

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA
BOARD OF OPTOMETRY

STATEMENT OF NEED AND
REASONABLENESS OF AMENDMENTS
REGARDING FEES

Pursuant to Minnesota Statutes 14.23 (1986) the Minnesota Board of Optometry (hereafter "Board"), hereby affirmatively presents the facts establishing the need and reasonableness of proposed amendments and additions to Minnesota Rules, parts 6500.1800, 6500.1900, 6500.2100 and 6500.2700 relating to fees.

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

1. STATUTORY AUTHORITY

Minnesota Statutes section 148.53 (1986) authorizes the Board to make any rules and to do any and all things not inconsistent with the law which it may deem necessary or expedient for the effective enforcement of sections 148.52 to 148.62 or for the full and efficient performance of its duties.

Minnesota Statutes, sections 16A.128 and 214.06 (1986), 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 during the fiscal biennium, including support costs and statewide indirect costs attributable to the fee function.

2. STATEMENT OF NEED

The Board has reviewed its anticipated expenditures and its revenue derived from existing fees for the 1988-1989 bienium. The Board has found that expenditures will exceed income. The Board, therefore, would not be in compliance with Minnesota Statutes, sections 16A.128 and 214.06 (1986). Thus, there is need for the Board to adjust its fees so that the Board can comply with the statute.

The Board is proposing the amendments to cover the Board's costs to process an application for licensure in the State of Minnesota, to issue of a drug certificate, and to issue an Optometrist Emeritus Registration Certificate. The present application fee for licensure, as a line item, does not cover the cost of processing an application and examining an applicant. Currently, the Board does not have a fee to cover costs for issuing of a drug or emeritus registration certificate.

3. STATEMENT OF REASONABLENESS

Before submitting its 1988-1989 biennial budget request to the Legislature, the Board carefully scrutinized all expenses anticipated over the next biennium and found it was not being adequately compensated for examinations and for issuing certificates. When the legislature approved the Board's budget, it reduced it by 3%, or approximately \$1500. The Board reviewed its anticipated expenditures for the next biennium and found that further reductions cannot be made to meet anticipated revenue from the current fee schedule. Therefore, it is reasonable to raise the application fee on and to add a fee for issuing certificates.

4. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minnesota Statutes, sections 14.05 to 14.12 and 14.22 14.28, specify certain procedures which must be followed when an agency adopts or amends rules without a public hearing. Procedures applicable to all rules, Minnesota Statutes, sections 14.05 to 14.12, have been complied with by the Board as noted below. Procedural Rulemaking Requirements of the Administrative Procedure Act.

The adoption of these rules will not require the expenditure of public money by local public bodies, nor do the rules have impact on agricultural land, Minnesota Statutes, sections 14.11 (1986).

Pursuant to Minnesota Statutes, section 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 Rules without a Public Hearing in the State Register and mail copies of the notice and proposed amendments to persons registered with the Minnesota Board of Optometry pursuant to Minnesota Statutes, section 14.14, subdivision 1.a. The notice will include the following information: a) that the public have 30 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 on the amendments relating to fees pursuant to Minnesota Statutes, section 16A.128, subdivision 2.a (1986); c) that the rule may be modified if modifications are supported by data and the views submitted; c) 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.

The Board will submit the proposed amendments and notice as published, and as adopted, any written comments which have been received, and this Statement of Need and Reasonableness to the Attorney General for approval of the amendments as to legality and form.

5. ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance.

Pursuant to Minnesota Statutes, section 16A.128, subdivision. 1, if 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 6500.1800, 6500.1900, 6500.2100 and 6500.2700 is contained in the attached document entitled "Commissioner of Finance."

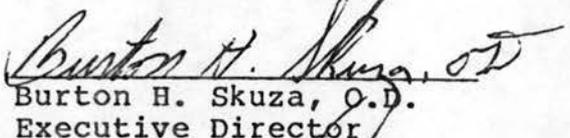
Small Business Consideration. In preparing these proposed amendments, the Board considered the impact of the amendments on small businesses set forth in Minnesota Statutes, section 14.115, subdivision 2 (1986). Since the proposed amendments merely raise fees charged by the Board for licensure and other administrative functions, the impact on small businesses would be negligible.

Small businesses affected by the proposed amendments will have an opportunity to participate in the rulemaking process. A notice of the proposed rulemaking will be mailed to the following organizations which will likely represent small businesses affected by the amendments: Minnesota Optometric Association, Minnesota Association of Optometrists and Opticians, Minnesota Society of Opticians and Contact Lens Technicians and other interested parties.

Dated: August 28, 1987

STATE OF MINNESOTA

BOARD OF OPTOMETRY


Burton H. Skuza, O.D.
Executive Director