAT AUTH: MS s 214.13
HIST: 10 SR 476

5600.2635
5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT.

Subpart 1. **Form required.** An applicant seeking active status must submit an application on forms provided by the board and an agreement signed by the physician assistant and the supervising physician and any alternate supervising physician.

Subp. 2. **Contents of form.** The completed application form must contain the following information:

A. identify the licensed supervising physician and any areas of specialization of the physician and alternate supervising physicians;

B. describe the practice in which the physician assistant will be used and the current plans for use of the physician assistant;

C. identify and describe the practice sites of the supervising physician and physician assistant;

D. identify other physicians or physician assistants who may be involved;

E. list or describe areas of specialization, special training, or experience of the physician assistant; and

F. provide any other information which is judged to be necessary by the board to answer questions regarding supervision of the physician assistant.

Subp. 3. **Contents of agreement.** The agreement must include at least the following:

A. specific plans for supervision of the physician assistant by the supervising physician as well as alternate supervising physicians if more than one physician will be working with the physician assistant;

B. plans for supervision when the supervising physician is not available;

C. restrictions or instructions regarding the functions or practices of the physician assistant and any letters of agreement or other protocols or restrictions established by or with any health care facility concerning the practice of the physician assistant when functioning in the

facility, including letters of agreement made for or with pharmacists regarding the practice of the physician assistant in carrying out the directions of the physician;

D. a statement by the supervising physician regarding the delegation or nondelegation of the functions of prescribing and administering legend drugs and medical devices to the physician assistant, and, if delegation is specified, the completed form in part 5600.XXXX, subpart 4, containing the protocol identifying the drug categories for which authority to prescribe and administer has been delegated, any restrictions for utilizing each drug category, and any other specific drugs or medical devices which the physician assistant may not prescribe or administer, signed by the physician assistant, supervising physician and alternate supervising physicians;

described in P6

~~D.~~ E. a statement that the supervising physician and alternate supervising physician assume full medical responsibility for all patient services provided by the physician assistant; and

~~E.~~ F. any other information which will assist the board in determining whether the physician assistant will be adequately supervised by the supervising physician.

Subp. 4. **Modification or termination of agreement.** The physician assistant and the supervising physician shall notify the board upon the modification or termination of the agreement. Upon termination of the agreement, the board shall classify the physician assistant in inactive status until a new agreement is approved. If the modification results in an expansion of the physician assistant's duties, the modification must be approved by the board before the physician assistant begins the new duties.

STAT AUTH: MS s 214.13
HIST: 10 SR 476

5600.2640
5600.2640 TEMPORARY REQUIREMENTS DURING TRANSITION.

Subpart 1. **Initial registration requirements.** An applicant for initial registration as a physician assistant is not required to meet the requirements of part 5600.2625, subparts 1, items A and B; and 2, until August 26, 1987, if the applicant provides documented evidence that the following requirements have been met:

A. An applicant has completed a course of study in medical care which was at least 18 months full time and which had course content judged by the board to be equivalent to the program content of an accredited physician assistant program. An applicant may petition the board to accept informal training which the board judges to be equivalent in program content to an accredited program.

B. An applicant has been employed as a full-time physician assistant for at least four of the last five years under the supervision of a licensed physician. This experience must be recorded on forms provided by the board.

Subp. 2. **Examination requirements.** A physician assistant who qualified for initial registration by meeting the requirements of subpart 1 must successfully complete an examination which meets the requirements of part 5600.2625, subpart 1, item B within two years of the date initial registration was approved by the board. If the physician assistant successfully completes the examination within the two years, a physician assistant is exempt from meeting the requirements for registration of part 5600.2625, subpart 1, item A. If the physician assistant does not successfully complete the examination within the two years, the board will revoke the physician assistant's registration and the physician assistant shall then meet all the requirements of part 5600.2625 for registration.

Subp. 3. **Active status requirements.** A physician assistant who qualified for initial registration by meeting the requirements of subpart 1 must also meet the requirements of part 5600.2625, subpart 1, item C if the physician assistant wishes to be registered in active status.

STAT AUTH: MS s 214.13

HIST: 10 SR 476

5600.2645

5600.2645 APPLICATION PROCESS FOR REREGISTRATION.

A physician assistant's registration expires each year on July 1. Each physician assistant must reregister on or before July 1 of each year by submitting a completed application for reregistration on a form provided by the board together with the annual reregistration fee. The information supplied on the application for reregistration must be sufficient for the board to determine whether the physician assistant continues to meet the requirements for registration in part 5600.2625 or 5600.2640. In addition, the applicant must meet the continuing education requirements of part 5600.2650. The board may request a physician assistant to submit additional information to clarify information presented in the application for reregistration. An application submitted after the reregistration deadline date must be accompanied by a late fee.

STAT AUTH: MS s 214.13

HIST: 10 SR 476

5600.2650

5600.2650 CONTINUING EDUCATION REQUIREMENTS.

Subpart 1. **Amount of education required.** Applicants for reregistration must either attest to and document successful completion of at least 50 contact hours of board-approved continuing education as described in subpart 3 within the two years immediately preceding reregistration, or attest to and document taking the national certifying examination within the past two years.

Subp. 2. **Type of education required.** Approved continuing education activities are learning experiences designed to

promote continuing competency in the procedures and techniques outlined in part 5600.2615. The activities must receive board approval for continuing education. The board shall base its approval of a continuing education activity on the following criteria:

A. It must have specific, written objectives which describe expected outcomes for the participant.

B. It must be presented by knowledgeable persons who have reviewed the development in the subject being covered in the program within the last two years. The presenting person must have specialized training in the subject matter, experience in teaching the subject matter, or experience in working in the subject areas.

C. It must last at least one contact hour.

D. It must utilize a mechanism to validate participation, such as earned credits or verification of attendance. Program sponsors shall maintain attendance sheets for three years.

Subp. 3. **Restrictions on earning credits through contact hour equivalents.** Contact hour equivalents can include medical teaching, publication of books or papers, lectures, exhibits, and self-teaching. No more than ten hours of credit may be obtained in any renewal period through medical teaching. No more than ten hours of credit may be obtained in any renewal period through a combination of publications, lectures, and exhibits. No more than ten hours of credit may be obtained through self-teaching. Credits may be obtained in the following ways:

A. five hours of credit for a scientific paper or book chapter published in a peer-reviewed medical journal or book;

B. an hour of credit for each hour spent lecturing at a course which qualifies for board approval under subpart 2;

C. an hour of credit for each hour spent self-teaching; and

D. five hours of credit for a paper or exhibit presented before a professional or allied health audience. Credit may be claimed only once for such a presentation.

Subp. 4. **Verification of continuing education reports.** Periodically, the board shall select a sample of the registered physician assistants and request evidence of continuing education to which they attested. Documentation may come directly from the registrant or from a national accrediting or certifying organization which maintains those types of records.

STAT AUTH: MS s 214.13

HIST: 10 SR 476

5600.2655

5600.2655 APPLICATION FEES.

Subpart 1. **Initial registration fee.** The initial registration fee shall be $100.

Subp. 2. **Annual reregistration fee.** The annual fee for

reregistration shall be $20.

Subp. 3. **Penalty fee for late renewals.** The penalty fee for late submission of an application for reregistration shall be $5.

Subp. 4. **Fee for approval of agreements.** The fee for approval of an agreement between a physician and physician assistant by the board shall be $30.

Subp. 5. **Notice of fee changes.** The board shall notify physician assistants about fee changes under subparts 1 to 4 in the same manner as it notifies physicians about those types of fee changes.

Subp. 6. **Surcharge.** For a period of five years following August 26, 1985, a surcharge shall be added to each initial registration and annual registration fee. The surcharge shall be calculated by dividing the cost of adopting the rules by five to reach the amount which must be recouped each year, and then, on a yearly basis, calculate the surcharge by dividing the amount that must be recouped each year by the number of registrants and reregistrants that year.

STAT AUTH: MS s 214.13

HIST: 10 SR 476

5600.2660

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

Subpart 1. **Investigation of complaints.** Upon receiving a complaint or other oral or written communication, which alleges or implies the existence of grounds for revocation of registration or disciplinary actions as specified in subpart 2, the physician assistant council established in part 5600.2665 may initiate an investigation. The council may request the physician assistant to appear before it to determine the merits of the situation in question. In each case, the council shall make a recommendation to the board as to whether proceedings under the contested case provisions of the Administrative Procedure Act, Minnesota Statutes, sections 14.57 to 14.69, would be appropriate and should be initiated. Before any disciplinary action, a written complaint must be obtained from a complaining party.

Subp. 2. **Disciplinary options of board.** The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant if the assistant:

A. submits false or misleading information or credentials in order to obtain or renew registration;

B. fails to meet the requirements for initial or reregistration;

C. incompetently, negligently, or inappropriately performs patient services;

D. performs patient service beyond the scope of practice authorized by part 5600.2615;

E. violates parts 5600.2600 to 5600.2665 5600.XXXX; or

F. is unable to perform patient services with

reasonable skill and safety to patients due to physical or mental illness or use of alcohol, drugs, or other substance.;

G. violates state or federal laws regarding prescribing or administering legend drugs or medical devices;

H. prescribes or administers legend drugs or medical devices in a manner other than under the procedures set forth in these rules;

I. prescribes or administers legend drugs or medical devices in a manner which falls below the community standard of care; or

J. prescribes or administers legend drugs or medical devices in violation of the agreement.

Subp. 3. **Disciplinary actions.** If the board finds that a physician assistant should be disciplined pursuant to subpart 2, the board may take any one or more of the following actions:

A. refuse to grant or renew a registration;

B. revoke a registration;

C. suspend any registration for a definite period;

D. administer a reprimand;

E. condition, limit, or restrict a registration; or

F. place the physician assistant on probation, which probation may be vacated upon compliance with such reasonable terms as the board may impose; or

G. refuse to approve delegation of prescribing authority, revoke, suspend, or restrict prescribing authority of a physician assistant based upon the standards and protocol in Minnesota Statutes, section 147.34 and Minnesota Rules, parts 5600.2600 to 5600.XXXX.

Subp. 4. **Consequences of disciplinary action.** Upon the revocation or suspension, the registrant shall return to the board his or her certificate and current renewal document.

Subp. 5. **Reinstatement requirements after disciplinary action.** A physician assistant who has had registration revoked cannot apply for reinstatement until at least one year after the effective date of the revocation or for a longer period of time specified by the board. A suspended registration shall be reinstated upon fulfillment of the terms of suspension. All requirements of part 5600.2645 for renewing registration, if applicable, must also be met before reinstatement.

STAT AUTH: MS s 214.13

HIST: 10 SR 476; L 1987 c 384 art 2 s 1

5600.2665

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint seven persons to a physician assistant advisory council. The seven persons must include:

A. two public members, as defined in Minnesota Statutes, section 214.02;

B. three physician assistants registered under parts 5600.2600 to 5600.2665; and

C. two licensed physicians one of whom must be a representative of the board.

Subp. 2. **Organization.** The council shall be organized and administered under Minnesota Statutes, section 15.059.

Subp. 3. **Duties.** The council shall:

A. advise the board regarding physician assistant registration standards;

B. advise the board on enforcement of parts 5600.2600 to 5600.2665 5600.XXXX;

C. provide for distribution of information regarding physician assistant registration standards;

D. review applications and recommend applicants for registration or reregistration;

E. receive and process complaints about applicants and registrants in accordance with Minnesota Statutes, sections 214.10 and 214.13, subdivisions 6 and 7;

F. perform disciplinary investigations; and

G. perform other duties authorized for the council by Minnesota Statutes, chapter 214 as directed by the board.; and

H. review delegation of prescribing and administering authority in agreements and recommend approval, disapproval or modification of the agreement based upon the standards and protocol in Minnesota Statutes, section 147.34 and Minnesota Rules, parts 5600.2600 to 5600.XXXX.

STAT AUTH: MS s 214.13

HIST: 10 SR 476

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5600.XXXX DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES

Subpart 1. Delegation of functions. A supervising physician may delegate the authority to prescribe and administer legend drugs and medical devices with retrospective physician review to a physician assistant under the following conditions:

A. The physician assistant is certified by the National Commission on Certification of Physician Assistants (NCCPA) and registered as a physician assistant with the board. The physician assistant shall submit proof of certification by the NCCPA to the board with the application for registration or renewal of registration.

B. The agreement between the supervising physician and physician assistant includes the completed form, in subpart 4, described containing the protocol indicating the categories of drugs from which the physician assistant may prescribe and any drugs or medical devices which the physician assistant may not prescribe or administer.

C. Prescribing and administering of legend drugs and medical devices is done in conformity with the agreement and Minnesota Statutes, section 147.34, Minnesota Statues, chapter 151 and Minnesota Rules, parts 5600.2600 to 5600.XXXX.

D. The agreement has been reviewed and approved by the board based upon the standards and protocol in Minnesota

Statutes, section 147.34 and Minnesota Rules, part 5600.2600 to 5600.XXXX.

E. The physician assistant has not had his or her prescription writing privileges restricted by the board.

Subpart 2. Other requirements and restrictions.

A. The physician assistant shall enter each prescription on the patient's chart. The supervising physician shall retrospectively review each physician assistant prescription on a daily basis. The physician assistant shall document the daily review on the patient's chart. During each on-site visit the supervising physician shall document in the patient's chart, by signing and dating a statement, that the prescriptive practice of the physician assistant has been reviewed.

B. The authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when the physician assistant terminates employment with the supervising physician, has authority to prescribe or administer terminated or withdrawn by the supervising physician, reverts to inactive status, loses NCCPA certification, or loses or terminates registration status.

C. The supervising physician and physician assistant shall review delegation of prescribing and administering authority on a yearly basis at the time of registration renewal and submit any changes in prescribing authority to the board on the completed form in subpart 4.

described → D. The physician assistant shall use preprinted forms for prescribing which include the name, address, and phone number of the physician serving as supervisor and the physician assistant. The physician assistant shall sign his or her name on the prescription and circle the name of the physician then serving as supervisor.

described

Subp. 3. The board shall provide to registered pharmacies within the state the completed form in subpart 4 for those physician assistants who have been approved to write prescriptions. Additional forms shall be distributed every two months if new physician assistants are approved to write prescriptions or if modifications in individual prescribing practices are reviewed and approved by the board.

Subp. 4. Form for physician delegation of prescribing authority.

PHYSICIAN DELEGATION OF PRESCRIBING AND ADMINISTERING AUTHORITY

This form contains the complete protocol for the below-named physician assistant to prescribe and administer drugs and medical devices and is hereby made a part of the physician/physician assistant agreement as required by Minn. Stat. section 147.34 and Minn. Rules part 5600.2635, subpart 3, item D.

Physician Assistant _____
Minnesota Registration # _____

The physician assistant may prescribe from those categories* checked in the following list:		Restrictions applicable to each category:
01 _____	Anesthetics	01 _____
02 _____	Antiinfectives	02 _____
03 _____	Antineoplastics/ Immunosuppressants	03 _____
04 _____	Cardiovascular Medications	04 _____
05 _____	Autonomic & CNS Drugs	05 _____
06 _____	Dermatological Medications	06 _____
07 _____	Diagnostic Agents	07 _____
08 _____	Durable Medical Equipment	08 _____
09 _____	Ear-Nose-Throat Medications	09 _____
10 _____	Endocrine Medications (except anabolic steroids)	10 _____
11 _____	Gastrointestinal Medications	11 _____
12 _____	Immunologicals & Vaccines	12 _____
13 _____	Musculoskeletal Medications	13 _____
14 _____	Nutritional Products, Blood Modifiers & Electrolytes	14 _____
15 _____	Obstetrical & Gynecological Medications	15 _____
16 _____	Ophthalmic Medications	16 _____
17 _____	Respiratory Medications	17 _____
18 _____	Urological Medications	18 _____

Physician assistants may not prescribe controlled substances regulated under Minn. Stat., section 152 contained in the above categories. Other specific drugs or medical devices which the physician assistant may not prescribe include:

_____
_____
_____

_____ _____
Supervising Physician (sign) Physician Assistant (sign)

_____ _____
(type name/date) (type name/date)

1. _____
Alternate Supervising Physician

_____
(type name/date)

2. _____
Alternate Supervising Physician

_____
(type name/date)

3. _____
Alternate Supervising Physician

_____
(type name/date)

4. _____
Alternate Supervising Physician

_____
(type name/date)

5. _____
Alternate Supervising Physician

_____
(type name/date)

6. _____
Alternate Supervising Physician

_____
(type name/date)

7. _____
Alternate Supervising Physician

_____
(type name/date)

8. _____
Alternate Supervising Physician

_____
(type name/date)

9. _____
Alternate Supervising Physician

_____
(type name/date)

10. _____
Alternate Supervising Physician

_____
(type name/date)

11. _____
Alternate Supervising Physician

_____
(type name/date)

12. _____
Alternate Supervising Physician

_____
(type name/date)

*The listed categories are based upon Physicians Health Plan (PHP) of Minnesota format and are used with its permission.

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ADMINISTRATIVE
HEARINGS

RECEIVED
JUN 27 1991
Health Systems Development Division
MN Department of Health

Annette Spencer
Minnesota Department of Health
717 Delaware Street Southeast
P.O. Box 9441
Minneapolis, AN 55440

Dear Ms Spencer,

I am in receipt of the latest revision of the proposed rules for delegation of prescribing for Physician Assistants dated June 19, 1991. In general I feel the proposed wording is carrying out the intent of the law.

I still struggle with page 13, Subp. 2 Documentation paragraph B.

I'm uncertain why the PA must document the daily review in either setting, especially when the PA may be signing a chart or document that may not yet have been typed. Paragraph B. should acknowledge that a PA can prescribe and have daily review in a remote setting, but that a physician would not be required to sign the attestation sheet as frequently.

EXAMPLE: At facilities staffed by the Physician Assistant that are separate from the usual practice site of the supervising physician, the supervising physician shall retrospectively review the Physician Assistants prescribing on a daily basis. Review may be in person or by telecommunication. The supervising physician on the next site visit shall sign and date the entry in the patients chart or sign and date a statement attesting to daily review of the Physician Assistant's prescriptive practices.

In regard to pharmacy notification, page 14, Subp. 5. I believe the nurse practitioners will only be sending out an annual notification. I would suggest the Physician Assistant mailing to be annual, but a pharmacy could contact the board of medical examiners and specifically request an update to attach to the annual mailing.

Thank you for your efforts in this somewhat arduous task.

Respectfully yours,

Mark A. Helgeson PA-C
101 E. Main Street
Eagle Bend, MN 56446

THE MINNESOTA ACADEMY OF PHYSICIAN ASSISTANTS

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ADMINISTRATIVE HEARINGS

Office
Interstate Medical Center
Box 54, Highway 61 West
Red Wing, MN 55066-0054
(612) 388-3503 Ext. 274

Home
2277 Bevan's Circle
Red Wing, MN 55066-3901
(612) 388-4115

RECEIVED
JUL 02 1991
Health Systems Development Division
MN Department of Health

29 June 1991

Ms. Annette Spencer
Minnesota Department of Health
717 SE Delaware Street, PO Box 9441
Minneapolis, MN 55440

Dear Ms. Spencer,

Thank-you for forwarding the newer version (with your June 19 letter) of the PA prescribing rules. I have reviewed them and my comments are as follows:

Page 2
5600.2600, Subp. 17. I believe that this definition of prescription would be inclusive of therapeutic orders for prescriptive medications and medical devices in health care institutions. This is, I think, an appropriate definition.

Page 2
5600.2610, Subp. 1. The addition of Only before the first sentence seems appropriate to make it eminately clear that only REGISTERED PAs (RPA) can call themselves PAs. The Only before the second sentence may have the unintended effect of softening the mandate to wear name tag PA identification. Since unregistered PA can not use the title PA or RPA and using a name tag with PA or RPA is using the title, adding the second "only" seems not to add any substance to the rules. I believe just the first "only" is needed.

In a related matter, it has always seemed peculiar that the titles protected in the first sentence are BOTH PA and RPA, but in the second sentence we are required to wear a name tag but can use the only RPA title. Would it not be appropriate to require/allow EITHER RPA or PA on the name tag?

Page 11
5600.2660, Subp. 2, Item I. Thank-you for making the change I had proposed on the phone.

Page 13
5600.XXXX, Subp. 2. Documentation. This section continues to be problematic. Thank-you, though for making some modifications as we had discussed.

Item A. The problems are with the last (4th) sentence which would require the physician to sign and date each chart. From a practical standpoint I believe it will be difficult to convince physicians to sign AND DATE each of 25-30 charts they would typically be reviewing each day. When a prescriptive log, now termed "statement attesting to review...", dating the signature, since it will be only one each day, then becomes more practical.

The chart review language in existing rule and the current prescriptive review language conceptually requires that the review take place daily. It does not require that each chart or prescription be reviewed within 24 hours or any other specific time limit. The prescriptive statutory language also does not require a time limit for the review of individual prescriptions, rather it simply states it must occur daily. The only review in current rule that has a time limit, is cosignature of diagnostic orders in the home and health care institutions where the limit is 24 hours. (5600.2615, Subp. 1, Item G.) Because of the variability for transcription service, the timing of weekends and days off, and other parameters in different practice situations, requiring the review to occur on a routine, daily basis rather than within a certain time frame is appropriate, logical and practical.

Therefore, I would propose deleting "and dating" from the phrase "on the patient's chart by signing and dating the prescription entry". Leaving "and dating" in the phrase "or by signing and dating a statement attesting to review..." would be acceptible though may not be necessary.

Item B. This language in rather confusing and seems to have potential for interpretation in very restrictive ways. It seems to require that the PA document the prescription in the chart, then later come back and document physician review. The initial preposition "At" could be interpretted to require at the documenting to be done in the satellite not permitting the physician to do any of the documenting at the main clinic. I would propose the following language:

> "B. For facilities staffed by the physician assistant that are seperate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the daily review by signature on the patient's chart or other permanent practice record. At each site visit the supervising physician shall document by signature and date(*) in the patient's chart or other permanent practice record, that the prescriptive practice of the physician assistant has been reviewed."

*"Date" is included here because it is required by statute.

Page 13
5600.XXXX, Subp. 3. Termination of prescribing authority. This new section helps with clarity by putting some previously "miscellaneous" items in a separate section. For consistency with 5600.2635 and clarity, Item A should read as follows:

> "A. The agreement between physician and physician assistant in Minnesota Rules 5600.2635 is terminated;"

Page 14
5600.XXXX, Subp. 4. Other requirements and restrictions.

Item A. This language relates to the internal protocol included at the insistance of MMA. Probably this item could be titled "Internal protocol" and could potentially be placed in its own seperate subpart. I understand that the PA Advisory Council, not having been involved in developing this section cannot understand its application or purpose. I also understand they have threatened to muster enough requests for hearing, because of this point, to force a hearing.

Item B. Review at renewal items. The 2nd sentence should be modified as follows, "The supervising physician and physician assistant must sign and date the internal protocol after review on an annual basis." This sentence then should become part of Item A above relating to the internal protocol.

Item C. This section has been appropriately revised to permit telephoned prescriptions.

Page 14
5600.XXXX, Subp. 5. Notification of Pharmacies.
This is the expensive section of the rules in that it requires mailing to 1200 pharmacies information regarding PA prescribing 6 times annually. We will be paying these expenses in our registration fees. Please review The State Register, 3 June 1991, page 2563, 6340.1000 of the NP rules. You will note the NPs only notify pharmacies on an ANNUAL basis with the other interim changes being sent to the Board of Pharmacy rather than all pharmacies. I would suggest a similar arrangement for PAs. It would seem such an arrangment would be permitted by statute.

I hope you find these comments helpful. I would be happy to discuss these or any additional areas of concern with you at anytime.

Sincerely,

Mark Zellmer

Mark R. Zellmer, PA-C
President

RECEIVED
91 DEC 16 PM 1:17
ADMINISTRATIVE HEARINGS
RECEIVED
JUL 05 1991
Health Systems Development Division
MN Department of Health

July, 1, 1991

Annette Spencer
Minnesota Dept. of Health
717 E. Delaware St.
P.O. Box 9441
Minneapolis, MN 55440

Dear Ms Spencer:

I have reviewed the latest (6/19/91) revision of the proposed rules for delegation of prescriptive practice to PAs which you sent to me. I still have reservations about the benefit of trying to pin down the specifics of the prescriptive practice of any given PA in any given situation. In my view the supervisory role of the physician should be entirely sufficient. I am aware that this is not the path down which we are travelling.

My comments concerning the present revisions follow:

5600.2635 Subp. 3. D. line 5 [consider deleting "containing the protocol"] ????

5600.XXXX Subpart 2. B. [Is not 2.B. redundant, in light of 2.A.? 2.A. covers every eventuality, including those addressed in 2.B., the way I understand it. Adding 2.B. only complicates the implementation.]

[The word "daily" is a problem if interpreted to mean within 24 hours and enforcement is to be strict. (e.g. when I see a patient, I dictate a note on the chart, which would include the prescription. This note may not be transcribed onto the chart for a day or a weekend which would not be in compliance if the "daily" word were to be interpreted as within 24 hours. I would argue that the transcribed chart entry, as opposed to the prescription by itself, would give the supervising physician a context in which to judge the appropriateness of the prescription). I don't think that "daily" means within 24 hours, but is there a way to word that to be sure?

That's it! I believe the document(s) will provide a means to allow the intent of the law passed last year to be realized.

Thank you for your continued diligence.

Sincerely,

Craig Maki, PA-C
311 East Redwood Street
Marshall, MN 56258
507-247-5921 (W)

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

91 DEC 16 PM 1:17
ADMINISTRATIVE HEARINGS
RECEIVED
AUG 05 1991
Health Systems Development Division
MN Department of Health

TO: Annette Spencer

FROM: Jeanne Hoffman Jeanne

DATE: August 2, 1991

SUBJECT: Physician Assistant Prescribing Fees

Per your request, I have reviewed the physician assistant prescribing costs and have made changes and additions per the attached table.

Please contact me if you have any questions.

PHYSICIAN ASSISTANT PRESCRIBING COSTS

ITEM	EXPLANATION	1 yr. COST	Ongoing cost
Postage	$.29 x 1100 pharmacies	$ 319	319
Labels		135	135
Envelopes	$.03 x 1100 pharmacies	33	33
Printing	$.03 x ~~2~~ 6 pages x 1100 pharmacies	198 ~~66~~	198
Stuffing Envelopes		160	160
Staff Time new agreements			
Physician Assistant Agenda	$25. x 10 hrs. x 6 meetings	1,500	750 (5hrs)
Board of Medical Examiners Agenda	$25. x 5 hrs. x 6 meetings	750	375 (2½ hrs)
Follow-up	$25. x 20 hrs. x 6 meetings	3,000	1500 (15 hrs)
Complaints			
Licensure Staff	$25. x ~~7~~ 30 hrs.	750 ~~175~~	750
Disciplinary Staff	$50. x ~~6~~ 25 hrs.	1250 ~~300~~	1250
Computer		5,000	1,000
TOTAL		13,095 ~~$ 6,438~~	~~6470~~
PER APPLICANT		# 105*	$52**

- Figures based upon cost information provided by the Board of Medical Examiners.
- Anticipated number of physician assistants applying for prescribing = 125.
- Anticipated disciplinary rate for prescriptive practices is ~~2%~~ 10 (based upon rates ~~found in other states~~ with physician ~~assistant~~ prescribing).

*initial prescribing fee

**renewal fee for prescribing

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

RECEIVED
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ADMINISTRATIVE HEARINGS

August 7, 1991

RECEIVED
AUG 08 1991
Health Systems Development Division
MN Department of Health

To: Owen T. Nelson, M.D.
Red Lake Falls Clinic
Red Lake Falls, MN 56750

From: H. Leonard Boche
Executive Director

Re: Response to your Inquiry of July 31, 1991

Thank you for your letter of July 31, 1991 and the concern you expressed about the timeliness of the Physician Assistant prescribing rules.

As you mentioned in your letter, the Minnesota Department of Health has the responsibility and authority to promulgate the necessary rules to implement PA prescribing privileges. The Board of Medical Practice has the responsibility to administer the rule, once it is promulgated. Therefore, your letter of July 31st has been forwarded to the Department of Health for a more specific response.

The rule writing process is complex and time consuming, often taking more time than the legislative process. No one is intentionally delaying the rule, but every effort is being made to develop a rule which will not require a contested hearing, resulting in further delay in the development of the rule and its implementation.

Sincerely,

H. Leonard Boche
Executive Director

HLB:blm

cc: Rep. Wallace Sparby
Sen. LeRoy Stumpf
Rep. Bernard L. Lieder
Rep. Edgar Olson
Sen. Roger Moe
Tom Heindlmayr, Dept. of Health

Red Lake Falls Clinic
Branch of Grand Forks Clinic, Ltd.

July 31, 1991

Minnesota Board of Medical Examiners
2700 University Avenue W., Suite 106
St. Paul, Mn. 55114-1080

RE: RULES PROCESS NECESSARY TO IMPLEMENT DELEGATORY PHYSICIAN ASSISTANT PRESCRIBING

Gentlemen:

Senate Bill 1798 was signed into law by the governor in May, 1990, allowing MD's to delegate prescribing to PA's. The law went into effect apparently on June 1, 1991 and, at this point, the rules to implement this law are not complete. We have been informed by Tom Hiendlmayer of the Dept. of Health that the rules may not be implemented any sooner than February of 1992. This is very dissatisfying and it appears that there is a lack of appreciation, on the part of the physicians from the metro area on the medical board and on the P.A. Advisory Council, of the need for PA's to have some prescribing authority in the rural area. This amount of delay in the implementation of these new rules is not acceptable to me and I would like to express my strong dissatisfaction to this delay. I understand that there is inevitable delay in implementing any new legislation; however, to hang "in limbo" until February, 1992 is most distressing.

I would appreciate any help you may be able to offer in expediting this process.

Sincerely,

Owen T. Nelson, M.D.

Owen T. Nelson, M.D.

OTN/pl

cc: Minn. Dept. of Health
cc: Rep. Wallace Sparby
cc: Sen. LeRoy Stumpf
cc: Rep. Bernard L. Lieder
cc: Rep. Edgar Olson
cc: Sen. Roger Moe

THE MINNESOTA ACADEMY OF PHYSICIAN ASSISTANTS

Office
Interstate Medical Center
Box 54, Highway 61 West
Red Wing, MN 55066-0054
(612) 388-3503 Ext. 274

Home
2277 Bevan's Circle
Red Wing, MN 55066-3901
(612) 388-4115

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91 DEC 16 PM 1:17
ADMINISTRATIVE HEARINGS

RECEIVED
OCT 16 1991
Health Systems Development Division
MN Department of Health

11 October 1991

Ms. Annette Spencer, JD
Health Occupations
Minnesota Department of Health
717 SE Delaware Street, PO Box 9441
Minneapolis, MN 55440

Dear Ms. Spencer,

Thank-you for your participation in the panel discussion on regulation of PAs in Duluth. It nicely provided a forum for our membership to become more directly familiar with the regulatory process involving our profession.

As was discussed, even in the most current revision of the prescriptive practice rules, there continue to be some provisions which are objectionable from our view point. These provisions are as follows:

1) 5600.XXXX, Subpart 2, B. 1. requires dating of physician signatures on every chart when chart review is used as the method of retrospective review of prescribing. This is not statutorially required. Therefore, I would again propose, as I did in my June 29 correspondence, deleting "and dating" from the phrase "on the patient's chart by signing and dating the prescription entry". Since there is only one signature required for the "statement attesting to review of each..." is only one signature, dating this signature is not such a problem logistically.

2) 5600.XXXX, Subpart 2, B. 2. The first sentence leaves only one method of documenting daily review, ie, after the PA discusses his prescriptive practice each day that PA must return to each of the typical 20-30 charts for patients seen each day and write an additional note documenting this discussion. There is no statutory requirment that the documentation be carried out in this manner. These rules do not take into account the variety of good charting methods used in satellite clinics. One example of an excellent charting system that would be illegal under this rule is the following: Dictations from the PA's satellite practice are typed in the physician's main office where the physician daily reviews and signs this dictation before it is returned to the patients' charts in the satellite office. Additionally I believe their are a variety of other good systems, some involving FAX, which would be prohibitted by the rule are written.

I therefore again propose, as I did in my June 29 correspondence, the following wording:

"For facilities staffed by the physician assistant that are seperate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the daily review by signature on the patient's chart or other permanent practice record. At each site visit the supervising physician shall document by signature and date in the patient's chart or other permanent practice record, that the prescriptive practice of the physician assistant has been reviewed."

3) 5600.XXXX, Subpart 4, C. The use of "written" could be constued to prohibit telephoned prescriptions. In earlier versions the term "initiated" had been used to provide for this flexibility while still requiring the information about patient and prescriber listed.

We again hope these changes can be made prior to publication so as to eliminate the need for correction at a later date through whatever mechanism might be necessary at that time.

Again, thank-you for your participation in the panel and I look forward to your response to the above comments on the current version of the rules.

Sincerely,

Mark Zellmer

Mark R. Zellmer, PA-C
President

MEDICA

November 27, 1991

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91 DEC 16 PM 1:17
ADMINISTRATIVE
HEARINGS

RECEIVED
NOV 27 1991
Health Systems Development Division
MN Department of Health

Ms.Annette Spencer
Minnesota Department of Health
717 SE Delaware Street
Minneapolis, MN 55440

Re: Use of PHP Drug Formulary List for the Physician Assistant Prescribing Form

Dear Ms. Spencer:

This is in response to your letter dated October 17, 1991 to Dr. James Ehlen regarding the use by the Department of Health of the PHP drug formulary list for the physician assistant prescribing form. I spoke with my colleague just after I talked with you on Monday, November 25th, and he informed me that the list has been modified since it was approved for your use in October of 1990. In order to save time, the revised list is included in its entirety below, and I have redlines the changes:

01 Anesthetics
02 Antiinfectives
03 Antineoplastics/Immunosuppressants
04 Cardiovascular Medications
05 Autonomic & Central Nervous System Drugs
06 Dermatological Medications
07 Ear-Nose-Throat Medications
08 Endocrine Medications
09 Gastrointestinal Medications
10 Immunologicals & Vaccines
11 Musculoskeletal Medications
12 Nutritional Products, Blood Modifiers and Electrolytes
13 Obstetrical & Gynecological
14 Ophthalmic Medications
15 Respiratory Medications
16 Urological Medications
17 Diagnostic Agents
18 Medical Devices

As revised, the list is acceptable to use. Please call me at 936-1987 if you have any additional questions. Thank you.

Sincerely,

S. L. Wood

Susan L. Wood
Senior Legal Services Administrator

cc: K. James Ehlen

MATERIALS RECEIVED FROM DECEMBER 2, 1991 THROUGH JANUARY 3, 1992

Eitzen, Minnesota
December 5, 1991

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91 DEC 16 PM 1:17
ADMINISTRATIVE
HEARINGS

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, Minnesota 55440

Dear Ms. Spencer:

I wish to make a comment on rule 5600.2670 Subpart 1 Section A. This section of the rules seems grossly unfair to those few of us registered Physician's Assistants who were not permitted the opportunity to sit the NCCPA exam. This is especially true for those of us who are the sole providers of primary health care in depressed, medically underserved areas. I believe that I am uniquely qualified to make this observation because I happen to be eligible for prescription rights as a certified Nurse Practitioner. It would seem no more than appropriate that these individuals who, after long service and dedication, have finally won registration should be allowed to prescribe. Suggested change could read: 5600.2670 Subpart 1 A. The Physician Assistant is currently certified by the National Commission on Certification of Physician's Assistants as evidenced by a copy of the certification card with expiration date or permanently registered under Minnesota law.

Failure to make this change will be a genuine disservice to the patients cared for by these people.

Sincerely yours,

John E. Weymiller P.A.

John E. Weymiller P.A.,R.N.,C.
Box 432
Eitzen MN 55931

Mayo School of Health-Related Sciences
Rochester, Minnesota 55905 Telephone 507 284-2511

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ADMINISTRATIVE HEARINGS

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DEC 12 1991
Health Systems Development Divisic
MN Department of Health

December 10, 1991

Ms. Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
PO Box 9441
717 Delaware Street SE
Minneapolis, MN 55440

Dear Ms. Spencer:

This is in reference to the proposed rules for the delegation of prescription writing to physician assistants. I am writing this letter in opposition to the proposed rules for prescribing physician assistants since these new rules would clearly delegate two types of physician assistants here in Minnesota without any previous designation by the rules previously implemented. It will also limit the practice of currently registered physician assistants in the State of Minnesota. In reference to these two points, the following comments are in support of these statements.

The rules currently register physician assistants in the State of Minnesota who have fulfilled the following requirements:

1. They would have graduated from a formal program.
2. They have 7 of 8 years of experience since 1980 working as a physician assistant.
3. They have passed the NCCPA exam.
4. They have passed the NBCOPA exam.

The new rules for prescribing decrease this to approximately two of the above four requirements, one being NCCPA certified and the other, formally trained.

Therefore, from the above information, it would be necessary for the State to delegate and develop two types of physician assistants in the State of Minnesota, and I feel that if this were the case, then this could be contested and open up other avenues for further registration of other non-qualified physician assistants.

The other area of concern is that under which "medical devices" are now to be regulated and protected by these new rules. In my everday practice as a physician assistant employed in orthopedics, I order medical devices regularly. These devices range from prosthetics and orthotics, to orthopedics continue passive motion machines used at patient's bedsides and in the home, as well as other therapeutic devices such as a hot ice machine to control effusions about wounds. The above named items are all classified as medical devices and under the new rules I would not be able to continue to order these devices.

Ms. Annette Spencer
Page two
December 10, 1992

As it is easily demonstrated, I am a registered physician assistant in the State of Minnesota andthese new rules will limit my practice in reference to these and their implementation. Therefore, I strongly object to the implementation of these rules and have stated so in the past and also will continue to state this in the future. I will be present at the hearings on January 10, 1992.

Also, I think you need to address the issue of renewal of the prescription privileges and these should be on an annual basis and this would provide a further check and balance to insure that previous prescriptive practices are being carried out according to the Minnesota Statutes. As it is now, there is no renewal process nor is there a renewal fee, and this should be implemented if this rule is to be initiated here in the State of Minnesota. These guidelines would be in line with the guidelines in which PAs are currently registered. There is an annual renewal fee and an annual audit of all the PAs. This strongly suggests that we continue the annual renewal basis for the registration purposes as well as annual renewal for prescription purposes as well. I wish to take this opportunity to thank you for your cooperation and understanding in this matter and look forward to meeting with you the 10th of January, 1992.

Sincerely yours,

Robert A. Adams, MA, RPA
State of Minnesota

RAA:ec

December 19, 1991

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91 DEC 31 AM 8:20
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HEARINGS

RECEIVED
DEC 23 1991
Health Systems Development Division
MN Department of Health

Ms. Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
PO Box 9441
717 Delaware Street SE
Minneapolis, MN 55440

Dear Ms. Spencer:

This letter is in reference to the proposed rule changes for the physician assistants. I must object on the grounds that with the rule change it will restrict and inhibit myself and other registered specialty physician assistants from working in the state of Minnesota.
It is essential that registered physician assistants in specialties be able to order devices used in thier areas, i.e. orthopedic appliances.
I do not believe it is the intention for the state of Minnesota to put people out of work.

Sincerely,
Dean S Strain
Dean S, Strain, RPA

HAWLEY MEDICAL CENTER

Affiliated with St. John's Hospital EcuNet

P.O. Box 627, 1413 Main Street • Hawley, MN 56549 • (218)483-3564 FAX #(218)483-3567

91 DEC 31 AM 8:20

HEARINGS

December 18, 1991

IMA
INTERNAL MEDICINE ASSOCIATES

Internal Medicine
Bruce M. Carlisle, M.D.
Michael J. Lillestol, M.D.
Rodney A. Ludwig, M.D.

Physician Assistant
Ron Johnson, P.A.C.
Randy Lucht, P.A.

Additional Specialty Care Available at Hawley Medical Center

Dermatology
Norman E. Bystol, M.D.

Ear, Nose & Throat
Stephen D. Asp, M.D.

General Surgery
John W. Kramer, M.D.
Thomas X. Musacchia, M.D.

OB/GYN
Alan R. Lindemann, M.D.

Optometry
Thomas Lorentzen, O.D.

Orthopedics
Mark R.Askew, M.D.
Mark A. Lundeen, M.D.

Urology
Richard H. Seifert, M.D.

Dietitian
Sandra Retzlaff, R.D.

Physical Therapy
Bob Ulrich

RECEIVED

DEC 26 1991

Health Systems Development Division
MN Department of Health

Annette Spencer
Health Care Delivery Systems
MN Dept. of Health
PO Box 9441
717 Delaware Street SE
Minneapolis, MN 55440

Dear Ms. Spencer:

I hereby request that a public hearing be held in the matter of the proposed adoption of rules of the Department of Health governing delegation of prescription writing to Physician's Assistants.

In particular, I would wish to delete the portions of the proposed rules which specify that "the Physicians Assistant is currently certified by the National Commission on Certification of Physicians Assistants as evidenced by copy of certification card with expiration date" such as appears in subpart I., A., as found on page 8 of the proposed rules.

I am a native of Minnesota and graduated from the Physicians Assistant program at St. Cloud State University. Due to a change in certification examination eligibility requirements made by the National Commission on Certification of Physicians Assistants, I was unable to take their certifying examination.
An appeal to the NCCPA Executive Committee for permission to take the examination was denied.

Subsequently, I was permanently registered as a Physicians Assistant in Minnesota on a "grandfathering clause" which was included with the original prescription legislation, Section 3, (1) and (2).

If I am not permitted prescription privileges, my ability to provide quality health care in a rural clinic will be seriously limited, if not ended.

Thank you.

Sincerely Yours,

Randy Lucht

Randy Lucht, P.A.

RL/pk

LARRY W. KOTEK MD.
1930 EAST 86 th St.
APT 210
MPLS, MN 55420

RECEIVED
91 DEC 31 AM 8:20
ADMINISTRATIVE
HEARINGS

December 28, 1991

RECEIVED
DEC 30 1991
Health Systems Development Division
MN Department of Health

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. BOX 9441
717 Delaware St. Southeast
Mpls, Mn 55440

Dear Ms. Spencer,

The purpose of this letter is to request a Public hearing regarding the proposed rules for delegation of prescription writing to physician assistants.

Furthermore, I do not feel that adequate notification of the proposed rules has been made to the people that are directly responsible for the delivery of high quality medical care to their patients ie. Physicians. I am a practicing licensed physician in the State of Minnesota. I did not receive notification of the proposed rules regarding physician assistants. I learned about the proposed rules from a pharmacist.

In reading this material it appears that only pharmacists and physician assistants were notified of the proposed rules. It would be in the physician assistant's self interest to increase the scope of their practice Consequently, physician assistants are not going to ask for a Public hearing. It is in the self interest of pharmacists to go along with the proposed rules to increase their business. In addition pharmacists acquiesce to what they believe are the desires of physicians.

and unfortunately many physicians themselves are likely to promote the use of physician assistants purely and only for economic reasons. The physician sees a way of charging the patient physician level fees without having to take time to see the patient by having a non-physician see the patient. ie. physician income increases by use of physician assistants.

The only people that will be asking for a public hearing of these proposed rules are the physicians and pharmacists that put their self interest aside in favor of the delivery of high quality medical care.

Consequently, since physicians were not included in the notification powers of the proposed rules I feel that the following should occur:

#1 all licensed physicians in the State of Minnesota should be notified and given time to request a public hearing.

#2 even if the required 25 persons are obtained without physician notification, that physicians be given the opportunity to participate in the public hearing by being properly notified.

#3 if the required 25 persons is not obtained by January 3, 1992 that this deadline be extended in order to notify physicians of the proposed rules.

There is not a shortage of physicians to see each and every patient in the state of Minnesota. The shortage of physician argument is a fallacy.

The use of physician assistants and expanding their scope of practice is a mistake because it lowers the overall quality of medical care services to the patient.

Patients do not present themselves to clinics or emergency rooms with a tag stating they have a problem that can be solved by a person with less training than a physicians.

It is a fact that physicians have more training, more knowledge, more experience regarding the diagnosis and treatment options of patients than physician assistants. It is a fact that physicians have more knowledge about medications being prescribed such as drug side effects, drug-drug interactions, adjusting drug dosages relevant to concomitant patient diseases etc. than physician assistants.

The patient expects and deserves to be seen by the person with the greatest knowledge base regarding the practice of medicine ie the physician.

A surrogate to the physician is not the same regardless of the level of supervision.

One of the assurances people had in the past was that when they went to the "Doctor" they were going to be seeing a doctor ie physician. Most people still believe this to be the case and are unaware of the substitution of non-physicians for physician that is taking place or are surprised and have no choice in the matter and do not know the difference in training or knowledge of the two and are charged physician level fees regardless.

Their is no mechanism possible for adequate supervision of non-physicians practising medicine. The patients cannot adequately determine the quality of care they receive and no amount of regulation can assure quality care by non-physicians.

Quality Care is achieved by having people practice medicine with the most medical knowledge and at the present time physicians and only physicians have the training to make that statement.

Sincerely,

Larry W. Kotek MD.
LARRY W. KOTEK MD.
1930 EAST 86th St.
APT. 210
MPLS, MN 55425
854-4550 Home
625-6970 Work

1121 Lincoln Avenue
St. Paul, MN 55105

December 28, 1991

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P. O. Box 9411
717 Delaware Street Southeast
Minneapolis, MN 55440

RECEIVED

DEC 30 1991

Health Systems Development Division
MN Department of Health

Ms Spencer:

I cannot begin to tell you how strongly I object to the proposed rules for the delegation of prescription privileges for Registered Physicians Assistants in its current form. This proposal, as it stands, is an insult and makes me want to create an impact on agricultural land!

Specifically I disagree with the restriction of privileges to the NCCPA certified. The NBCOPA certifying exam is, by the state's own admission, revelant to our practice. We are trained and practice differently, not inferiorly. Those of us who are registered have met the demands of the registry rule. To be restricted from the prescription privilege because we are certified in orthopedics and surgery is blatently discriminatory and cannot be allowed to stand. The rule should read that the physicians assistant be certified by a body recognized by the State of Minnesota, ie NCCPA and NBCOPA. This recognizes both current certifying bodies and leaves room for the addition of new ones as the practice patterns change or new programs converge. That individuals employed by the Minnesota Department of Health would participate in the formulation of an obviously discriminatory rule is as surprising as it is obviously unethical. It is not difficult to understand why input was not sought from surgically trained PAs.

I most emphatically request a public hearing. I believe that withholding the prescription priviledge from Registered Surgical PAs will adversely affect a number of jobs if not immediately, in the future. I further believe that the public is adequately safeguarded by the protections built in to the rest of the proposal.

Sincerely,

L. J. Tillman
008854-3

RECEIVED

JAN 02 1992

Health Systems Development Division
MN Department of Health

Eitzen, Minnesota
December 31, 1991

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
717 Delaware St. P.O. Box 9441
Minneapolis, Minnesota 55440

Dear Ms Spencer

This writer wishes to make comment on two areas of the proposed permanent rules relating to Physician Assistants regulation.

Specifically, in reference to subp. 4. This writer practices in a severely economically depressed area in the hills along the Root River in extreme southeastern Minnesota. We are indeed fortunate to have a supervising physician for this underserved area. There simply is not an alternate physician available. In spite of efforts to make himself available it is not always possible. To deny the people of the community medical care at those times is to invoke undue and unnecessary hardship. The rule needs to be revised to allow dedicated Physician's Assistants to provide care in medically underserved areas with retrospective supervision.

The other area of grave concern is the denial of prescription rights to registered Physician's Assistants who practice in medically underserved areas and have not been allowed to take the National exam. This writer believes that he is in a position to be objective about this because of elegibility as a Certified Registered Nurse. The provision as the proposed rules are written would be a genuine disservice to a number of people in a few rural areas. This has been addressed in a previous comment and is repeated because of potential to involk real hardship.

Yours with a sincere desire to provide excellent care in an underserved area.

John E. Weymiller P.A., R.N.,C.

John E. Weymiller P.A.,R.N.,C.
P.O. Box 432
Eitzen, Minnesota 55931

December 27, 1991

RECEIVED

JAN 02 1992

Health Systems Development Division
MN Department of Health

Annette Spencer
Health Care Delivery System
Minnesota Department of Health
P.O. Box 9411
717 Delaware St SE
Minneapolis, MN 55440

Dear Ms. Spencer:

I object to the letter that was sent out in late October describing the proposed rules for prescription privileges for registered physicians assistants. My disagreement begins with the discriminatory way it was proposed for registered physicians assistants versus orthopaedic physicians assistants that are also registered. The difference between the NCCPA certification and the NBCOPA certification is not described in detail in any form in the letter that was sent out. To make a ruling on which physicians assistants, whether they be general or orthopaedic, should have the privilege of writing certain prescription forms should certainly not be made in haste or without a public hearing so that the issues can be addressed. I am not in favor, by any means, for prescription privileges to be granted, whether it be orthopaedic or general physicians assistants. My interest lies solely in making sure that it is not hastily done and that a ruling is decided by the public hearing rather than through some hasty legislative process.

Sincerely,

J. Noel

J. Noel, O.P.A. - C
008842-0

Mayo Foundation Rochester, Minnesota 55901 Telephone 507 284-2511

January 2, 1992

RECEIVED
JAN 6 1992
Health Systems Development Division
MN Department of Health

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440

RE: In the Matter of the Proposed Adoption of Rules of the Department of Health Governing Delegation of Prescription Writing to Physician Assistants

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

Dear Ms. Spencer:

On behalf of the Public Affairs Committee - State of the Mayo Clinic I am writing to object to the Department's intent to adopt the above rules without a public hearing.

Mayo objects to:

1. the conclusion in the notice regarding economic impact on small businesses that there is a cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant,

2. the definition of medical device, and

3. the requirement of proposed part 5600.2670, subpart 2 relating to documentation.

Economic Impact on Small Businesses

The proposed rule will require more time on the part of supervising physicians, not less. Under current practice, if a physician assistant determines that a drug or device should be prescribed for a patient, the PA communicates this to the supervising physician and a verbal or written prescription is issued by the physician. Current rules and law relating to physician prescribing do not require the physician to enter the prescription in the individual patient record. The physician may authorize the PA to verbally communicate the prescription order to a pharmacist. The interaction and supervision required for

obtaining prescribed drugs and devices for patients seen by PA's is established in Minnesota Rules part 5600.2620. The supervision proposed in these rules would require increased documentation and interaction between the supervising physician and PA.

Definition of Medical Device

The definition proposed at part 5600.2600, subpart 9c is vague and overly broad. The definition in the rule seems to be identical to the definition in Minnesota Rules part 6340.0100, subpart 18 of the Board of Nursing which defines "therapeutic device" for the purposes of nurse practitioner prescribing.

There is no definition of medical device in Minnesota Statue 147.34 or Chapter 151, relating to pharmacy. Medical devices are defined in the Federal Food Drug and Cosmetic Act. [21 U.S.C. §321(H)] Since the legislature limited the requirements of prescribing to legend drugs, defined by Minnesota Statute 151.01, subdivision 17 as drugs regulated by federal law, we think it was the legislature's intention to similarly limit the restrictions relating to prescribing medical devices, also to those devices which under federal law require physician supervision for safe use. [21 C.F.R. § 801.109]

To require a supervising physician to supervise the prescribing and use of all medical devices, without regard to the risk of harm of the device, in the same way as a legend drug, would place an increased burden on the supervising physician. The requirement would restrict the authority of the PA to a greater extent than is currently the practice with regard to the use of medical devices not requiring a physician's supervision by federal law.

Documentation

The documentation requirements of proposed Minnesota Rules part 5600.2670 are too restrictive and create increased work for the supervising physician and PA. The statute requires the supervising physician to document the review of the prescriptive practice of the PA on each on-site visit required under the rules. [M.S. § 147.341, subdivision 1(b)] As worded the documentation of review of each individual prescribing order or drug or device administration is beyond the standard of

reasonableness needed for adequate supervision. Review of prescriptive practice is not synonymous with review of each individual prescription.

Furthermore, the rule as proposed seems to create two standards depending on whether the supervising physician is physically present in the practice site or remote from the PA's practice site. Proposed Minnesota Rules part 5600.2670 should be changed to read:

> Subp. 1. **Documentation.** The physician assistant shall enter each prescription on the patient's chart, or in such other document as the office may maintain to record individual patient prescriptions.
>
> The supervising physician shall retrospectively review the physician assistant's prescribing and administering practices on a daily basis. Review may either be in person or by telecommunication and in the same manner as required under part 5600.2620. The supervising physician shall maintain a written record, dated and signed by the supervising physician or an alternate, that the review has occurred.
>
> ~~A. If the supervising physician performs this review in person, the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record.~~
>
> ~~B. For facilities staffed by the physician assistant that are separate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record. At each site visit, the supervising physician shall document by signature and date on the patient's chart or other permanent practice record that the physician assistant's prescribing and administering practices have been reviewed.~~

[New language is underlined. Deleted language is ~~stricken~~.]

We respectfully request that these changes be made, or that a hearing be held to provide an independent review of the Department's proposal. Please direct any questions to my attention at the above address or to my office telephone, 507-284-3932.

Sincerely,

Kathleen A. Meyerle

KAM:net

A:\RULES.RX

RHA
reaching out to serve

Riverview Healthcare Association

December 30, 1991

RECEIVED
JAN 3 1992
Health Systems Development Division
MN Department of Health

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440

Dear Ms. Spencer:

The proposed rules for prescription writing by Physician Assistants IS controversial in nature. I oppose the whole concept of the delegating to PA's prescription writing. I also request that a hearing be held on the proposed rules.

The reason for my general objection to PA's right to prescribe are many. My firsthand perspective is that of a pharmacist and a consumer. The following are some of my concerns:

1. These rules are basically being proposed not to solve a "so-called shortage of rural physicians", but to provide for the physicians the ability "to have their cake and eat it too", i.e. same or more money and more time off.

2. The proposed rules will hurt the recruiting for primary care physicians in a rural area by making it less of an incentive to recruit. This is due to assembly line medicine so that each individual physician can get reimbursed for more patients seen.

3. The Emergency Room coverage by PA's is a travesty. First, it discriminates against the Medicaid patient for which these rules in a large part are intended to serve; and secondly delays to patient bona fide emergency services until a physician can be contacted. Example: Thrombolytic therapy.

4. Talking to many of my pharmacy colleagues, the abuse of not checking with a physician already is taking place including that of prescribing controlled substances. This will no doubt continue.

5. It is amazing to me a physician with approximately 10 years of diagnostic and therapeutic training can delegate all this to a group of "two year wonders".

6. I have had many firsthand conversations with consumers/patients who do not even know they are being treated by a PA. They are under the impression that PA is a physician.

7. Specifically, I cannot believe under the portion on drugs, i.e. delegation form, that PA's can prescribe anti-neoplastic drugs when most physicians are afraid to prescribe them without consulting an oncologist. I also question the wisdom of their ability to prescribe cardiovascular agents.

8. I hope none of these rules will become effective, but if they do I request that before any pharmacist can fill a PA prescription, the pharmacist must have on file the names and approved internal protocols of which drugs can be prescribed.

9. Emergency Room coverage without a physician actually present to treat the patient should not be allowed for the sake of the consumer.

10. The ability to recruit any future student to be a physician will be definitely thwarted.

11. I received the notice of intent to adopt these rules by accident and I know if this notice was disseminated properly and thoroughly, many more than 25 persons would request a hearing.

Respectfully submitted,

Leslie K. Kotek

Leslie K. Kotek
Director of Pharmacy
Riverview Healthcare Association

tlq

cc: The Honorable Roger Moe, State Senator
The Honorable Bernie Lieder, State Representative

RECEIVED
JAN 3 1992
Health Systems Development Division
MN Department of Health

31 110th Lane N.W.
Coon Rapids, MN 55448

December 31, 1991

Annette Spencer
Health Care Delivery Systems
Minnesota Dept. of Health.
P.O. Box 9441
717 Delaware St. S.E.
Mpls. Minnesota 55440

Ms. Spencer:

I respectfully object to the proposed rule for delegation of prescription privileges for Registered Physicians Assistants in its current form.

The restriction of privileges is discriminatory in its present form.

The rule should read that the physcians assistant be certified by a body recognized by the State of Minnesota, ie NCCPA and NBCOPA. This recognizes both current certifying bodies and allow for addition or creation of new ones as patterns of health care delivery grow or change.

I request a public hearing on this matter before it is written in stone.

Sincerely
Lyle D. Willock

Health Care Delivery Systems
Minnesota Department of Health
P. O. Box 9411
717 Delaware Street Southeast
Minneapolis, MN 55440

RECEIVED
JAN 3 1992
Health Systems Development Division
MN Department of Health

Ms Spencer:

I cannot begin to tell you how strongly I object to the proposed rules for the delegation of prescription privileges for Registered Physicians Assistants in its current form. This proposal, as it stands, is an insult and makes me want to create an impact on agricultural land!

Specifically I disagree with the restriction of privileges to the NCCPA certified. The NBCOPA certifying exam is, by the state's own admission, revelant to our practice. We are trained and practice differently, not inferiorly. Those of us who are registered have met the demands of the registry rule. To be restricted from the prescription privilege because we are certified in orthopedics and surgery is blatently discriminatory and cannot be allowed to stand. The rule should read that the physicians assistant be certified by a body recognized by the State of Minnesota, ie NCCPA and NBCOPA. This recognizes both current certifying bodies and leaves room for the addition of new ones as the practice patterns change or new programs converge. That individuals employed by the Minnesota Department of Health would participate in the formulation of an obviously discriminatory rule is as surprising as it is obviously unethical. It is not difficult to understand why input was not sought from surgically trained PAs.

I most emphatically request a public hearing. I believe that withholding the prescription priviledge from Registered Surgical PAs will adversely affect a number of jobs if not immediately, in the future. I further believe that the public is adequately safeguarded by the protections built in to the rest of the proposal.

Sincerely,

L. J. Tillman
008854-3

I received this a few days ago and
believe that a hearing should be
scheduled before rules are passed

Wilson Thomas PA-C

12-31-91 TUE 12:31 612 339 2619 P.01

January 2, 1992

Annette Spencer
Minesota Department of Health
717 S.E. Delaware St.
P.O. Box 9441
Minneapolis, MN 55440

RECEIVED
JAN 3 1992
Health Systems Development Division
MN Department of Health

Dear Ms. Spencer:

This is my formal request for a public hearing.

Karen K. Maschka
1695 Millwood Ave.
St. Paul, MN 55113
222-8175, 633-1871

I am opposed to these proposed rules because once again you have failed to address the issue of grandfathered P.A.s. As you know the Board od Medical Practice established a procedure for registering P.A.s. In that process they recognized related work experience in granting registration in lieu of certification by the NCCPA. As I read the proposed rules you once again may be depriving me of my right to make a living as P.A. by virtue of the fact you failed to deal with grandfathered P.A.s. I am a registered and certified with the national orthopedic certification organization but not by NCCPA. Without making a provision so that grandfathered P.A.s can qualify for this privilege,it appears you have once again left yourself open for a serious legal challenge regarding your rules. As I read your rules the registration law says I am a P.A but your rules say I am not entitled to the privileges being proposed under your rules.

While I certainly do not want to involve an attorney you should know I am the one who challenged the registration rules and if the proposed rules are adopted as proposed, you may leave me with no other alternative. I for one, would certainly like to get the matter resolved at this point in the process.

It seems to me the Department chose a very inappropriate time to expect comment, with the holidays, people being out of town etc.

I look forward to hearing from you on this. I have tried to contact you by phone three times in the last two days and each time you were out.

Sincerely,

Karen K. Maschka

Karen K. Maschka

Fitzgerald & Fitzgerald Chiropractic Clinic
133 West Lake Street
Minneapolis, MN. 55408
(612) 827-3583

RECEIVED
91 DEC 20 AM 8:37
ADMINISTRATIVE
HEARINGS



ICA

November 19, 1991

International
Chiropractors
Association
1110 N. Glebe Road
Suite 1000
Arlington, VA.
22201
(703) 528-5000

Barbara L. Nelson
Administrative Law Judge
Office of Administrative Hearings
5th fl. Flour Exchange Building
310 S. 4th Avenue
Minneapolis, Minnesota 55415

Dear Judge Nelson:

Recently the Minnesota Board of Chiropractic Examiners adopted rules that expanded the scope of chiropractic practice. I refer you to the April 13, 1991 Administrative hearing decision by William G. Brown, Chief Law Judge. This expansion included acupuncture, rehabilitation that allows the use of foot arch supports, physical therapy modalities such as ultrasound, galvanic, diathermy, tens units, etcetra. With these privileges comes responsibility to make sure the public is protected. Enclosed please find a copy of an advertisement placed in a local newspaper for a chiropractic assistant. There is no mention of any special training required. Chiropractic assistants should also be included with any rules or regulations that affect physician assistants. If I can be of further assistance, please advise.

Sincerely,

Bob Fitzgerald, B.S., D.C.

RF/tb
enclosure

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ADMINISTRATIVE
HEARINGS

Career Opportunities

For Health Professionals

525 Health Careers

CHEMICAL HEALTH COUNSELOR
part-time, 24hr wk for correctional setting. Prefer CD certifiable. Associate degree w/2 yrs supervised exp. PM & weekend hrs. Salary $10-$12.5K. Send resume by Dec. 20th to Create, Inc., 1911 Pleasant Ave, Mpls, MN 55403
People of color encouraged to apply.

CHIROPRACTIC ASSISTANT
Billing, scheduling, phones, typing, assist with therapies. PT/FT positions 566-8023

★★ COUNSELOR ★★
Due to expansion of services, Hiawatha Valley Mental Health center has three new positions avail in its outpatient services division:

MENTAL HEALTH CLINICIAN
This is a FT pos. in the Winona office to provide O.P. mental health services to children & adults. Interest & skills in working w/children preferred. Min qual: masters degree in social work, psychology, or related discipline; 2 yrs post-graduate exp. preferred. Some eve or wknd hrs will be req'd.

MENTAL HEALTH CLINICIAN
This is a FT pos. in the Wabasha office to provide & assist in development of O.P. mental health services to adults & children in Wabasha county. Min qual: masters degree in psychology, social work or related dicipline; 2 yrs post masters exp.; PHD preferred; licensed or able to be licensed in MN as an LICSW LP or LCP. Some eve. or wknd hours & residence in Wabasha County may be required.

CHEMICAL DEPENDENCY COUNSELOR
This is a FT position to provide & assist in development of OP chemical dependency services to adults & adolescents in Wabasha County. Min qual: Bachelor's Degree in a Human Services field, Masters degree preferred; 1 yr exp providing chemical dependency services & assessments in a residential, OP, or after-care setting; Certified or able to be certified in MN as a chemical dependency practitioner or counselor. Some eve. or wknd hours & residence in Wabasha County may be required.

For the above positions, send resume & credentials to: David W. Fruehling, LICSW Director of Out-patient Services, Hiawatha Valley Mental Health Center, 111 Riverfront, PO Box 619, Winona, MN 55987-0619. EOE/AA.

DENTAL
ORTHODONTIC ASST-CRDA
Roseville/Woodbury office. F.T. Mon - Thurs. Profit sharing. Need someone sharp, personable and energetic Call Darcy at 636-1036

HYGIENIST part time, Thursday & Friday 8:30-5. St. Louis Park office. 929-8474

525 Health Careers

MEDICAL ASSISTANT
FT MA for busy family practice w/1 yr exp in lab & x-ray. Call Patty, 379-4937

MEDICAL ASSISTANT
FT MA for DT Mpls medical practice. Work exp in lab req. Call 338-3839, 9-3:30 M-F.

MEDICAL RECEPTIONIST
PT. Exp req. 333-4308

NURSE
CASE MANAGER
LPN'S
911 DISPATCHERS
HMO TRIAGE SPECIALISTS
Phoenix Alliance, Inc. is a physician access network. Case managers will be responsible for telephone triage, referral management, and follow up of requests. Must have 3 years recent experience in the medical field, good organization and communication skills, basic computer knowledge, and phone triage expertise. Hours available: Full Time-noc and Part Time-weekends. Send resumes to:

PHOENIX ALLIANCE
245 East 6th St.
St. Paul, MN 55101

NURSE CONNECTION
827-1570
★ CNA's/LPN's/CNA'S ★
for hospitals & nursing homes

525 Health Careers

NURSE
RESEARCH RN
Immediate position available. Current CCU/Hemodynamic monitoring experience a must. Call Mpls Heart Institute Foundation, 863-3996

NURSE
TELEPHONE TRIAGE
PART TIME EVENINGS
Experienced pediatric nurse, Southdale area group. Call Barb Zorn 920-9191.

NURSING
LPN for busy Roseville clinic. FT, lab & X-ray exper helpful. Joann, 636-8650

PHARMACIST
FT, salary open. Benefits. West suburbs. Call Tim 474-5268.

RECEPTIONIST/SECRETARY
Needed for pediatric subspecialty group next to MCMC. Need to be outgoing and optimistic with excellent interpersonal skills. Prefer experience in reception duties, scheduling and Wordperfect. Excellent salary and benefit package. This is a temporary position that is likely to become permanent. Application deadline is December 23rd for start date of January 28th. Call for application: 863-3226.

TECHNICAN
Full time, high energy person to work with vascular & burn patients in our office & out. Medical & sales experience preferred. No weekends, nights or holidays. Call Monday, 333-7668

NURSE ANESTHETIST

Progressive 99-bed JCAHO accredited facility close to Metro area has an immediate opening for a CRNA. Salaried position with competitive salary and excellent benefit package. Contact: Ken Larsen, Asst Admin, Rice County District One Hospital, 631 SE First Street, Faribault, MN 55021, (507) 334-6451, ext 231.

An Equal Opportunity Employer

RICE COUNTY
District One Hospital

Dr. Leo R. Majewski

CHIROPRACTIC ARTS OF RICE CREEK CENTER

LEO R. MAJEWSKI
3638 NE. MCKINLEY ST.
MINNEAPOLIS, MN. 55418

RECEIVED
91 DEC 24 AM 8:23
ADMINISTRATIVE
HEARINGS

12/20/91

Attention:Barbara Neilson, Administrative Law Judge
Minnesota Department of Health
Fifth Floor
Flour Exchange Building
310 - Fourth Avenue South
Minneapolis, MN 55415

Re:Physicians Assistants hearing on January 3, 1992

Dear Judge Neilson:

It is my understanding that administrative rules governing the practices of physician assistants will be under consideration at the above cited hearing. I urge that practices of chiropractic assistants be included under the proposed rules since they practice physical therapy by use of electrical modalities.

Thank You.

Sincerely,

Leo R Majewski, D.C.

Leo R. Majewski, D.C. (retired)

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Department of Health Governing the Delegation of Prescription Writing to Physician Assistants

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

The Department of Health initiated the above-captioned rulemaking proceeding to adopt rules pursuant to Minnesota Statutes, chapter 14. Based on the comments and evidence in the record before the agency, the Commissioner makes the following:

FINDINGS

1. (1) Notice of the Commissioner's intent to adopt the above-entitled rules was published in the State Register on December 2, 1992 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on November 27, 1992. Notice was also mailed to all Minnesota registered physician assistants, those individuals or associations who requested notification regarding these rules, and members of the Minnesota Academy of Physician Assistants.

(2) 2. The Statement of Need and Reasonableness was prepared before the Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer than 25 Persons Request a Hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

3. The Statement of Need and Reasonableness was submitted to the Legislative Commission to Review Administrative Rules when it became available for public review.

(3) 4. Before the Notice was submitted of the State Register, a copy of the Notice and the proposed rules was delivered to the chairs of the House Appropriations Committee and Senate Finance Committee.

(4) 5. All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking.

(5) 6. The agency received 10 requests for a public hearing. Therefore, the agency did not receive request for a public hearing from 25 or more persons.

7. (7) There were no requests for notification of submission of the rules to the Attorney General.

(6) 8. Several comments take issue with permitting delegation of the administering and prescribing functions to physician assistants. The permission to delegate is authorized by the legislature, and it is not within the discretion of the Commissioner to modify it.

9. Several comments take issue with the language requiring NCCPA certification prior to delegation of prescribing. This requirement is mandated by the legislature, and it is not within the discretion of the Commissioner to modify it.

10. One comment suggested requiring renewal of prescribing privileges. The proposed rules require the physician assistant to submit proof of qualification for prescribing and administering upon renewal of registration. See Minn. Rules, part 5600.2645. In addition, the proposed rules require that the physician and physician assistant review the delegation of prescribing and administering authority annually and submit to the Board of Medical Practice any significant amendments to the physician assistants prescribing function. See Part 5600.2670, subpart 4. Because of these safeguards, it does not appear to be necessary to require annual renewal of prescribing authority.

11. The economic impact of the rules on small businesses was also raised in the comments submitted. The issue raised by the comment is discussed in the Statement of Need and Reasonableness. (pp. 10-11).

12. The documentation procedures contained in the proposed rules were also the subject of comment. According to the comment, the proposed documentation requirement is restrictive and burdensome. The need for and reasonableness of the proposed documentation requirements is contained in the Statement of Need and Reasonableness. (pp. 25-26). No modification of the rule is proposed at this time.

13. A number of comments were directed at the definition of "medical device" contained in the rules. One comment expressed concern that physician assistants were being delegated authority to prescribe medical devices with which they were not familiar. A second comment stated that the proposed definition was overly broad. Another concern was that the proposed rules would restrict physician assistants from ordering or providing equipment for patients which they are able to provide under the current rules.

The first issue is addressed in the statement of need and reasonableness (p. 15). Physician assistants are limited to practice within the physician assistant's training and experience, the services customary to the practice of the supervising

physician, and the delegation of the supervising physician. See Minn. Rules, part 5600.2615. The prescribing of medical devices must also occur within these constraints. This concern is already dealt with in the rule language and no further rule modifications addressing this issue are needed.

The comment that the definition is overly broad is noted. The proposed rules do not provide a detailed list of medical devices because to do so would be too cumbersome. Any new devices developed would not be incorporated into physician assistant practice if prescribing were limited to a list of items. Department staff was unable to locate a satisfactory list of categories of medical devices similar to that used for legend drugs. The rationale for the present definition which includes the general types of medical devices which a physician assistant may need to prescribe in the course of practice is provided in the Statement of Need and Reasonableness. (p.15).

Finally, the concern that the proposed rules will limit physician assistants from continuing to provide items to patients is also noted. It is not the intent of the proposed rules to prohibit physician assistants from continuing services which they are already authorized to perform under the present rules.

In response to the latter two comments, the Commissioner proposes that the definition of medical device be modified to read as follows:

5600.2600

Subp. 16. **Medical device.** "Medical device" means durable medical equipment, and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient and that are restricted by federal law to use upon prescription by a licensed practitioner.

The definition is clarified to refer only to those items which physician assistants cannot currently recommend to patients because of the federal restriction to use of the item only under physician prescription. This change is in conformity with the legislative mandate which addresses those drugs which need a physician prescription for use.

The Commissioner does not believe that the modification is a substantial change. Should the Attorney General find that it is a substantial change, the Commissioner reserves the right to withdraw the modified language.

14. The Commissioner incorporates herein as findings, the Statement of Need and Reasonableness.

Based upon the above findings, the Commissioner makes the following:

CONCLUSIONS

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

2. That the rules are statutorily authorized.

3. That the above-captioned rules are needed and reasonable.

NOW THEREFORE IT IS ORDERED that the rules of the department of health governing the delegation of prescription writing to physician assistants are adopted as modified this 16th day of January, 1992, pursuant to the authority vested in the Commissioner of Health by Minn. Stat., sections 147.34 and 214.13.

Marlene E. Marschall
Commissioner of Health

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ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Department of Health Governing Delegation of Prescription Writing to Physician Assistants

AFFIDAVIT OF HAND-DELIVERING PROPOSED RULES AND RULEMAKING NOTICE TO THE CHAIR OF THE SENATE FINANCE COMMITTEE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Annette Spencer, being duly sworn says:

I hereby certify that, pursuant to Minnesota Statutes, section 16A.128 on the fifteenth day of November, 1991, at the State Capitol Building, City of St. Paul, County of Ramsey, State of Minnesota, I hand-delivered the attached PROPOSED RULES FOR DELEGATION OF PRESCRIPTION WRITING TO PHYSICIAN ASSISTANTS and NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING, NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING upon the Chair of the Senate Finance Committee by handing to and leaving with Theresa Sanford a true and correct copy thereof.

Annette Spencer

Subscribed and sworn to before me this 15th day of November, 1991.

Mary N. Quam

MARY N. QUAM
NOTARY PUBLIC – MINNESOTA
HENNEPIN COUNTY
My commission expires 10-18-96

Department of Health

Proposed Permanent Rules Relating to Physician Assistants Registration

Rules as Proposed

5600.2600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670, the following terms have the meanings given them.

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

Subp. 2a. **Administer.** "Administer" means to deliver by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, excluding controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means.

Subp. 3. **Agreement.** "Agreement" means a document signed by the physician and the physician assistant which includes contents specified in part 5600.2635, subpart 3. If there is a delegation of prescribing and administering of legend drugs and medical devices, the agreement includes the delegation form in part 5600.2670, subpart 6.

Subp. 4. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant agreement who ~~shall~~ be is responsible for supervising the physician assistant when the supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subp. 5. **Board.** "Board" means the Minnesota Board of Medical ~~Examiners~~ Practice.

[For text of subps 6 and 7, see M.R.]

Subp. 7a. **Delegation form.** "Delegation form" refers to

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the form in part 5600.2670, subpart 6, used to indicate the categories of drugs for which the authority to prescribe and administer has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement as defined in subpart 3.

[For text of subp 8, see M.R.]

Subp. 8a. **Drug.** "Drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 5, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 8b. **Drug category.** "Drug category" means one of the categories listed on the form in part 5600.2670, subpart 6.

[For text of subp 9, see M.R.]

Subp. 9a. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing and administering of legend drugs and medical devices and lists the specific drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe and administer.

Subp. 9b. **Legend drug.** "Legend drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 17, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 9c. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient.

[For text of subp 10, see M.R.]

Subp. 11. **Physician assistant; registered physician assistant.** "Physician assistant" or "registered physician assistant" means a person registered pursuant to parts 5600.2600 to ~~5600.2665~~ 5600.2670 who is qualified by academic or practical training or both to provide patient services as listed in part 5600.2615 under the supervision of a supervising physician.

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Subp. 11a. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subp. 11b. **Prescription.** "Prescription" means a signed written order, or an oral order reduced to writing, given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required by part 5600.2670, subpart 4, item C.

Subp. 12. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications specified in parts 5600.2600 to ~~5600.2665~~ 5600.2670.

Subp. 13. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement approved by the board and pursuant to part 5600.2615. "Supervising physician" ~~shall include~~ includes "alternate supervising physician" for the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670.

5600.2605 PURPOSE.

The purpose of parts 5600.2600 to ~~5600.2665~~ 5600.2670 is to establish the administrative structure, the procedures, and the requirements for the registration of people qualified to be physician assistants and the requirements which must be met before a physician assistant may prescribe and administer legend drugs and medical devices.

5600.2610 RESTRICTIONS ON USE OF ~~THE~~ TITLE OF REGISTERED PHYSICIAN ASSISTANT.

Subpart 1. **Physician assistant identification.** Only a registered physician assistant in active status may use the title "physician assistant" or "registered physician assistant" without restriction. A registered physician assistant in active status shall ~~identify himself or herself~~ be identified at the practice site by using a name tag or name plate or some other

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identifying device bearing the title "registered physician assistant."

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

5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE.

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

Subp. 2. **Descriptive list of allowed services.** Patient services must be limited to:

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

F. providing instructions and guidance regarding medical care matters to patients; and

G. assisting the supervising physician in the delivery of services to patients requiring medical care in the home and in health care institutions, including recording patient progress notes, issuing diagnostic orders which must be countersigned by the supervising physician within 24 hours, and transcribing or executing specific orders at the direction of the supervising physician; and

H. prescribing and administering legend drugs other than controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4, and medical devices if this function has been delegated to the physician assistant by the supervising physician and approved by the board, pursuant to and subject to the limitations of Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Contents of agreement.** The agreement must include at least the following:

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

D. a statement by the supervising physician regarding the delegation or nondelegation of the functions of prescribing and administering legend drugs and medical devices to the physician assistant, and, if delegation is specified, the completed delegation form as required by part 5600.2670;

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E. a statement that the supervising physician and alternate supervising physician assume full medical responsibility for all patient services provided by the physician assistant; and

~~E.~~ F. any other information which will assist the board in determining whether the physician assistant will be adequately supervised by the supervising physician.

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

Subp. 5. **Procedure to obtain delegation of prescribing and administering functions.** To obtain delegation of prescribing and administering functions, a physician assistant must:

A. submit an agreement indicating delegation of prescribing and administering functions;

B. submit a copy of the physician assistant's certification card from the National Commission on Certification of Physician Assistants showing current certification;

C. submit the completed and signed delegation form in part 5600.2670, subpart 6; and

D. submit the fees required by part 5600.2655.

The board shall review each application for approval of agreements containing delegation of prescribing in a timely manner and notify the applicant in writing of action taken on the application. If the agreement is not approved, the board must indicate the grounds for its action in the notice to the applicant.

5600.2645 APPLICATION PROCESS FOR REREGISTRATION.

A physician assistant's registration expires each year on July 1. Each physician assistant must reregister on or before July 1 of each year by submitting a completed application for reregistration on a form provided by the board together with the annual reregistration fee. Physician assistants with authority to prescribe and administer legend drugs and medical devices must also provide a copy of a current certification card issued by the National Commission on Certification of Physician Assistants. The information supplied on the application for

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reregistration must be sufficient for the board to determine whether the physician assistant continues to meet the requirements for registration in part 5600.2625 or 5600.2640. In addition, the applicant must meet the continuing education requirements of part 5600.2650. The board may request a physician assistant to submit additional information to clarify information presented in the application for reregistration. An application submitted after the reregistration deadline date must be accompanied by a late fee.

5600.2655 APPLICATION FEES.

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

Subp. 4. **Fee for approval of agreements.** The fee for approval of an agreement between a physician and physician assistant by the board shall be:

A. $30 for agreements not containing delegation of prescribing and administering functions; or

B. $86 for agreements containing delegation of prescribing and administering functions. The delegation form must accompany the agreement.

[For text of subps 5 and 6, see M.R.]

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

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

Subp. 2. **Disciplinary options of board.** The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant if the assistant:

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

E. violates parts 5600.2600 to ~~5600.2665~~ 5600.2670; ~~or~~

F. is unable to perform patient services with reasonable skill and safety to patients due to physical or mental illness or use of alcohol, drugs, or other substance;

G. violates state or federal laws regarding prescribing or administering legend drugs or medical devices;

H. prescribes or administers legend drugs or medical

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devices in a manner other than under the procedures in parts 5600.2600 to 5600.2670;

I. prescribes or administers legend drugs or medical devices in a manner which is inconsistent with the training and experience of the physician assistant or in a manner which falls below the community standard of care; or

J. prescribes or administers legend drugs or medical devices in violation of the agreement.

Subp. 3. **Disciplinary actions.** If the board finds that a physician assistant should be disciplined pursuant to subpart 2, the board may take any one or more of the following actions:

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

E. condition, limit, or restrict a registration; ~~or~~

F. place the physician assistant on probation, which probation may be vacated upon compliance with such reasonable terms as the board may impose; or

G. refuse to approve delegation of prescribing and administering authority, revoke, suspend, restrict, or condition prescribing and administering authority.

Subp. 4. **Consequences of disciplinary action.** Upon the revocation or suspension, the registrant shall return to the board ~~his-or-her~~ the registrant's certificate and current renewal document.

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

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint seven persons to a physician assistant advisory council. The seven persons must include:

A. two public members, as defined in Minnesota Statutes, section 214.02;

B. three physician assistants registered under parts 5600.2600 to ~~5600.2665~~ 5600.2670; and

C. two licensed physicians one of whom must be a representative of the board.

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

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Subp. 3. **Duties.** The council shall:

A. advise the board regarding physician assistant registration standards;

B. advise the board on enforcement of parts 5600.2600 to ~~5600.2665~~ 5600.2670;

C. provide for distribution of information regarding physician assistant registration standards;

D. review applications and recommend applicants for registration or reregistration;

E. receive and process complaints about applicants and registrants ~~in accordance with~~ according to Minnesota Statutes, sections 214.10 and 214.13, subdivisions 6 and 7;

F. perform disciplinary investigations; ~~and~~

G. perform other duties authorized for the council by Minnesota Statutes, chapter 214, as directed by the board; and

H. review delegation of prescribing and administering authority in agreements, request a copy of the internal protocol or other additional information for clarification of delegation terms if necessary, and recommend approval, disapproval, or modification of the agreement based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670.

5600.2670 DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subpart 1. **Delegation.** A physician assistant may prescribe and administer legend drugs and medical devices under the following conditions:

A. the physician assistant is currently certified by the National Commission on Certification of Physician Assistants as evidenced by a copy of the certification card with expiration date;

B. the physician assistant is registered with the board;

C. the physician assistant's supervising physician and the physician assistant have completed and signed the

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delegation form in subpart 6;

D. the agreement has been approved by the board based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670; and

E. the physician assistant's prescription writing privileges are not currently restricted by the board.

Subp. 2. **Documentation.** The physician assistant shall enter each prescription on the patient's chart.

The supervising physician shall retrospectively review the physician assistant's prescribing and administering practices on a daily basis. Review may either be in person or by telecommunication.

A. If the supervising physician performs this review in person, the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record.

B. For facilities staffed by the physician assistant that are separate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record. At each site visit, the supervising physician shall document by signature and date on the patient's chart or other permanent practice record that the physician assistant's prescribing and administering practices have been reviewed.

Subp. 3. **Termination and reinstatement of prescribing authority.**

A. The authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when:

(1) the agreement is terminated;

(2) the authority to prescribe and administer is terminated or withdrawn by the supervising physician; or

(3) the physician assistant reverts to inactive status, loses National Commission on Certification of Physician Assistants certification, or loses or terminates registration

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status.

B. The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in item A.

C. Physician assistants whose authority to prescribe and administer has been terminated shall reapply for approval of the agreement under part 5600.2635 and meet the requirements of subpart 1, and any other requirements established by the board prior to reinstatement of the prescribing and administering authority.

Subp. 4. **Other requirements and restrictions.**

A. The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each drug or medical device the physician assistant may prescribe and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subpart 6. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

B. The supervising physician and physician assistant shall review delegation of prescribing and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

C. Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

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(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name, address, and telephone number of the prescribing physician assistant and of the physician serving as supervisor.

D. In prescribing and administering legend drugs and medical devices, a physician assistant must conform with the agreement, Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

Subp. 5. **Notification of pharmacies.**

A. The board shall, within six months of adoption of parts 5600.2600 to 5600.2670 and annually thereafter, provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe legend drugs and medical devices.

B. The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.

C. The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.

D. The board shall provide the form in subpart 6 to pharmacies upon request.

Subp. 6. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain the following:

DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING

The below-named physician assistant may prescribe and administer drugs and medical devices as indicated on this form. This form is hereby made a part of the agreement as required by Minn. Stat. section 147.34 and Minn. Rules part 5600.2635, subpart 3, item D.

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Physician Assistant _____
Minn. Registration # _____

Supervising Physician _____
Minn. License # _____

The physician assistant may prescribe from those categories checked in the following list:			Restrictions applicable to each category:
A.		Drugs*	
01	___	Anesthetics	01 _____
02	___	Antiinfectives	02 _____
03	___	Antineoplastics/Immunosuppressants	03 _____
04	___	Cardiovascular Medications	04 _____
05	___	Autonomic and Central Nervous System Drugs	05 _____
06	___	Dermatological Medications	06 _____
07	___	Diagnostic Agents	07 _____
08	___	Ear-Nose-Throat Medications	08 _____
09	___	Endocrine Medications	09 _____
10	___	Gastrointestinal Medications	10 _____
11	___	Immunologicals and Vaccines	11 _____
12	___	Musculoskeletal Medications	12 _____
13	___	Nutritional Products, Blood Modifiers and Electrolytes	13 _____
14	___	Obstetrical and Gynecological Medications	14 _____
15	___	Opthalmic Medications	15 _____
16	___	Respiratory Medications	16 _____
17	___	Urological Medications	17 _____
B.	__	Medical Devices	B. _____

Physician assistants may not prescribe controlled substances regulated under Minn. Stat. Chapter 152. Other specific drugs or medical devices which the physician assistant may not prescribe include:

_____

_____

_____ _____
Supervising Physician (sign) Physician Assistant (sign)

_____ _____
(type name/date) (type name/date)

_____ _____
address address

telephone # _____ telephone # _____

1. _____ 7. _____
Alternate Supervising Physician Alternate Supervising Physician

_____ _____
(type name/date) (type name/date)

2. _____ 8. _____
Alternate Supervising Physician Alternate Supervising Physician

_____ _____
(type name/date) (type name/date)

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3. _____
Alternate Supervising Physician
_____
(type name/date)

4. _____
Alternate Supervising Physician
_____
(type name/date)

5. _____
Alternate Supervising Physician
_____
(type name/date)

6. _____
Alternate Supervising Physician
_____
(type name/date)

9. _____
Alternate Supervising Physician
_____
(type name/date)

10. _____
Alternate Supervising Physician
_____
(type name/date)

11. _____
Alternate Supervising Physician
_____
(type name/date)

12. _____
Alternate Supervising Physician
_____
(type name/date)

* The listed drug categories are based upon the chapter heading used in the Physicians Health Plan Drug Formulary:

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Physician Assistants Registration

AGENCY: Department of Health

MINNESOTA RULES: Chapter 5600

The attached rules are approved for publication in the State Register

Marie E. O'Neill

Marie E. O'Neill
Assistant Revisor

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ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Department of Health Governing Delegation of Prescription Writing to Physician Assistants

AFFIDAVIT OF HAND-DELIVERING PROPOSED RULES AND RULEMAKING NOTICE TO THE CHAIR OF THE HOUSE APPROPRIATIONS COMMITTEE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Annette Spencer, being duly sworn says:

I hereby certify that, pursuant to Minnesota Statutes, section 16A.128 on the fifteenth day of November, 1991, at the State Office Building, City of St. Paul, County of Ramsey, State of Minnesota, I hand-delivered the attached PROPOSED RULES FOR THE DELEGATION OF PRESCRIPTION WRITING TO PHYSICIAN ASSISTANTS and NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING, NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING upon the Chair of the House Appropriations Committee by handing to and leaving with Wayne Simoneau, a true and correct copy thereof.

Annette Spencer

Subscribed and sworn to before me
this 15th day of November, 1991.

Mary N. Quam

MARY N. QUAM
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires 10-18-96

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Department of Health Governing Delegation of Prescription Writing to Physician Assistants

ALTERNATIVE NOTICES

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

I

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minnesota Statutes, sections 14.22 to 14.28. However, if 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minnesota Statutes, section 14.25, and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to Minnesota Statutes, sections 14.131 to 14.20. The hearing will, of course, be cancelled if 25 or more people do not request that one be held. The hearing will also be cancelled if a sufficient number of people withdraw their requests for a hearing. With the comment period closing on January 3, 1992 there will be 7 days before the scheduled hearing date which is January 10, 1992. This seven day period will give interested persons ample time to contact the

Department to find out whether the hearing will be cancelled and to plan accordingly.

II.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Department proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

Interested persons shall have until January 3, 1992 to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rule by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing

be held on only a portion of the rules, it is requested that the Department be informed of the specific amendments on which the hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by January 3, 1992. If a hearing is required, it will be held in accordance with the provisions of Minnesota Statutes, sections 14.131 to 14.20 and the hearing notice provided in Part III below.

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

Annette Spencer
Health Care Delivery Systems
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440
(612) 623-5131

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, section 147.34. As authorized by section 147.34, the Department is implementing prescribing and administering delegation by amending Minnesota Rules parts 5600.2600 to 5600.2665 (physician assistant rules) promulgated under Minnesota Statutes, section 214.13.

A copy of the proposed rules is attached to this notice. In general, the proposed rules will: 1) establish a system of identifying physician assistants eligible to prescribe and

administer drugs and medical devices; 2) establish categories of drugs and medical devices that each physician assistant is allowed to prescribe and administer; 3) provide guidelines for documentation of prescribing and administering activities; 4) designate grounds for disciplinary actions related to physician assistant prescribing and administering; and 5) establish a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe and the types of drugs and medical devices they are allowed to prescribe.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules has been prepared and may be obtained from the Department by writing or telephoning Annette Spencer at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

It is the position of the Department that these proposed rules are not subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subd. 2 for reducing the impact of the proposed

rules if they are subject to Minnesota Statutes, section 14.115, are addressed in the statement of need and reasonableness.

Should it be determined that these rules are subject to Minnesota Statutes, section 14.115, notice is hereby provided that the rules may have an economic impact on small businesses. Although there is a fee for review of agreements containing delegation of prescribing and administering, these rules should result in time savings, and therefore cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant.

If no hearing is required, upon adoption of the rules, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the amendments as adopted should submit a written request to Annette Spencer at the address listed above.

III

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING

IF 25 OR MORE PERSONS REQUEST A HEARING

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULES WITHIN THE 30 DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON JANUARY 10, 1992, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to Minnesota Statutes, sections 14.131 to 14.20 and Minnesota Rules, parts 1400.0200 to 1400.1200, in Veteran's Conference Room D, fifth floor of the Veteran's Service Building, 20 West 12th Street, St. Paul, Minnesota on January 10, 1992 commencing at 1:00 p.m. All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record should be mailed to:

Barbara L. Neilson
Administrative Law Judge
Office of Administrative Hearings
Fifth Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415
(612) 341-7604

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. Any

written material or responses submitted must be received at the office no later than 4:30 p.m. on the final day. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

A copy of the proposed rules is attached to this notice. In general, the proposed rules will: 1) establish a system of identifying physician assistants eligible to prescribe and administer drugs and medical devices; 2) establish categories of drugs and medical devices that each physician assistant is allowed to prescribe and administer; 3) provide guidelines for documentation of prescribing and administering activities; 4) designate grounds for disciplinary actions related to physician assistant prescribing and administering; and 5) establish a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe and the types of drugs and medical devices they are allowed to prescribe.

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, section 147.34. As authorized by section 147.34, the Department is implementing prescribing and administering delegation by amending Minnesota Rules, parts 5600.2600 to 5600.2665 (physician assistant rules) promulgated under Minnesota Statutes, section 214.13.

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

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. The statute provides certain exceptions. Questions should be directed to:

Ethical Practices Board
625 North Robert Street
St. Paul, Minnesota 55101-2520
(612) 296-5148

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

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a

written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of more than $100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

It is the position of the Department that these proposed rules are not subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subd. 2 for reducing the impact of the proposed rules if they are subject to Minnesota Statutes, section 14.115, are addressed in the statement of need and reasonableness.

Should it be determined that these rules are subject to Minnesota Statutes, section 14.115, notice is hereby provided that the rules may have an economic impact on small businesses. Although there is a fee for review of agreements containing delegation of prescribing and administering, these rules should

result in time savings, and therefore cost savings for those supervising physicians who choose to delegate prescribing and administering functions to the physician assistant.

IV

NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE. ALSO, THE HEARING WILL BE CANCELLED IF A SUFFICIENT NUMBER OF PEOPLE WITHDRAW REQUESTS FOR A HEARING IN RESPONSE TO PROPOSED REVISIONS OF THE PROPOSED RULES BY THE DEPARTMENT.

To be informed whether the hearing in Part III above will be held, please telephone Annette Spencer at the telephone number listed above in Part II of this notice before January 3, 1992 and leave your name, address, and telephone number. You will be notified if the hearing has been cancelled. You may also telephone Annette Spencer after January 3, 1992 for oral confirmation regarding the scheduled hearing.

Dated: 11/13/91

Marlene E. Marschall
Commissioner of Health

Department of Health

Proposed Permanent Rules Relating to Physician Assistants Registration

Rules as Proposed

5600.2600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670, the following terms have the meanings given them.

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

Subp. 2a. **Administer.** "Administer" means to deliver by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, excluding controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means.

Subp. 3. **Agreement.** "Agreement" means a document signed by the physician and the physician assistant which includes contents specified in part 5600.2635, subpart 3. If there is a delegation of prescribing and administering of legend drugs and medical devices, the agreement includes the delegation form in part 5600.2670, subpart 6.

Subp. 4. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant agreement who ~~shall~~ be is responsible for supervising the physician assistant when the supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subp. 5. **Board.** "Board" means the Minnesota Board of Medical ~~Examiners~~ Practice.

[For text of subps 6 and 7, see M.R.]

Subp. 7a. **Delegation form.** "Delegation form" refers to

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the form in part 5600.2670, subpart 6, used to indicate the categories of drugs for which the authority to prescribe and administer has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement as defined in subpart 3.

[For text of subp 8, see M.R.]

Subp. 8a. **Drug.** "Drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 5, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 8b. **Drug category.** "Drug category" means one of the categories listed on the form in part 5600.2670, subpart 6.

[For text of subp 9, see M.R.]

Subp. 9a. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing and administering of legend drugs and medical devices and lists the specific drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe and administer.

Subp. 9b. **Legend drug.** "Legend drug" has the meaning given it in Minnesota Statutes, section 151.01, subdivision 17, excluding controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 9c. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient.

[For text of subp 10, see M.R.]

Subp. 11. **Physician assistant; registered physician assistant.** "Physician assistant" or "registered physician assistant" means a person registered pursuant to parts 5600.2600 to ~~5600.2665~~ 5600.2670 who is qualified by academic or practical training or both to provide patient services as listed in part 5600.2615 under the supervision of a supervising physician.

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Subp. 11a. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subp. 11b. **Prescription.** "Prescription" means a signed written order, or an oral order reduced to writing, given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required by part 5600.2670, subpart 4, item C.

Subp. 12. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications specified in parts 5600.2600 to ~~5600.2665~~ 5600.2670.

Subp. 13. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement approved by the board and pursuant to part 5600.2615. "Supervising physician" ~~shall include~~ includes "alternate supervising physician" for the purposes of parts 5600.2600 to ~~5600.2665~~ 5600.2670.

5600.2605 PURPOSE.

The purpose of parts 5600.2600 to ~~5600.2665~~ 5600.2670 is to establish the administrative structure, the procedures, and the requirements for the registration of people qualified to be physician assistants and the requirements which must be met before a physician assistant may prescribe and administer legend drugs and medical devices.

5600.2610 RESTRICTIONS ON USE OF ~~THE~~ THE TITLE OF REGISTERED PHYSICIAN ASSISTANT.

Subpart 1. **Physician assistant identification.** Only a registered physician assistant in active status may use the title "physician assistant" or "registered physician assistant" without restriction. A registered physician assistant in active status shall ~~identify himself or herself~~ be identified at the practice site by using a name tag or name plate or some other

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identifying device bearing the title "registered physician assistant."

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

5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE.

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

Subp. 2. **Descriptive list of allowed services.** Patient services must be limited to:

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

F. providing instructions and guidance regarding medical care matters to patients; and

G. assisting the supervising physician in the delivery of services to patients requiring medical care in the home and in health care institutions, including recording patient progress notes, issuing diagnostic orders which must be countersigned by the supervising physician within 24 hours, and transcribing or executing specific orders at the direction of the supervising physician; and

H. prescribing and administering legend drugs other than controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4, and medical devices if this function has been delegated to the physician assistant by the supervising physician and approved by the board, pursuant to and subject to the limitations of Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Contents of agreement.** The agreement must include at least the following:

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

D. a statement by the supervising physician regarding the delegation or nondelegation of the functions of prescribing and administering legend drugs and medical devices to the physician assistant, and, if delegation is specified, the completed delegation form as required by part 5600.2670;

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E. a statement that the supervising physician and alternate supervising physician assume full medical responsibility for all patient services provided by the physician assistant; and

~~E.~~ F. any other information which will assist the board in determining whether the physician assistant will be adequately supervised by the supervising physician.

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

Subp. 5. **Procedure to obtain delegation of prescribing and administering functions.** To obtain delegation of prescribing and administering functions, a physician assistant must:

A. submit an agreement indicating delegation of prescribing and administering functions;

B. submit a copy of the physician assistant's certification card from the National Commission on Certification of Physician Assistants showing current certification;

C. submit the completed and signed delegation form in part 5600.2670, subpart 6; and

D. submit the fees required by part 5600.2655.

The board shall review each application for approval of agreements containing delegation of prescribing in a timely manner and notify the applicant in writing of action taken on the application. If the agreement is not approved, the board must indicate the grounds for its action in the notice to the applicant.

5600.2645 APPLICATION PROCESS FOR REREGISTRATION.

A physician assistant's registration expires each year on July 1. Each physician assistant must reregister on or before July 1 of each year by submitting a completed application for reregistration on a form provided by the board together with the annual reregistration fee. Physician assistants with authority to prescribe and administer legend drugs and medical devices must also provide a copy of a current certification card issued by the National Commission on Certification of Physician Assistants. The information supplied on the application for

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reregistration must be sufficient for the board to determine whether the physician assistant continues to meet the requirements for registration in part 5600.2625 or 5600.2640. In addition, the applicant must meet the continuing education requirements of part 5600.2650. The board may request a physician assistant to submit additional information to clarify information presented in the application for reregistration. An application submitted after the reregistration deadline date must be accompanied by a late fee.

5600.2655 APPLICATION FEES.

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

Subp. 4. **Fee for approval of agreements.** The fee for approval of an agreement between a physician and physician assistant by the board shall be:

A. $30 for agreements not containing delegation of prescribing and administering functions; or

B. $86 for agreements containing delegation of prescribing and administering functions. The delegation form must accompany the agreement.

[For text of subps 5 and 6, see M.R.]

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

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

Subp. 2. **Disciplinary options of board.** The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant if the assistant:

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

E. violates parts 5600.2600 to ~~5600.2665~~ 5600.2670; ~~or~~

F. is unable to perform patient services with reasonable skill and safety to patients due to physical or mental illness or use of alcohol, drugs, or other substance;

G. violates state or federal laws regarding prescribing or administering legend drugs or medical devices;

H. prescribes or administers legend drugs or medical

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devices in a manner other than under the procedures in parts 5600.2600 to 5600.2670;

I. prescribes or administers legend drugs or medical devices in a manner which is inconsistent with the training and experience of the physician assistant or in a manner which falls below the community standard of care; or

J. prescribes or administers legend drugs or medical devices in violation of the agreement.

Subp. 3. **Disciplinary actions.** If the board finds that a physician assistant should be disciplined pursuant to subpart 2, the board may take any one or more of the following actions:

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

E. condition, limit, or restrict a registration; ~~or~~

F. place the physician assistant on probation, which probation may be vacated upon compliance with such reasonable terms as the board may impose; or

G. refuse to approve delegation of prescribing and administering authority, revoke, suspend, restrict, or condition prescribing and administering authority.

Subp. 4. **Consequences of disciplinary action.** Upon the revocation or suspension, the registrant shall return to the board ~~his or her~~ the registrant's certificate and current renewal document.

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

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint seven persons to a physician assistant advisory council. The seven persons must include:

A. two public members, as defined in Minnesota Statutes, section 214.02;

B. three physician assistants registered under parts 5600.2600 to ~~5600.2665~~ 5600.2670; and

C. two licensed physicians one of whom must be a representative of the board.

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

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Subp. 3. **Duties.** The council shall:

A. advise the board regarding physician assistant registration standards;

B. advise the board on enforcement of parts 5600.2600 to ~~5600.2665~~ 5600.2670;

C. provide for distribution of information regarding physician assistant registration standards;

D. review applications and recommend applicants for registration or reregistration;

E. receive and process complaints about applicants and registrants ~~in accordance with~~ according to Minnesota Statutes, sections 214.10 and 214.13, subdivisions 6 and 7;

F. perform disciplinary investigations; ~~and~~

G. perform other duties authorized for the council by Minnesota Statutes, chapter 214, as directed by the board; and

H. review delegation of prescribing and administering authority in agreements, request a copy of the internal protocol or other additional information for clarification of delegation terms if necessary, and recommend approval, disapproval, or modification of the agreement based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670.

5600.2670 DELEGATION OF AUTHORITY TO PRESCRIBE AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subpart 1. **Delegation.** A physician assistant may prescribe and administer legend drugs and medical devices under the following conditions:

A. the physician assistant is currently certified by the National Commission on Certification of Physician Assistants as evidenced by a copy of the certification card with expiration date;

B. the physician assistant is registered with the board;

C. the physician assistant's supervising physician and the physician assistant have completed and signed the

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delegation form in subpart 6;

D. the agreement has been approved by the board based upon the standards in Minnesota Statutes, section 147.34 and parts 5600.2600 to 5600.2670; and

E. the physician assistant's prescription writing privileges are not currently restricted by the board.

Subp. 2. **Documentation.** The physician assistant shall enter each prescription on the patient's chart.

The supervising physician shall retrospectively review the physician assistant's prescribing and administering practices on a daily basis. Review may either be in person or by telecommunication.

A. If the supervising physician performs this review in person, the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record.

B. For facilities staffed by the physician assistant that are separate from the usual practice site of the supervising physician, the physician assistant or the supervising physician shall document the retrospective review by signature on the patient's chart or other permanent practice record. At each site visit, the supervising physician shall document by signature and date on the patient's chart or other permanent practice record that the physician assistant's prescribing and administering practices have been reviewed.

Subp. 3. **Termination and reinstatement of prescribing authority.**

A. The authority of a physician assistant to prescribe and administer legend drugs and medical devices shall end immediately when:

(1) the agreement is terminated;

(2) the authority to prescribe and administer is terminated or withdrawn by the supervising physician; or

(3) the physician assistant reverts to inactive status, loses National Commission on Certification of Physician Assistants certification, or loses or terminates registration

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status.

B. The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in item A.

C. Physician assistants whose authority to prescribe and administer has been terminated shall reapply for approval of the agreement under part 5600.2635 and meet the requirements of subpart 1, and any other requirements established by the board prior to reinstatement of the prescribing and administering authority.

Subp. 4. **Other requirements and restrictions.**

A. The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each drug or medical device the physician assistant may prescribe and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subpart 6. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

B. The supervising physician and physician assistant shall review delegation of prescribing and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subpart 6 must be submitted to the board according to part 5600.2635, subpart 4, along with the fee required in part 5600.2655.

C. Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

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(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name, address, and telephone number of the prescribing physician assistant and of the physician serving as supervisor.

D. In prescribing and administering legend drugs and medical devices, a physician assistant must conform with the agreement, Minnesota Statutes, section 147.34 and chapter 151, and parts 5600.2600 to 5600.2670.

Subp. 5. **Notification of pharmacies.**

A. The board shall, within six months of adoption of parts 5600.2600 to 5600.2670 and annually thereafter, provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe legend drugs and medical devices.

B. The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.

C. The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.

D. The board shall provide the form in subpart 6 to pharmacies upon request.

Subp. 6. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain the following:

DELEGATION FORM FOR PHYSICIAN ASSISTANT PRESCRIBING

The below-named physician assistant may prescribe and administer drugs and medical devices as indicated on this form. This form is hereby made a part of the agreement as required by Minn. Stat. section 147.34 and Minn. Rules part 5600.2635, subpart 3, item D.

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Physician Assistant _____
Minn. Registration # _____

Supervising Physician _____
Minn. License # _____

The physician assistant may prescribe from those categories checked in the following list:

Restrictions applicable to each category:

A. Drugs*

01	___ Anesthetics	01	_____
02	___ Antiinfectives	02	_____
03	___ Antineoplastics/Immunosuppressants	03	_____
04	___ Cardiovascular Medications	04	_____
05	___ Autonomic and Central Nervous System Drugs	05	_____
06	___ Dermatological Medications	06	_____
07	___ Diagnostic Agents	07	_____
08	___ Ear-Nose-Throat Medications	08	_____
09	___ Endocrine Medications	09	_____
10	___ Gastrointestinal Medications	10	_____
11	___ Immunologicals and Vaccines	11	_____
12	___ Musculoskeletal Medications	12	_____
13	___ Nutritional Products, Blood Modifiers and Electrolytes	13	_____
14	___ Obstetrical and Gynecological Medications	14	_____
15	___ Opthalmic Medications	15	_____
16	___ Respiratory Medications	16	_____
17	___ Urological Medications	17	_____
B.	___ Medical Devices	B.	_____

Physician assistants may not prescribe controlled substances regulated under Minn. Stat. Chapter 152. Other specific drugs or medical devices which the physician assistant may not prescribe include:

_____

_____

_____
Supervising Physician (sign)

_____
(type name/date)

_____
address

telephone # _____

_____
Physician Assistant (sign)

_____
(type name/date)

_____
address

telephone # _____

1. _____
Alternate Supervising Physician

_____
(type name/date)

2. _____
Alternate Supervising Physician

_____
(type name/date)

7. _____
Alternate Supervising Physician

_____
(type name/date)

8. _____
Alternate Supervising Physician

_____
(type name/date)

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3. _____
Alternate Supervising Physician
_____
(type name/date)

4. _____
Alternate Supervising Physician
_____
(type name/date)

5. _____
Alternate Supervising Physician
_____
(type name/date)

6. _____
Alternate Supervising Physician
_____
(type name/date)

9. _____
Alternate Supervising Physician
_____
(type name/date)

10. _____
Alternate Supervising Physician
_____
(type name/date)

11. _____
Alternate Supervising Physician
_____
(type name/date)

12. _____
Alternate Supervising Physician
_____
(type name/date)

* The listed drug categories are based upon the chapter heading used in the Physicians Health Plan Drug Formulary:

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Physician Assistants Registration

AGENCY: Department of Health

MINNESOTA RULES: Chapter 5600

The attached rules are approved for publication in the State Register

Marie E. O'Neill

Marie E. O'Neill
Assistant Revisor