

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

AVK
10-28-92

RULE REVIEW CHECKLIST

File No. 1962
DATE RECEIVED 10-23-92
REVIEW DATE ~~11-1-92~~ 11-2-92
DUE DATE 11-6-92
~~(DIS)~~APPROVED 11-5-92
WITHDRAWN

Docket No. 05 0009 0479
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 10-28-92
REVISOR (DIS~~APPROVED~~) 10-29-92
FILED W/SEC. OF STATE 11-5-92
RETURNED TO AGENCY 11-5-92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
May 18, 1992 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
150A.04, 214.06 Statutory Authority
✓ Small Business Statement
Expenditure of public money statement
June 18, 1992 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
July 10, 1992 Dated 30/25 days before adoption
Notice attached indicates it is attached

✓ Copy of rule or summary attached

✓ Publication in State Register
July 13, 1992 Date 30/25 days before adoption

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

✓ Resolution Adopting Rule — Note dates
September 26, 1992 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
September 25, 1992 Date — Note dates

O.K. - resolution works like a ratification & letter taken AVK

NA Written Requests, Submissions or Comments

✓ Declaration of Attorney
Penny Troolin Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney

STATE OF MINNESOTA

Office of the Attorney General

TO : KAREN L. RAMSEY
Acting Executive Director
Minnesota Board of Dentistry
2700 University Avenue West
Suite 70
St. Paul

DATE : November 5, 1992

FROM : AMY V. KVALSETH AVK
Special Assistant
Attorney General

PHONE : 296-9422

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

The above-referenced rule has been approved as to its legality by the Attorney General on November 5, 1992.

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.

Enclosures
cc: Penny Troolin
William Brown, Chief Judge
MaryAnn Hruby

AVK:jj.rules.bc9

Board of Dentistry

Adopted Permanent Rules Relating to Annual Registration Fees

Rules as Adopted

3100.2000 FEES.

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

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

A. dentist, $120;

B. dental hygienist, $45; and

C. registered dental assistant, $30.

[For text of subps 3 to 10, see M.R.]



APPROVED AS TO FORM AND LEGALITY

11-5 1992

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Amy V. Kvalseth
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

NOV 5 1992

Joan Anderson Growe
Secretary of State

11:24 a.m.
RC

150A.04 subd 5
The board may promulgate rules as are necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12 in accordance ~~with~~ with sections . . .

214.06 Fees, Licence Renewals
Notwithstanding any law to the contrary the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a ~~of~~ sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium

end of comment period - August 14, 1992

note: resolution is after Findings of Fact were signed

O.K. - accept as a ratification of action taken
AK

STATE OF MINNESOTA

Office of the Attorney General

TO : PATRICIA NOLTE
Legal Assistant

10-22-92

DATE : October 23, 1992

10-23-92

FROM : PENNY TROOLIN
Special Assistant
Attorney General

PHONE : 296-8405

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

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

1. Notice of Solicitation of Outside Information;

2. Certificate of Board's Authorizing Resolution;

3. Rules as proposed with a certificate of approval as to form by the Revisor of Statutes attached;

4. Notice of Intent to Adopt Rules Without a Public Hearing (as mailed);

5. Copies of letters to the chairs of the Senate Finance and House Appropriation Committees, to which the proposed rules, the Statement of Need and Reasonableness, and the Notice of Intent to Adopt Rules Without a Public Hearing were attached;

6. Copy of information submitted to the Commissioner of Finance, including the Commissioner's approval of the proposed fee increases;

7. Statement of Need and Reasonableness (as submitted to LCAR);

8. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List;

9. Notice of Intent to Adopt Rules Without a Public Hearing (as published in the State Register);

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

11. Certificate of Board's Resolution Adopting Rules;

12. Findings of Fact, Conclusions, and Order Adopting Rules Without a Public Hearing;

13. Declaration of Counsel.

No persons requested to be notified of the Board's submission of these rules to the Attorney General; therefore I am not enclosing a notice of submission to the Attorney General or an affidavit of mailing the notice of submission to the Attorney General.

Enclosures
cc: Board Office
kks

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

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

DECLARATION OF COUNSEL

I, Penny Troolin, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 50.0015.0479.

Dated: October 23, 1992

PENNY TROOLIN
Special Assistant
Attorney General

Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 70
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

BOARD OF DENTISTRY

Notice of Solicitation of Outside Information or Opinions Regarding Existing Rule Amendment Governing Fees Minnesota Rules, part 3100.2000, subpart 2.

Notice is hereby given that the Minnesota Board of Dentistry is seeking information or opinions from sources outside the Board in preparing to propose the amendment of the rule governing annual license or registration fees. The amendment of the rule is authorized by Minnesota Statutes, section 150A.04, subdivision 5, 150A.09, subdivision 1 and 214.06, subdivision 1 which permits the Board to promulgate rules establishing license and registration renewal fees.

The Minnesota Board of Dentistry requests information and opinions concerning the subject matter of concern in writing or orally. Written statements should be addressed to:

Karen L. Ramsey
Acting Executive Director
Minnesota Board of Dentistry
2700 University Avenue West, Suite 70
St Paul, Minnesota 55114

Oral statements will be received during regular business hours over the telephone at (612)642-0579 and in person at the above address.

All statements of information shall be accepted until July 10, 1992. Any written material received by the Minnesota Board of Dentistry shall become part of the rulemaking record to be submitted to the attorney general in the event that the rule is adopted.

Dated: 18 May 1992

Karen L. Ramsey
Acting Executive Director

(2)

CERTIFICATE OF THE

MINNESOTA BOARD OF DENTISTRY

AUTHORIZING RESOLUTION

I, Arnold J. Hill, DDS do hereby certify that I am a member and president of the Minnesota Board of Dentistry (hereinafter "Board"), a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board duly and properly called and held on the 5th day of June, 1992, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified:

RESOLVED, that Karen L. Ramsey, Acting Executive Director of the Board, is hereby granted the authority and directed to sign and to give the Notice of the Board's Intent to Adopt Rule Amendments Without a Public Hearing governing the increase of fees specified in Minnesota Rules, part 3100.2000. Ms. Ramsey is to give this notice to all persons who have registered their names with the Board for that purpose, to publish the notice and rule amendments in the State Register, and to perform any and all acts incidental thereto, including complying with all applicable provisions of the Minnesota Administrative Procedure Act.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of June, 1992.

Arnold J. Hill DDS

ARNOLD J HILL, DDS
President

Cynthia K. Christensen

Attest by one other Board Member

(3)

Board of Dentistry

Proposed Permanent Rules Relating to Annual Registration Fees

Rules as Proposed

3100.2000 FEES.

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

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

A. dentist, ~~$110~~ $120;

B. dental hygienist, ~~$40~~ $45; and

C. registered dental assistant, ~~$26~~ $30.

[For text of subps 3 to 10, see M.R.]

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Annual Registration Fees

AGENCY: Board of Dentistry

MINNESOTA RULES: Chapter 3100

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Proposed Rules

BOARD OF DENTISTRY

Proposed Permanent Rules Relating to Licensure

Notice of Intent To Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry (hereinafter "Board") intends to adopt the above entitled rules without a public hearing following the procedures set forth in the Administration Procedure Act for adopting rules without a public hearing in Minnesota Statutes 14.22 to 14.28 (1990). The statutory authority to adopt the rules is Minnesota Statutes 150A.04, subd. 5; 150A.06, subds. 1, 2, 2a and 4; 150A.08, subds. 1(6) and 3; 150A.10, subd. 1, 150A.11, subd. 2 and 214.06 (1990).

All persons have until August 14, 1992, in which to submit comment in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any changes proposed.

Any person may make a written request for a public hearing on the rules within the comment period which will close on August 14, 1992. If 25 or more persons submit a written request for a public hearing with the comment period, ending August 14, 1992, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to Minnesota Statutes 14.131 to 14.20 (1990).

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

Karen L. Ramsey, Acting Executive Director
Minnesota Board of Dentistry
2700 University Avenue West, Suite 70
St Paul, Minnesota 55114
Telephone: (612)642-0581

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

(11) The rules proposed for adoption increase existing renewal fees. A free copy of the rules is available upon request from Karen L. Ramsey.

(12) A Statement of Need and Reasonableness has been prepared and is available from Karen L. Ramsey upon request. The statement describes the need for and reasonableness of the proposed rules, identifies the data and information relied upon to support the proposed rules, and addresses the Board's position regarding the applicability of the small business rulemaking provisions and the impact of the proposed amendments on small businesses.

(14) Minnesota Statutes 14.115 specifies certain actions which an agency must take if an agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115 pursuant to subdivision 7(b) or (c). Nevertheless, should the rule amendments covered by the Statement of Need and Reasonableness be considered subject to section 14.115 and that they will impact on small businesses, the Board makes the following description of the

probable quantitative and qualitative small business impact of the proposed rules. The impact will be negligible. Minnesota Rules part 3100.2000 amendments increases fees but only by a small amount. The increase and new fees are mandated by Minnesota Statutes 16A.128, subd. 1a (1990) to assure that the Board's income will match its appropriations and general support costs. The impact on any regulated individual will be minimal.

(13) Pursuant to Minnesota Statutes 16A.128, subd. 2a (1990), a copy of this notice and the proposed rules were sent to the chairs of the House Appropriations Committee and Senate Finance Committee prior to their submission to the State Register.

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

Dated: June 18, 1992

Karen L. Ramsey

Karen L. Ramsey
Acting Executive Director

(5)

Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 70
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

July 10, 1992

Senator Eugene R. Merriam
Chair, Senate Finance Committee
122 State Capitol
75 Constitution Avenue
St Paul, Minnesota 55155

Dear Senator Merriam:

This letter is written on behalf of the Minnesota Board of Dentistry.

Attached you will find several documents relating to proposed rules changes by the Minnesota Board of Dentistry. The rules related to fees the Board charges for license and registration renewal. the documents attached are:

1. A Notice of Intent to Adopt Rules Without a Public Hearing.
2. A Statement of Need and Reasonableness.
3. A copy of the rules as prepared by the Office of the Revisor of Statutes.

If you have questions concerning the proposed rules, please do not hesitate to contact me.

Sincerely,

Karen L. Ramsey

Karen L. Ramsey
Acting Executive Director
(612(642-0581

Encl.

Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 70
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

July 10, 1992

Representative Wayne Simoneau
Chair, House Appropriations Committee
365 State Office Building
100 Constitution Avenue
St Paul, Minnesota 55155

Dear Representative Simoneau:

This letter is written on behalf of the Minnesota Board of Dentistry.

Attached you will find several documents relating to proposed rules changes by the Minnesota Board of Dentistry. The rules related to fees the Board charges for license and registration renewal. the documents attached are:

1. A Notice of Intent to Adopt Rules Without a Public Hearing.
2. A Statement of Need and Reasonableness.
3. A copy of the rules as prepared by the Office of the Revisor of Statutes.

If you have questions concerning the proposed rules, please do not hesitate to contact me.

Sincerely,

Karen L. Ramsey

Karen L. Ramsey
Acting Executive Director
(612(642-0581

Encl.

Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 70
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

July 10, 1992

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

Dear Ms. Hruby:

This letter is written on behalf of the Minnesota Board of Dentistry.

Pursuant to Minnesota Statutes 14.23 (1990) we are providing you a copy of a Statement of Need and Reasonableness relating to the proposed amendment to Minnesota Rules 3100.2000, subpart 2 relating to the annual license or registration fees the Minnesota Board of Dentistry charges. Our Notice of Intent to Adopt Rules Without a Public Hearing will be published in the State Register on July 13, 1992.

If you have any questions or need additional information concerning the proposed rule change, please do not hesitate to contact me.

Sincerely,

Karen L. Ramsey

Karen L. Ramsey
Acting Executive Director
(612(642-0581

Encl.

(6)

Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 70
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

May 18, 1992

TO: Mr. John Gunyou
Commissioner of Finance

FROM: Karen L. Ramsey
Acting Executive Director

RE: PROPOSED FEE CHANGES

The Rules Committee of the Minnesota Board of Dentistry has completed a review of the fee structure as contained in Minnesota Rules, Chapter 3100.2000, Fees. Accordingly, the Rules Committee has recommended to the Board that the annual license or registration fees be adjusted to meet the requirements of Minnesota Statutes, Chapter 215.06. This statute requires that the Board... assess a sufficient amount so that the total fees collected by each Board will as closely as possible equal anticipated expenditures during the fiscal biennium. In addition, this statute requires that approval for any fee adjustment must be obtained from the Commissioner of Finance (Minnesota Statutes, Chapter 16A.128, subdivision 1 (a)).

The above mentioned rules, Chapter 3100.2000, should be changed to reflect the recommendation of the Board. A copy of the proposed rule change and fee comparison is attached. The basis for this request is as follows:

1. Without the increase, the provisions of Minnesota Statutes, Chapter 214 could not be met.
2. The increased cost of carrying out the provisions Minnesota Statutes, Chapter 150A, the Dental Practices Act, necessitate a larger budget.

The budget for FY 1992-1993 is $1,136,000 plus attorney general costs of $400,000. Total amounts collected by the Board must be as close as possible to the total expenditures of the Board, 1,536,000. The current fee structure would not provide sufficient income; therefore, the Board is proposing fee adjustments as outlined in the attachment.

In addition to the basic budgetary requirements, the Board has experienced a significant number of lengthly and costly legal proceedings. The cost of these proceedings has generally been over

and above the amounts earmarked for normal legal costs. The proposed fee increases would provide for anticipated legal costs based on the increased number of complaints and resulting disciplinary actions as well as increased legal and staff time from the recently signed HUV/HBV bill.

It is the Committee's intention to have a statement of need and reasonableness for presentation to the full board in July. Part of the statement must include the Commissioner of Finance' concurrence with the proposed fee adjustments. With this in mind, your response will be appreciated no lather than Friday, June 5, 1992. Thank you for your consideration.

Attachments

	Current Fee	Proposed Fee	Estimated Income
DENTIST			
Renewal	$110.00	$120.00	$468,000
Penalty	55.00	60.00	12,000
Dup Certificate	10.00	10.00	2,500
Lic by Exam	125.00	125.00	12,500
Lic by Cred	700.00	700.00	10,500
Reinstatement	125.00	125.00	625
Dup License	20.00	20.00	1,500
Prior Yr Renewal	110.00	110.00	500
Prior Yr Penalty	55.00	55.00	250
SUBTOTAL			$508,275
HYGIENIST			
Renewal	$40.00	$45.00	$126,000
Penalty	20.00	22.50	3,937
Dup Certificate	10.00	10.00	1,000
Lic by Exam	55.00	55.00	4,950
Lic by Cred	150.00	150.00	3,000
Reinstatement	55.00	55.00	550
Dup License	20.00	20.00	250
Prior Yr Renewal	40.00	40.00	400
Prior Yr Penalty	20.00	20.00	200
SUBTOTAL			$140,287
DENTAL ASSISTANT			
Renewal	$26.00	$30.00	$120,000
Penalty	13.00	15.00	5,400
Dup Certificate	10.00	10.00	1,000
Initial Registration	30.00	30.00	9,000
Reinstatement	30.00	30.00	875
Prior Yr Renewal	26.00	26.00	1,200
Prior Yr Penalty	13.00	13.00	600
SUBTOTAL			$138,075
CORPORATIONS			
Renewal	$25.00	$25.00	$17,500
Initial Registration	100.00	100.00	1,000
Prior Yr Renewal	25.00	25.00	200
SUBTOTAL			$18,700
CDE SPONSORS			
Renewal	$75.00	$75.00	$3,750
Initial Approval	75.00	75.00	375
SUBTOTAL			$4,125
MISC.			
Affidavit of Lic	$10.00	$10.00	$400
Lic Verification	5.00	5.00	625
Other			60,000
SUBTOTAL			$61,025
TOTAL			$870,587

STATE OF MINNESOTA

Office Memorandum

Department: of Finance

Date: June 4, 1992

To: Karen L. Ramsey, Acting Executive Director
Board of Dentistry

From: Bruce J. Reddemann, Director BJR
Budget Operations

Phone: 296-5188

Subject: Proposed Fee Changes

Post-it™ brand fax transmittal memo 7671	# of pages ▸ 1
To Karen L Ramsey	From Bruce Reddemann
Co.	Co. Finance
Dept. Dentistry	Phone # 6-5188
Fax # 643-2031	Fax # 6-8686

The proposed fees as submitted on a memorandum dated May 18, 1992, have been reviewed and are approved as follows:

1. Dentist - Renewal	$120.00
- Penalty	60.00
2. Hygienist - Renewal	45.00
- Penalty	22.50
3. Dental Assistant	
- Renewal	30.00
- Penalty	15.00

It is my understanding that these approved fees will be charged for fiscal year 1993.

cc: Tom Rice
Glenn Olson
Charlie Bieleck

(7)

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of Proposed Amendment to the Board of Dentistry Rules Relating to Fees, Minnesota Rules, 3100.2000, subp. 2.

STATEMENT OF NEED AND REASONABLENESS

Pursuant to Minnesota Statute 14.23 (1990), the Minnesota Board of Dentistry (hereinafter "Board"), hereby affirmatively presents the need for and facts establishing the reasonableness of the proposed amendments to Minnesota Rules, 3100.2000, subp. 2 relating to license and registration renewal fees.

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

I. STATUTORY AUTHORITY

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

1. Minnesota Statutes 150A.04, subd. 5 (1990), authorizes the Board to promulgate rules necessary to carry out the provisions and purposes of the Minnesota Dental Practices Act, Minnesota Statutes 150A.

2. Minnesota Statutes 150A.04, subd. 5 (1990); 150A.06, subds. 1, 2, 2(a), and 4 (1990); and 150A.08, subd. 3 (1990) authorize the Board to adopt fees by rule.

3. Minnesota Statutes 16A.128 and 214.06 (1990), requires the Board to adjust any fee which the Board is empowered to assess a sufficient amount so that the total fees collected will as closely as possible equal anticipated expenditures during the fiscal biennium plus the agency's general costs, statewide indirect costs, and Attorney General costs attributable to the fee function.

II. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

A. Requirements in General.

The Board, at its meeting on Saturday, June 6, 1992 determined that the above-captioned rules are noncontroversial and has elected to follow the procedures set forth in Minnesota Statutes 14.05 to 14.12 and 14.22 to 14.28 (1990), which provide for the adoption of noncontroversial rules without the holding of a public hearing.

Pursuant to Minnesota Statutes 14.23 (1990), the Board prepared this Statement of Need and Reasonableness and made it available to the public.

The Board will publish in the State Register the proposed rules and the Notice of Intent to Adopt Rules Without a Public Hearing. The Board will also mail copies of the Notice to persons registered with the Board pursuant to Minnesota Statute 14.22 (1990), as well as to others whom the Board believes will have an interest in the rules. The notice will comply with the requirements of Minnesota Statute 14.22 (1990) and Minnesota Rules 2010.0300 E (1990).

These rules will become effective five working days after publication of a notice of adoption in the State Register pursuant to Minnesota Statute 14.27 (1990).

B. Notice Of Intent To Solicit Information From Non-Agency Sources.

Minnesota Statute 14.10 (1990) requires an agency, which seeks information or opinions from sources outside the agency in preparing to propose the amendment of rules, to publish a notice of its action in the State Register and afford all interested persons an opportunity to submit data or comments on the subject of concern in writing or orally. In the State Register issue of June 8, 1992, the Board published a notice entitled "Outside Information or Opinions Regarding Existing Rule Amendment Governing Fees Governing Fees Minnesota Rules, part 3100.2000, subpart 2".

After publication of the notice, the Board's Rules Committee met to review this rule to determine which fees were in need of amendment. As a result of that process, the Committee drafted a specific proposal amending existing rules. This proposal was distributed among the dental profession and community. As a result of this process, the Board developed a final proposal which is addressed in this Statement of Need and Reasonableness.

III. COMPLIANCE WITH OTHER RULEMAKING REQUIRMENTS

A. Miscellaneous Requirements

These rules do not incorporate by reference text from any other law, rule or available text or book. See Minnesota Statute 14.07, subd. 4 (1990). The adoption of these rules will not require expenditure of public money greater than $100,000 by local public bodies in either of the two years following promulgation, nor do the rules have any impact on agricultural land. See Minnesota Statute 14.11 (1990). A fiscal note as required by Minnesota Statute 3.982 (1990) is not required because the proposed

rules will not result in local agencies or school districts incurring costs mandated by the state. Pursuant to Minnesota Statutes 16A.128, subd 2a (1990), the Board sent a copy of the Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules to the chairs of the appropriations committee of the Minnesota House of Representatives and of the Minnesota Senate Finance Committee before the Board submitted the Notice to the State Register.

B. Approval of the Commissioner of Finance

Pursuant to Minnesota Statute 16A.128, subd. 1a(1990), if a fee is required to be fixed by rule, the Commissioner of Finance must approve the fee and the Commissioner's approval must be in the Statement of Need and Reasonableness. The Commissioner's approval of the fees established in the proposed rules is contained in the attached addendum, which is incorporated into this Statement of Need and Reasonableness as Addendum A.

C. Small Business Considerations

It is the position of the Board that Minnesota Statute 14.115 (1990), relating to small business considerations in rulemaking does not apply to the rules it promulgates. Minnesota Statutes 14.115, subd. 7b (1990), states that section 14.115 does not apply to "agency rules that do not affect small businesses directly." The Board's authority relates only to dentists and not to the dental businesses they operate. While someone cannot operate a dental business without being licensed as a dentist by the Board, the license runs primarily to the technical ability to provide dental services for the purposes of public protection and not to the business aspects. This is graphically illustrated in

recent dealings with nondentists who are involved with dental franchise offices. The Board has not taken the position prohibiting nondentist involvement in operating a dental business. Instead, the Board's position is that nondentists may not interfere with or have any control over the dentists when it comes to any aspect of the practice which could affect the providing of professional services to patient. Thus, the Board regulates the provision of dental services and not the dental business per se. As such, it is exempt under Minnesota Statute 14.115, subd. 7b (1990).

The Board is also exempt from the provisions of section 14.115, pursuant to its subdivision 7c which states that section 14.115 does not apply to "service businesses regulated by government bodies, for standards and costs, such as ... providers of medical care." Dentists provide medical care and are regulated for standards and costs. The Board regulates dentists for standards and the Minnesota Department of Human Services regulates them for costs.

The question might be raised as to whether the same government body has to regulate the service business for standards and costs in order for the exemption to apply. The Board's position is that the question should be answered in negative. First, the provision specifically refers to regulation by "governement bodies." Second, and most significantly, some of the examples listed in subdivision 7c of service businesses exempt from the conditions of section 14.115 actually would not qualify for the exemption if the same government body had to regulate for standards and costs. For example, nursing homes and hospitals are regulated

by different government bodies for standards and costs. The Minnesota Department of Health regulates them for standards and the Minnesota Department of Human Services regulates them for costs. If the legislature had intended to exempt from the scope of section 14.115 only those rules addressing service businesses regulated by one government body for standards and costs, then it could not have included nursing homes and hospitals in its list of exemptions.

Based on the foregoing, it is clear that section 14.115 is not intended to apply to rules promulgated by the Board.

IV. NEED FOR AND REASONABLENESS OF THE PROPOSED RULES

In order to amend administrative rules, an agency must demonstrate that the proposed rules are needed and reasonable. The proposed changes more clearly delineate the provisions of the Minnesota Dental Practices Act and have a rational basis in law and dentistry as is detailed below.

As the following fugures illustrate, the Board's expenditures have exceeded its revenue from existing fees for the past several years.

	FY 1990	FY 1991	FY 1992(estimated)
Total Costs	$496,000	$614,000	$804,000
Receipts	$495,000	$601,000	$765,000
Surplus(Deficit)	($1,000)	($13,000)	($39,000)

Given the past experience and projections for the future, including a projection of total Board costs for FY 1993 of $828,000, remedial action must be taken for the 1993 fees to avoid increasing the deficit. Accordingly, it is necessary to increase renewal fees to assure that revenues and expenditures match as nearly as possible. This action is also mandated by Minnesota Statutes 16A.128, subd.

1a, 214.06, subd. 1 (1990).

B. Statement of Reasonableness

The recommended increases are predicated on historical information that relates to basic services and legal services. It has been the Board's experience that basic services such as licensure, registration, renewal, complaints and discipline, continuing education and rules have increased in cost dramatically.

In addition to the basic services, legal services represent a significant cost to the Board. Pursuant to Minnesota Statutes 214.04 (1990), these services are provided by the Attorney General's Office. These charges have increased from approximately $200,000 in FY 1992 to a projected $250,000 in FY 1992. The entire increase can be attributed to legal and investigative services related to complaints received against licensees and registrants.

Another factor to be considered in the increase of renewal fees is the cost to the Board for monitoring and processing of HIV/HBV infected licensees and registrants as required by federal and state legislation recently enacted.

The proposed fee increases for licensees and registrants reflects the increased cost for basic services, legal services, and HIV/HBV infected licensees and registrants referenced above.

It is the Board's judgement that all of the proposed amendments are both needed and reasonable and in the best interest of the dental profession and the public.

Dated:_____, 1992

STATE OF MINNESOTA
BOARD OF DENTISTRY

_____

Karen L. Ramsey
Acting Executive Director

(8)

Board of Dentistry

EXECUTIVE OFFICE
2700 UNIVERSITY AVENUE WEST
SUITE 70
ST. PAUL, MINNESOTA 55114-1055
(612) 642-0579

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA BOARD OF DENTISTRY

In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to Fees.

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Paula Nierengarten, being duly sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes 14.14, subd. 1(a) and 14.22 or 14.30, that their names be placed on the Board of Dentistry's rulemaking list is accurate, complete , and current as of this 10th day of July, 1992.

That on the 10th day of July, 1992, at the City of St Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing lists.

Paula Nierengarten
Paula Nierengarten
Administrative Secretary

Subscribed and sworn to before me
this 10th day of July, 1992

Karen L. Ramsey
NOTARY PUBLIC

KAREN L. RAMSEY
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES FEBRUARY 15, 1996

(9)

JUL 1992
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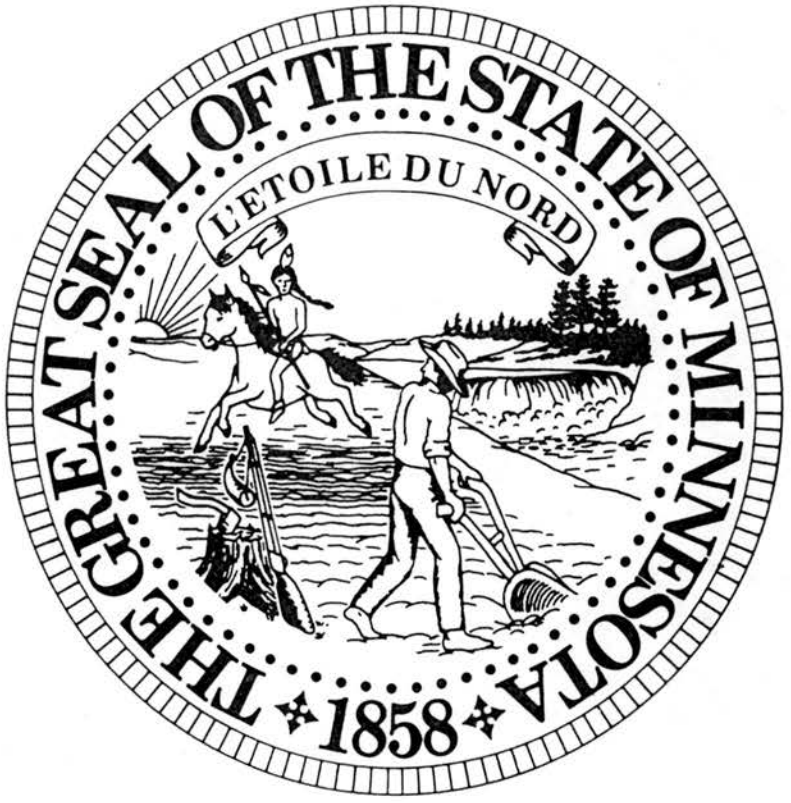
BOARD

The Minnesota

State Register

Department of Administration—Print Communications Division



Rules edition
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Proposed Rules

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

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

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

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

Board of Dentistry

Proposed Permanent Rules Relating to Annual Registration Fees

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry (hereinafter "Board") intends to adopt the above entitled rules without a public hearing following the procedures set forth in the Administration Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* 14.22 to 14.28 (1990). The statutory authority to adopt the rules is *Minnesota Statutes* 150A.04, subd. 5; 150A.06, subds. 1, 2, 2a and 4; 150A.08, subds. 1(6) and 3; 150A.10, subd. 1, 150A.11, subd. 2 and 214.06 (1990).

All persons have until August 14, 1992, in which to submit comment in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any changes proposed.

Any person may make a written request for a public hearing on the rules within the comment period which will close on August 14, 1992. If 25 or more persons submit a written request for a public hearing within the comment period, ending August 14, 1992, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* 14.131 to 14.20 (1990).

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

Karen L. Ramsey, Acting Executive Director
Minnesota Board of Dentistry
2700 University Avenue West, Suite 70
St. Paul, Minnesota 55114
Telephone: (612) 642-0581

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

The rules proposed for adoption increase existing renewal fees. A free copy of the rules is available upon request from Karen L. Ramsey.

A STATEMENT OF NEED AND REASONABLENESS has been prepared and is available from Karen L. Ramsey upon request. The statement describes the need for and reasonableness of the proposed rules, identifies the data and information relied upon to support the proposed rules, and addresses the Board's position regarding the applicability of the small business rulemaking provisions and the impact of the proposed amendments on small businesses.

Minnesota Statutes 14.115 specifies certain actions which an agency must take if an agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115 pursuant to subdivision 7(b)

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.

or (c). Nevertheless, should the rule amendments covered by the Statement of Need and Reasonableness be considered subject to section 14.115 and that they will impact on small businesses, the Board makes the following description of the probable quantitative and qualitative small business impact of the proposed rules. The impact will be negligible. *Minnesota Rules* part 3100.2000 amendments increases fees but only by a small amount. The increase and new fees are mandated by *Minnesota Statutes* 16A.128, subd. 1a (1990) to assure that the Board's income will match its appropriations and general support costs. The impact on any regulated individual will be minimal.

Pursuant to *Minnesota Statutes* 16A.128, subd. 2a (1990), a copy of this notice and the proposed rules were sent to the chairs of the House Appropriations Committee and Senate Finance Committee prior to their submission to the *State Register*.

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

Dated: 18 June 1992

Karen L. Ramsey
Acting Executive Director

Rules as Proposed

3100.2000 FEES.

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

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

A. dentist, ~~$110~~ $120;

B. dental hygienist, ~~$40~~ $45; and

C. registered dental assistant, ~~$26~~ $30.

[For text of subps 3 to 10, see M.R.]

Department of Human Services

In the Matter of the Proposed Adoption of Department of Human Services Rules Relating to Case Management Services for Children with Severe Emotional Disturbance and Adults with Serious and Persistent Mental Illness, Rules Relating to Mental Health Case Management Services and Home Based Mental Health Services Under Medical Assistance, and of the Proposed Amendments of Rules Related to Mental Health Services Under Medical Assistance

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Department of Human Services, Rooms 1A and 1B, 444 Lafayette Road, St. Paul, MN 55155 on August 13, 1992 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons 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 may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square #1700, Minneapolis, Minnesota 55401-2138; telephone (612) 341-7606 either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. Any written material or responses must be received at the office no later than 4:30 p.m. on the final day. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. Any written material or responses must be received at the office no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, section 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

(11)

CERTIFICATE OF THE BOARD OF DENTISTRY

RESOLUTION ADOPTING RULES

I, Arnold J. Hill, DDS, do hereby certify that I am a member and the president of the Minnesota Board of Dentistry (hereinafter "Board"), a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board, duly and properly called and held on the 26th day of September, 1992, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified:

RESOLVED, that the rule amendments relating to license and registration renewal fees are approved and adopted pursuant to authority vested in the Board by Minnesota Statutes sections 150A.04, subdivision 5; 150A.06, subdivisions 1, 2, 2a and 4; 150A.08, subdivision 3; and 214.06 (1990). Richard W. Diercks, Executive Director of the Board, is authorized to sign the findings of fact, conclusions and order adopting the rule amendments and further is authorized to modify the rule amendments if necessary to obtain the approval of the Attorney General and to perform the necessary acts to provide that the rule amendments shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26 day of September, 1992.

Arnold J. Hill DDS

ARNOLD J. HILL, DDS
President

Attest by one other Board Member

(12)

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of the Proposed Adoption of Rules of the Board of Dentistry Relating to License and Registration Renewal Fees

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULES

(1) Notice of the Board of Dentistry's (hereinafter "Board") intent to adopt the above entitled rules was published in the State Register on July 13, 1992, and was sent by United State mail to all persons on the list maintained by the Board pursuant to Minnesota Statutes, section 14.14, subdivision 1(a) and 14.22 on July 10, 1992. (2) The statement of need and reasonableness was prepared before the Notice of Intent to Adopt Rules Without a Public Hearing was mailed to all persons on the rulemaking list and published in the State Register and was available to the public. (3) Before the notice was submitted to the State Register, a copy of the Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules were sent to the chairs of the house appropriations committee and senate finance committee.

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

(7) Two comments from licensees on the rules were received by the Board. No requests for notice of submission to the Attorney General were received by the Board.

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

NOW, THEREFORE, IT IS HEREBY ORDERED, that the rules identified as Rules of the Board of Dentistry Relating to License and Registration Renewal Fees were adopted on September 26, 1992, pursuant to authority vested in the Board by Minnesota Statutes, sections 150A.04, subdivision 5; 150A.06, subdivisions 1, 2, 2a, 4; 150A.08, subdivision 3; and 214.06 (1990).

Dated: September 25, 1992

Richard W. Diercks
Executive Director