

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA
BOARD OF DENTISTRY

In the Matter of Proposed
Amendment to the Board of
Dentistry Rule Relating to
Annual Renewal Fees, Minn.
Rules pt. 3100.2000, subp. 2

STATEMENT OF NEED
AND REASONABLENESS

RECEIVED
JUL 30 1987
ADMINISTRATIVE

Pursuant to Minn. Stat. §§ 14.131 and 14.23 (1986), the Minnesota Board of Dentistry (hereinafter "Board"), hereby affirmatively presents the need for and facts establishing the reasonableness of the proposed amendments to Minn. Rules, pt. 3100.2000, subp. 2, relating to annual license and registration renewal fees.

In order to adopt the proposed amendments, the Board must demonstrate that it has complied with all the procedural and substantive requirements of rulemaking. Those requirements are as follows: 1) there is 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

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

1. Minn. Stat. § 150A.04, subd. 5 (1986), authorizes the Board to promulgate rules necessary to carry out the provisions and purposes of the Minnesota Dental Practices Act, Minn. Stat. ch. 150A;
2. Minn. Stat. § 150A.09, subd. 1 (1986) authorizes the Board to establish renewal license and registration fees; and
3. Minn. Stat. §§ 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 which is determined by reference to the agency's appropriation for the biennium plus the agency's general costs, statewide indirect costs, and Attorney General costs attributable to the fee function.

2. STATEMENT OF NEED

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

	FY 1985	FY 1986	FY 1987
Total Costs	348,500	341,700	358,700
Receipts	<u>293,100</u>	<u>341,100</u>	<u>353,800</u>
Deficit	55,400	600	4,900

Given the past experience and projections for the future, including a projection of total Board costs for FY 1988 of 461,700, remedial action must be taken for the 1988 renewal fees to avoid a dramatic increase in the deficit. Accordingly, it is necessary to increase the fees to assure that revenues and expenditures match as nearly as possible but also to help cover the deficits from past years. This action is also mandated by Minn. Stat. §§ 16A.128, subd. 1a, and 214.06, subd. 1.

3. STATEMENT OF REASONABLENESS

The recommended increases are predicated on historical information that relates to basic services and legal services. It has been the Board's experience that basic services such as licensure, registration, renewal, CDE maintenance and rules have increased in cost by approximately 22 percent over the past three years. With this increase in basic services, the renewal rates are being increased by 25 percent for all licensees or registrants.

In addition to the basic services, legal services represent a significant cost to the Board. Pursuant to Minn. Stat. § 214.04, these services are provided by the Attorney General's Office. These charges have increased by 40 percent over the past three years. Almost the entire increase can be attributed to legal and investigative

services related to complaints received against dentists as opposed to dental hygienists or registered dental assistants. Thus, the proposed fee increase for dentists reflects these increased costs in addition to the 25 percent increase for basic services referenced above.

For detailed information regarding the fees, see the memorandum attached as an addendum and made a part hereof from Bruce J. Reddemann of the Department of Finance to Douglas Sell of the Board dated June 8, 1987.

4. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minn. Stat. §§ 14.05 to 14.28, specify certain procedures which must be followed when an agency adopts or amends rules. Procedures applicable to all rules as specified in Minn. Stat. §§ 14.05 to 14.12 have been complied with by the Board as noted below. Because the increased fees must be established prior to the Board mailing the 1988 license and registration renewal applications, it has chosen to proceed under the noncontroversial rule provisions of Minn. Stat. §§ 14.22 to 14.28 but, at the same time, to start the public hearing rulemaking process under Minn. Stat. §§ 14.131 to 14.20. Thus, if 25 or more persons request a hearing under the noncontroversial process, time will not be lost as the hearing notice will have already been published. If a hearing need not be held, the rulemaking notice provides for cancellation of the hearing. In either event, the Board is complying with the rulemaking requirements for a public hearing as well as for the noncontroversial process.

Procedural Rulemaking Requirements of the Administrative Procedure Act

Minn. Stat. § 14.10, requires an agency which seeks information or opinions in preparing to propose an amendment of rules from sources outside the agency to publish a notice in the State Register and afford all interested persons an opportunity to submit data or comments on the subject matter of the proposed changes. In the

State Register issue of Monday, June 15, 1987, at page 2286, the Board published a notice entitled "Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Amendment Governing Annual Renewal Fees Minn. Rules pt. 3100.2000, subp. 2." The Board did not receive any written comments in response to this notice.

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. See Minn. Stat. § 14.11. As discussed below, the adoption of these rules will not affect small businesses. See Minn. Stat. § 14.115. In compliance with Minn. Stat. § 16A.128, subd. 2a, a copy of the Board's Alternative Notices regarding its intent to amend its fee rule and a copy of the rule as proposed for amendment were submitted to the chairpersons of the appropriations committee and the senate finance committee of the Minnesota House of Representatives and Senate respectively before the Notice was submitted for publication to the State Register.

Pursuant to Minn. Stat. §§ 14.131 and 14.23, the Board has prepared this Statement of Need and Reasonableness which is available to the public. The Board will publish its Alternative Notices consisting of a Notice of Intent to Amend a Rule Without a Public Hearing, Notice of Intent to Amend a Rule With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing in the State Register and mail copies of the notice and proposed amendments to persons registered with the Minnesota Board of Dentistry pursuant to Minn. Stat. § 14.14, subd. 1.a. The notice will comply with the requirements of Minn. Stat. §§ 14.14 and 14.22 and Minn. Rule pt. 2010.0300E.

If the rule amendments are adopted without a public hearing, the Board will submit the proposed amendments and all the required documents to the Attorney General for approval of the amendments as to legality and form as it relates to legality. Notice of the submission to the Attorney General will be mailed to all persons requesting to receive the notice.

5. ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance. Pursuant to Minn. Stat. § 16A.128, subd. 1a, 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 3100.2000, subpart 2, is contained in the attached Addendum, a memorandum from Bruce J. Reddemann, Director, Budget Operations and Support, Department of Finance, to Douglas R. Sell, Executive Director, Minnesota Board of Dentistry, dated June 8, 1987, subject, Proposed Fee Changes.

Small Business Considerations. Minn. Stat. § 14.115 requires administrative agencies, when proposing a rule or an amendment to an existing rule, to consider various methods for reducing the impact of the proposed rule or amendment on small businesses and to provide opportunity for small businesses to participate in the rulemaking process. It is the Board's position that the rule amendments will not affect small businesses.

The rule amendment will increase the annual license or registration renewal fee for dentists, dental hygienists, and registered dental assistants. The license or registration is of people and not businesses and authorizes them to perform various professional services independent of whether or not the services are performed as part of a small business.

However, should the amendments in some way be construed as affecting small businesses, the Board reviewed the suggested methods for reducing the impact of the rules on small businesses and noted that those methods basically relate to compliance and reporting requirements and performance standards. The proposed amendments do not address these matters but instead raise fees charged by the Board

for licensure and registration renewal. Furthermore, reducing the impact of the amendments on small businesses would be contrary to the statutory objectives that are the basis for requiring the Board to adjust fees to meet anticipated expenditures. See Minn. Stat. §§ 16A.128, subd. 1a, and 214.06, subd. 1. It would also result in placing a greater burden on those persons not considered "small businesses" when the work of the Board applies equally to all licensees and registrants without regard to their small business classification. Such a distinction, if reflected in renewal fees, would be without justification.

Licensee and registrants, regardless of whether they are considered as individuals or small businesses, will have an opportunity to participate in the rulemaking procedure. A notice of the proposed rulemaking will be mailed to the following organizations which will likely represent any entity affected by the amendments which might claim to be a small business: Minnesota Dental Association, Minneapolis District Dental Society, Northeastern District Dental Society, St. Paul District Dental Society, Northwestern District Dental Society, Southeastern District Dental Society, Southern District Dental Society and West Central District Dental Society.

Dated: July 29, 1987

STATE OF MINNESOTA

BOARD OF DENTISTRY



DOUGLAS R. SELL
Executive Director

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : of Finance

DATE : June 8, 1987

TO : Douglas R. Sell, Executive Director
Board of DentistryFROM : Bruce J. Reddemann, Director
Budget Operations and Support

BJR

PHONE : 6-5188

SUBJECT : Proposed Fee Changes



Fee adjustments requested on your May 19, 1987 proposal have been reduced and approval is given for the rates shown below:

	<u>Number</u>	<u>Current Fee</u>	<u>Approved Fee</u>	<u>Revenue</u>
Dentist	3,900	\$45	\$70	\$ 273,000
Dental Hygienist	2,600	\$20	\$25	65,000
Registered Dental Asst.	3,400	\$14	\$17	57,800
				<u>\$ 395,800</u>

Miscellaneous fees - Licensure by Credential,
Late Fees, Duplicate Licensure or Registration
Fee, Reinstatement Fee - At Current Rate

68,900
\$ 464,700
X 2
\$ 929,400

Total Biennial Receipts

Based on the following estimated expenditures for the biennium, these fees will approximate costs:

<u>Item</u>	<u>1988</u>	<u>1989</u>	<u>Biennial Total</u>
Appropriation	\$ 317,000	\$ 317,400	\$ 634,500
Indirect Costs	14,640	14,700	29,340
Salary Supplement (2-1/2%)	5,000	10,300	15,300
Attorney General (Est.)	100,000	100,000	200,000
1987 Deficit	25,000	25,000	50,000
	<u>\$ 461,740</u>	<u>\$ 467,400</u>	<u>\$ 929,140</u>

Douglas R. Sell
June 8, 1987
Page 2

Minnesota Statute 16A.128, Subd. 1a, states that fees must be set or fee adjustments must be made so that the total fees nearly equal the sum of the appropriation for the accounts plus the agency's general support costs, statewide indirect costs and Attorney General costs attributable to the fee function. The approved fees will accomplish this objective.

TL/BJR/BN/KB/568T

cc: Brian Roherty
John Schorn
Bart Nelson