

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJM

RULE REVIEW CHECKLIST

File No. 1986
DATE RECEIVED 12-23-92
REVIEW DATE 1-4-92
DUE DATE 1-6-93
(DIS)APPROVED 1-4-93
WITHDRAWN

Docket No. 05 0009 048C
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 12-28-92
REVISOR (DIS)APPROVED
FILED W/SEC. OF STATE 1-4-93
RETURNED TO AGENCY 1-5-93

✓ Rule as adopted (4 copies)

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

___ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
July 11, 1992 Date adopted

✓ Proposed Rule
___ Revisor's Certificate

✓ Notice of Intent to Adopt Rule * missing information
16A.128, 147.01 Statutory Authority Chapter 292, art 1, sec 10 subd 4 214.06
✓ Small Business Statement
___ Expenditure of public money statement
Nov. 2, 1992 Signature

___ Statement of Need and Reasonableness (if applicable)
___ Small Business Statement
✓ Fees - § 16A.128 Did letters to house appropriation and Senate finance

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Nov 16, 1992 Dated (30)/25 days before adoption
✓ Notice attached indicates it is attached

___ Copy of rule or summary attached

✓ Publication in State Register
November 16, 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
Dec 22, 1992 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
December 22, 1992 Date

___ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Linda Close Name of SAAG representing agency

___ Notice of Submission to Attorney General (if applicable)

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

STATE OF MINNESOTA

Office of the Attorney General

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

DATE : January 4, 1993

FROM : MARY JO MURRAY
Special Assistant
Attorney General

PHONE : 296-3258

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

The above-referenced rule has been approved as to its legality by the Attorney General on January 4, 1993.

Enclosed is your copy of the approved rule. **You should note** that in your Notice of Intent to Adopt A Rule Without A Public Hearing, you did not specifically state the calendar date on which the 30-day comment period ended. This date is now required by 1992 Minn. Laws, ch. 494 §§5 and 7 (SF 2282). In this instance, the failure to publish the calendar date on which the comment period ended did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process, and the omission will be treated as "harmless error" under Minn. Stat. §14.21, subd. 5 (1992). 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: Linda F. Close
William Brown, Chief Judge
MaryAnn Hruby

MJM:jj.rules.bf5

Board of Medical Practice

Adopted Permanent Rules Relating to Fees

Rules as Adopted

5600.2500 ANNUAL FEES.

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

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

E. physician annual license, $168;

[For text of items F to U, see M.R.]

APPROVED AS TO FORM AND LEGALITY

Jan 4 1993

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JAN 04 1993

Joan Anderson Growe
Secretary of State

3:50 pm

CERTIFICATE OF THE

MINNESOTA BOARD OF MEDICAL PRACTICE

AUTHORIZING RESOLUTION

I, Clyde R. Olson, M.D., do hereby certify that I am a member and the president of the Minnesota Board of Medical Practice (hereinafter "Board"), a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board duly and properly called and held on the 11th day of July, 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 H. Leonard Boche, Executive Director of the Board, is hereby granted the authority and directed to sign and to give Notice of the Intent to Adopt Rules Without a Public Hearing relating to the Physician Annual License Fee to all persons who have registered their names with the Board for that purpose, to publish the notice and rules in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 11th day of July, 1992.

Clyde R Olson M

CLYDE R. OLSON, M.D.
PRESIDENT

Meredith Hart

Attest by one other Board Member

Stat Authority @ 147.01
(Subd 3). . The board shall have authority to adopt rules as may be found necessary to carry out the purposes of this chapter.

214.06
Notwithstanding any law to the contrary the commissioner of health as authorized by section 214.13 all health-related licensing boards and all non health-related licensing boards shall by rule with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that total fees collected . . .

Notice of Intent missing E (6) (7)
no ending date of comment

STATE OF MINNESOTA

Office of the Attorney General

RR 12-23-92

TO : PATRICIA NOLTE
Legal Assistant

DATE : December 23, 1992

FROM : LINDA F. CLOSE LFC
Assistant Attorney General

PHONE : 296-8954

SUBJECT : In the Matter of Board of Medical Practice
Proposed Adoption of Fee Rule

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

1. Certificate Of Board's Authorizing Resolution;
2. Rules as proposed with a certificate of approval as to form by the Revisor of Statutes attached;
3. Notice Of Intent To Adopt Rules Without A Public Hearing (as mailed);
4. Statement Of Need And Reasonableness (as submitted to LCAR) including memo from Department of Finance approving rules;
5. Affidavit Of Mailing The Notice Of Intent To Adopt Rules Without A Public Hearing;
6. Letters to chairs of the house appropriations and senate finance committees, together with affidavit of service of the same;
7. Notice Of Intent To Adopt Rules Without A Public Hearing (as published in the State Register);
8. Rules as adopted (original and three copies);
9. Certificate Of Board's Resolution Adopting Rules;
10. Findings Of Fact, Conclusions, And Order Adopting Rules Without A Public Hearing;
11. Declaration Of Counsel.

Enclosures
cc: Leonard Boche (w/o enc.)

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

November 16, 1992

To: ALL INTERESTED PARTIES

From: H. Leonard Boche
Executive Director

Re: Notice of Intent to Adopt Rules
Without a Public Hearing

Enclosed are copies of the Proposed Rules and Amendments Relating to Board Fees and the Notice of Intent to Adopt Rules Without a Public Hearing. Please refer to the Notice of Intent to Adopt Rules Without a Public Hearing regarding the rulemaking process.

The 30-day comment period begins on November 16, 1992, with the publication of the Notice of Intent to Adopt Rules without a Public Hearing in the State Register.

If you have any questions, please call me at 612-642-0528, or Helen Patrikus at 612-643-3053.

H. Leonard Boche
Executive Director

AN EQUAL OPPORTUNITY EMPLOYER
PRINTED ON RECYCLED PAPER

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

In the Matter of Proposed Rule Relating to the Physician Annual License Fee

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Board of Medical Practice (hereinafter "Board") intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. 14.22 to 14.28 (1990). The statutory authority to adopt the rule is Minn. Stat. 16A.128, 147.01, Chap. 292, Art. 1, Sec. 10, Subd. 4, and 214.06 (1991).

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

(2) All persons have 30 days 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. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

(4) (3) Comments must be submitted to:

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

(8) The proposed rule 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 rule as noticed.

(9) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from H. Leonard Boche upon request.

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

(9) Since no hearing is required, upon adoption of the rule, the rule 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 rule must submit the written request to H. Leonard Boche.

Date: November 2, 1992

H. Leonard Boche
Executive Director

MINNESOTA BOARD OF MEDICAL PRACTICE

2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538

November 2, 1992

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

From: H. Leonard Boche
Executive Director

Re: Proposed Rule Relating to Physician Annual License Fee

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

Pursuant to Minnesota Statute, Section 16A.128, Subdivision 2a, I have attached a copy of the Board of Medical Practice's Proposed Rule Relating to the Physician Annual License Fee, and a copy of the Notice of Intent to Adopt Rules Without a Public Hearing.

The Board of Medical Practice is seeking the following fee increase:

	From	To
Physician Annual License Fee	$144	$168

Half of the license fee increase is mandated by the bill requiring the Board to increase fees to recover the cost of the appropriations for the reporting and monitoring of health care workers infected with the human immunodeficiency virus or hepatitis B virus.

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

H. Leonard Boche
Executive Director

Attachments

AN EQUAL OPPORTUNITY EMPLOYER
PRINTED ON RECYCLED PAPER

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

In the Matter of the Proposed Rule Relating to Board Fees

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

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

H. Leonard Boche, BEING SWORN SAYS:

I hereby certify that, pursuant to Minn. Stat. 16A.128 (1990), on the 2nd day of November, 1992, I personally delivered copies of the NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING and PROPOSED RULE RELATING TO BOARD FEES to the office of the chairs of the house appropriations committee and senate finance committee leaving a true and correct copy thereof.

H. Leonard Boche
Executive Director

Subscribed and sworn to before me

this 3rd day of November, 1992

BETTY L. MESSERVEY
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES AUGUST 23, 1993

MINNESOTA BOARD OF MEDICAL PRACTICE

2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538

November 2, 1992

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

From: H. Leonard Boche
Executive Director

Re: Proposed Rule Relating to Physician Annual License Fee

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

Pursuant to Minnesota Statute, Section 16A.128, Subdivision 2a, I have attached a copy of the Board of Medical Practice's Proposed Rule Relating to the Physician Annual License Fee, and a copy of the Notice of Intent to Adopt Rules Without a Public Hearing.

The Board of Medical Practice is seeking the following fee increase:

	From	To
Physician Annual License Fee	$144	$168

Half of the license fee increase is mandated by the bill requiring the Board to increase fees to recover the cost of the appropriations for the reporting and monitoring of health care workers infected with the human immunodeficiency virus or hepatitis B virus.

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

H. Leonard Boche
Executive Director

Attachments

AN EQUAL OPPORTUNITY EMPLOYER
PRINTED ON RECYCLED PAPER

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

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

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

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Helen Patrikus, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. Sec. 14.14, Subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Board of Medical Practice's rulemaking list is accurate, complete, and current as of this 16th day of November, 1992.

That, on the 16th day of November, 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 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.

Helen Patrikus

Helen Patrikus
Medical Regulations Analyst

Subscribed and sworn to before me

this 16th day of November, 1992

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

family members who are required to participate in work readiness, may not be mandated to participate in community investment programs. Work readiness registrants who are required to participate in a community investment program must accept and complete community investment program placements or be terminated from work readiness services and payments.

Subp. 2. **Referral conditions.** The county board or its service provider may offer community investment program employment to participants only after the following employment and training service priorities have been determined unavailable due to lack of funds or local labor market conditions:

A. permanent, unsubsidized, full-time private, public, or nonprofit sector employment;

B. permanent, subsidized full-time private, public, or nonprofit sector employment;

C. permanent, subsidized part-time nonprofit sector employment;

D. training;

E. relocation; and

F. part-time subsidized, nonprofit, or public employment with continued assistance to obtain full-time permanent employment.

Subp. 3. **Work hours.** The standards in items A and B shall be used to determine the minimum and maximum number of hours community investment program participants will be required to work.

A. No participant shall be required to work less than eight hours or allowed to work more than 32 hours of a 40-hour work week. The remaining eight hours must be available to the participant for individual voluntary job search.

B. Subject to item A, the number of hours a participant will work shall be the number:

(1) required by a community investment program employer for successful project operation;

(2) necessary to achieve the employment and training objectives identified in the participant's employability development plan; or

(3) established by the requirements of the program funding the community investment program.

Subp. 4. **Wages.** Community investment program participants shall be paid the state minimum wage, the wage paid at the work site for similar work, or the wage paid to employees doing comparable work in that locality, whichever is greater.

Subp. 5. **Travel distance.** A participant shall not be required to travel more than two hours round trip between home and the work site, excluding time required to take children to and from a child care facility.

Subp. 6. **Support services.** A participant shall not be required to participate in community investment program employment unless necessary support services are arranged for or provided.

Board of Medical Practice

Proposed Permanent Rules Relating to Fees

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Medical Practice (hereinafter "Board") intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* 14.22 to 14.28 (1990). The statutory authority to adopt the rule is *Minnesota Statutes* 16a.128, 147.01, Chap. 292, Art. 1, Sec. 10, Subd. 4, and 214.06 (1991).

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

All persons have 30 days 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.

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.

Comments should be submitted to:

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

The proposed rule 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 rule as noticed.

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

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from H. Leonard Boche upon request.

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

Since no hearing is required, upon adoption of the rule, the rule 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 rule must submit the written request to H. Leonard Boche.

Dated: 2 November 1992

H. Leonard Boche
Executive Director

Rules as Proposed

5600.2500 ANNUAL FEES.

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

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

E. physician annual license, ~~$144~~ $168;

[For text of items F to U, see M.R.]

Pollution Control Agency

Proposed Permanent Rules Relating to Petroleum Contaminated Soil Management

Notice of Intent to Adopt a Rule Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received

Introduction. The Minnesota Pollution Control Agency intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rule by December 18th, 1992, a public hearing will be held on January 13, 1993, in St. Cloud, Minnesota. To find out whether the rule will be adopted without a public hearing or if the hearing will be held, you should contact the agency contact person after December 18th, 1992 and before January 13, 1993.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Mr. Chris Zadak
Minnesota Pollution Control Agency
Tanks and Spills Section
520 Lafayette Road North
St. Paul, MN 55155-4194
(612) 297-8318
(612) 297-8676 FAX

Subject of Rule and Statutory Authority. The proposed rule governs the management of petroleum contaminated soil generated from leaking petroleum storage tanks or other sources. The proposed rule establishes procedures for obtaining approval for land treatment of petroleum contaminated soil, and standards and operating requirements for sites used for the land treatment of petroleum

CERTIFICATE OF THE
MINNESOTA BOARD OF MEDICAL PRACTICE
RESOLUTION ADOPTING RULE

I, Clyde R. Olson, M.D., do hereby certify that I am a member and the president of the Minnesota Board of Medical Practice (hereinafter "Board"), a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board, duly and properly called and held on the 22nd day of December, 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 relating to the Physician Annual License Fee is approved and adopted pursuant to authority vested in the Board by Minn. Stat. 147.01, subd. 3 (1990). H. Leonard Boche, Executive Director of the Board, is authorized to sign the findings of fact, conclusions and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the Attorney General and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22nd day of December, 1992.

Clyde R. Olson

Clyde R. Olson, M.D.
President

Meredith Hart

Attest by one other Board Member

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

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

DECLARATION OF COUNSEL

I, Linda F. Close, Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 50.N206.0480.

Dated: December 23, 1992.

Linda F. Close

LINDA F. CLOSE
Assistant Attorney General

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

In the Matter of Proposed Rule Relating to the Physician Annual License Fee

STATEMENT OF NEED AND REASONABLENESS

Pursuant to Minn. Stat. 14.23 (1991), the Minnesota Board of Medical Practice (hereinafter "Board") hereby affirmatively presents the need for and facts establishing the reasonableness of a proposed rule and amendment to Minn. Rule, pt. 5600.2500, relating to fees.

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

1. STATUTORY AUTHORITY

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

Minn. Stat. 147.01, 147.02, 147.03, 147.037 (1990), 214.12 (1990), and Act of Apr. 29, 1992, Ch. 513, Art. 5, Sec. 8, Subd. 1, 1992 Minn. Laws 968, authorize the Board to promulgate licensure fees and other rules necessary to administer sections 147.01 to 147.161.

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

2. STATEMENT OF NEED

The 1992 legislature passed an appropriations bill requiring the Board of Medical Practice to increase fees to recover the cost of the appropriations for the reporting and monitoring of health care workers infected with the human immunodeficiency virus (HIV) or hepatitis B virus (HBV).

In the 1993 Fiscal Year, the Board will be contributing $138,000 to the monitoring program as well as increasing its expenditures for Attorney General services by nearly $135,000. Without an increase in the renewal fee, the Board would be out of compliance with Minn. Stat. 16A.128 and 214.06 which require the Board to adjust or set fees sufficient to collect revenues to cover anticipated expenditures. Thus it is necessary for the Board to adjust the fee as requested in this document to insure compliance with Minn. Stat. 16A.128 and 214.06.

3. STATEMENT OF REASONABLENESS

On July 11, 1992, the Board of Medical Practice authorized its Executive Director, H. Leonard Boche, to begin the rulemaking process seeking the adoption of rules and amendments relating to Board Fees. Below is the text of the proposed rule with its amendment.

RULE AS PROPOSED

5600.2500 ANNUAL FEES.

The annual fees charged by the Board are fixed at the following rates:

A. physician examination fee, full exam, $490;
B. physician examination fee, Part I only, $290;
C. physician examination fee, Part II only, $345;
D. physician application fee, $200;
E. physician annual license fee, $144 $<u>168</u>
F. physician certification to other states, $10;
G. physician verification to institutions, $5;
H. physician endorsement to other states, $40;
I. physician emeritus license, $50;
J. physician temporary license, $60;
K. physician late fee, $60;
L. physical therapist application fee, $75;
M. physical therapist examination fee, $110;
N. physical therapist annual registration, $35;
O. physical therapist late fee, $10;
P. physical therapist certification to other states $10;
Q. physical therapist verification to institutions, $5;
R. physical therapist temporary permit, $10;
S. duplicate license or registration fee, $10;
T. education or training program approval fee, $25; and
U. special purpose examination fee, $345

The seventy-seventh legislature passed a bill providing for a means of protecting the public through the reporting and monitoring of certain licensed health care workers, including physicians, who are infected with the human immunodeficiency virus or hepatitis B virus. The bill required the board to enter into a contract with the Commissioner of Health (hereinafter "Commissioner") to perform certain functions.

The first function is to evaluate the past and current practice of the health care worker. After evaluation of the health care worker's past and current professional practice, the board or the commissioner, acting on behalf of the board, shall establish a monitoring plan for the health care worker.

The second function is for the board or the commissioner acting on behalf of the board to appoint an expert review panel to provide expert assistance in the subjects of infectious diseases, epidemiology, practice techniques used by regulated persons, and other subjects determined by the board or by the commissioner acting on behalf of the board.

The board may also contract with the commissioner to conduct inspections of the clinical practice of health care workers to determine whether the regulated person is following accepted and prevailing infection control procedures. If accepted and prevailing infection control techniques are not being followed, the board may educate the regulated person or take other actions.

Finally, the board is authorized to adopt rules setting standards for infection control procedures.

The anticipated cost for implementing this legislation is as follows:

	FY93	FY94	FY95
Monitoring Costs	$61,014	$57,232	$59,885
Establishment and Enforcement of Infection Control Standards	57,962	48,016	33,914
Communication/Education	20,000	20,000	0
Inspections	0	40,200	40,200
TOTAL	$138,976	$165,448	$133,999

All costs associated with this program are to be recouped through increased fees to licensees. An estimate of the fee increase for the board during FY93 is as follows:

Number of licensees x Amount of Increase

14,000 x $12 = $168,000

Regulation of Health Care Workers

The board will forward reports of licensees who are known to be infected with HIV or HBV to the commissioner. The board is required to contract with the commissioner for monitoring, if necessary, of the infected persons. The board anticipates 27 cases will be referred to it from the commissioner. While this number is small, the cases will be difficult and time-consuming.

The expenses for regulation are based on the amount of staff time and costs necessary to forward complaints to the Commissioner of Health, provide for the costs of obtaining records, process cases referred from the commissioner, maintain statistical records, and reimburse the Department of Health for report processing and monitoring.

Establishment and Enforcement of Infection Control Standards

The board will be authorized to determine whether licensees are following infection control procedures related to the prevention of HIV and HBV transmission at clinical practice locations other than locations licensed and subject to inspection by the commissioner. The board must contract with the commissioner for the inspections or validation surveys.

Before any inspections are conducted, the board is authorized to promulgate rules which set standards for infection control procedures. The board must engage in joint rulemaking with the boards of chiropractic, dentistry, nursing, and podiatric medicine.

The expenses for inspections and the requisite rulemaking include the costs of personnel, communication, travel, printing, supplies, equipment, legal, and hearing expenses.

Communication/Education

The board is required to promulgate rules requiring continuing education in the topics of infection control, including blood borne diseases. The board also plans to inform licensees about the continuing education rules, infection control standards, reporting requirements, monitoring system and inspections through educational seminars around the state and/or publication of information.

The costs of providing the education include professional services, communication, travel, printing, and supply expenses.

Inspections

The board will be required to contract with the commissioner to conduct surveys of the practice sites of licensees other than location licensed and subject to inspections by the commissioner. It is expected that each inspection will cost $600 per day. Two sites would be inspected per day. No inspections will be conducted in FY93.

The board anticipates 1,000 physicians will be inspected per year (about 10 per cent of physicians with Minnesota addresses.) It is estimated that 7.5 physicians practice at a site (office/clinic). Therefore, 133 sites will be inspected at two per day, equalling 67 inspection days x $600 = $40,200.

Attorney General Costs

The mission of the Board to protect the public is, in part, accomplished by receiving and taking action on every complaint alleging a violation of statutes, investigating allegations, conducting hearings, taking disciplinary action as indicated, and enforcing Board orders. The limited ability of the Attorney General to investigate and provide legal services due to their budget constraints has limited the Board in carrying out its mission.

The Board requires an increase in attorney general services in order for it to reduce the inventory of unreso lved complaints and to shorten the time period between the date a physician is informed of an investigation commencing and the disposition of the complaint being investigated.

Number of:	FY 90	FY 91	FY 92	FY 93	FY 94
Complaints Received	1,089	1,061	1,217	1,512	1,708
Complaints Reviewed by Discipline Committee	1,063	943	1,156	1,375	1,637
Complaints Referred by Attorney General for Investigation	248	186	191	210	231
Discipline Committee Agenda Action Items	244	236	200	308	385
Total Board Orders	81	76	74	82	90

The Board's objectives are to reduce the inventory of unresolved complaints over the next four years from 1,844 to 1,200, and, to shorten the time period required to resolve a complaint by establishing a base line time period in 1993, reducing that time by 15% in 1994, and reducing it another 15% in 1995.

SUMMATION

The fee increase described in this document is a modest and necessary financial adjustment to allow the Board of Medical Practice to meet its responsibilities to its licensees and registrants and to meet its obligations set forth in the HIV and HBV legislation. Reflected in each fee is the underlying legislative mandate of Minn. Stat. 16A.128 which requires that service-related costs provide a primary benefit to the fee payer.

With the fee amendment, the Board can fulfill its statutorily mandated responsibilities under Minn. Stat. 16A.128 and 214.06, as well as Minn. Stat. 214.17, and still maintain its high quality service without compromising existing licensing and discipline programs.

COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

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

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

Pursuant to Minn. Stat. 14.23, the Board has prepared this Statement of Need and Reasonableness which is available to the public. The Board will publish a Notice of Intent to Adopt Rules Without a Public Hearing in the State Register and mail copies of the notice and proposed rules to persons registered with the Minnesota Board of Medical Practice pursuant to Minn. Stat. 14.14, subd. 1a. The notice will include the following information: 1) that the public has thirty days in which to submit comments on the proposed rules and give information pertaining to the manner in which persons may comment; b) that no public hearing will be held pursuant to Act of June 4, 1991, Ch. 292, Art. 1, Sec. 10, Subd. 4, 1991 Minn. Laws 1689. 3) that the rule may be modified if modifications are supported by data and the view submitted; and 4) that notice of the date of submission of the proposed rules to the Attorney General for review will be mailed to any persons requesting to receive the notice and give information on how to request the notice.

With the passage of Act of June 4, 1991, Ch. 292, Art. 1, Article 1, Section 10, Subd. 4, 1991 Minn. Laws 1689, the Board is allowed to use, for fees fixed by rule in the biennium ending June 30, 1993, the procedure for noncontroversial rules in Minn. Stat. 14.22 to 14.28, except that, notwithstanding the requirements of Minn. Stat. 14.22, paragraph 3, no public hearing is required. This procedure will be used by the Board since the total fees estimated for the biennium did not exceed the sum of the direct appropriations, indirect costs, transfers in and salary supplements as required under the statute. As directed by the law, the Board's NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING states that no public hearing will be conducted.

ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance

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

Small Business Considerations

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

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

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

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

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

c) the consolidation or simplification for compliance or reporting requirements for small businesses;

d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule;

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

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

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

Methods (a) to (c) of subdivision 2 relate to lessening compliance or reporting requirements for small businesses either by (a) establishing less stringent requirements (b) establishing less stringent schedules or deadlines for compliance with the requirements, or (c) consolidating or simplifying the requirement. Since the Board is not proposing any compliance or reporting requirements for either small or large businesses, it follows that there are no such requirements for the Board to lessen with respect to businesses. If, however, this proposed amendment is viewed as a compliance or reporting requirement for businesses, then the Board finds that it should be unworkable to lessen the requirements for those physicians who practice in the solo or clinic setting of fewer than 50 employees, since that would include the vast majority of licensees and registrants. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's rules do not propose design or operational standards for small businesses as a replacement for design or operation standards that do not exist. Finally, method (e) suggests exempting small businesses from any or all requirements of the rules. The application of this provision would exempt most licensees and registrants from the purview of the rules, a result which would be absurd.

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

Pursuant to Minn. Stat. 147.01 et seq., the Board was designated as the agency for establishing requirements for licensure and for disciplinary action to govern the practices of behaviour of all physicians. Pursuant to Minn. Stat. 147.01, subd. 3, the Board is specifically mandated to promulgate rules

as may be necessary to carry out the purposes of Minn. Stat. 147.01 to 147.33. Given the statutory mandates, it is the Board's duty to establish licensure and registration qualifications and disciplinary standards which apply to and govern all applicants, licensees and registrants regardless of their practice. As it has been stated above, it is the Board's position that the proposed rules will not affect small businesses and certainly do not have the potential for imposing a greater impact on physicians in solo or small practice than those practices large enough to remove themselves from the definition of small business. It has also been explained above that the Board considers it infeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent that the proposed rules may affect the business operation of a physician and to the extent it may be feasible to implement any of the suggested methods for lessening the impact on small businesses, the Board believes it would be unwise and contrary to the purposes to be served by these rules for the Board to exempt one group of physicians, indeed possibly the vast majority of physicians, from the requirement of these rules. Similarly, the Board believes it would be unwise and contrary to its statutory mandate for the Board to adopt one set of standards for those physicians who work in a large business setting and adopt another, less stringent, set of standards to be applied to those physicians who practice in a solo or small clinic type of setting. It is the Board's view that these rules must apply equally to all physicians or the licensing system will be chaotic.

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

(Finis)

ATTACHMENTS

A. Act of Apr. 27, 1992, Ch. 559, Art. 1, Sec. 9-17, 1992 Minn. Laws 1720-25

B. 1992 Governor's Supplemental Budget Recommendation

C. Minnesota Board of Medical Practice UPDATE Summer 1992

D. Board of Medical Practice 1994-95 Biennial Budget

E. Act of apr. 29, 1992, Ch. 513, Art. 5, Sec. 8, Subd. 1, 1992 Minn. Laws 968

F. Commissioner of Finance Approval of Fees

G. Act of June 4, 1991, Ch. 292, Art. 1, Sec. 10, Subd. 4, 1991 Minn. Laws 968

CHAPTER 559—S.F.No. 2732

An act relating to public health; providing for the reporting and monitoring of certain licensed health care workers who are infected with the human immunodeficiency virus or hepatitis B virus; authorizing rulemaking for certain health-related licensing boards; providing penalties; providing licensing requirements for chemical dependency counselors; providing for denial, suspension, or revocation of licenses under certain circumstances; requiring the commissioner of human services to adopt rules for licensure of chemical dependency counselors; appropriating money; amending Minnesota Statutes 1990, sections 144.054; 144.55, subdivision 3; 147.091, subdivision 1; 148.261, subdivision 1; 150A.08, subdivision 1; 153.19, subdivision 1; 214.12; and 595.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 150A; and 214; proposing coding for new law as Minnesota Statutes, chapter 148C.

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

ARTICLE 1

Section 1. Minnesota Statutes 1990, section 144.054, is amended to read:

144.054 **SUBPOENA POWER.**

Subdivision 1. The commissioner may, as part of an investigation to determine whether a serious health threat exists or to locate persons who may have been exposed to an agent which can seriously affect their health, issue subpoenas to require the attendance and testimony of witnesses and production of books, records, correspondence, and other information relevant to any matter involved in the investigation. The commissioner or the commissioner's designee may administer oaths to witnesses or take their affirmation. The subpoenas may be served upon any person named therein anywhere in the state by any person authorized to serve subpoenas or other processes in civil actions of the district courts. If a person to whom a subpoena is issued does not comply with the subpoena, the commissioner may apply to the district court in any district and the court shall order the person to comply with the subpoena. Failure to obey the order of the court may be punished by the court as contempt of court. Except as provided in subdivision 2, no person may be compelled to disclose privileged information as described in section 595.02, subdivision 1. All information pertaining to individual medical records obtained under this section shall be considered health data under section 13.38. The fees for the service of a subpoena must be paid in the same manner as prescribed by law for a service of process issued out of a district court. Witnesses must receive the same fees and mileage as in civil actions.

Subd. 2. The commissioner may subpoena privileged medical information of patients who may have been exposed by a licensed dental hygienist, dentist, physician, nurse, podiatrist, a registered dental assistant, or a physician's assis-

tant who is infected with the human i
B virus (HBV) when the commissione
to notify those patients that they may

Sec. 2. Minnesota Statutes 1990,
to read:

Subd. 3. **STANDARDS FOR LI**
visions of section 144.56, for the pu
sioner of health shall use as minim
regulations promulgated pursuant to
United States Code, title 42, section 1
minimum standards changes in the fe
mulgated after May 7, 1981 if the com
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also promulgate in rules additional mi

(b) Each hospital shall establish
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and within the health care setting. Th
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United States Department of Health
vice, Centers for Disease Control. The
hospital's compliance with the policies
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Sec. 3. Minnesota Statutes 19
amended to read:

Subdivision 1. **GROUNDS LIST**
license or may impose disciplinary
against any physician. The following
disciplinary action:

(a) Failure to demonstrate the qua
a license contained in this chapter or
shall be upon the applicant to demons
such requirements.

(b) Obtaining a license by fraud
licensing examination process. Conduc
the licensing examination process incl
which violates the security of the ex
examination materials from the examin
session of any portion of a future, curr
examination; (2) conduct which viola
such as communicating with another
examination, copying another examine
to copy one's answers, or possessing ur

Subdivision 1. **REQUIREMENTS.** The health-related and non-health-related licensing boards may promulgate by rule requirements for renewal of licenses designed to promote the continuing professional competence of licensees. These requirements of continuing professional education or training shall be designed solely to improve professional skills and shall not exceed an average attendance requirement of 50 clock hours per year. All requirements promulgated by the boards shall be effective commencing January 1, 1977, or at a later date as the board may determine. The 50 clock hour limitation shall not apply to the board of teaching.

Subd. 2. **INFECTION CONTROL.** The boards listed in section 214.18, subdivision 1, shall require by rule that licensees obtain instruction or continuing education in the subject of infection control including blood-borne diseases.

Sec. 9. **[214.17] HIV AND HBV PREVENTION PROGRAM; PURPOSE AND SCOPE.**

Sections 214.17 to 214.25 are intended to promote the health and safety of patients and regulated persons by reducing the risk of infection in the provision of health care.

Sec. 10. **[214.18] DEFINITIONS.**

Subdivision 1. **BOARD.** "Board" means the boards of dentistry, medical practice, nursing, and podiatric medicine. For purposes of sections 214.19, subdivisions 4 and 5; 214.20, paragraph (a); and 214.24, board also includes the board of chiropractic examiners.

Subd. 2. **COMMISSIONER.** "Commissioner" means the commissioner of health.

Subd. 3. **HBV.** "HBV" means the hepatitis B virus with the e antigen present in the most recent blood test.

Subd. 4. **HIV.** "HIV" means the human immunodeficiency virus.

Subd. 5. **REGULATED PERSON.** "Regulated person" means a licensed dental hygienist, dentist, physician, nurse, podiatrist, a registered dental assistant, a physician's assistant, and for purposes of sections 214.19, subdivisions 4 and 5; 214.20, paragraph (a); and 214.24, a chiropractor.

Sec. 11. **[214.19] REPORTING OBLIGATIONS.**

Subdivision 1. **PERMISSION TO REPORT.** A person with actual knowledge that a regulated person has been diagnosed as infected with HIV or HBV may file a report with the commissioner.

Subd. 2. **SELF-REPORTING.** A regulated person who is diagnosed as infected with HIV or HBV shall report that information to the commissioner promptly, and as soon as medically necessary for disease control purposes but

no more than 30 days after learning of t
licensed or registered by the state.

Subd. 3. **MANDATORY REPORTI**
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4605.7030, subparts 1 to 4 and 6, and 46
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Subd. 4. **INFECTION CONTROL F**
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clinic, or other institution or agency wh
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shall report to the appropriate board wit
this subdivision. The report shall inc
response by the institution or agency to
be discharged or discriminated against fo
this subdivision.

Subd. 5. **IMMUNITY.** A person is
prosecution for submitting a report in g
board under this section.

Sec. 12. **[214.20] GROUNDS FOR**
ACTION.

A board may refuse to grant a licen
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Sec. 13. **[214.21] TEMPORARY S**

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no more than 30 days after learning of the diagnosis or 30 days after becoming licensed or registered by the state.

Subd. 3. **MANDATORY REPORTING.** A person or institution required to report HIV or HBV status to the commissioner under Minnesota Rules, parts 4605.7030, subparts 1 to 4 and 6, and 4605.7040, shall, at the same time, notify the commissioner if the person or institution knows that the reported person is a regulated person.

Subd. 4. **INFECTION CONTROL REPORTING.** A regulated person shall, within ten days, report to the appropriate board personal knowledge of a serious failure or a pattern of failure by another regulated person to comply with accepted and prevailing infection control procedures related to the prevention of HIV and HBV transmission. In lieu of reporting to the board, the regulated person may make the report to a designated official of the hospital, nursing home, clinic, or other institution or agency where the failure to comply with accepted and prevailing infection control procedures occurred. The designated official shall report to the appropriate board within 30 days of receiving a report under this subdivision. The report shall include specific information about the response by the institution or agency to the report. A regulated person shall not be discharged or discriminated against for filing a complaint in good faith under this subdivision.

Subd. 5. **IMMUNITY.** A person is immune from civil liability or criminal prosecution for submitting a report in good faith to the commissioner or to a board under this section.

Sec. 12. **[214.20] GROUNDS FOR DISCIPLINARY OR RESTRICTIVE ACTION.**

A board may refuse to grant a license or registration or may impose disciplinary or restrictive action against a regulated person who:

(1) fails to follow accepted and prevailing infection control procedures, including a failure to conform to current recommendations of the Centers for Disease Control for preventing the transmission of HIV and HBV, or fails to comply with infection control rules promulgated by the board. Injury to a patient need not be established;

(2) fails to comply with any requirement of sections 214.17 to 214.24; or

(3) fails to comply with any monitoring or reporting requirement.

Sec. 13. **[214.21] TEMPORARY SUSPENSION.**

The board may, without hearing, temporarily suspend the right to practice of a regulated person if the board finds that the regulated person has refused to submit to or comply with monitoring under section 214.23. The suspension shall take effect upon written notice to the regulated person specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final

order based on a stipulation or after a hearing. At the time the board issues the suspension notice, the board shall schedule a disciplinary hearing to be held under chapter 14. The regulated person shall be provided with at least 20 days' notice of a hearing held under this section. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Sec. 14. **[214.22] NOTICE; ACTION.**

If the board has reasonable grounds to believe a regulated person infected with HIV or HBV has done or omitted doing any act that would be grounds for disciplinary action under section 214.20, the board may take action after giving notice three business days before the action, or a lesser time if deemed necessary by the board. The board may:

(1) temporarily suspend the regulated person's right to practice under section 214.21;

(2) require the regulated person to appear personally at a conference with representatives of the board and to provide information relating to the regulated person's health or professional practice; and

(3) take any other lesser action deemed necessary by the board for the protection of the public.

Sec. 15. **[214.23] MONITORING.**

Subdivision 1. **COMMISSIONER OF HEALTH.** The board shall enter into a contract with the commissioner to perform the functions in subdivisions 2 and 3. The contract shall provide that:

(1) unless requested to do otherwise by a regulated person, a board shall refer all regulated persons infected with HIV or HBV to the commissioner;

(2) the commissioner may choose to refer any regulated person who is infected with HIV or HBV as well as all information related thereto to the person's board at any time for any reason, including but not limited to: the degree of cooperation and compliance by the regulated person; the inability to secure information or the medical records of the regulated person; or when the facts may present other possible violations of the regulated persons practices act. Upon request of the regulated person who is infected with HIV or HBV the commissioner shall refer the regulated person and all information related thereto to the person's board. Once the commissioner has referred a regulated person to a board, the board may not thereafter submit it to the commissioner to establish a monitoring plan unless the commissioner of health consents in writing;

(3) a board shall not take action on grounds relating solely to the HIV or HBV status of a regulated person until after referral by the commissioner; and

(4) notwithstanding sections 13.39 and 13.41 and chapters 147, 148, 150A, 153, and 214, a board shall forward to the commissioner any information on a regulated person who is infected with HIV or HBV that the department of health requests.

Subd. 2. **MONITORING PL**
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Subd. 3. **EXPERT REVIEW**
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Subd. 2. **MONITORING PLAN.** After receiving a report that a regulated person is infected with HIV or HBV, the board or the commissioner acting on behalf of the board shall evaluate the past and current professional practice of the regulated person to determine whether there has been a violation under section 214.20. After evaluation of the regulated person's past and current professional practice, the board or the commissioner, acting on behalf of the board, shall establish a monitoring plan for the regulated person. The monitoring plan may:

(1) address the scope of a regulated person's professional practice when the board or the commissioner, acting on behalf of the board, determines that the practice constitutes an identifiable risk of transmission of HIV or HBV from the regulated person to the patient;

(2) include the submission of regular reports at a frequency determined by the board or the commissioner, acting on behalf of the board, regarding the regulated person's health status; and

(3) include any other provisions deemed reasonable by the board or the commissioner of health, acting on behalf of the board.

The board or commissioner, acting on behalf of the board, may enter into agreements with qualified persons to perform monitoring on its behalf. The regulated person shall comply with any monitoring plan established under this subdivision.

Subd. 3. **EXPERT REVIEW PANEL.** The board or the commissioner acting on behalf of the board may appoint an expert review panel to assist in the performance of the responsibilities under this section. In consultations with the expert review panel, the commissioner or board shall, to the extent possible, protect the identity of the regulated person. When an expert review panel is appointed, it must contain at least one member appointed by the commissioner and one professional member appointed by the board. The panel shall provide expert assistance to the board, or to the commissioner acting on behalf of the board, in the subjects of infectious diseases, epidemiology, practice techniques used by regulated persons, and other subjects determined by the board or by the commissioner acting on behalf of the board. Members of the expert review panel are subject to those provisions of chapter 13 that restrict the commissioner or the board under this act.

Subd. 4. **IMMUNITY.** Members of the board or the commissioner acting on behalf of the board, and persons who participate on an expert review panel or who assist the board or the commissioner in monitoring the practice of a regulated person, are immune from civil liability or criminal prosecution for any actions, transactions, or publications made in good faith and in execution of, or relating to, their duties under sections 9 to 16 of this act, except that no immunity shall be available for persons who have knowingly violated any provision of chapter 13.

Sec. 16. **[214.24] INSPECTION OF PRACTICE.**

Subdivision 1. **AUTHORITY.** The board is authorized to conduct inspections of the clinical practice of a regulated person to determine whether the regulated person is following accepted and prevailing infection control procedures. The board shall provide at least three business days' notice to the clinical practice prior to the inspection. The clinical practice of a regulated person includes any location where the regulated person practices that is not an institution licensed and subject to inspection by the commissioner of health. During the course of inspections the privacy and confidentiality of patients and regulated persons shall be maintained. The board may require on license renewal forms that regulated persons inform the board of all locations where they practice.

Subd. 2. **ACCESS; RECORDS.** An inspector from the board shall have access, during reasonable business hours for purposes of inspection, to all areas of the practice setting where patient care is rendered or drugs or instruments are held that come into contact with a patient. An inspector is authorized to interview employees and regulated persons in the performance of an inspection, to observe infection control procedures, test equipment used to sterilize instruments, and to review and copy all relevant records, excluding patient health records. In performing these responsibilities, inspectors shall make reasonable efforts to respect and preserve patient privacy and the privacy of the regulated person. Boards are authorized to conduct joint inspections and to share information obtained under this section. The boards shall contract with the commissioner to perform the duties under this subdivision.

Subd. 3. **BOARD ACTION.** If accepted and prevailing infection control techniques are not being followed, the board may educate the regulated person or take other actions. The board and the inspector shall maintain patient confidentiality in any action resulting from the inspection.

Subd. 4. **RULEMAKING.** A board is authorized to adopt rules setting standards for infection control procedures. Boards shall engage in joint rulemaking. Boards must seek and consider the advice of the commissioner of health before adopting rules. No inspections shall be conducted under this section until after infection control rules have been adopted. Each board is authorized to provide educational information and training to regulated persons regarding infection control. All regulated persons who are employers shall make infection control rules available to employees who engage in functions related to infection control.

Sec. 17. **[214.25] DATA PRIVACY.**

Subdivision 1. **BOARD DATA.** (a) All data collected or maintained as part of the board's duties under sections 214.19, 214.23, and 214.24 shall be classified as investigative data under section 13.39 except that inactive investigative data shall be classified as private data under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9, in the case of data not on individuals.

(b) Notwithstanding section 13.
subdivision shall not be disclosed exc
tion 13.04; except that the board ma
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Subd. 2. **COMMISSIONER OF**
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214.23, and 214.24 shall be classifiec
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(b) Notwithstanding section 13
subdivision shall not be disclosed ex
tion 13.04; except that the commissi
tion 214.23.

(c) The commissioner may disclo
necessary: to identify, establish, imp
investigate a regulated person; to ale
as evidenced by epidemiologic data;
HBV disease; or to diminish an imr

Sec. 18. **EFFECTIVE DATE.**

Subdivision 1. Section 11 is eff

Subd. 2. All other provisions
final enactment.

A

Section 1. **[148C.01] DEFINIT**

Subdivision 1. **APPLICABILI**
following terms have the meanings

Subd. 2. **LICENSED CHEM**
censed chemical dependency couns

(1) represents herself or himse
services incorporating the words "l

(2) offers to render professiona
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F PRACTICE.

board is authorized to conduct inspec-
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prevailing infection control procedures.
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inspector from the board shall have
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ards shall engage in joint rulemaking.
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Each board is authorized to provide
egulated persons regarding infection
ployers shall make infection control
functions related to infection control.

data collected or maintained as part
214.23, and 214.24 shall be classi-
39 except that inactive investigative
er section 13.02, subdivision 12, or
ision 9, in the case of data not on

ing, deletions by ~~strikeout~~.

(b) Notwithstanding section 13.05, subdivision 9, data addressed in this subdivision shall not be disclosed except as provided in this subdivision or section 13.04; except that the board may disclose to the commissioner under section 214.23.

Subd. 2. **COMMISSIONER OF HEALTH DATA.** (a) All data collected or maintained as part of the commissioner of health's duties under sections 214.19, 214.23, and 214.24 shall be classified as investigative data under section 13.39, except that inactive investigative data shall be classified as private data under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9, in the case of data not on individuals.

(b) Notwithstanding section 13.05, subdivision 9, data addressed in this subdivision shall not be disclosed except as provided in this subdivision or section 13.04; except that the commissioner may disclose to the boards under section 214.23.

(c) The commissioner may disclose data addressed under this subdivision as necessary: to identify, establish, implement, and enforce a monitoring plan; to investigate a regulated person; to alert persons who may be threatened by illness as evidenced by epidemiologic data; to control or prevent the spread of HIV or HBV disease; or to diminish an imminent threat to the public health.

Sec. 18. **EFFECTIVE DATE.**

Subdivision 1. Section 11 is effective July 1, 1992.

Subd. 2. All other provisions of this article are effective the day following final enactment.

ARTICLE 2

Section 1. **[148C.01] DEFINITIONS.**

Subdivision 1. **APPLICABILITY.** For the purposes of sections 1 to 13, the following terms have the meanings given them.

Subd. 2. **LICENSED CHEMICAL DEPENDENCY COUNSELOR.** "Licensed chemical dependency counselor" means a person who:

(1) represents herself or himself to the public by any title or description of services incorporating the words "licensed chemical dependency counselor";

(2) offers to render professional chemical dependency counseling services to the general public or groups, organizations, corporations, institutions, or government agencies for compensation, implying that she or he is licensed and trained, experienced or expert in chemical dependency counseling; and

1992 GOVERNOR'S SUPPLEMENTAL BUDGET RECOMMENDATION

AGENCY: Board of Medical Practice **PROGRAM(S):**

ITEM TITLE: Infection Control and Regulation of Physicians and Physician's Assistants infected with the Human Immunodeficiency Virus HIV) and Hepatitis B Virus (HBV)

	Current Biennium		Next Biennium	
	FY 1992	FY 1993	FY 1994	FY 1995
Expenditures ($000s)				
General Fund				
- State Operations				
- Grants				
- Special Revenue Fund	-----	94	124	91
- " " " *	-----	45	41	43
Revenues: ($000s)				
Special Revenue Fund	-----	139	165	134

Statutory Change? Yes X No___
If Yes, statute affected: Chapter 214, Chapter 144

*Included in Department of Health Supplemental Budget Recommendation

RECOMMENDATIONS:

RATIONALE:

The Governor's legislation provides a means of protecting the public in two ways: 1) regulation of health care workers licensed and/or registered through the boards of medical practice, nursing, dentistry, podiatric medicine and chiropractic (These persons have increased exposure to the blood and mucous membranes of patients.) and 2) establishment and enforcement of standards to improve infection control procedures and practices.

PROGRAM IMPACT:

Regulation of Health Care Workers

The boards of dentistry, medical practice, nursing, and podiatric medicine will forward reports of licensees/registrants who they know are infected with the human immunodeficiency virus (HIV) or hepatitis B virus (HBV) to the Commissioner of Health. The boards would be required to contract with the Commissioner of Health for monitoring, if necessary, of the infected persons. The Commissioner may refer licensees/registrants back to the appropriate boards for disciplinary action. Based on the Department of Health's estimates, the Commissioner anticipates processing no less than the number of HIV and HBV cases shown below. The number of cases referred back to the boards by the Commissioner is expected to be small; however, the referred cases will be the difficult, time-consuming cases.

	Number of Cases		
Board	FY93	FY94	FY95
Medical Practice	27	5	5
Nursing	40	8	8
Dentistry	18	2	2
Podiatric Medicine	2	0	1
	87	15	16

The attached budget detail I. is based on the amount of staff time and costs necessary to forward complaints to the Commissioner of Health, provide the means of obtaining records when requested, process cases referred back to the boards, provide the interface between the boards and the Commissioner, maintain statistical records and reimburse the Department of Health for report processing and the monitoring conducted. The cost of this activity will be shared by the boards as follows:

		Monitoring Costs		
Board	Percent	FY93	FY94	FY95
Dentistry	21	$11,040	$10,559	$11,299
MDH		29,000	27,000	28,000
Subtotal		40,040	37,559	39,299
Medical Practice	32	16,014	16,232	16,885
MDH		45,000	41,000	43,000
Subtotal		61,014	57,232	59,885
Nursing	46	23,707	23,271	25,084
MDH		64,000	59,000	61,000
Subtotal		87,707	82,271	86,084
Podiatric Medicine	1	907	789	871
MDH		1,000	1,000	1,000
Subtotal		1,907	1,789	1,871
		$190,668	$178,851	$187,139

Establishment and Enforcement of Infection Control Standards

The boards of chiropractic, dentistry, medical practice, nursing, and podiatric medicine would be authorized to determine whether licensees/ registrants are following infection control procedures related to the prevention of HIV and HBV transmission at clinical practice locations other than locations licensed and subject to inspection by the Commissioner of Health. The boards must contract with the Commissioner of Health for the inspections or validation surveys.

Prior to any inspections the boards are authorized to promulgate rules which set standards for infection control procedures. The boards may engage in joint rulemaking.

The attached budget detail II. is based on the amount of staff time and costs necessary to promulgate rules, process complaints received by the boards about licensees/
registrants who fail to comply with infection control standards, provide the interface between the boards and the Commissioner and maintain appropriate files and records. The Board of Dentistry is in the final stages of promulgating rules, therefore no additional rulemaking is necessary. The costs of this activity will be shared by the remaining boards as follows:

		Rulemaking Costs		
Board	Percent	FY93	FY94	FY95
Chiropractic	9	$ 10,433	$ 8,643	$ 6,105
Medical Practice	50	57,962	48,016	33,914
Nursing	40	46,370	38,413	27,132
Podiatric Medicine	1	1,159	960	678
		$115,924	$96,032	$67,829

Communication/Education

The boards of chiropractic, medical practice, nursing, and podiatric medicine are required to promulgate rules requiring continuing education in the topics of infection control, including blood borne diseases. The boards also plan to inform licensees/registrants about the continuing education rules, infection control standards, reporting requirements, monitoring system and inspections through educational seminars around the state and/or publication of information. The Board of Dentistry anticipates carrying out communication/education as a part of its on-going activities.

The attached budget detail III. is based on the costs of faculty, staff, travel, printing and postage to provide seminars at three locations throughout Minnesota in both FY93 and FY94 and to publish a special board newsletter in FY94. The rulemaking will be incorporated into the rulemaking to establish infection control standards. No separate costs are anticipated. The costs of the communication/education activity will be shared by the boards as follows:

		Communication/Education Costs		
Board	Percent	FY93	FY94	FY95
Chiropractic	9	$ 3,600	$ 3,600	$ 0
Medical Practice	50	20,000	20,000	0
Nursing	40	16,000	16,000	0
Podiatric Medicine	1	400	400	0
		$40,000	$40,000	$ 0

Inspections

The boards of chiropractic, dentistry, medical practice, nursing, and podiatric medicine would be required to contract with the Commissioner of Health to conduct surveys of the practice sites of licensees/registrants other than locations licensed and subject to inspection by the Commissioner. The Department of Health anticipates a cost of $600 per inspection day. Two sites would be inspected per day. No inspections would be conducted in FY93.

The Board of Medical Practice anticipates 1,000 physicians will be inspected per year (about 10 percent of physicians with Minnesota addresses.) It is estimated that 7.5 physicians practice at a site (office/clinic). Therefore 133 sites will be inspected at two per day, equalling about 67 inspection days x $600 equals $40,200.

The Board of Dentistry expects to contract for the inspection of 201 dentists per year (about 7 percent). It is estimated that three dentists practice at a site. Therefore, 67 sites will be inspected, two per day, equalling 34 inspection days x $600 equals $20,400. The budget of $22,000 includes $1,600 per year to supplement the cost of inspections done for the Board of Medical Practice, since dentists may practice at a medical clinic.

The Board of Nursing expects to contract for about 10 sites per year at two per day, equalling five inspection days x $600 equals $3,000. Most nurses are employed by institutions inspected by the Minnesota Department of Health or within medical clinics. The budget of $8,000 includes $5,000 per year to supplement the costs of inspections done for the Board of Medical Practice at clinics which employ nurses.

The Board of Chiropractic Examiners plans to contract for the inspection of 91 chiropractors per year (about 7 percent). It is estimates that two chiropractors practice at each site. Therefore 45 sites will be inspected, two per day, equalling about 23 inspection days x $600 equals $13,800.

The Board of Podiatric Medicine expects to contract for the inspection of about 2 podiatrists per year (about 2 percent). The majority of podiatrists practice singly. Two inspections per day equals about one inspection day x $600 equals $600. The budget includes $400 per year to supplement the inspections conducted at clinics where physicians, nurses, dentists and/or chiropractors practice.

The costs of inspections will be covered by each board as follows:

	Inspection Costs		
Board	FY93	FY94	FY95
Chiropractic	$ 0	$13,800	$ 13,800
Dentistry	0	22,000	22,000
Medical Practice	0	40,200	40,200
Nursing	0	8,000	8,000
Podiatric Medicine	0	1,000	1,000
	0	$85,000	$85,000

SUMMARY OF COSTS

The total cost per board is estimated to be as follows:

	Total Cost		
Board	FY93	FY94	FY95
Chiropractic	$ 14,033	$ 26,043	$ 19,905
Dentistry	40,040	59,559	61,299
Medical Practice	138,976	165,448	133,999
Nursing	150,077	144,684	121,216
Podiatric Medicine	3,466	4,149	3,549
	$346,592	$399,883	$339,968

All costs associated with this program would be recouped through increased fees to licensees/registrants of the involved boards. Based on the anticipated costs, it is estimated that the fees would need to increase each of the fiscal years. An estimate of the fee increase for each board during FY93 is below.

Board	Number of Licensees	Amount of Increase
Chiropractic	1,300	$11.00
Dentistry	11,000	4.00
Medical Practice	14,000	10.00
Nursing	70,000	2.00
Podiatric Medicine	125	28.00

LONG-TERM IMPACT:

The standards and criteria are still being developed at the federal level to determine the level and nature of review of health care workers infected with HIV and HBV. Studies of currently infected health care workers as well as experience gained from reviewing actual cases may substantially alter the proposed program. It will be important to evaluate the boards' and the Commissioner's experience with this program during each fiscal year for determination of the appropriate level of resources required for future biennia.

BUDGET DETAIL

I. Regulation of Health Care Workers (Monitoring)

	FY93	FY94	FY95
A. Personnel			
Health Program Rep. Sr.	$34,723	$36,459	$28,282
Fringe - 20%	6,945	7,292	7,657
Subtotal	41,668	43,751	45,939
B. Supplies and Expense			
Communications	500	500	500
Rent	1,500	1,600	1,700
Travel	500	500	500
Supplies/Material	500	500	500
Equipment	5,000	0	0
Subtotal	8,000	3,100	3,200
C. Legal	1,000	5,000	5,000
D. Department of Health Monitoring	140,000	127,000	133,000
TOTAL	$190,668	$178,851	$187,139

II. Establishment and Enforcement of Infection Control Standards (Rulemaking)

	FY93	FY94	FY95
A. Personnel			
Health Program Rep. Sr.	$34,723	$36,459	$38,282
Clerk Typist II - 0.5	11,255	11,818	12,409
Fringe - 20%	9,196	9,655	10,138
Subtotal	55,174	57,932	60,829
B. Supplies and Expense			
Communication	15,250	15,100	2,000
Printing	8,000	5,000	3,000
Travel - in state	10,000	2,000	
Supplies/Material	5,000	1,000	1,000
Equipment	7,500	0	
Subtotal	45,750	23,100	6,000
C. Legal - AG	10,000	10,000	1,000
Hearing Costs	5,000	5,000	
Subtotal	15,000	15,000	1,000
TOTAL	$115,924	$96,032	$67,829

III. Communications/Education

	FY93	FY94	FY95
A. Supplies and Expenses			
Professional Services	$ 5,000	$ 5,000	$ 0
Communication	15,000	15,000	0
Travel - in state	5,000	5,000	0
Printing	5,000	5,000	0
Supplies	10,000	10,000	0
TOTAL	$40,000	$40,000	$ 0

IV. Inspections

	FY93	FY94	FY95
Contract with Commissioner of Health	$ 0	$85,000	$85,000
GRAND TOTAL	$346,592	$399,883	$339,968

COSTS BY ACTIVITY

Activity	Board	FY93	FY94	FY95
Report Processing/Monitoring	Chiropractic	N/A	N/A	N/A
	Dentistry	$11,040	$10,559	$11,299
	MDH	29,000	27,000	28,000
	Subtotal	40,040	37,559	39;299
	Medical	16,014	16,232	16,885
	MDH	45,000	41,000	43,000
	Subtotal	61,014	57,232	59,885
	Nursing	23,707	23,271	25,084
	MDH	64,000	59,000	61,000
	Subtotal	87,707	82,271	86,084
	Podiatry	907	789	871
	MDH	1,000	1,000	1,000
	Subtotal	1,907	1,789	1,871
		$190,668	$178,851	$187,139
Rule-making	Chiropractic	$10,433	$ 8,643	$ 6,105
	Dentistry	------	------	------
	Medical	57,962	48,016	33,914
	Nursing	46,370	38,413	27,132
	Podiatry	1,159	960	678
		$115,924	$96,032	$67,829
Communication/Education	Chiropractic	$ 3,600	$ 3,600	$ 0
	Dentistry	------	------	------
	Medical	20,000	20,000	0
	Nursing	16,000	16,000	0
	Podiatry	400	400	0
		$40,000	$40,000	$ 0
Inspection	Chiropractic	$ 0	$13,800	$13,800
	Dentistry	0	22,000	22,000
	Medical	0	40,200	40,200
	Nursing	0	8,000	8,000
	Podiatry	0	1,000	1,000
		$ 0	$85,000	$85,000
	TOTAL	$346,592	$399,883	$339,968

COSTS BY BOARD

Board	Activity	FY93	FY94	FY95
Chiropractic	Regulation	N/A	N/A	N/A
	Rules	$10,433	$ 8,643	$ 6,105
	Communication/Education	3,600	3,600	0
	Inspection	0	13,800	13,800
	TOTAL	$14,033	$26,043	$19,905
Dentistry	Regulation	$40,040	$37,559	$39,299
	Rules	0	0	0
	Communication/Education	0	0	0
	Inspection	0	22,000	22,000
	TOTAL	$40,040	$59,559	$61,299
Medical	Regulation	$61,014	$57,232	$59,885
	Rules	57,962	48,016	33,914
	Communication/Education	20,000	20,000	0
	Inspection	0	40,200	40,200
	TOTAL	$138,976	$165,448	$133,999
Nursing	Regulation	$87,707	$82,271	$86,084
	Rules	46,370	38,413	27,132
	Communication/Education	16,000	16,000	0
	Inspection	0	8,000	8,000
	TOTAL	$150,077	$144,684	$121,216
Podiatric Medicine	Regulation	$ 1,907	$ 1,789	$ 1,871
	Rules	1,159	960	678
	Communication/Education	400	400	0
	Inspection	0	1,000	1,000
	TOTAL	$ 3,466	$ 4,149	$ 3,549

Board	FY93	FY94	FY95
Chiropractic	$ 14,033	$ 26,043	$ 19,905
Dentistry	40,040	59,559	61,299
Medical	138,976	165,448	133,999
Nursing	150,077	144,684	121,216
Podiatric Medicine	3,466	4,149	3,549
GRAND TOTAL	$346,592	$399,883	$339,968

MINNESOTA BOARD OF MEDICAL PRACTICE UPDATE

Summer, 1992

IMMUNITY PROVISION COVERING MANDATORY REPORTS UPHELD IN DISTRICT COURT

In a ruling by the Honorable H. Richard Hopper, Judge of District Court in the First Judicial District, the immunity provision of the Medical Practice Act was upheld. A licensed physician fulfilling his/her reporting requirement by reporting to the Board of Medical Practice the action of a physician which was believed to be in violation of the Medical Practice Act, is protected by Minnesota Statutes 147.121.

The defendant physician sued the reporting physician for defamation of character and sought to secure through discovery, the contents of the complaint filed with the Board of Medical Practice. The Court held that reports filed with the Board are not discoverable. The Court appears to extend the privilege to meetings held in preparation for the filing of a report with the Board, discussions regarding the filing of a report with the Board, discussions in preparation for meeting with an investigator about the report, and discussions with investigators about the subject of the report.

HIV/HBV BILL PASSED

In the final days of the 1992 Legislative Session, Senate File 2732 was passed and signed by the Governor. The HIV/HBV legislation was the product of extensive negotiations with a resulting consensus, making it possible to be passed without any organized opposition.

The affected boards and the Health Department are taking the necessary steps to implement the statute by July 1, 1992. The relevant portion of S.F. 2732 is reprinted for your information.

Subd. 2. [INFECTION CONTROL.] The boards listed in section 14.17, subdivision 1, shall require by rule that licensees obtain instruction or continuing education in the subject of infection control including blood-borne diseases.

Sec. 9. [214.16] [HIV and HBV PREVENTION PROGRAM; PURPOSE AND SCOPE.]

Sections 214.16 to 214.24 are intended to promote the health and safety of patients and regulated persons by reducing the risk of infection in the provision of health care.

Sec. 10. [214.17] [DEFINITIONS.]

Subdivision 1. [BOARD.] "Board" means the boards of dentistry, medical practice, nursing, and podiatric medicine. For purposes of sections 214.18, subdivisions 4 and 5; 214.19, paragraph (a); and 214.23, board also includes the board of chiropractic examiners.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of health.

Continued on Page 3

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2700 University Avenue West, #106
St. Paul, MN 55114-1080

THE $400 SURCHARGE

The 1992 Legislative Session, with the consent of the Governor, gave a 25% increase in fees paid to physicians by Medical Assistance. To pay for the increase in fees, each licensed physician will be annually assessed a $400 surcharge.

Those physicians licensed or renewed between April 1 and September 30 shall be billed on or before November 15 with payment due by December 15. Physicians licensed or renewed between October 1 and March 31 shall be billed on or before May 15 and payment is due June 15. Payment will be made to Commissioner of Human Services.

If payment is not made, the Board of Medical Practice is prohibited from renewing the physician's license.

The surcharge is deposited in the general fund to offset the increase in physician fees paid to physicians who treat people covered by medical assistance.

EMERITUS REGISTRATION

Physicians who are completely retired from active medical practice may apply to the board for emeritus registration providing s/he has not been disciplined. Emeritus registration is not a license to practice, but rather a formal recognition of completion of his/her medical career in good standing.

Emeritus registered physicians are not subject to renewal fees or continuing education requirements. There is a one time fee of $50.

Physicians interested in emeritus registration may obtain an application form by requesting it on the annual renewal form or by writing/calling the board offices.

FUTURE BOARD MEETINGS

(Public Portion)

9:00 A.M., July 11, Gainey Conference Center, Owatonna
9:00 A.M., September 12, St. Paul
9:00 A.M., November 14, St. Paul

Continued from Page 1
HIV/HBV Bill Passed

Subd. 3. [HBV.] "HBV" means the hepatitis B virus with the e antigen present in the most recent blood test.

Subd. 4. [HIV.] "HIV" means the human immunodeficiency virus.

Subd. 5. [REGULATED PERSON.] "Regulated person" means a licensed dental hygienist, dentist, physician, nurse, podiatrist, a registered dental assistant, a physician's assistant, and for purposes of sections 214.18, subdivisions 4 and 5; 214.19 paragraph (a); and 214.23, a chiropractor.

Sec. 11. [214.18] [REPORTING OBLIGATIONS.]

Subdivision 1. [PERMISSION TO REPORT.] A person with actual knowledge that a regulated person has been diagnosed as infected with HIV or HBV may file a report with the commissioner.

Subd. 2. [SELF-REPORTING.] A regulated person who is diagnosed as infected with HIV or HBV shall report that information to the commissioner promptly, and as soon as medically necessary for disease control purposes but no more than 30 days after learning of the diagnosis or 30 days after becoming licensed or registered by the state.

Subd. 3. [MANDATORY REPORTING.] A person or institution required to report HIV or HBV status to the commissioner under Minnesota rules, parts 4605.7030, subparts 1 to 4 and 6, and 4605.7040, shall, at the same time, notify the commissioner if the person or institution knows that the reported person is a regulated person.

Subd. 4. [INFECTION CONTROL REPORTING.] A regulated person shall, within ten days, report to the appropriate board personal knowledge of a serious failure or a pattern of failure by another regulated person to comply with accepted and prevailing infection control procedures related to the prevention of HIV and HBV transmission. In lieu of reporting to the board, the regulated person may make the report to a designated official of the hospital, nursing home, clinic, or other institution or agency where the failure to comply with accepted and prevailing infection control procedures occurred. The designated official shall report to the appropriate board within 30 days of receiving a report under this subdivision. The report shall include specific information about the response by the institution or agency to the report. A regulated person shall not be discharged or discriminated against for filing a complaint in good faith under this subdivision.

Subd. 5. [IMMUNITY.] A person is immune from civil liability or criminal prosecution for submitting a report in good faith to the commissioner or to a board under this section.

Sec. 12. [214.19] [GROUNDS FOR DISCIPLINARY OR RESTRICTIVE ACTION.]

A board may refuse to grant a license or registration or may impose disciplinary or restrictive action against a regulated person who:

(1) fails to follow accepted and prevailing infection control procedures, including a failure to conform to current recommendations of the Centers for Disease Control for preventing the transmission of HIV and HBV, or fails to comply with infection control rules promulgated by the board. Injury to a patient need not be established;

(2) fails to comply with any requirement of sections 214.16 to 214.23; or

(3) fails to comply with any monitoring or reporting requirements.

Sec. 13. [214.20] [TEMPORARY SUSPENSION.]

The board may, without hearing, temporarily suspend the right to practice of a regulated person if the board finds that the regulated person has refused to submit to or comply with monitoring under section 214.22. The suspension shall take effect upon written notice to the regulated person specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order based on a stipulation or after a hearing. At the time the board issues the suspension notice, the board shall schedule a disciplinary hearing to be held under chapter 14. The regulated person shall be provided with at least 20 days' notice of a hearing held under this section. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Sec. 14. [214.21] [NOTICE; ACTION.]

If the board has reasonable grounds to believe a regulated person infected with HIV or HBV has done or omitted doing any act that would be grounds for disciplinary action under section 214.19, the board may take action after giving notice three business days before the action, or a lesser time if deemed necessary by the board. The board may:

(1) temporarily suspend the regulated person's right to practice under section 214.20;

(2) require the regulated person to appear personally at a conference with representatives of the board and to provide information relating to the regulated person's health or professional practice; and

(3) take any other lesser action deemed necessary by the board for the protection of the public.

Sec. 15. [214.22] [MONITORING.]

Subdivision 1. [COMMISSIONER OF HEALTH.] The board shall enter into a contract with the commissioner to perform the functions in subdivisions 2 and 3. The contract shall provide that:

(1) unless requested to do otherwise by a regulated person, a board shall refer all regulated persons infected with HIV or HBV to the commissioner;

(2) the commissioner may choose to refer any regulated person who is infected with HIV or HBV, as well as all information related thereto, to the person's board at any time for any reason, including but not limited to: the degree of cooperation and compliance by the regulated person; the inability to secure information or the medical records of the regulated person; or when the facts may present other possible violations of the regulated persons practices act. Upon request of the regulated person who is infected with HIV or HBV the commissioner shall refer the regulated person and all information related there to the person's board. Once the commissioner has referred a regulated

person to a board, the board may not thereafter submit it to the commissioner to establish a monitoring plan unless the commissioner of health consents in writing.

(3) a board shall not take action on grounds relating solely to the HIV or HBV status of a regulated person until after referral by the commissioner; and

(4) notwithstanding sections 13.39 and 13.41 and chapters 147, 148, 150A, 153, and 214, a board shall forward to the commissioner any information on a regulated person who is infected with HIV or HBV that the department of health requests.

Subd. 2. [MONITORING PLAN.] After receiving a report that a regulated person is infected with HIV or HBV, the board or the commissioner acting on behalf of the board shall evaluate the past and current professional practice of the regulated person to determine whether there has been a violation under section 214.19. After evaluation of the regulated person's past and current professional practice, the board or the commissioner, acting on behalf of the board, shall establish a monitoring plan for the regulated person. The monitoring plan may:

(1) address the scope of a regulated person's professional practice when the board or the commissioner, acting on behalf of the board, determines that the practice constitutes an identifiable risk of transmission of HIV or HBV from the regulated person to the patient;

(2) include the submission of regular reports at a frequency determined by the board or the commissioner, acting on behalf of the board, regarding the regulated person's health status; and

(3) include any other provisions deemed reasonable by the board or the commissioner of health, acting on behalf of the board.

The board or commissioner, acting on behalf of the board, may enter into agreements with qualified persons to perform monitoring on its behalf. The regulated person shall comply with any monitoring plan established under this subdivision.

Subd. 3. [EXPERT REVIEW PANEL.] The board or the commissioner acting on behalf of the board may appoint an expert review panel to assist in the performance of the responsibilities under this section. In consultations with the expert review panel, the commissioner or board shall, to the extent possible, protect the identity of the regulated person. When an expert review panel is appointed, it must contain at least one member appointed by the commissioner and one professional member appointed by the board. The panel shall provide expert assistance to the board, or to the commissioner acting on behalf of the board, in the subjects of infectious diseases, epidemiology, practice techniques used by regulated persons, and other subjects determined by the board or by the commissioner acting on behalf of the board. Members of the expert review panel are subject to those provisions of chapter 13 that restrict the commissioner or the board under this act.

Subd. 4. [IMMUNITY.] Members of the board or the commissioner acting on behalf of the board, and persons who participate on an expert review panel or who assist the board or the commissioner in monitoring the practice of a regulated person, are immune from civil liability or criminal prosecution for any actions, transactions, or publications made in good faith and in execution of, or relating to, their duties under sections 9 to 16 of this act, except that no immunity shall be available for persons who have knowingly violated any provision of chapter 13.

Sec. 16. [214.23] [INSPECTION OF PRACTICE.]

Subdivision 1. [AUTHORITY.] The board is authorized to conduct inspections of the clinical practice of a regulated person to determine whether the regulated person is following accepted and prevailing infection control procedures. The board shall provide at least three business days' notice to the clinical practice prior to the inspection. The clinical practice of a regulated person includes any location where the regulated person practices that is not an institution licensed and subject to inspection by the commissioner of health. During the course of inspections the privacy and confidentiality of patients and regulated persons shall be maintained. The board may require on license renewal forms that regulated persons inform the board of all locations where they practice.

Subd. 2. [ACCESS; RECORDS.] An inspector from the board shall have access, during reasonable business hours for purposes of inspection, to all areas of the practice setting where patient care is rendered or drugs or instruments are held that come into contact with a patient. An inspector is authorized to interview employees and regulated persons in the performance of an inspection, to observe infection control procedures, test equipment used to sterilize instruments, and to review and copy all relevant records, excluding patient health records. In performing these responsibilities, inspectors shall make reasonable efforts to respect and preserve patient privacy and the privacy of the regulated person. Boards are authorized to conduct joint inspections and to share information obtained under this section. The boards shall contract with the commissioner to perform the duties under this subdivision.

Subd. 3. [BOARD ACTION.] If accepted and prevailing infection control techniques are not being followed, the board may educate the regulated person or take other actions. The board and the inspector shall maintain patient confidentiality in any action resulting from the inspection.

Subd. 4. [RULEMAKING.] A board is authorized

to adopt rules setting standards for infection control procedures. Boards shall engage in joint rulemaking. Boards must seek and consider the advice of the Commissioner of Health before adopting rules. No inspections shall be conducted under this section until after infection control rules have been adopted. Each board is authorized to provide educational information and training to regulated persons regarding infection control rules available to employees who engage in functions related to infection control.

Sec. 17. [214.24] [DATA PRIVACY.]

Subdivision 1. [BOARD DATA] (a) All data collected or maintained as part of the board's duties under sections 214.18, 214.22, and 214.23 shall be classified as investigative data under section 13.99 except that inactive investigative data shall be classified as private data under section 13.02, subdivision 12, or non-public data under section 13.02, subdivision 9, in the case of data not on individuals.

(b) Notwithstanding section 13.05, subdivision 9, data addressed in this subdivision shall not be disclosed except as provided in this subdivision or section 13.04; except that the board may disclose to the commissioner under section 214.22.

Subd. 2. [COMMISSIONER OF HEALTH DATA.] (a) All data collected or maintained as part of the Commissioner of Health's duties under sections 214.18, 214.22, and 214.23 shall be classified as investigative data under section 13.39, except that inactive investigative data shall be classified as private data under section 13.02, subdivision 12, or non-public data under section 13.02, subdivision 9, in the case of data not on individuals.

(b) Notwithstanding section 13.05, subdivision 9, data addressed in this subdivision shall not be disclosed except as provided in this subdivision or section 13.04; except that the commissioner may disclose to the boards under section 214.22.

(c) The commissioner may disclose data addressed under this subdivision as necessary: to identify, establish, implement, and enforce a monitoring plan; to investigate a regulated person; to alert persons who may be threatened by illness as evidenced by epidemiologic data; to control or prevent the spread of HIV or HBV disease; or to diminish an imminent threat to the public health.

Sec. 18. [EFFECTIVE DATE.]

Subdivision 1. Section 11 is effective July 1, 1992.

Subd. 2. All other provisions of this act are effective the day following final enactment.

CHANGE IN MEDICAL LICENSE REQUIREMENTS

The Medical Practice Act (MN Statutes 147) was amended in the 1992 Legislative Session revising the basis upon which physicians licensed in another state can obtain a Minnesota license. Effective August 1, 1992, the revised provisions are as follows:

MN Statute 147.03 Subd. 1 (ENDORSEMENT, RECIPROCITY.) (a) The board may issue a license to practice medicine to any person who satisfies the requirements in paragraphs (b) to (f).

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

(c) The applicant shall:

(1) within two years prior to application have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, the National Board of Osteopathic Examiners, or the Medical Council of Canada; or

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

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

(ii) have a current certification by a specialty board of the American Board of Medical Specialties or of the Royal College of Physicians and Surgeons of Canada.(d) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

(e) The applicant must not be under license suspension or revocation by the licensing board of the state in which the conduct that caused the suspension or revocation occurred.

(f) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action in another state other than as specified in paragraph (e). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

INDEPENDENT MEDICAL EXAMINATIONS AND THE RELEASE OF MEDICAL INFORMATION

Many physicians have practices which include the performance of independent medical examinations (IME). These examinations may include second opinion examinations for Worker's Compensation or civil litigation, and employment physicals. Two important factors dictate that the relationship between the physician and the individual who is being seen for an IME is different than that established in the typical physician/patient arrangement. Therefore, the rules governing the release of medical information are also different.

In a typical physician/patient relationship, a course of examination **and treatment** is undertaken. In addition, the patient is responsible for payment of the physician's bill, either personally or through the patient's health plan or medical assistance. When these criteria are present and the physician/patient relationship has been established, the patient has certain rights in regard to access to, and release of, medical information obtained during the course of the relationship.

The statutory requirements regarding access to medical records and release of medical information are not applicable in the case of an independent medical evaluation. First, the purpose of the examination is evaluation only; no course of treatment is undertaken. Second, the costs of the examination are paid for by the employer or other interested third party and not by the patient. The result of this is that no physician/patient relationship is established during the course of an IME, and the physician's responsibility for releasing the information obtained in the examination is to the third party who requested the exam, not to the examinee.

If you are a physician who routinely performs independent medical examinations in your practice, you should utilize a separate consent form for your IME examinees. The consent form needs to address the following issues:

1. Does the form clearly state that the performance of the examination does not establish a physician/patient relationship, and that no course of medical treatment will be undertaken?

2. Does the form explain that the employer or other third party is paying for the examination and has the right to access to the results of the examination and the medical records?

3. Does the form explain that the examinee's authorization is not required for the release of information obtained during the course of the examination?

4. Does the form require the examinee's signature that they have read and understood these provisions?

If independent medical examinations are a part of your practice and you are not currently utilizing a disclaimer form which addresses these issues, you need to contact your attorney and discuss creating such a form .

Minnesota Board of Medical Practice
2700 University Avenue
Suite 106
St. Paul, MN 55114-1080

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SMALL AGENCY NARRATIVE PAGE

1994-95 Biennial Budget

AGENCY: Medical Practice, Board of

MISSION:

The mission of the Board is to protect the public by ensuring that all physicians (M.D.), doctors of osteopathic medicine (D.O.), physical therapists (P.T.), physican assistants (P.A.), respiratory care practitioners (RCP) and medical corporations (M.C.) meet the necessary qualifications and standards to competently practice their profession in Minnesota. The Board strives to achieve this mission by (1) licensing M.D. and D.O. applicants, and registering P.T., P.A., RCP, and M.C. applicants; (2) renewing annually licenses and registrations; (3) receiving and taking action on every complaint alleging a violation of statutes, investigating allegations, conducting hearings, taking disciplinary action as indicated, and enforcing Board orders; (4) enforcing continuing medical education requirements.

MINNESOTA MILESTONES:

The Board's mission is related to the following Minnesota Milestone goal: Minnesotans will have the best possible chance for a healthy life.

The Board supports this goal by assuring Minnesota citizens that their physician, doctor of osteopathy, physical therapist, physician assistant, respiratory care practitioner and medical corporation meets certain standards of competence, complies with Minnesota and federal regulations, and is qualified to practice in Minnesota.

CLIMATE:

A. After a short period of complaint stablization, the total number of complaints increased by 20% in 1992. The number of complaints and the nature of those complaints continues to tax the ability of the Board to protect the public by disposing of those complaints in a timely manner. The limited ability of the Attorney General to investigate and provide legal services due to their budget constraints has further limited the Board to carry out its mission.

B. The 1992 HIV/HBV legislation authorizes the Board to write adminstrative rules governing infection control proceedures in clinics and physician offices. Once the rule is promulgated the Board, in cooperation with the Department of Health, is authorized to do office/clinic site inspections.

OBJECTIVES & OUTCOMES:

Total Complaints Received

FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
1,044	1,089	1,061	1,217	1,512	1,708	1,930

Total Jurisdictional Complaints Reviewed by Discipline Committee

FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
1,020	1,063	943	1,156	1,375	1,637	1,800

Number of Complaints Referred to Attorney General for Investigation

FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
309	248	186	191	210	231	254

Total Discipline Committee Agenda Action Items

FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
244	236	200	308	385	481	529

Total Board Orders

FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
81	76	74	82	90	99	109

-Reduce the inventory of unresolved complaints.
-Shorten the time period between the date a physician is informed of an investigation commencing and the disposition of the complaint being investigated.
-Complete HIV/HBV rule and commence infection control inspections.

PERFORMANCE EFFICIENCY INDICATORS FOR OBJECTIVES

-Reduce the inventory of unresolved complaints.
Year end 1992 1844 complaints
Year end 1993 1800 complaints
Year end 1994 1500 complaints
Year end 1995 1200 complaints

-Shorten time period
Establish 1993 base line
1994 reduce by 15%
1995 reduce by another 15%

-Complete HIV/HBV rule
1/1/94 Complete Administrative Rule
7/1/94 Begin site inspections

REVENUE/COSTS:

	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
Direct Costs	$1,738,285	$1,816,256	$2,139,000	$2,139,000	$2,139,000
Indirect Costs:					
Statewide Indirect	20,405	39,806	41,199	42,641	44,134
Attorney General	356,571	715,671	850,000	980,000	1,000,000
Revenue Refund	3,569	3,693	3,000	3,000	3,000
HIV/Dept.of Health			45,000	41,000	43,000
Total Costs	$2,115,261	$2,575,426	$3,078,199	$3,205,641	$3,229,134
Current Revenue	$2,188,856	$2,706,500	$3,112,000	$3,112,000	$3,112,000
Surplus or Shortfall	70,026	131,074	33,801	(93,641)	(117,134)

AGENCY BUDGET PLAN:

The Board plans to reduce its expenditures by eliminating Continuing Medical Education (CME) seminars and by using Board staff rather than outside vendors for computer programming & chemical dependency monitoring.

In the previous biennium, funds were established for CME training workshops. The Board will be providing education updates in its newsletter, rather than holding training sessions around the state.

When the Board converted from the Statewide Licensing Computer to its own system, computer programmers were hired through Intertech to write the code for the Licensing portion of the system. The Board plans to use staff rather than outside vendors to write the code for the remaining portions of the system.

Monitoring of physicians who are chemically dependent will be done by Board staff during the next biennium, rather than by an outside contractor.

To cover the shortfall of revenue for the biennial budget 1994-95, the Board plans to increase an additional $10.00 licensure fees.

1994-95 Biennial Budget
Agency Budget Brief
($ in thousands)

Agency: Medical Practice, Board of **Fund:** 17

1. Summary of Agency Actions:

	F.Y. 1994	F.Y. 1995	F.Y. 94-95
Agency Management Challenge			
Projected Compensation Costs - 3.5%	$33,215	$67,379	$100,594
Other Operating Inflation - 3.5%	38,360	77,816	116,176
Total Agency Shortfall	$71,575	$145,195	$216,770
Agency Management Decisions			
Agency Operations:			
Eliminate CME Training	$(56,000)	$(56,000)	$(112,000)
Reduce Data Processing	(15,575)	(76,000)	(91,575)
Reduce Prof/Tech		(13,195)	(13,195)
Total Agency Solutions:	$(71,575)	$(145,195)	$(216,770)

Brief Explanation of Agency's Overall Actions:

1. Agency will eliminate Continuing Medical Education training for physicians.
2. Computer programming will be done by agency staff rather than by using outside vendors.
3. Chemical dependency monitoring will be handled in agency rather than by a professional/technical contract agency.

Impact on Revenue Generation:

The board may need to increase fees to cover potential surcharge for the operating expenses to the Office of Mental Health Practice. The board recommends that Minnesota Statutes, section 148B.72 be amended so that the Office of Mental Health Practice be funded under an independent appropriation under the General Revenue Fund.

Affected Statutes:

Minnesota Statutes, section 148B.72.

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GRAM; POLLUTION CONTROL
PRIATION.

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Sec. 6. **EFFECTIVE DATE; APPLICATION.**

This act is effective the day following final enactment. Section 3 applies to a determination issued or an agreement entered into by the commissioner of the pollution control agency prior to its effective date if the determination or agreement meets the requirements of that section.

Presented to the governor April 17, 1992

Signed by the governor April 23, 1992, 11:55 a.m.

CHAPTER 513—H.F.No. 2694

An act relating to the organization and operation of state government; providing for programs relating to higher education; environment and natural resources; agriculture, transportation, semi-state, and regulatory agencies; economic and state affairs; health and human services; providing for regulation of certain activities and practices; making fund and account transfers; providing for fees; making grants; appropriating money and reducing earlier appropriations with certain conditions; amending Minnesota Statutes 1990, sections 3.21; 3.305; 3.736, subdivision 8; 5.09; 5.14; 10A.31, subdivision 4; 15.0597, subdivision 4; 16A.45, by adding a subdivision; 16A.48, subdivision 1; 16B.85, subdivision 5; 17.03, by adding subdivisions; 18B.26, subdivision 3; 43A.191, subdivision 2; 44A.0311; 60A.1701, subdivision 5; 72B.04, subdivision 10; 80A.28, subdivision 2; 82.21, subdivision 1; 82B.09, subdivision 1; 85A.04, subdivision 1; 89.035; 89.37, by adding a subdivision; 115D.04, subdivision 2; 116J.9673, subdivision 4; 116P.11; 136.60, by adding a subdivision; 136A.1354, subdivision 4; 136A.29, subdivision 9; 138.56, by adding a subdivision; 138.763, subdivision 1; 138.766; 141.21, by adding a subdivision; 144.122; 144.123, subdivision 2; 144A.071, subdivision 2; 144A.073, subdivisions 3, 3a, and 5; 144A.43, subdivisions 3 and 4; 144A.46, subdivision 5; 144A.51, subdivisions 4 and 6; 144A.52, subdivisions 3 and 4; 144A.53, subdivisions 2, 3, and 4; 144A.54, subdivision 1; 147.01, by adding a subdivision; 151.06, subdivision 1, and by adding a subdivision; 169.01, subdivision 55; 169.965, by adding a subdivision; 176.104, subdivision 2, and by adding subdivisions; 176.129, subdivisions 1 and 11; 176.183, subdivision 1; 182.666, subdivision 7; 204B.11, subdivision 1; 204B.27, subdivision 2; 204D.11, subdivisions 1 and 2; 237.701, subdivision 1; 240.14, subdivision 3; 245A.02, by adding subdivisions; 245A.07, subdivisions 2 and 3; 245A.11; 245A.13, subdivision 4; 252.025, subdivision 4; 254A.03, subdivision 2; 254B.06, subdivision 3; 256.12, by adding a subdivision; 256.81; 256.9655; 256.9695, subdivision 3; 256B.02, by adding subdivisions; 256B.035; 256B.056, subdivisions 1a, 2, 3, 5, and by adding a subdivision; 256B.057, by adding a subdivision; 256B.059, subdivisions 2 and 5; 256B.0595, subdivision 1; 256B.0625, by adding subdivisions; 256B.064, by adding a subdivision; 256B.092, by adding a subdivision; 256B.14, subdivision 2; 256B.15, subdivisions 1 and 2; 256B.19, by adding a subdivision; 256B.36; 256B.41, subdivisions 1 and 2; 256B.421, subdivision 1, and by adding a subdivision; 256B.431, subdivisions 2i, 4, and by adding subdivisions; 256B.432, by adding a subdivision; 256B.433, subdivisions 1, 2, and 3; 256B.48, subdivisions 1b, 2, 3, 4, and by adding subdivisions; 256B.495, subdivisions 1, 2, and by adding subdivisions; 256B.50, subdivisions 1b and 2; 256B.501, sub-

division 3c, and by adding subdivisions; 256C.28, subdivisions 2 and 3; 256D.02, subdivision 8, and by adding subdivisions; 256D.03, by adding a subdivision; 256D.051, by adding a subdivision; 256D.06, subdivision 5, and by adding a subdivision; 256D.35, subdivision 11; 256D.54, subdivision 3; 256E.14; 256H.01, subdivision 9, and by adding a subdivision; 256H.10, subdivision 1; 256I.01; 256I.02; 256I.03, subdivisions 2 and 3; 256I.04, as amended; 256I.05, subdivisions 1, 3, 6, 8, 9, and by adding a subdivision; 256I.06; 270.063; 270.71; 298.221; 299E.01, subdivision 1; 299F.011, subdivision 4a; 340A.301, subdivision 6; 340A.302, subdivision 3; 340A.315, subdivision 1; 340A.317, subdivision 2; 340A.408, subdivision 4; 345.32; 345.33; 345.34; 345.35; 345.36; 345.37; 345.38; 345.39; 345.42, subdivision 3; 349.161, subdivision 4; 349.163, subdivision 2; 352.04, subdivisions 2 and 3; 353.27, subdivision 13; 356.65, subdivision 1; 357.021, subdivision 1a; 357.18, by adding a subdivision; 359.01, subdivision 3; 363.071, by adding a subdivision; 363.14, subdivisions 2 and 3; 466.06; 490.123, by adding a subdivision; 514.67; 518.551, subdivisions 7 and 10; 609.131, by adding a subdivision; 609.5315, by adding a subdivision; 611.27, by adding subdivisions; and 626.861, subdivision 3; Minnesota Statutes 1991 Supplement, sections 16A.45, subdivision 1; 16A.723, subdivision 2; 17.63; 28A.08; 41A.09, subdivision 3; 60A.14, subdivision 1; 84.0855; 89.37, subdivision 4; 121.936, subdivision 1; 135A.03, subdivisions 1a and 7; 136A.101, subdivision 8; 136A.121, subdivision 6; 136A.1353, subdivision 4; 144.50, subdivision 6; 144A.071, subdivision 3; 144A.31, subdivision 2a; 144A.46, subdivisions 1 and 2; 144A.49; 144A.51, subdivision 5; 144A.53, subdivision 1; 144A.61, subdivisions 3a and 6a; 144B.01, subdivisions 5, 6, and by adding a subdivision; 144B.10, subdivision 2; 147.03; 148.91, subdivision 3; 148.921, subdivision 2; 148.925, subdivisions 1, 2, and by adding a subdivision; 168.129, subdivisions 1 and 2; 182.666, subdivision 2; 240.13, subdivisions 5 and 6; 240.15, subdivision 6; 240.18, by adding a subdivision; 245A.03, subdivision 2; 245A.04, subdivision 3; 245A.16, subdivision 1; 251.011, subdivision 3; 252.28, subdivision 1; 252.46, subdivision 3; 252.50, subdivision 2; 254B.04, subdivision 1; 256.031, subdivision 3; 256.033, subdivisions 1, 2, 3, and 5; 256.034, subdivision 3; 256.035, subdivision 1; 256.0361, subdivision 2; 256.035, subdivision 1; 256.935, subdivision 1; 256.9656; 256.9657, subdivisions 1, 2, 3, 4, 7, and by adding a subdivision; 256.9685, subdivision 1; 256.969, subdivisions 1, 2, 9, 20, and 21; 256.9751, subdivisions 1 and 6; 256.98, subdivision 8; 256B.0625, subdivisions 2, 13, and 17; 256B.0627, subdivision 5, as amended; 256B.064, subdivision 2; 256B.0911, subdivisions 3, 8, and by adding a subdivision; 256B.0913, subdivisions 4, 5, 8, 11, 12, and 14; 256B.0915, subdivision 3, and by adding subdivisions; 256B.0917, subdivisions 2, 3, 4, 5, 6, 7, 8, and 11; 256B.0919, subdivision 1; 256B.092, subdivisions 4 and 7; 256B.093, subdivisions 1, 2, and 3; 256B.431, subdivisions 2l, 2m, 2o, and 3f; 256B.49, subdivision 4; 256B.74, subdivisions 1 and 3; 256D.03, subdivisions 3 and 4; 256D.05, subdivision 1; 256D.051, subdivision 1; 256H.03, subdivisions 4 and 6; 256H.05, subdivision 1b, and by adding a subdivision; 256I.05, subdivisions 1a, 1b, 2, and 10; 261.035; 340A.311; 340A.316; 340A.504, subdivision 3; 349A.10, subdivision 3; 357.021, subdivision 2; 508.82; 508A.82; 611.27, subdivision 7; 626.861, subdivisions 1 and 4; Laws 1987, chapter 396, article 12, section 6, subdivision 2; Laws 1991, chapter 233, section 2, subdivision 2; Laws 1991, chapter 254, article 1, section 7, subdivision 5; and Laws 1991, chapter 356, articles 1, section 5, subdivision 4; 2, section 6, subdivision 3; and 6, section 4, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 4A; 16B; 44A; 84; 115B; 136C; 144; 144A; 149; 244; 245A; 246; 256; 256B; 256D; 256I; and 501B; repealing Minnesota Statutes 1990, sections 41A.051; 84.0885; 89.036; 136A.143; 136C.13, subdivision 2; 141.21, subdivision 2; 144A.15, subdivision 6; 211A.04, subdivision 2; 245A.14, subdivision 5; 245A.17; 252.46, subdivision 15;

256B.056, subdivision 3a; 256B.49 sion 7; and 270.185; Minnesota St. 135A.50; 144A.071, subdivision 3a. subdivisions 8 and 9; 256I.05, subd 4, section 77; and 356, article 3, se

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Section 1. HIGHER EDUCA

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SUMMARY

State Board for Technical Colle

State Board for Community Co

State University Board

Board of Regents of the Univer Minnesota

ivisions 2 and 3; 256D.02, subdivision ubdivision; 256D.051, by adding a sub- subdivision; 256D.35, subdivision 11; ion 9, and by adding a subdivision; subdivisions 2 and 3; 256I.04, as dding a subdivision; 256I.06; 270.063; bdivision 4a; 340A.301, subdivision 6; .317, subdivision 2; 340A.408, subdivi- 345.38; 345.39; 345.42, subdivision 3; subdivisions 2 and 3; 353.27, subdivi- 1a; 357.18, by adding a subdivision; 363.14, subdivisions 2 and 3; 466.06; ivisions 7 and 10; 609.131, by adding 511.27, by adding subdivisions; and ement, sections 16A.45, subdivision 1; ion 3; 60A.14, subdivision 1; 84.0855; ubdivisions 1a and 7; 136A.101, sub- bdivision 4; 144.50, subdivision 6; 4.46, subdivisions 1 and 2; 144A.49; 51, subdivisions 3a and 6a; 144B.01, subdivision 2; 147.03; 148.91, subdi- s 1, 2, and by adding a subdivision; 240.13, subdivisions 5 and 6; 240.15, 3, subdivision 2; 245A.04, subdivision 28, subdivision 1; 252.46, subdivision 1, subdivision 3; 256.033, subdivisions division 1; 256.0361, subdivision 2; 5; 256.9657, subdivisions 1, 2, 3, 4, 7, 256.969, subdivisions 1, 2, 9, 20, and 8; 256B.0625, subdivisions 2, 13, and ubdivision 2; 256B.0911, subdivisions ns 4, 5, 8, 11, 12, and 14; 256B.0915, ubdivisions 2, 3, 4, 5, 6, 7, 8, and 11; 7; 256B.093, subdivisions 1, 2, and 3; bdivision 4; 256B.74, subdivisions 1 ivision 1; 256D.051, subdivision 1; 1b, and by adding a subdivision; 11; 340A.316; 340A.504, subdivision .82; 508A.82; 611.27, subdivision 7; article 12, section 6, subdivision 2; 1991, chapter 254, article 1, section section 5, subdivision 4; 2, section 6. n; proposing coding for new law in 6C; 144; 144A; 149; 244; 245A; 246; ta Statutes 1990, sections 41A.051; .21, subdivision 2; 144A.15, subdivi- 5; 245A.17; 252.46, subdivision 15;

Deletions by ~~strikeout~~.

256B.056, subdivision 3a; 256B.495, subdivision 3; 256D.09, subdivision 3; 256I.05, subdivision 7; and 270.185; Minnesota Statutes 1991 Supplement, sections 97A.485, subdivision 1a; 135A.50; 144A.071, subdivision 3a; 256.9657, subdivision 5; 256.969, subdivision 7; 256B.74, subdivisions 8 and 9; 256I.05, subdivision 7a; 326.991; and Laws 1991, chapters 292, article 4, section 77; and 356, article 3, section 14.

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

ARTICLE 1

HIGHER EDUCATION

Section 1. HIGHER EDUCATION APPROPRIATIONS

The dollar amounts in the columns under "APPROPRIATIONS" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 1991, chapter 356, or other law to the specified agencies. The appropriations are from the general fund or other named fund and are available for the fiscal years indicated for each purpose. The figure 1992 or 1993 means that the addition to or subtraction from the appropriations listed under the figure are for the fiscal year ending June 30, 1992, or June 30, 1993, respectively. If only one figure is shown in the text for a specified purpose, the addition or subtraction is for 1993 unless the context intends another fiscal year.

SUMMARY BY FUND

	1992	1993	TOTAL
General	$15,000	($29,015,000)	($29,000,000)
Special Revenue	($70,000)		($70,000)

SUMMARY BY AGENCY - ALL FUNDS

	1992	1993	TOTAL
State Board for Technical Colleges		(5,785,000)	(5,785,000)
State Board for Community Colleges		(3,503,000)	(3,503,000)
State University Board	15,000	(4,014,000)	(3,999,000)
Board of Regents of the University of Minnesota		(15,713,000)	(15,713,000)

APPROPRIATIONS
Available for the Year
Ending June 30

1992	1993

of this section by a public employer is not an unfair labor practice for purposes of Minnesota Statutes, chapter 179A. The authority provided in this section for an employer to pay health insurance costs for certain retired employees is not subject to the limits in Minnesota Statutes, section 179A.20, subdivision 2a.

Sec. 60. **REPEALER.**

Minnesota Statutes 1990, section 41A.051, is repealed. Minnesota Statutes 1990, section 270.185, is repealed effective January 1, 1993. On that date, any balance in the reassessment account of the special revenue fund is transferred to the general fund. The repeal of Minnesota Statutes 1991 Supplement, section 326.991, provided for in Laws 1991, chapter 306, section 26, is postponed until July 31, 1994.

Sec. 61. **LAYOFFS.**

It is the policy of the legislature to maximize the delivery of services to the public. If layoffs of state employees as defined in Minnesota Statutes, chapter 43A, are necessary in an agency with 50 or more employees, the agency shall make an effort to reduce at least the same percentage of management and supervisory personnel as line and support personnel for the biennium ending June 30, 1993. This section does not modify any employee rights contained in any other law or collective bargaining agreement under Minnesota Statutes, chapter 179A.

Sec. 62. **LEGISLATIVE INTENT.**

The amendments in this article to Minnesota Statutes, sections 3.736, 16B.85, and 466.06, are intended to clarify, rather than to change, the original intent of the statutes amended.

Sec. 63. **EFFECTIVE DATE.**

This article is effective the day following final enactment, except that sections 36, 37, 42, 43, 46, and 47, are effective July 1, 1992.

Sections 26, 32, and 44 apply to cases pending or brought on or after their effective date.

ARTICLE 5

HUMAN DEVELOPMENT

Section 1. **HUMAN DEVELOPMENT; APPROPRIATIONS.**

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1992" and "1993," where used in this article, mean

that the appropriation or appropria
year ending June 30, 1992, or Ju
amount appears in parenthesis, it m

SUMM

19

APPROPRIATION CHANGE
General ($1,799,0
Special Revenue 63,0

Sec. 2. HUMAN SERVICES

Subdivision 1. Total General F
Appropriation

This appropriation is added to
appropriation in Laws 1991, cha
292, article 1, section 2.

For the fiscal year ending June
1993, total state spending is offs
$65,000,000 in provider paym
deposited in the general fund unde
broad-based health care provide
program.

The commissioner of finance shall
pare a biennial budget for fiscal
1994-1995 that does not include
nues from the provider surcharge
exceed the estimated cost assoc
with the Healthright program. The
missioner of finance shall also prep
plan to phase out the non-Health
provider surcharges by June 30, 19

Subd. 2. Human Services Adminis
tion

Up to $500,000 may be transf
within the department as the com
sioner considers necessary, with
advance approval of the commiss
of finance.

that the appropriation or appropriations listed under them are available for the year ending June 30, 1992, or June 30, 1993, respectively. Where a dollar amount appears in parenthesis, it means a reduction of an appropriation.

SUMMARY BY FUND

	1992	1993	TOTAL
APPROPRIATION CHANGE			
General	($1,799,000)	$3,802,000	$2,003,000
Special Revenue	63,000	755,000	818,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1992	1993
Sec. 2. HUMAN SERVICES		
Subdivision 1. Total General Fund Appropriation	1,639,000	(2,497,000)
This appropriation is added to the appropriation in Laws 1991, chapter 292, article 1, section 2.		
For the fiscal year ending June 30, 1993, total state spending is offset by $65,000,000 in provider payments deposited in the general fund under the broad-based health care provider tax program.		
The commissioner of finance shall prepare a biennial budget for fiscal years 1994-1995 that does not include revenues from the provider surcharge that exceed the estimated cost associated with the Healthright program. The commissioner of finance shall also prepare a plan to phase out the non-Healthright provider surcharges by June 30, 1995.		
Subd. 2. Human Services Administration	(2,150,000)	(3,939,000)
Up to $500,000 may be transferred within the department as the commissioner considers necessary, with the advance approval of the commissioner of finance.		

$75,000 is appropriated to the commissioner for a cooperative project with Alexandria technical college regarding MAXIS data. If the commissioner and the college jointly develop a feasible project, the commissioner may transfer the $75,000 to the college and may transfer summary data from the MAXIS data system to the college for the purpose of developing graphic representation of the data for legislative and executive branch use, as requested, utilizing geographic information systems. For purposes of this section, summary data has the meaning given it in Minnesota Statutes, section 13.02, subdivision 19.

Subd. 3. Finance and Management Administration		(180,000)
Subd. 4. Economic Support and Services to the Elderly		(32,000)

Because nine percent or more of the total preadmission screenings done for a SAIL county under Minnesota Statutes, section 256B.0917, subdivision 4, in fiscal year 1991 were not listed in the October 17, 1991, printing of OD-8043 (State of Minnesota, Department of Human Services Long Term Care Management Division, Preadmission Screening Records for MA and Private Pay Persons Reconciliation List) due to computer error, the commissioner shall make a one-time adjustment on May 1, 1992, to that county's fiscal year 1992 estimated number of preadmission screenings by the actual number of county-verified unlisted names.

Subd. 5. Services to Special Needs Adults	(2,803,000)	(2,227,000)
Subd. 6. Economic Support and Transition Services for Families and Individuals	(12,989,000)	(11,611,000)

Unexpended fiscal year 1991 start
grant funds may be used to pay
year 1991 work readiness service
gations.

For the biennium ending June 30,
general assistance grant fund
appropriated to the commissio
human services to cover the costs
refugee cash assistance and r
medical assistance programs that
the federal fiscal year 1992 app
tion for those programs. Federal
received on or after Septemb
1992, as reimbursement for the
fiscal year 1992 refugee cash ass
and refugee medical assistance
must be deposited in the genera
tance grant account and are ap
ated for general assistance grants

The commissioner shall transfer
$2,800,000 of state funds from th
sliding fee program to the AFD
care program to establish the b
the non-STRIDE AFDC child ca
gram. The department shall ma
transfer over the biennium endi
30, 1993. The amount of feder
care and development block gra
committed to the basic sliding f
gram must be increased by an
equivalent to the transfer. Th
funds transferred to the AFD
care program will provide state
ing funds for additional federa
earned by the department purs
Public Law Number 100-485.

Money appropriated for fiscal ye
for paying contract institutions
cashing public assistance w
under Laws 1991, chapter 292, a
section 2, subdivision 4, does
cel, but is available for that pu
fiscal year 1993.

Any unexpended balance of the

(180,000)

(32,000)

(2,803,000) (2,227,000)

(12,989,000) (11,611,000)

Unexpended fiscal year 1991 start work grant funds may be used to pay fiscal year 1991 work readiness services obligations.

For the biennium ending June 30, 1993, general assistance grant funds are appropriated to the commissioner of human services to cover the costs of the refugee cash assistance and refugee medical assistance programs that exceed the federal fiscal year 1992 appropriation for those programs. Federal funds received on or after September 30, 1992, as reimbursement for the federal fiscal year 1992 refugee cash assistance and refugee medical assistance costs must be deposited in the general assistance grant account and are appropriated for general assistance grants.

The commissioner shall transfer up to $2,800,000 of state funds from the basic sliding fee program to the AFDC child care program to establish the base for the non-STRIDE AFDC child care program. The department shall make the transfer over the biennium ending June 30, 1993. The amount of federal child care and development block grant funds committed to the basic sliding fee program must be increased by an amount equivalent to the transfer. The state funds transferred to the AFDC child care program will provide state matching funds for additional federal funds earned by the department pursuant to Public Law Number 100-485.

Money appropriated for fiscal year 1992 for paying contract institutions fees for cashing public assistance warrants under Laws 1991, chapter 292, article 1, section 2, subdivision 4, does not cancel, but is available for that purpose in fiscal year 1993.

Any unexpended balance of the $50,000

appropriation in Laws 1991, chapter 292, article 1, section 2, subdivision 5, in fiscal year 1992 for modifications to adult foster care homes under provisions of Minnesota Statutes 1991 Supplement, section 256B.0917, does not cancel and is available for these purposes for fiscal year 1993.

Subd. 7. Health Care for Families and Individuals 23,026,000 24,108,000

A nursing facility downsized under Minnesota Statutes, section 256B.431, subdivision 2m, and ineligible for the OBRA adjustments in Minnesota Statutes, section 256B.431, subdivision 7, shall receive a one-time state grant of $50,600 to cover the up-front costs of meeting OBRA requirements.

The commissioner of human services shall submit a plan to the legislature to downsize an existing 48 bed intermediate care facility for persons with mental retardation or related conditions located in Dakota county. The plan must include the projected costs of the facility's rate adjustment and the alternative services for the residents being relocated, and the impact of the downsizing of the facility on the quality of care for clients.

For fiscal year 1993, the commissioner may transfer up to $250,000 from the Minnesota supplemental aid grants account to the medical assistance grants account to reimburse the medical assistance account for nursing facility receivership costs incurred by counties. These transfers must be made from the account of the county of financial responsibility for particular receivership costs and in the amount of individual county cost.

For the fiscal year ending June 30,

1993, $390,000 is transfer
Minnesota supplemental aid g
dential housing grants to Ru
ported housing grants. Thi
represents Minnesota supplen
payments for 170 unlicensed
housing beds which are pe
removed from the group r
housing census. These beds m
replaced by other group re
housing agreements.

Up to $30,000 of the appropr
preadmission screening alterna
for fiscal year 1992 contained
1991, chapter 292, article 1,
subdivision 6, may be transfer
health care administration ac
pay the state's share of coun
for conducting nursing hom
ments for persons with mental
mental retardation as required
lic Law Number 100-203.

For the fiscal year ending J
1993, a newly constructed c
established intermediate care fa
the mentally retarded that is d
and financed during that peri
not be subject to the equity
ments in Minnesota Statutes.
256B.501, subdivision 11, pa
(d), or Minnesota Rule
9553.0060, subpart 3, item F,
that the provider's interest rate
exceed the interest rate av
through state agency tax exemp
ing.

The paragraph in Laws 1991,
292, article 1, section 2, subdiv
providing for the implementati
reduced reimbursement rate for
services provided by a physical
pational therapy assistant is re
Services provided by a physical
assistant shall be reimbursed
same rate as services performe

23,026,000 24,108,000

1993, $390,000 is transferred from Minnesota supplemental aid group residential housing grants to Rule 14 supported housing grants. This amount represents Minnesota supplemental aid payments for 170 unlicensed supported housing beds which are permanently removed from the group residential housing census. These beds must not be replaced by other group residential housing agreements.

Up to $30,000 of the appropriation for preadmission screening alternative care for fiscal year 1992 contained in Laws 1991, chapter 292, article 1, section 2, subdivision 6, may be transferred to the health care administration account to pay the state's share of county claims for conducting nursing home assessments for persons with mental illness or mental retardation as required by Public Law Number 100-203.

For the fiscal year ending June 30, 1993, a newly constructed or newly established intermediate care facility for the mentally retarded that is developed and financed during that period shall not be subject to the equity requirements in Minnesota Statutes, section 256B.501, subdivision 11, paragraph (d), or Minnesota Rules, part 9553.0060, subpart 3, item F, provided that the provider's interest rate does not exceed the interest rate available through state agency tax exempt financing.

The paragraph in Laws 1991, chapter 292, article 1, section 2, subdivision 9, providing for the implementation of a reduced reimbursement rate for therapy services provided by a physical or occupational therapy assistant is repealed. Services provided by a physical therapy assistant shall be reimbursed at the same rate as services performed by a

physical therapist when the services of the physical therapy assistant are provided under the direction of a physical therapist who is on the premises. Services provided by a physical therapy assistant that are provided under the direction of a physical therapist who is not on the premises shall be reimbursed at 65 percent of the physical therapist rate. Services provided by an occupational therapy assistant shall be reimbursed at the same rate as services performed by an occupational therapist when the services of the occupational therapy assistant are provided under the direction of the occupational therapist who is on the premises. Services provided by an occupational therapy assistant that are not provided under the direction of an occupational therapist who is not on the premises shall be reimbursed at 65 percent of the occupational therapist rate.

During the biennium ending June 30, 1993, the commissioner shall identify long-term care providers with high mortgage rates on existing debt and work with them and their mortgagees or other lenders to negotiate debt refinancing at lower interest rates that produce annual interest expense savings under existing laws.

Effective for the biennium beginning July 1, 1993, the commissioner shall allocate sufficient home- and community-based waivered service openings and money to serve persons who are being relocated from existing intermediate care facilities for the mentally retarded that are projected to close and who otherwise would have been required to be relocated into newly developed intermediate care facilities for the mentally retarded.

In the event that a large community-

based facility licensed under M
Rules, parts 9525.0215 to 95
for more than 16 beds but not
as an intermediate care facility
sons with mental retardation o
conditions closes and alternat
vices for the residents are neces
commissioner may transfer on
terly basis to the medical as
state account from each affecte
ty's community social service a
an amount equal to the state
medical assistance reimburse
residential and day habilitation
funded by medical assistance
vided to clients for whom the
financially responsible.

For the fiscal year ending J
1993, if a facility which is in
ship under Minnesota Statutes
245A.12 or 245A.13, is sold to
lated organization: (a) the fac
be considered a newly establis
ity for rate setting purposes
standing any provisions to the
in Minnesota Statutes,
256B.501, subdivision 11; an
facility's historical basis for the
plant, land, and land improve
each facility must not exceed
owner's aggregate historical
these same assets for each fac
allocation of the purchase price
land, land improvements, and
plant shall be based on the r
appraisal using the depreciate
ment cost method.

The number of home- and co
based waiver openings used fo
with mental retardation or re
ditions who are being dischar
nursing homes shall not e
openings in fiscal year 199
openings in fiscal year 1993.

The commissioner shall n

based facility licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, for more than 16 beds but not certified as an intermediate care facility for persons with mental retardation or related conditions closes and alternative services for the residents are necessary, the commissioner may transfer on a quarterly basis to the medical assistance state account from each affected county's community social service allocation an amount equal to the state share of medical assistance reimbursement for residential and day habilitation services funded by medical assistance and provided to clients for whom the county is financially responsible.

For the fiscal year ending June 30, 1993, if a facility which is in receivership under Minnesota Statutes, section 245A.12 or 245A.13, is sold to an unrelated organization: (a) the facility shall be considered a newly established facility for rate setting purposes notwithstanding any provisions to the contrary in Minnesota Statutes, section 256B.501, subdivision 11; and (b) the facility's historical basis for the physical plant, land, and land improvements for each facility must not exceed the prior owner's aggregate historical basis for these same assets for each facility. The allocation of the purchase price between land, land improvements, and physical plant shall be based on the real estate appraisal using the depreciated replacement cost method.

The number of home- and community-based waiver openings used for persons with mental retardation or related conditions who are being discharged from nursing homes shall not exceed 50 openings in fiscal year 1992 and 80 openings in fiscal year 1993.

The commissioner shall not spend

money to study and shall not implement a system to pay hospitals under the medical assistance and general assistance medical care programs on a peer grouping basis during the biennium ending June 30, 1993.

The money appropriated to health care management to increase federal medical assistance reimbursement may not be included in the base for the biennium beginning July 1, 1993. The commissioner shall request continued funding based upon the results of the increased effort to maximize federal funding and shall include an evaluation of those results when requesting additional funding.

Before implementing the managed care initiatives for people with developmental disabilities or mental illness, the commissioner shall report to the chair of the house of representatives human resources division of the appropriations committee and the chair of the senate human resources division of the finance committee regarding the proposed program. The report should include the number of people likely to be affected by the program and the effects of the proposal on the services they receive. Fiscal information should be provided, including the projected costs and savings under the proposal for the biennium ending June 30, 1995.

Effective January 1, 1993, and contingent upon federal approval of adding preplacement case management activities for persons with mental retardation or a related condition to the state Medicaid plan under title XIX of the Social Security Act, the commissioner shall transfer $600,000 of Community Social Services Act funds, appropriated for grants for case management established under Minnesota Statutes, section

256E.14, to the state medical ass
account. This transfer is for the p
of providing funding through Ju
1993, for the state match necess
preplacement activity.

The commissioner of human s
may implement demonstration p
designed to create alternative d
systems for acute and long-ter
services to elderly and disabled
which provide increased coordi
improve access to quality servic
mitigate future cost increases.
implementing the projects, the c
sioner must provide to the leg
information regarding the proj
part of the department's fisc
1994-1995 biennial budget r
Demonstrations affecting elde
sons must be integrated with th
sions of Minnesota Statute
Supplement, section 256B.091
report must address the feasib
and time lines for expansion of t
ects or similar projects as part o
range strategy for reforming th
term care delivery system.

Subd. 8. State Operated Res
Care for Special Needs Populati

For the fiscal year ending J
1993, money collected as ren
Minnesota Statutes, section
subdivision 5, for state propert
of the regional treatment ce
state nursing homes administere
commissioner of human service
icated to the facility genera
rental income and is appropri
the express purpose of maintai
property. Any balance remainir
end of the fiscal year shall nc
and is available until expended

Notwithstanding Laws 1991,
292, article 1, section 2, subdi

256E.14, to the state medical assistance account. This transfer is for the purpose of providing funding through June 30, 1993, for the state match necessary for preplacement activity.

The commissioner of human services may implement demonstration projects designed to create alternative delivery systems for acute and long-term care services to elderly and disabled persons which provide increased coordination, improve access to quality services, and mitigate future cost increases. Before implementing the projects, the commissioner must provide to the legislature information regarding the projects, as part of the department's fiscal year 1994-1995 biennial budget request. Demonstrations affecting elderly persons must be integrated with the provisions of Minnesota Statutes 1991 Supplement, section 256B.0917. The report must address the feasibility of and time lines for expansion of the projects or similar projects as part of a long-range strategy for reforming the long-term care delivery system.

Subd. 8. State Operated Residential Care for Special Needs Populations	(3,445,000)	(8,616,000)

For the fiscal year ending June 30, 1993, money collected as rent under Minnesota Statutes, section 16B.24, subdivision 5, for state property at any of the regional treatment centers or state nursing homes administered by the commissioner of human services is dedicated to the facility generating the rental income and is appropriated for the express purpose of maintaining the property. Any balance remaining at the end of the fiscal year shall not cancel and is available until expended.

Notwithstanding Laws 1991, chapter 292, article 1, section 2, subdivision 8,

the language contained in that subdivision providing that receipts received for the state-operated community services program are appropriated to the commissioner for that purpose is of no effect. These receipts are deposited and appropriated to the commissioner as provided under Minnesota Statutes, section 246.18.

Of the $700,000 reduction in regional treatment center salary accounts, $600,000 must be taken from the regional treatment center appropriation for central office administrative costs.

Notwithstanding Laws 1991, chapter 292, article 1, section 2, subdivision 8, regarding the transfer of facilities at Faribault regional treatment center, the commissioner of human services may transfer the Birch facility to the commissioner of corrections on July 1, 1992, the Willow facility on December 1, 1992, and the hospital facility upon completion of the 34 skilled nursing and ten infirmary bed annex at Rice County District 1 Hospital.

The commissioner shall continue utilizing the Brainerd regional laundry to provide laundry services for the regional treatment centers at Brainerd, Cambridge, Fergus Falls, and Moose Lake and the state nursing home at Ah-Gwah-Ching unless an alternative method is specifically authorized by law. The commissioner shall not contract with a private entity for laundry services for any of these facilities unless specifically authorized by the legislature.

The commissioners of human services and corrections and the veterans nursing homes board shall continue utilizing the Faribault regional laundry to provide laundry services for the Faribault regional treatment center, the Anoka-

metro regional treatment c
Minnesota correctional facili
bault, and the veterans hom
neapolis and Hastings u
alternative option is specifica
rized by law. Any other stat
utilizing the Faribault laundry
continue to do so unless an
option is authorized by law.
agencies named or referred
paragraph shall not contract
vate entity for laundry servic
of these facilities unless s
authorized by the legislature.

The commissioner of huma
may not limit admission
regional treatment center
operated nursing home, exce
vided by law.

The commissioner shall use
year 1993 appropriation fo
treatment center programs to
regional treatment center oper
cit and to assure mainte
regional treatment center
dependency programs, inclu
cialized chemical dependency

For the fiscal year ending
1992, the commissioner of
authorized to transfer $4,100.
the regional treatment centers
dependency treatment enterp
account to the general fu
remaining unspent mone
account does not cancel but is
for the fiscal year ending June

There shall be at least one co
position in the department c
services to provide staff supp
state advisory council on men
in order to coordinate activi
and provide technical assistan
local advisory councils on
health.

metro regional treatment center, the Minnesota correctional facility at Faribault, and the veterans homes at Minneapolis and Hastings unless an alternative option is specifically authorized by law. Any other state agencies utilizing the Faribault laundry shall also continue to do so unless an alternative option is authorized by law. The state agencies named or referred to in this paragraph shall not contract with a private entity for laundry services for any of these facilities unless specifically authorized by the legislature.

The commissioner of human services may not limit admissions to any regional treatment center or state-operated nursing home, except as provided by law.

The commissioner shall use the fiscal year 1993 appropriation for regional treatment center programs to offset any regional treatment center operating deficit and to assure maintenance of regional treatment center chemical dependency programs, including specialized chemical dependency programs.

For the fiscal year ending June 30, 1992, the commissioner of finance is authorized to transfer $4,100,000 from the regional treatment centers chemical dependency treatment enterprise fund account to the general fund. Any remaining unspent money in the account does not cancel but is available for the fiscal year ending June 30, 1993.

There shall be at least one complement position in the department of human services to provide staff support to the state advisory council on mental health in order to coordinate activities with and provide technical assistance to the local advisory councils on mental health.

The commissioner of finance shall transfer up to $1,750,000 annually from the general fund to the enterprise fund for the specific purpose of providing for the cash flow requirements of the chemical dependency programs operated by the regional treatment centers. All transfers are subject to the commissioner's assessment of the amount of funding needed for cash flow needs, equivalent to two months of account receivables and the ability of the programs to repay the advances from earnings. The chemical dependency programs at the regional treatment centers must repay any advances from the general fund. The commissioner shall report to the legislature by January 1, 1993, regarding the financial status of the chemical dependency programs operated by the regional treatment centers.

Subd. 9. Total Special Revenue Fund Appropriation		134,000
Sec. 3. MR/MH OMBUDSMAN		(50,000)
Sec. 4. VETERANS NURSING HOMES BOARD		
Total General Fund Appropriation	(116,000)	(265,000)

The $300,000 reduction for the Luverne veterans nursing home in fiscal year 1993 is a one-time reduction and does not reduce the base for the 1994-1995 biennium.

Sec. 5. COMMISSIONER OF JOBS AND TRAINING		
Total General Fund Appropriation		1,325,000

This appropriation is added to the appropriation in Laws 1991, chapter 292, article 1, section 5.

The amount of the appropriation for vocational rehabilitation services that is

designated for mental illness den
tion grants may be used for inn
programs to serve persons with
and persistent mental illness, bu
the money will be matched by
funds.

The commissioners of jobs and t
human services, and finance in
tation with extended employm
viders and day training and hab
providers shall develop a plan
programs of extended employm
day training and habilitation wi
serve the greatest number of inc
at an appropriate level within
rent state appropriation. Staf
governor and the legislature
consulted in developing this pl
plan must be delivered to the
by December 1, 1992. Recon
tions from the plan may be use
ting the 1994-1995 biennial bu

The additional funding for t
start program must be distri
provided in Minnesota Statute
268.914, subdivision 1, parag
and must not be used for in
programs under Minnesota
section 268.914, subdivision
graph (b), or service expansic
under Minnesota Statutes,
268.914, subdivision 2.

The appropriation for the h
program in Laws 1991, cha
article 1, section 5, subdivisi
fiscal year 1993 must be usec
center-based head start progr
received service expansion gra
cal year 1992 at the same leve
year 1992 plus any additional
based upon formula allocation
and federal funds. The additic
provided to a grantee under
Statutes, section 268.914, subc
in fiscal year 1992 must be c

designated for mental illness demonstration grants may be used for innovative programs to serve persons with serious and persistent mental illness, but only if the money will be matched by federal funds.

The commissioners of jobs and training, human services, and finance in consultation with extended employment providers and day training and habilitation providers shall develop a plan for the programs of extended employment and day training and habilitation which will serve the greatest number of individuals at an appropriate level within the current state appropriation. Staff of the governor and the legislature must be consulted in developing this plan. This plan must be delivered to the governor by December 1, 1992. Recommendations from the plan may be used in setting the 1994-1995 biennial budget.

134,000

(50,000)

The additional funding for the head start program must be distributed as provided in Minnesota Statutes, section 268.914, subdivision 1, paragraph (a), and must not be used for innovative programs under Minnesota Statutes, section 268.914, subdivision 1, paragraph (b), or service expansion grants under Minnesota Statutes, section 268.914, subdivision 2.

(116,000) (265,000)

The appropriation for the head start program in Laws 1991, chapter 292, article 1, section 5, subdivision 3, for fiscal year 1993 must be used to fund center-based head start programs that received service expansion grants in fiscal year 1992 at the same level as fiscal year 1992 plus any additional amounts based upon formula allocations of state and federal funds. The additional funds provided to a grantee under Minnesota Statutes, section 268.914, subdivision 2, in fiscal year 1992 must be considered

1,325,000

part of the grantee's funding base for future formula allocations of state and federal funds.

Sec. 6. CORRECTIONS

Total General Fund Appropriation	(1,500,000)	4,450,000

This appropriation is added to the appropriation in Laws 1991, chapter 292, article 1, section 6.

$1,500,000 in the community correction act account shall not carry forward but shall cancel to the general fund. Any remaining balance in the account that does not cancel to the general fund and is not held for counties is appropriated to the commissioner.

Of this appropriation, $3,450,000 is for operating costs at the correctional facility at Faribault to meet expanding capacity and population requirements. This appropriation is contingent on authorization by the legislature and the governor for the commissioner of finance to issue general obligation bonds in fiscal year 1993 to remodel and renovate two additional living units to house up to 160 inmates, and the transfer of administrative authority for the same space from the commissioner of human services to the commissioner of corrections.

Sec. 7. HEALTH

Subdivision 1. Total General Fund Appropriation	(1,072,000)	871,000

This appropriation is added to the appropriation in Laws 1991, chapter 292, article 1, section 9.

The commissioner shall postpone administration of the Minnesota department of health residential care home rule until fiscal year 1995.

The commissioner must report
legislature by February 15, 19
options for home care licensure f
their impact on home care provi

Notwithstanding Laws 1985, Fi
cial Session chapter 14, article
tion 19, subdivision 8,
unobligated balance in the M
and Child Health account, $
shall cancel to the general fund.

The commissioner of health sh
tract with a nonprofit organiz
the area of urinary incontinenc
ment and management to cc
demonstration relating to the
for improving the quality of life
ing home residents and for cos
through improved assessment a
agement of urinary incontir
nursing homes. The demonstra
include the development of a
protocol by medical professic
evaluation and assessment of
patients in nursing homes
incontinent, the application of
ate treatment and managem
tices as prescribed by the
protocol, and analysis of the
life and economic and medic
of the demonstration. The
sioner shall report results of th
stration to the legislature not
February 1, 1994. $50,000 is
ated to the commissioner fo
of the demonstration. This m
be available only upon the s
the contract recipient th
$250,000 of matching private
in-kind services for purpo
demonstration.

The unobligated balance of t
appropriated from the state g
special revenue fund in L
chapter 292, article 1, sectic
vision 3, for the physician a

The commissioner must report to the legislature by February 15, 1993, on options for home care licensure fees and their impact on home care providers.

(1,500,000) 4,450,000

Notwithstanding Laws 1985, First Special Session chapter 14, article 19, section 19, subdivision 8, of the unobligated balance in the Maternal and Child Health account, $400,000 shall cancel to the general fund.

The commissioner of health shall contract with a nonprofit organization in the area of urinary incontinence assessment and management to conduct a demonstration relating to the potential for improving the quality of life of nursing home residents and for cost savings through improved assessment and management of urinary incontinence in nursing homes. The demonstration shall include the development of a treatment protocol by medical professionals, the evaluation and assessment of volunteer patients in nursing homes who are incontinent, the application of appropriate treatment and management practices as prescribed by the treatment protocol, and analysis of the quality of life and economic and medical benefits of the demonstration. The commissioner shall report results of the demonstration to the legislature not later than February 1, 1994. $50,000 is appropriated to the commissioner for purposes of the demonstration. This money shall be available only upon the showing by the contract recipient that it has $250,000 of matching private funds and in-kind services for purposes of the demonstration.

(1,072,000) 871,000

The unobligated balance of the $45,000 appropriated from the state government special revenue fund in Laws 1991, chapter 292, article 1, section 9, subdivision 3, for the physician assistant reg-

istration rules shall not cancel, but shall be available until June 30, 1993.

Notwithstanding the provisions of Minnesota Statutes, sections 144.122 and 144.53, the commissioner of health shall increase the annual licensure fee charged to a hospital accredited by the joint commission on accreditation of health care organizations by $520 and shall increase the annual licensure fee charged to nonaccredited hospitals by $225.

In determining base adjustments for the volunteer ambulance training reimbursement, the commissioner of finance shall carry forward as a permanent reduction only $20,000.

$40,000 is appropriated from the general fund for the fiscal year ending June 30, 1993, to the commissioner of health for local deliverers of the WIC program to purchase federally authorized nutritional supplements requiring no refrigeration or cooking to be distributed to eligible women and children who are homeless or living in temporary or emergency shelter.

$5,000 is appropriated to the commissioner of health. The commissioner shall use this money to prepare and distribute materials designed to provide information to retail business on the requirements of Minnesota Statutes, sections 145.385 to 145.40.

The health department will closely monitor the water testing program and report on the actual funds expended. The department shall work with affected local units of government to determine the most cost-effective manner for financing the program. The commissioner shall report to the legislature by January 15, 1993, on these matters.

The legislative commiss
shall investigate and reco
native future funding so
water testing program.
include, but not be limite
based fees, expansion of
municipal water systems
water testing fund, caps on
municipalities, and use of
sources.

The health department sh
the legislative water co
investigate ways to incorp
cal colleges, agricultura
agents, and others to deve
native approach to testin
also look at approaches u
states.

Subd. 2. Total Special R
Appropriation

Of this appropriation, $7
two positions and supp
develop a licensing and c
gram described below. T
sioner shall apply for fede
the purpose of lead aba
report annually to the le
level of such grants to M
the expected receipt of suc
next year.

To perform abatement a
Minnesota Statutes, secti
subdivision 2, abatement
must be licensed and thei
must be certified by the cc
The commissioner must
that establish criteria for
pending, and revoking for c
and certificates. The commi
establish, collect, and depc
state government special r
fees to pay for the cost of a
lead abatement licensing an

The legislative commission on water shall investigate and recommend alternative future funding sources for the water testing program. They shall include, but not be limited to, volume-based fees, expansion of fees to non-municipal water systems, a statewide water testing fund, caps on total fees for municipalities, and use of general fund sources.

The health department shall work with the legislative water commission to investigate ways to incorporate technical colleges, agricultural extension agents, and others to develop an alternative approach to testing. They shall also look at approaches used in other states.

Subd. 2. Total Special Revenue Fund Appropriation	10,000	201,000

Of this appropriation, $70,000 is for two positions and support costs to develop a licensing and certifying program described below. The commissioner shall apply for federal grants for the purpose of lead abatement and report annually to the legislature the level of such grants to Minnesota and the expected receipt of such grants the next year.

To perform abatement as defined in Minnesota Statutes, section 144.871, subdivision 2, abatement contractors must be licensed and their employees must be certified by the commissioner. The commissioner must adopt rules that establish criteria for issuing, suspending, and revoking for cause licenses and certificates. The commissioner must establish, collect, and deposit into the state government special revenue fund fees to pay for the cost of administering lead abatement licensing and certifying.

Sec. 8. HEALTH RELATED BOARDS

Subdivision 1. Total Special Revenue Fund Appropriation 53,000 420,000

The boards of medical practice, dentistry, nursing, and podiatric medicine shall increase fees to recover the cost of the appropriations for the reporting and monitoring of health care workers infected with the human immunodeficiency virus (HIV) or hepatitis B virus.

Subd. 2. Board of Social Work
16,000 28,000

Subd. 3. Board of Psychology
37,000 185,000

Subd. 4. Board of Chiropractic Examiners
14,000

Subd. 5. Board of Dentistry
11,000

Subd. 6. Board of Medical Practice
94,000

Subd. 7. Board of Nursing
86,000

Subd. 8. Board of Podiatric Medicine
2,000

Sec. 9. COMMISSIONER OF HOUSING FINANCE AGENCY (750,000)

Notwithstanding Laws 1991, chapter 292, article 1, section 17, for the biennium ending June 30, 1993, $225,000 is available each year for the urban Indian housing program and $187,000 each year for the urban and rural homesteading program.

$750,000 the second year is for a demonstration project to remove blighted residential property under Minnesota

Statutes, section 462A.05, subd
37, that is multiple-unit rental pr
The agency shall report to the
ture by January 15, 1993, on the
of the demonstration project.

Sec. 10. HUMAN RIGHTS

Sec. 11. Minnesota Statute
amended to read:

Subdivision 1. TELEPHONE
tance fund is created as a separa
amounts received by the departm
charge authorized by section 237.
fund assets. Money in the fund ma

(1) reimbursement to telepho
in section 237.70, subdivision 7, ;

(2) reimbursement of the ad
human services to implement sect
$314,000 annually; and

(3) reimbursement of the adm
exceed $25,000 annually.

Sec. 12. EFFECTIVE DATE.

This article is effective the day

AR

HEALTH

Section 1. Minnesota Statutes 1

144.122 LICENSE AND PERM

(a) The state commissioner of he
cedures and fees for filing with the
for the issuance of original and renew
tifications issued under authority of
the various licenses, permits, registra
rules shall be plainly marked thereon
nation fees and a penalty fee for renew
tion date of the previously issued per
The commissioner may also prescribe

53,000 420,000

Statutes, section 462A.05, subdivision 37, that is multiple-unit rental property. The agency shall report to the legislature by January 15, 1993, on the results of the demonstration project.

Sec. 10. HUMAN RIGHTS (32,000)

Sec. 11. Minnesota Statutes 1990, section 237.701, subdivision 1, is amended to read:

Subdivision 1. **TELEPHONE ASSISTANCE FUND.** The telephone assistance fund is created as a separate account in the state treasury to consist of amounts received by the department of administration representing the surcharge authorized by section 237.70, subdivision 6, and amounts earned on the fund assets. Money in the fund may be used only for:

(1) reimbursement to telephone companies for expenses and credits allowed in section 237.70, subdivision 7, paragraph (d), clause (5);

(2) reimbursement of the administrative expenses of the department of human services to implement sections 237.69 to 237.71, not to exceed ~~$180,000~~ $314,000 annually; and

(3) reimbursement of the administrative expenses of the commission not to exceed $25,000 annually.

Sec. 12. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

ARTICLE 6

HEALTH DEPARTMENT

(750,000)

Section 1. Minnesota Statutes 1990, section 144.122, is amended to read:

144.122 **LICENSE AND PERMIT FEES.**

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses,

STATE OF MINNESOTA

Office Memorandum

Department: of Finance

Date: November 2, 1992

To: Helen Patrikus, Medical Regulations Analyst
MN Board of Medical Practice

From: Bruce J. Reddemann, Director BJR.
Budget Operations

Phone: 296-5188

Subject: Proposed Fee Increase - Physician's Annual Renewal

The proposed fee increase as submitted on a memorandum dated October 8,1992, has been reviewed and is hereby approved as follows:

1. Physician annual license fee $168.00

It is my understanding that this approved fee will be charged for fiscal year 1993 and the effective date is to be January 1, 1993.

cc: H. Leonard Boche, Executive Director
Glenn Olson
Josie Ashton

CHAPTER 292—H.F.No. 719

An act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, human rights, housing finance, and other purposes with certain conditions; amending Minnesota Statutes 1990, sections 3.922, subdivisions 3 and 8; 3.9223, subdivision 1; 3.9225, subdivision 1; 3.9226, subdivision 1; 3.98, subdivision 1; 3.982; 13.46, subdivision 2; 15.46; 1031.235; 116C.04, by adding a subdivision; 136A.121, subdivision 2; 136A.162; 144.335, subdivision 1; 144.871, subdivisions 2 and 7; 144.873, subdivision 1; 144.874, subdivisions 1, 2, 3, and by adding subdivisions; 144A.071, subdivision 3, and by adding a subdivision; 144A.10, subdivision 4; 144A.31; 144A.46, subdivisions 1 and 4; 144A.49; 144A.51, subdivision 5; 144A.53, subdivision 1; 145.924; 145.925, by adding a subdivision; 148B.01, subdivision 7; 148B.03; 148B.04, subdivisions 3 and 4; 148B.05, subdivision 1; 148B.06, subdivisions 1 and 3; 148B.07; 148B.08; 148B.12; 148B.13; 148B.17; 148B.18, subdivision 10; 148B.23, subdivision 1; 148B.33, subdivision 1; 148B.38, subdivision 3; 157.031, subdivisions 2, 3, 4, and 9; 171.29, subdivision 2; 176.104, subdivision 1; 198.007; 214.04, subdivision 3; 237.70, subdivision 7; 241.022; 244.16; 245.461, subdivision 3, and by adding a subdivision; 245.462, subdivisions 6 and 18; 245.465; 245.4711, by adding a subdivision; 245.472, subdivision 2, and by adding a subdivision; 245.473, by adding subdivisions; 245.484; 245.487, subdivision 4, and by adding a subdivision; 245.4871, subdivisions 27, 31, and by adding a subdivision; 245.4873, subdivision 6; 245.4874; 245.4881, subdivision 1; 245.4882, by adding subdivisions; 245.4884, subdivision 1; 245.4885, subdivisions 1, 2, and by adding a subdivision; 245.697, subdivision 1; 246.18, subdivision 4, and by adding a subdivision; 246.23; 246.64, subdivision 3; 251.011, subdivisions 3 and 4a; 252.24, by adding a subdivision; 252.27, subdivisions 1a and 2a; 252.275; 252.28, subdivisions 1, 3, and by adding a subdivision; 252.32; 252.46, subdivisions 3, 6, 14, and by adding a subdivision; 252.478, subdivisions 1 and 3; 252.50, subdivision 2; 253.015, subdivision 2; 253C.01, subdivisions 1 and 2; 254A.17, subdivision 3; 254B.04, subdivision 1; 254B.05, by adding a subdivision; 256.01, subdivisions 2, 11, and by adding a subdivision; 256.025, subdivisions 1, 2, 3, and 4; 256.031; 256.032; 256.033; 256.034; 256.035; 256.036, subdivisions 1, 2, 4, and 5; 256.045, subdivision 10; 256.482, subdivision 1; 256.736, subdivision 3a; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256.936, by adding a subdivision; 256.9365, subdivisions 1 and 3; 256.9685, subdivision 1; 256.9686, subdivisions 1 and 6; 256.969, subdivisions 1, 2, 2c, 3a, and 6a; 256.9695, subdivision 1; 256.98, by adding a subdivision; 256.983; 256B.031, subdivision 4, and by adding a subdivision; 256B.04, subdivision 16; 256B.055, subdivisions 10 and 12; 256B.057, subdivisions 1, 2, 3, 4, and by adding a subdivision; 256B.0575; 256B.0625, subdivisions 2, 4, 7, 13, 17, 19, 20, 24, 25, 28, 30, and by adding subdivisions; 256B.0627; 256B.064, subdivision 2; 256B.0641, by adding a subdivision; 256B.08, by adding a subdivision; 256B.092; 256B.093; 256B.19, subdivision 1, and by adding subdivisions; 256B.431, subdivisions 2l, 3e, 3f, and by adding subdivisions; 256B.48, subdivision 1; 256B.49, by adding a subdivision; 256B.491, by adding a subdivision; 256B.50, subdivision 1d; 256B.501, subdivisions 8, 11, and by adding a subdivision; 256B.64; 256C.24, subdivision 2; 256C.25; 256D.03, subdivisions 2, 2a, 3, and 4; 256D.05, subdivisions 1, 2, 6, and by adding a subdivision; 256D.051, subdivisions 1, 1a, 2, 3, 3a, 6, and 8; 256D.052, subdivisions 3 and 4; 256D.06, subdivision 1b; 256D.07; 256D.10; 256D.101, subdivisions 1 and 3; 256D.111; 256D.36, subdivision 1; 256D.44, by adding a subdivision; 256F.01; 256F.02; 256F.03, subdivision 5; 256F.04; 256F.05; 256F.06; 256F.07, subdivisions 1, 2, and 3; 256H.02; 256H.03; 256H.05; 256H.08; 256H.15, subdivisions 1, 2, and by adding a subdivision; 256H.18; 256H.20, subdivision 3a; 256H.21, subdivision 10; 256H.22, subdivision 2, and by adding a subdivision; 256I.04, by adding a subdivision; 256I.05, subdivision 2, and by adding subdivisions; 257.071, subdivision 1a; 257.352, subdivision 2; 257.57, subdivision 2; 260.165, by adding a subdivision; 261.035; 268.022, subdivision 2; 268.39; 268.914; 268.975, subdivision 3, and by adding a subdivision; 268.977; 268.98; 268A.03; 268A.06, by adding a subdivision; 270A.04, subdivision 2; 270A.08, subdivision 2; 273.1398, subdivision 1; 299A.21, subdivision 6; 299A.23, subdivision 2; 299A.27; 393.07, subdivisions 10 and 10a; 401.13; 462A.02, subdivision 13; 462A.03, subdivisions 10, 13, 16, and by adding a subdivision; 462A.05, subdivisions 14, 20, and by adding subdivisions; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, 14, and by adding a subdivision; 462A.22, subdivision 9; 462A.222, subdivision 3; 471.705, subdivision 1; 474A.048, subdivision 2; 518.551, subdivision 5, and by adding subdivisions; 518.64; 609.52, by adding a subdivision;

631.425, subdivisions 3 and 7; 638.04; 638.05; 638.06; 643.29, subdivision 1; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 689, article 2, section 256, subdivision 1; Laws 1989, chapters 290, article 1, section 3, subdivision 2; and 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapters 144; 148B; 214; 241; 245; 252; 256; 256B; 256D; 256H; 257; 462A; proposing coding for new law as Minnesota Statutes, chapter 144B; repealing Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 148B.01, subdivisions 2, 5, and 6; 148B.02; 148B.16; 148B.171; 148B.40; 148B.41; 148B.42; 148B.43; 148B.44; 148B.45; 148B.46; 148B.47; 148B.48; 157.031, subdivision 5; 245.476, subdivisions 1, 2, and 3; 246.18, subdivisions 3 and 3a; 252.275, subdivision 2; 256.032, subdivisions 5 and 9; 256.035, subdivisions 6 and 7; 256.036, subdivision 10; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091; 256B.431, subdivision 6; 256B.71, subdivision 5; 256D.051, subdivisions 1b, 3c, and 16; 256D.09, subdivision 4; 256D.101, subdivision 2; 256H.25; 256H.26; 268A.05, subdivision 2; 462A.05, subdivisions 28 and 29; and Laws 1990, chapter 568, article 6, section 4.

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

ARTICLE 1

APPROPRIATIONS

Section 1. HUMAN RESOURCES; APPROPRIATIONS.

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

SUMMARY BY FUND

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

APPROPRIATIONS
Available for the Year
Ending June 30

	1992	1993
Sec. 2. COMMISSIONER OF HUMAN SERVICES		
Subdivision 1. Appropriation by Fund		
General Fund	1,496,147,000	1,596,183,000

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

Federal money received i
estimates shown in th
department of human s
document reduces the st
tion by the amount o
receipts, unless otherwis
the governor, after consu
legislative advisory comm

For the biennium ending
federal receipts as shown
budget document to be u
ing activities, programs,
under the supervision an
of the commissioner must
and become a part of the
provided for in this sectio

If federal money anticipat
that shown in the bienni
ment, the commissioner o
reduce the amount availa
direct appropriation a c
amount. The reductions n
in the budget document
the 78th legislature in a
estimate of similar federal
ipated for the biennium en
1995.

The commissioner of hu
with the approval of the
of finance and by directio
nor after consulting with
advisory commission, n
unencumbered appropriat
among the aid to families
dent children, AFDC child
assistance, general assista
care, medical assistance, M
plemental aid, and work r
grams, and the entitlemen
the chemical dependency
treatment fund, and betwee
of the biennium.

Effective the day following
ment, the commissioner
unencumbered appropriati
for fiscal year 1991 amon

the criteria established in Minnesota Rules. Notwithstanding any rule to the contrary, an organization shall not be excluded or reduced in priority for funding because the organization does not make available, directly or through referral, all methods of contraceptives for reasons of conscience. The commissioner of health shall develop procedures for establishing a conscience clause in the grant application process.

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

Subd. 4. Health Support Services

General Fund

4,002,000 4,051,000

Metropolitan Landfill Contingency Fund

22,000 22,000

Trunk Highway Fund

86,000 86,000

Sec. 10. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation

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

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

The commissioner of finance shall not

permit the allotment, enc
expenditure of money ap
this section in excess of th
biennial revenues from fee
the boards. Neither this p
Minnesota Statutes, sect
applies to transfers from
contingent account, if the a
ferred does not exceed th
surplus revenue accumul
transferee during the pr
years.

Unless otherwise designatec
priations in this section a
state government special rev

Subd. 2. Board of Chiroprac
iners

Subd. 3. Board of Dentistry

Subd. 4. Board of Medical E

For the biennium ending Jun
fees set by the board of medic
ers pursuant to Minnesota St.
tion 214.06, must be fixed by
procedure for noncontroversi
Minnesota Statutes, sections
14.28 may be used except tha
standing the requirements of
Statutes, section 14.22, para
no public hearing may be
notice of intention to adopt
must state that no hearing wil
This procedure may be used c
the total fees estimated for
nium do not exceed the sum
appropriations, indirect costs,
in, and salary supplements for
pose. A public hearing is req
adjustments of fees spent un
appropriations of dedicated rec

Subd. 5. Board of Nursing

Subd. 6. Board of Examiners fc
ing Home Administrators

Subd. 7. Board of Optometry

Subd. 8. Board of Pharmacy

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

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

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

For the biennium ending June 30, 1993, fees set by the board of medical examiners pursuant to Minnesota Statutes, section 214.06, must be fixed by rule. The procedure for noncontroversial rules in Minnesota Statutes, sections 14.22 to 14.28 may be used except that, notwithstanding the requirements of Minnesota Statutes, section 14.22, paragraph (3), no public hearing may be held. The notice of intention to adopt the rules must state that no hearing will be held. This procedure may be used only when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required for adjustments of fees spent under open appropriations of dedicated receipts.

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

59,000 5,949,000

Deficiency: $16,000 is appropriated for fiscal year 1991 to the board of pharmacy from the state government special revenue fund.		
Subd. 9. Board of Podiatry	28,000	28,000
Subd. 10. Board of Psychology	237,000	206,000
Deficiency: $30,000 is appropriated for fiscal year 1991 to the board of psychology from the state government special revenue fund.		
Subd. 11. Board of Marriage and Family Therapy	94,000	94,000
Subd. 12. Board of Social Work	410,000	410,000
Subd. 13. Board of Veterinary Medicine	110,000	108,000
Sec. 11. COUNCIL ON DISABILITY	568,000	583,000
Sec. 12. COUNCIL ON BLACK MINNESOTANS	195,000	200,000
Sec. 13. COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE	213,000	220,000
During the biennium ending June 30, 1993, council publications may contain advertising. Funds derived from advertising are appropriated to the council for purposes of council publications.		
For the biennium ending June 30, 1993, the council shall report to the legislature on the revenues and expenditures from advertising by February 15 each year.		
Sec. 14. COUNCIL ON ASIAN-PACIFIC MINNESOTANS	170,000	174,000
Sec. 15. INDIAN AFFAIRS COUNCIL	444,000	455,000
For the biennium ending June 30, 1993, federal money received for the Indian affairs council is appropriated to the council and added to this appropriation.		
Sec. 16. COMMISSIONER OF HUMAN RIGHTS	3,194,000	3,189,000

The department of hum
not be charged by the a
for legal representation
complaining parties wh
charge of discriminat
department. This provisi
retroactive to July 1, 198
ment does not have an ob
for any services rendered
ney general since July 1,
of the amounts already
services.

Sec. 17. COMMISSIONE
ING FINANCE AGENC

Subdivision 1. Total Appr
Approved Complement -

Spending limit on cos
administration of agency
1992
8,305,000

This appropriation is for t
housing development func
grams specified in the w
ments of the conferees.

Money is appropriated fr
ing development fund to b
vide housing for chroni
dependent adults under Mi
utes, section 462A.05, sul
Money is appropriated fr
ing development fund to
make planning grants to nc
nizations to develop coord
ing and housing programs
adults under Minnesota S
tion 462A.05, subdivision

Any state appropriations u
match requirements under
the National Affordable Ho
1990, Public Law Number
Stat. 4079, must be repaid,
required by federal law, to
Investment Trust Fund es

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

In the Matter of the Proposed Adoption of the Rule of the Minnesota Board of Medical Practice Relating to the Physician Annual License Fee

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

(1) Notice of the Minnesota Board of Medical Practice's (hereinafter "Board") intent to adopt the above-entitled rule was published in the State Register on November 16, 1992, and was sent by United States mail to all persons on the list maintained by the Board pursuant to Minn. Stat. 14.14, Subd. 1a, and 14.22 on November 16, 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 mailing list and published in the State Register and was available to the public. (3) Before the notice of intent to adopt rules was submitted to the State Register, a copy of the notice and the proposed rule was delivered to the chairs of the house appropriations committee and senate finance committee on November 2, 1992.

FINDINGS

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

2. One request for a copy of the Statement of Need and Reasonableness was received by the Board.

3. No submissions or comments on the rules were received by the Board. (7)

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

CONCLUSIONS

Based on the record before the Board, including the Statement of Need and Reasonableness which is incorporated herein as the Board's findings, the Board concludes that the above-captioned rule is both needed and reasonable. (8)

NOW, THEREFORE, IT IS HEREBY ORDERED that the rule identified as Board of Medical Practice Rule Relating to the Physician Annual License Fee is adopted this 22nd day of December, 1992, pursuant to authority vested in the Board by Minn. Stat. 147.01, Subd. 3 (1990). (9)

H. Leonard Boche
Executive Director

Board of Medical Practice

Proposed Permanent Rules Relating to Fees

Rules as Proposed

5600.2500 ANNUAL FEES.

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

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

E. physician annual license, ~~$144~~ $168;

[For text of items F to U, see M.R.]

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Fees

AGENCY: Board of Medical Practice

MINNESOTA RULES: Chapter 5600

The attached rules are approved for
publication in the State Register

Carla M. Riehle
Assistant Revisor