

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA BOARD OF
UNLICENSED MENTAL HEALTH
SERVICE PROVIDERS

In the Matter of the Proposed
Adoption of Rules of the Board
of Unlicensed Mental Health
Service Providers Relating to
the Practice of Mental Health
Services, Setting Fees,
Renewal Fees, and Late Fees
for Filing

STATEMENT OF NEED AND
REASONABLENESS

I. INTRODUCTION

The Minnesota Board of Unlicensed Mental Health Service Providers (Board) is proposing rules relating to filing fees, (Minnesota Rules pt. 9000.0100 to 9000.0190 [1989]).

Health related licensing boards are required by law to generate sufficient income from fees to cover budgeted expenses, fees for legal services provided by the Attorney General's office, administrative services provided by the Health Department, and the agency's share of statewide administrative costs. No tax revenues are used to fund their operation. The Board is proposing these rules to ensure that the total fees collected by the Board will meet anticipated expenditures during the fiscal biennium. The proposed fees have been approved by the Commissioner of Finance, as required by Minn. Stat. sec. 16A.128, subd. 1. See Exhibit 1, which is attached hereto and incorporated herein.

The Board has determined that Minn. Stat. sections 14.11, 17.80-17.84, 115.43, 116.07, subd. 6, and 144A.29 subd. 4 do not apply to these proposed rules. Therefore, this Statement of Need and Reasonableness does not address the topics referenced in those statutes.

II. Small Business Considerations

Minn. Stat. section 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 rules will not affect small businesses.

The rules will establish the annual filing and renewal fee, and establish late fees for mental health service providers. The filing is for individual providers, and not businesses. The filing authorizes providers to perform various professional mental health services independent of whether or not the services are performed as part of a small business.

However, should the rules in some way be construed as affecting small business, 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 rules do not address these matters but instead establish fees

charged by the Board for filing and for renewal. Furthermore, reducing the impact of the rules on small businesses would be contrary to the statutory objectives that are the basis for requiring the Board to set fees to meet anticipated expenditures. See Minn. Stat. sections 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 filers without regard to their small business classification. Such a distinction, if reflected in renewal fees, would be without justification.

Filers, regardless of whether they are considered as individuals or small businesses, will have an opportunity to participate in the rulemaking process. A notice of the proposed rulemaking will be mailed to all individuals and organizations who have given notice to the Board of their wish to receive notice of proposed rulemaking.

III. STATEMENT OF BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to adopt rules relating to filing fees is set forth in Minn. Stat. sections 148B.17, 148B.41, subd. 4, and 148B.47 which grant the Board authority to prescribe rules as may be necessary to effectuate the provisions of the filing law, including the setting of board fees. Additional statutory authority for the Board to promulgate rules relating to fees, including renewal fees, is set forth in Minn. Stat. sec. 214.06, which provides in relevant parts:

Notwithstanding any law to the contrary, ...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 board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128.

Minn. Stat. sec. 214.06, subd. 1 (1988).

Notwithstanding any law to the contrary, each health-related and non-health-related licensing board shall promulgate rules providing for the renewal of licenses. The rules shall specify the period of time for which a license is valid, procedures and information required for renewal, and renewal fees to be set pursuant to subdivision 1.

Minn. Stat. sec. 214.06, subd. 2 (1988). Under these statutes, the Board has the authority to adopt rules to include fees.

IV. STATEMENT OF NEED

As stated in Minn. Stat. 148B.17, which reads:

Each board shall by rule establish fees, including late fees, for licenses or filings and renewals so that the total fees collected by the board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128, plus the prorated costs of the office of social work and mental health boards. Fees must be credited to the special revenue fund.

The Board is required to establish and collect fees to equal, as closely as possible, anticipated expenditures. Rules (9000.0100 to 9000.0190), to implement the provisions of Minn. Stat. sections 148B.40 to 148B.47 (filing of mental health service providers), were adopted on January 8, 1989. Through an inadvertent error in notice requirements, required by M.S. 16A.128, the Board was not able to adopt rules relating to fees.

The proposed fees are necessary to generate sufficient income to cover expected expenditures for the biennium of \$410,000.

Tables I and II, attached hereto and incorporated herein as Exhibit II, indicate projected income under the presently proposed fee schedule, details of costs, and projected income expected from the proposed fees. Exhibit II represents the fee review data required to be submitted by law. Exhibit II represents the fee detail accounting for how total expenses are reconciled, which includes types of fees, number of persons paying, and income. We are proposing to add application fees, renewal fees, and late-filing fees by adding rule 9000.0200 FEES.

V. STATEMENT OF REASONABLENESS

A. Fee for Application for Filing

The fee for filing is proposed in 9000.0200, to be established at \$50. A \$50 fee is sufficient to generate the Board's cost of operation during the first year of operation. The fee is based on a projection of 4100 applicants. The term of filing is proposed to be one year. This fee is reasonable to meet anticipated expenditures for filing of providers.

The initial projection of 4100 filers is at best an estimate, since no actual history of filings exist. One of the purposes of the legislation creating the Board, is to determine the number of individuals practicing mental health services who are no otherwise licensed or regulated.

In consultation with professional organizations, professionals' mailing lists, and estimates of persons knowledgeable about numbers of providers in certain defined groups, the following estimates were projected:

Chemical Dependency Counselors	3000
Professional Counselors	500
Pastoral Counselors	100
Miscellaneous Counselors, Therapists	<u>500</u>
Estimate Total:	4100

For the purpose of maintaining the financial integrity of the Board, and to maintain administrative costs at a minimum, it is reasonable to have the application fee accompany the application. It is also reasonable for the Board to retain the application fee, since nearly all administrative cost will be consumed in the initial processing and investigation of applications.

B. Fee for Renewal of Filing

The renewal fee is proposed in 9000.0200 to be established at \$50 and to be paid at the time of renewal, one year after the initial filing was granted. Based on an anticipated 4100 filings, \$50 is sufficient to meet the Board's second year budget of \$205,000. It is reasonable that the renewal fee is the same as the initial filing fee since all filers will be required to renew their application and the Board's cost of operation is projected to be approximately the same. In the event that the

projected number of filers exceeds the projected 4100, action would be taken to reduce the fee commensurately.

C. Fee for Late Renewal of Filing

The proposed late fee in 9000.0200, of \$25 for late renewal, is reasonable. Primarily the fee serves as an incentive for filers to renew on time. Secondarily the fee will be used to offset added legal and administrative costs incurred by the Board to initiate formal action against practicing filers who fail to renew. The purpose of this fee is not to generate surplus revenue, and it is anticipated that few filers will be so affected. It is hoped that the late fee will result in a high percentage of filers renewing on time, therefore eliminating some of the Board's added administrative and legal costs.

It was determined by the Board that a 90-day grace period is a sufficient and reasonable time in which to notify persons who are now practicing mental health services, of the requirement to file, and to provide an incentive for them to file in a timely manner.

VI. WITNESSES

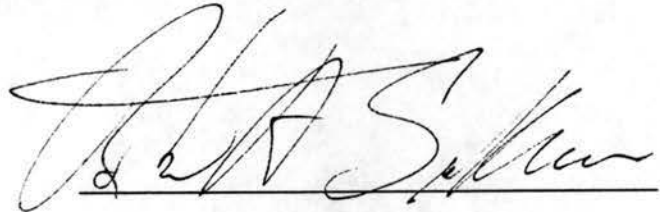
Minnesota Rules p. 1400.0500 requires that an agency include in its statement of need and reasonableness a list of any witnesses to be called to testify on its behalf at hearing, together with a brief summary of the opinion to be elicited. Should a hearing be required, the Board expects to call the following:

Robert A. Sullivan, Executive Director for the Board will appear. Mr. Sullivan's testimony will consist of an oral presentation of the substance of this statement. The Board does not expect to call any other witnesses.

VII. CONCLUSION

Based on the foregoing, the proposed rules, relating to fees, are both needed and reasonable.

Dated: April 4, 1989

A handwritten signature in cursive script, appearing to read "R. A. Sullivan", written over a horizontal line.

Robert A. Sullivan
Executive Director

FI-00195-01

Department of Finance
FEE REVIEW - Details of Costs

Date Prepared:
2/10/89

Department/Agency: BOARD OF UNLICENSED MENTAL HEALTH SERVICE PROVIDERS Budget Activity:

Fee Name:
LICENSING FEES

Fiscal Year	Actual F.Y. 87	Actual F.Y. 88	Estimated F.Y. 89	Requested F.Y. 90	Requested F.Y. 91
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Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-06 Dollars in Thousands (137,522 = 137.5)

Agency Direct Expenditures		36	148	165	165
Salary Increases	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX		
Attorney General			10	30	50
Statewide Indirect					
Agency Indirect			2	2	2
Totals - <small>must agree with cost on Fee Review Form</small>		36	160	197	217

Remarks:

- AGENCY DIRECT EXPENDITURES INCLUDE A PERCENTAGE OF THE ADMINISTRATIVE (OFFICE) COSTS TO BE RECOVERED.
- ATTORNEY GENERAL'S COSTS AS WELL AS OTHER DIRECT EXPENDITURES ARE ESTIMATED AT BEST SINCE NO EXPENDITURE HISTORY EXISTS.

FI-00194-06 (12/87)

Department of Finance
FEE REVIEW

Date Prepared:
2/10/89

Department/Agency: BOARD OF UNLICENSED MENTAL HEALTH SERVICE PROVIDERS		Budget Activity:	
Fee Name: FILING FEES			
Legal Citation: LAWS OF 1987, CHAPTER 148B		Fee Set By: <input type="checkbox"/> Law <input checked="" type="checkbox"/> Agency	
Purpose of Fee: TO RECOVER COSTS OF OPERATION OF THE BOARD			
<input type="checkbox"/> Dedicated <input checked="" type="checkbox"/> Non-Dedicated		Revenue Code: 310	

APID: 21517:00	Fund: 12	Accumulated Difference Thru 1986 -0-	Dollars in Thousands (137,522 = 137.5)
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Fiscal Year	Actual F.Y. 87	Actual F.Y. 88	Estimated F.Y. 89	Requested F.Y. 90	Requested F.Y. 91
Actual/Anticipated Receipts		-0-	205	205	205
Less Actual/Anticipated Costs		36	160	197	217
Current Difference		<36>	45	8	<12>
Accumulated Difference		<36>	9	17	5
Number Paying Fee					
Present Fee					
Date Fee Last Changed					

Remarks:

4100 UNLICENSED MENTAL HEALTH SERVICE PROVIDERS FILINGS AT \$50. PER FILING (4100 @ \$50 = 205,000)

10 @ \$25 LATE FILING FEE (10 @ \$25 = \$250)

4100 RENEWALS @ \$50 = \$205,000


 Department Authorized Signatory:

Finance Department Recommendation:	<div style="border: 1px solid black; padding: 5px; margin-top: 20px;"> Executive Budget Officer Signature: </div>
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