

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA
BOARD OF MEDICAL EXAMINERS

In the Matter of Proposed
Amendments to Rules Relating
to Fees, Minn. Rule part
5600.2500

STATEMENT OF NEED FOR AND
FACTS ESTABLISHING
REASONABLENESS OF AMENDMENTS

Pursuant to Minnesota Statute §14.23 (1984), the Minnesota Board of Medical Examiners (hereinafter "Board") hereby affirmatively presents the need for and facts establishing the the reasonableness of proposed amendments to Minnesota Rules, part 5600.2500, relating to fees.

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

1. STATUTORY AUTHORITY

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

Minnesota Statutes, §§ 147.01, 147.02, 147.03, 147.037, 148.705, 148.73 (1984), authorize the Board to promulgate licensure fees and other rules necessary to administer sections 147.01 to 147.151 and 148.65 to 148.78.

Minnesota Statutes, §§16A.128 (Supp. 1985) and 214.06 (1984), require the Board to adjust any fee which the Board is empowered to assess a sufficient amount so that the total fees collected will as closely as possible equal anticipated expenditures, including support costs and statewide indirect costs attributable to the fee function.

2. STATEMENT OF NEED

The Board has reviewed its anticipated expenditures for 1987 and found that if its revenue is derived from existing fees, the Board's expenditures would exceed revenue by more than \$579,000. Thus, the Board would not be in compliance with Minnesota Statutes, §§ 16A.128 and 214.06. Therefore, the need for the Board to adjust its fees is so that the Board can comply with the statute.

3. STATEMENT OF REASONABLENESS

Board expenditures are rising for a number of reasons. In 1985, the Medical Practice Act (Chapter 147) was amended to substantially increase the Board's statutorily mandated activities in licensing and discipline of physicians and physical therapists. The largest increase in costs resulting from these changes is in the area of enforcement actions involving physicians and physical therapists who violate the Medical Practices Act or statutes relating to practice of physical therapy. In addition to increased numbers of consumer complaints against physicians and physical therapists, reports involving physicians required to be submitted by medical organizations and individual licensed health professionals have resulted in substantially increased legal and enforcement activities. The investigation and discipline of problem professionals, and professionals with problems, has direct cost impact on Board investigative and legal services.

In January 1986 the Board was required to relocate and did relocate its offices with resultant lease changes. Also, the number of license applicants is increasing, and as a result of 1985 amendments to the Medical Practices Act, the Board is now required to personally interview each physician applicant.

During F.Y. 86, approximately 900 new license applications were received. The Board anticipates processing of approximately 950-975 applications during F.Y. 87. In addition, the Board anticipates receiving 150 applications from

physical therapists. Staff processing of each application requires approximately two hours per application. Activities include verification of all education and work experience, searching national data bases for licensure and discipline histories in other states, preparing application documentation for review by the Licensure Committee and full Board, and investigating and verifying any adverse legal information concerning malpractice suits and disciplinary actions in other jurisdictions. Senior staff or Board members interview each physician applicant, a process which requires an average of 20 minutes per applicant.

Physical therapist applicants are reviewed by the Physical Therapy Advisory Council. Total direct staff costs plus office space and indirect costs for physical therapy licensing, annual renewal, discipline and Advisory Council activities, exclusive of testing, are approximately \$40,000 per year, an amount which must be covered by application and renewal fees.

The single largest increase is in the area of investigative and legal costs charged to the Board by the Attorney General's office, estimated to increase from \$200,000 to \$350,000.

Costs directly related to the testing of licensure applicants are being increased by the Federation of State Medical Boards and the Professional Examination Services, and these costs will be passed on to new applicants.

Examination fees charged to the Board by the Federation of State Medical Boards for each person taking the FLEX licensing examination in Minnesota will increase during 1987 from \$240 to \$365. Direct cost attributed to the processing of applications and administration of the FLEX exam, including staff time, hiring proctors and rental of examination facilities, are projected to remain \$60 per applicant. Thus, the Board is proposing to increase the examination fee charged to physician applicants from \$300 to \$425, based solely on the \$125 increase announced for 1987 by the Federation.

Physical therapists who apply to take the Professional Examination Service (PES) exam for licensure presently pay a fee of \$75. This is the amount which the Board pays PES and does not include any provision for administrative costs, which are estimated at \$15 per applicant. Thus, the Board is proposing to increase the physical therapist examination fee from \$75 to \$90.

The examination fees include administration, examination development, actual testing, scoring and license issuance costs. Moreover, the Board is unable to further reduce its own functions and services to offset such cost increases.

For the foregoing reasons, the fee increases being sought are wholly reasonable. See also the finance statement attached hereto.

4. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minnesota Statutes §§ 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, Minnesota Statutes §§ 14.05-14.12, have been complied with by the Board as noted below. Because Board fees are fixed by rule rather than by statute, the procedures for adoption of non-controversial rules in sections 14.22 to 14.28 are being used, except that no public hearing is presently planned and need not be held unless 20 percent of those affected by the proposed amendments make a timely written request for a hearing. See Minnesota Statute § 16A.128, Subd. 2.a.

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. Minnesota Statute § 14.11. The adoption of these rules could have a negligible effect on small businesses as discussed below. See Minnesota Statutes § 14.115.

Pursuant to Minnesota Statutes, § 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 Amend The Rules Without A Public Hearing in the State Register and mail copies of notice and proposed amendments to persons registered with the Minnesota Board of Medical Examiners pursuant to Minnesota Statutes, §14.14, Subd. 1.a. The notice will include the following information: a) that the public has thirty days in which to submit comments on the proposed amendments and giving information pertaining to the manner in which persons may comment; b) that no public hearing will be held pursuant to Minnesota Statutes §16A.128, Subd. 2.a, unless 20 percent of those affected request a hearing in writing within the thirty day comment period; c) that the rule may be modified if modifications are supported by data and the view submitted; and d) that notice of the date of submission of the proposed amendments to the Attorney General for review will be mailed to any person requesting to receive the notice, and giving information on how to request the notice.

5. ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance. Pursuant to Minnesota Statutes §16A.128, Subd. 1, 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 in the Statement of Need and Reasonableness. The Commissioner's approval of the proposed amendments to part 5600.2500 is contained in the attached document.

Small Business Considerations. In preparing to propose these amendments, the Board considered the methods for reducing the impact of the amendments on small businesses as set forth in Minnesota Statutes, § 14.115, Subd. 2 (1984). The Board noted that the suggested methods for reducing the impact on the rules on small business concern compliance and reporting requirements and performance

standards. Since the proposed amendments merely raise fees charged by the Board to individual licensees, there would appear to be no impact or significant effect on small businesses.

Dated: August 4, 1986

STATE OF MINNESOTA
BOARD OF MEDICAL EXAMINERS



David M. Ziegenhagen

Executive Director