

9/4/90

STATE OF MINNESOTA
SOCIAL WORK LICENSING BOARD

IN THE MATTER OF THE
ADOPTION OF MINNESOTA RULES
PARTS 4740.0110 - 4740.0310
GOVERNING ADMINISTRATION OF
LICENSURE OF SOCIAL WORKERS.

STATEMENT OF NEED
AND REASONABLENESS.

Purpose of the Board of Social Work:

The purpose of the Board of Social Work is to protect the public by setting standards of qualifications, training, experience, professional performance and ethics for those who seek to represent themselves to the public as social workers.

Statutory Background of the Board of Social Work:

Authority for the Board to carry out its purpose is contained under Minnesota Statutes, sections 148B.18 through 148B.28.

Authority for the Board to develop the details of its programs (most importantly licensing of social workers) through rulemaking is contained under Minnesota Statutes, sections 148B.20, subdivision 1 (a) (rules for licensure) and (b) (rules for establishing standards for determining qualifications of applicants and licensees) and (j) (requirement to evaluate its rules in order to refine the standards used to enforce the Board's standards).

Authority to adopt emergency and permanent rules regarding transition periods for licensing is under Minnesota Statutes, section 148B.23, subdivision 3.

Promulgation Procedures:

To develop the proposed permanent rules the Board started by incorporating into the proposed permanent rules most of the provisions of the emergency rules that first became effective November 30, 1988. The differences between the emergency rule and the proposed permanent rules are summarized as follows:

A. The proposed permanent rules further specify and expand the supervision requirements.

B. The reconsideration process after denial of license was replaced with a reapplication process.

C. A requirement for reporting of any disciplinary actions taken was added to the reciprocity requirement for verification from the state that also licenses the applicant.

D. A provision for replacing lost or stolen licenses was

1 added.

2 E. A renewal application process was added.

3 F. A section on license renewal procedures for renewal of
4 licenses acquired before the promulgation of permanent rules was
5 added.

6 G. The emeritus license status was added.

7 H. The voluntary termination of license section was added.

8 I. The continuing education requirements were added.

9 J. A section on fees including examination fees,
10 reciprocity fees, and other fees, was added.

11 To further develop and prepare the proposed permanent rules
12 the Board followed the procedures mandated by the Administrative
13 Procedures Act and rules of the Office of Administrative
14 Hearings. A notice of intent to solicit outside opinion was
15 published in the State Register on June 19th, 1989. Drafts of
16 the proposed rules were distributed to affected persons and
17 groups. Comments received were reviewed and considered by the
18 Board when it completed the proposed rules.

19
20 **Small business considerations:**

21 Minnesota Statutes, section 14.115 requires administrative
22 agencies, when proposing a rule or an amendment to an existing
23 rule, to consider various methods for reducing the impact of the
24 proposed rule or amendment on small businesses and to provide
25 opportunity for small businesses to participate in the rulemaking
26 process. It is the Board's position that the rules will not
27 affect small businesses.

28 The rules will establish licensing procedures for social
29 workers, clarify the ethical responsibilities of licensed social
30 workers, and differentiate different types of social work
31 licenses. Licensure is for individuals, not businesses.
32 Licensing authorizes providers to provide professional social
33 work services independent of whether or not the services are
34 performed as part of a small business.

35 However, should the rules in some way be construed as
36 affecting small businesses, the Board reviewed the suggested
37 methods for reducing the impact of the rules on small businesses
38 and noted that those methods basically relate to compliance and
39 reporting requirements and performance standards. The proposed
40 rules do not address these matters but instead define terms,
41 clarify ambiguities in the law, and establish procedures for
42 licensing.

43 Potential licensees, regardless of whether they are
44 considered as individuals or small businesses, will have
45 participated in the rulemaking process and will continue to have
46 the opportunity to participate throughout the permanent
47 rulemaking process.

48
49 **4740.0110 DEFINITIONS.**

50 Scope, under subpart 1 and the definitions beginning with
51 subpart 2 are needed to provide consistent terminology for use by
52 persons affected by the rules; to provide a basis for evaluating

1 compliance with Minnesota Statutes and other rules promulgated by
the State of Minnesota; and to identify and clarify terms used in
parts 4740.0110 through 4740.0310. Words or phrases used in a
4 manner consistent with common usage are not defined.

5 **Subpart 1. Scope.** This subpart is reasonable because the
6 terms as defined are unique to the licensure of social workers
7 and do not necessarily apply to other parts of Minnesota Rules.

8 **Subp. 2. Advertising.** This definition is needed for
9 establishing a standard for the identification of advertising as
10 it is done in relation to the practice of social work. The
11 definition is reasonable because it encompasses methods commonly
12 used by social workers to communicate about services they offer.

13 **Subp. 3. Applicant.** This definition is needed to identify
14 the individuals who are regulated by these rules with a single
15 term, thereby avoiding unnecessary verbiage in the rules. The
16 definition is reasonable because the individuals identified are
17 the individuals required to be licensed under Minnesota Statutes,
18 section 148B.21, subdivision 1.

19 **Subp. 4. Approval date.** This definition is needed and
20 reasonable because it is for clarification purposes only. The
21 distinction is reasonable because under Minnesota Statutes,
22 section 148B.21, subdivision 2, fees are nonrefundable. If an
23 applicant were to pay a fee before Board approval, the applicant
24 may have paid for a license that may not be granted by the Board.

25 **Subp. 5. Board.** This definition is needed to avoid
26 unnecessary verbiage in the rules by identifying the individuals
27 who must oversee the licensure of social workers with a single
28 term. The definition is reasonable because it refers to the law
29 that created the social work licensing Board.

30 **Subp. 6. Clinical social work.** This definition is needed to
31 clarify a term used in these rules. The definition is reasonable
32 because it refers to the law that created the Board of Social
33 Work.

34 **Subp. 7. Continuing education.** This definition is needed
35 and reasonable because it clarifies for social workers the
36 ongoing educational requirements necessary to maintain a license.
37 It is reasonable to require 30 hours of continuing education
38 because that is consistent with Minnesota Statutes, section
39 148B.22, subdivision 2, which requires 45 continuing education
40 hours per three years of licensure. On an annualized basis, the
41 45 hours is equal to 15 hours per year or 30 hours per each two-
42 year period of licensure. It is reasonable for administrative
43 efficiency to verify continuing education hours at the time of
44 renewal, which, after the conversion period is completed, will be
45 at the end of each two year renewal period.

46 **Subp. 8. Council on social work education.** This
47 definition is necessary and reasonable because it is for
48 clarification and identification purposes only.

49 **Subp. 9. Effective date.** This definition is needed to
50 establish a readily identifiable day on which a person is
51 authorized to begin practicing social work and on which other
52 deadline dates and renewal schedules can be based.

1 **Subp. 10. Emeritus.** This definition is necessary and
2 reasonable because it is for identification and clarification
3 purposes only. The statement of need and reasonableness for an
4 emeritus license is found under part 4740.0225.

5 **Subp. 11. Examination.** This definition is needed to
6 clarify the type of examination that an individual will need to
7 take to obtain a social work license. The definition is
8 reasonable because Minnesota Statutes, section 148B.20,
9 subdivision (1), paragraph (c) requires examinations to minimize
10 cultural bias. The equal employment opportunities commission,
11 civil service commission, and United States Department of Labor
12 and Justice have established guidelines for employee selection
13 examinations that minimize cultural bias.

14 **Subp. 12. Examination application.** This definition is
15 needed to identify and clarify which form an individual must use
16 to apply for the opportunity to take a social work license
17 examination. The definition is reasonable because it is
18 consistent with the authority granted the Board under Minnesota
19 Statutes, section 148B.20, subdivision 1, paragraph (c) which
20 says that examinations may "be administered by the Board or by a
21 body designated by the Board."

22 **Subp. 13. Face-to-face supervision.** The definitions of
23 face-to-face supervision, group supervision and peer supervision
24 are needed to clarify and specify the supervision required by
25 Minnesota Statutes, section 148B.18, subdivision 12. Subdivision
26 12 also says that supervision is "the direction of social work
27 practice in face-to-face sessions." This definition is
28 reasonable because it is consistent with the definition of
29 supervision in Minnesota Statutes. It is reasonable to allow for
30 supervision to be provided via "telephone or other live
31 electronic media" and to be provided within the time limits
32 specified in the definition because such supervision is a
33 "further standard developed by the Board" to accommodate
34 geographic problems in rural areas. Uniqueness of setting issues
35 are also addressed, such as when the office of one's supervisor
36 is in a building unattached to the building where the supervisee
37 is located. The essence of face-to-face contact includes direct
38 communication that is interactive and provides opportunity for
39 give and take discussion of practice problems that is necessary
40 for effective supervision. The limitation on the proportion of
41 the use of telephone or other live electronic media is reasonable
42 because the limitation prevents the loss of valuable observations
43 regarding appearance and demeanor, which are also important
44 factors in effective supervision without placing undue burdens
45 regarding ready access to supervision.

46 **Subp. 14. Group supervision.** This definition is reasonable
47 because it is sometimes not possible, such as in rural areas of
48 the state where fewer social workers are available for
49 supervision, to provide supervision to one supervisee at a time.
50 It is reasonable to provide supervision to groups because some
51 topics being supervised, such as the application of state
52 regulations, are not necessarily unique to the individuals being

1 supervised. The limitation on the proportion of group
2 supervision that is allowed is reasonable because the limitation
3 prevents the loss of essential elements of personal supervision,
4 such as freedom to interact in a one-to-one supervision setting.

5 **Subp. 15. Inactive status.** This definition is necessary
6 and reasonable for clarification and identification purposes
7 only. The statement of need and reasonableness for authorizing
8 this license is found under part 4740.0220.

9 **Subp. 16. Independent social work.** This definition is
10 needed to clarify a term used in these rules. The definition is
11 reasonable because it refers to the law that created the Board of
12 Social Work.

13 **Subp. 17. Interdisciplinary supervision.** This definition
14 is needed and reasonable because Minnesota Statutes, section
15 148B.18, subdivision 12, paragraph (2) says that supervision can
16 be done by another qualified professional "when the social work
17 licensing Board determines that supervision by a social worker as
18 required in clause (1) is unobtainable, and in other situations
19 considered appropriate by the Board of social work examiners."
20 The limitation on the proportion of interdisciplinary supervision
21 that is allowed prevents the loss of essential supervision by
22 another professionally trained social worker. The number of
23 hours chosen (eight) is a discretionary number based on the
24 expertise of social workers on the Board.

25 **Subp. 18. Licensee.** This definition is necessary and
26 reasonable because it is for identification and clarification
27 purposes.

28 **Subp. 19. Peer supervision.** This definition is needed to
29 further expand the standards of supervision as allowed under
30 Minnesota Statutes, section 148B.18, subdivision 12, paragraph
31 (2). It is reasonable to have peer supervision because of
32 "uniqueness of setting" issues, peer supervision adds another
33 perspective to supervision, and allows flexibility for situations
34 such as when a supervisor dies or terminates employment leaving
35 supervisees (applicants) without supervision. It is reasonable
36 to limit the number of hours allowed for peer supervision because
37 that prevents loss of supervision by another professionally
38 trained social worker. The number of hours chosen (eight) is a
39 discretionary number that is based on the expertise of social
40 workers on the Board.

41 **Subp. 20. Qualified professional.** This subdivision is
42 needed to clarify who can provide supervision when a social
43 worker is unavailable to supervise. The definition is reasonable
44 because Minnesota Statutes, section 148b.18, subdivision 12,
45 authorizes supervision by a qualified professional in situations
46 deemed appropriate by the social work licensing Board.

47 **Subp. 21. Supervisee.** This definition is needed to
48 abbreviate references in the rules to individuals being
49 supervised or who have received supervision as required by
50 Minnesota Statutes, section 148B.21, subdivisions 3 through 6.
51 The definition is reasonable because it is consistent with the
52 supervision requirements under Minnesota Statutes, section

1 148B.18, subdivision 12.

2 **Subp. 22. Supervisor.** This definition is needed to clarify
3 who a supervisor is for purposes of social work supervision
4 required for social work licensure. This definition is
5 reasonable because it is consistent with Minnesota Statutes,
6 section 148B.18, subdivision 12, paragraph (1) and because that
7 statute does not clearly delineate the distinctions between the
8 different types of supervision that are allowed.

9 **Subp. 23. Supervisor's verification.** This definition is
10 needed to clarify the means by which the implementation of
11 supervision requirements can be verified and to provide a means
12 by which a supervisor and supervisee can be held accountable for
13 the licensure supervision requirements. The requirement is
14 reasonable because it provides a consistent and objective means
15 of documentation that can be used to enforce supervision
16 requirements.

17 **Subp. 24. Transition period.** This subpart is needed to
18 clarify and communicate the transition period as it affects
19 individuals. The definition is reasonable because a transition
20 period is authorized under Minnesota Statutes, section 148B.23,
21 subdivision 1.

22 **Subp. 25. Variance.** This definition is necessary and
23 reasonable because it is for identification and clarification
24 purposes.

25
26 **4740.0120 PROCEDURES FOR APPLICATION.**

27 **Subpart 1. Information required.** This subpart is needed to
28 clarify the information that applicants for licenses must submit
29 and to ensure that each applicant submits the same information,
30 thereby enabling the Board to make approval decisions based on
31 the same information from each applicant. This subpart is also
32 needed to comply with the requirements of Minnesota Statutes,
33 section 148B.20, subdivision 1, paragraph (b), which requires the
34 social work board to "adopt rules for establishing standards and
35 methods of determining whether applicants and licensees are
36 qualified under sections 148B.21 to 148B.23."

37 It is reasonable for items A through E to require the
38 information indicated under those items to be submitted because
39 the information is readily available to applicants and is needed
40 by the Board. Under Minnesota Statutes, section 148B.21,
41 subdivisions 3 through 6, an applicant for a social work license
42 must provide evidence satisfactory to the Board that the
43 applicant has or will meet the social work license requirements.

44 Item A is needed to identify an individual who is applying
45 for a license, to provide verification, and to hold the applicant
46 accountable for information included with an application.

47 Item B is needed to establish a consistent time and place
48 for submitting the fee. Item B is reasonable because the fee is
49 required to be paid by MS 148B.21, subd. 2. Since payment of a
50 fee is required for licensure it is reasonable that the fee be
51 submitted with the application for licensure.

52 Item C is needed to verify the educational requirements for

1 licensure. It is reasonable to require transcripts and to
2 require that such transcripts be sent directly by the institution
3 granting the degree because institutions granting the degrees can
4 readily prepare such documentation and because it prevents the
5 opportunity for applicants to tamper with the record.

6 Item D is needed to verify the minimum experience
7 requirements for licensure. It is reasonable because minimum
8 experience criteria are provided under Minnesota Statutes,
9 section 148B.21, subdivisions 3 through 6.

10 Item E is needed for the Board to verify that supervision
11 occurred. It is reasonable to accept alternative forms of
12 verification because it is sometimes impossible to obtain the
13 verification directly from the former supervisor, such as when
14 the supervisor dies or moves with no forwarding address. It is
15 reasonable to place the burden of proving supervision on the
16 applicant because, from an administrative perspective, it would
17 be a great administrative burden for the Board to identify and
18 locate the supervisors of applicants.

19 **Subp. 2. Taking examination prior to graduation.** The Board
20 needs to allow some students to take the examination six months
21 prior to graduation because the examination is offered only two
22 times a year. The times the examination is scheduled can not
23 always be shortly after a student graduates, which would be
24 ideal. Sometimes the next examination date will be as much as
25 six months after the student graduates. Allowing the student to
26 take the examination before graduation allows the student to be
27 licensed (if all qualifications are met) shortly after
28 graduation, thereby enabling the student to seek employment or
29 advancement as soon as possible after obtaining licensing
30 credentials.

31 **Subp. 3. Verification; Board authority.** Under Minnesota
32 Statutes, section 148B.20, subdivision 1, paragraph (a) the
33 social work Board must "enforce rules for licensure of social
34 workers." The verification technique authorized by this subpart
35 is reasonable because it limits verification activities to
36 information regarding a social work license application. If the
37 Board could not verify or require an applicant to verify
38 application information, the Board could not effectively carry
39 out its statutory mandate to enforce licensure rules.
40 Verification is also reasonable because it is designed to protect
41 the public (as required by Minnesota Statutes, section 148B.20,
42 subdivision 1(a)) by preventing fraudulent applications from
43 being approved and by preventing unqualified individuals from
44 practicing social work.

45 46 **4740.0130 SUPERVISION REQUIREMENTS.**

47 **Subpart 1. General.** This item is needed and reasonable
48 because it is for clarification purposes.

49 **Subp. 2. Unobtainable supervision.** This subpart is
50 necessary to clarify Minnesota Statutes, section 148B.18,
51 subdivision 12, which says that when supervision as required by
52 subdivision 12 is unobtainable, the Board may approve alternative

1 supervision. This subpart is reasonable because it strengthens
2 and clarifies the statutory requirement that supervision must be
3 considered unobtainable before alternative supervision is
4 accepted. It is reasonable to require that the evidence be
5 provided on a variance form provided by the Board because the
6 form provides a consistent way in which the evidence is
7 organized, thereby enabling the Board to efficiently and
8 effectively process requests for the alternative forms of
9 supervision allowed under subparts 3 through 6.

10 **Subparts 3, 4, 5, and 6.** The supervision requirements of
11 subparts 3 through 6 are needed to establish standards of
12 supervision as required by Minnesota Statutes, sections 148B.18,
13 subdivision 12, 148B.21 and 148B.23. The requirements for social
14 workers to have two years or 4,000 hours supervised experience
15 and the requirement that social workers be supervised by a
16 qualified professional at least at the level of licensure of the
17 social worker being supervised are consistent with the
18 supervision requirements of Minnesota Statutes, section 148.21,
19 subdivision 3, paragraph (3); subdivision 4, paragraph (3);
20 subdivision 5, paragraph (3); and subdivision 6, paragraph 2.
21 The requirements for verification of supervision under subparts 3
22 through 6 are consistent with the requirement under Minnesota
23 Statutes, section 148B.21, that an applicant "provide evidence
24 satisfactory to the Board that the applicant . . . will engage in
25 social work practice only under supervision as defined in section
26 148B.18, subdivision 12 . . ." The authority for an applicant to
27 submit verification of supervision by another qualified
28 professional is reasonable because that is consistent with the
29 authority given the Board under Minnesota Statutes, section
30 148B.18, subdivision 12, paragraph (2).

31 Subparts 3,4,5, and 6 do not allow volunteer work or
32 internships to count toward the required time for supervised
33 experience because Minnesota Statutes 148B.23 requires social
34 work employment.

35 The establishment of a minimum number of hours (50) of
36 supervision per each 2 year renewal period is reasonable because
37 it is consistent with the authority given the Board under
38 Minnesota Statutes, section 148B.18, subdivision 12 where it is
39 stated that "further standards for supervision shall be
40 determined by the social work licensing Board."

41 Fifty hours is equivalent to approximately 2 hours per
42 month, which does not constitute a burdensome amount of time for
43 a licensee. Less time may not be sufficient to protect the
44 public.

45 **4740.0140 EXAMINATION APPLICATION AND REEXAMINATION.**

46 This part is needed to clarify the requirements for social
47 work examination mandated by Minnesota Statutes, section 148B.20,
48 subdivision 1, (b) and (c), section 148B.21, subdivisions 3, 4, 5
49 and 6.

50 Items A through F are reasonable because they describe
51 application procedures that are consistent with Minnesota
52

1 Statutes, section 148B.20 and 148B.21. Minnesota Statutes,
2 section 148B.20, subdivision 1 (h) requires the Board to collect
3 examination fees. It is reasonable for an applicant to pay an
4 examination fee for each time the applicant wants to take the
5 examination because the amount of the fee (established under part
6 4740.0290) is sufficient to cover the cost of administering the
7 examination once.

8 It is reasonable to allow the Board or the agency specified
9 by the Board to collect examination fees and to notify applicants
10 of the times and places of the examination because that allows
11 for efficient and effective coordination of examination
12 administration between the Board and the agency through which
13 examination administration is contracted, the American
14 Association of State Social Work Boards, as required under item
15 D.

16 It is reasonable to contract with the American Association
17 of State Social Work Boards (AASSWB) to administer the
18 examination for the Minnesota Board of Social Work, because the
19 AASSWB is a national organization that contracts with many other
20 states to administer their social work examinations. The AASSWB
21 is able to coordinate feedback from many states regarding the
22 quality of the examination and its ability to ensure that social
23 workers have the knowledge and skills they need to perform the
24 duties required of social workers. "The executive committee of
25 the AASSWB appoints an examination committee carefully selected
26 to represent the different facets of the social work profession.
27 A national analysis in 1981 and a reanalysis in 1988 of the
28 social work profession participated in by practicing social
29 workers and performed by the committee serve as one part of the
30 content validity of the AASSWB's examinations. The examination
31 materials are developed by practicing social workers with and
32 under the guidance of the examination committee to develop
33 examinations that test minimal competence", (AASSWB, Candidate
34 Handbook, 1990, ASI Processing Center, 718 Arch Street,
35 Philadelphia, PA 19106, page 1).

36 It is reasonable to authorize the Board to conduct the
37 examination at times and places the Board determines (under item
38 D) because this gives the Board the flexibility to conduct the
39 examination in different parts of the state deemed to be most
40 convenient for candidates to take the examination, and at times
41 when the Board determines the most candidates can take the
42 examination. It is reasonable to require the Board or agency
43 specified by the Board (the AASSWB) to notify candidates of the
44 time and place of the examination because this is a service to
45 candidates provided for as part of the examination and
46 application fee. It is also necessary and reasonable because the
47 Board may not know the time and place of the exam at the time an
48 applicant applies for licensure.

49 It is reasonable to allow an applicant to take the
50 examination as many times as the applicant wants (under item F)
51 because the examination measures minimal competence in the
52 performance of the social work duties for which an applicant is

1 tested. In this way, the examination does not exclude
2 potentially competent individuals from becoming social workers.
3 Since the examination results from AASSWB summarize a candidate's
4 weaknesses and strengths on an exam, a candidate can try to
5 obtain the knowledge and skills needed to pass the portion of the
6 examination in which the candidate was most weak and retake the
7 examination.

8 Items G through I are needed to allow individuals who
9 obtained their license under the "grandparenting provisions" of
10 Minnesota Statutes, section 148B.23 and who have acquired
11 competence in skills classified under a license different than
12 what they now have, to obtain the license consistent with their
13 types of skills and the type of social work that they want to do.
14 Items G through I are reasonable because they are consistent with
15 the provision of Minnesota Statutes, section 148B.20, subdivision
16 1 (a) and (b).

17
18 **4740.0145 DENIAL OF LICENSE.**

19 This part is needed to clarify procedures for denial of a
20 social work license. The procedures under this part are
21 reasonable because they are consistent with Minnesota Statutes,
22 section 148B.26. Item A is needed to communicate with an
23 applicant whose application for licensure has been denied. The
24 item is reasonable because it gives the applicant the
25 documentation needed to appeal a denial of licensure.

26 Item B is needed to provide an applicant the opportunity to
27 correct the condition that resulted in the denial of the license
28 and reapply for licensure. It is reasonable to charge the
29 appropriate fees to cover the Board's processing costs.
30

31 **4740.0150 RECIPROCITY.**

32 This part is necessary because Minnesota Statutes, section
33 148B.24 requires the Board to issue social work licenses on the
34 basis of reciprocity. The part is also needed to clarify and
35 specify the procedures and requirements for obtaining a license
36 through reciprocity. The part is reasonable because it is
37 consistent with the statutes regarding reciprocity.

38 Item A is needed to ensure that the applicant has complied
39 with all Minnesota social work licensing requirements in the
40 state where the applicant was licensed. It is reasonable to
41 require a listing of all states and territories in which the
42 applicant has been licensed because that ensures that the Board
43 can protect the public by verifying information on an application
44 if necessary.

45 Item B is needed to clarify what is meant by "substantially
46 the same requirements." The item is reasonable because the item
47 requires the Board to compare the requirements of other states to
48 Minnesota's licensing requirements with respect to critical
49 requirements for protection of the public.

50 Item C is needed to clarify what an applicant must do if the
51 other state's licensure requirements are not substantially
52 similar to Minnesota's licensure requirements. Item C is

1 reasonable because applicants must meet the requirements intended
2 to protect the public in Minnesota whatever the requirements may
3 have been in another state. Item C is also reasonable because
4 it is consistent with Minnesota Statutes, section 148B.26,
5 subdivision 1 (grounds for denial, suspension, or revocation of a
6 social work license).

7 Item D is needed to verify whether the applicant has
8 violated any social work practice rules or ethical standards that
9 would violate licensure standards in Minnesota and to protect the
10 Minnesota public from harm. This verification requirement is
11 reasonable because it makes the reciprocity provisions consistent
12 with the reporting requirements of other agencies in the state of
13 Minnesota. (See Minnesota Statutes, section 148B.07).

14
15 **4740.0160 ISSUANCE OF LICENSE.**

16 This part is needed so that the public can verify the
17 licensure status of a social worker and to prevent the use of a
18 license by an individual who has not received a license. To
19 verify a license, a member of the public can call the social work
20 Board to verify that the social work license number shown on a
21 social worker's license is the number assigned to that social
22 worker. This part is reasonable because it is consistent with
23 the nontransferability clause under Minnesota Statutes, section
24 148B.25 and with Minnesota Statutes, section 148B.27,
25 subdivisions 1 and 2.

26
27 **4740.0170 DISPLAY OF LICENSE.**

28 The requirement to display a license is needed to provide
29 the public a convenient way to determine whether a social worker
30 is licensed. The part is reasonable because the Board must issue
31 a social worker a license that can be displayed and the burden on
32 the licensee is not great compared to the public benefit.

33
34 **4740.0180 TERM OF LICENSE, EFFECTIVE DATE.**

35 This part is needed to clarify the effective date and term
36 of a social work license. It is reasonable because it is
37 consistent with the authority given the Board under Minnesota
38 Statutes, section 148B.22, subdivision 1. Biennial renewal
39 provides a reminder to licensees of their obligation to comply
40 with licensure rules and continuing education requirements.
41 Annual renewal could unduly burden the Board and licensees, while
42 triennial renewal is too infrequent for enforcement purposes.

43 It is reasonable to require an applicant to pay the
44 licensure fees within 60 days because the Board must have the
45 fees to operate and because granting individual payment schedules
46 to individual applicants would be too great an administrative
47 burden on the Board and would increase the overall costs of
48 administering the licensing function. When applicants apply for
49 licensure they are aware that there will be licensure fees.

50 If applicants do not pay the required fees, it is reasonable
51 to close applicants' files and require them to reapply.
52 Minnesota Statutes, section 148B.21 requires applicants to pay

1 licensure fees and because the Board is required to "establish
2 initial and renewal application and examination fees sufficient
3 to cover operating expenses of the Board and its agents."
4

5 **4740.0185 DUPLICATE LICENSE.**

6 This part is necessary because a license is small and made
7 of paper and therefore subject to loss, theft, and destruction.
8 The license must be marked duplicate and dated to distinguish it
9 from the original license. A provision for name changes is
10 needed because name changes are common, such as when an
11 individual changes names due to marriage or divorce. It is
12 reasonable to require verification of the name change and to
13 require submission of the original license because verification
14 and surrender of the original license can help to prevent fraud
15 and misuse of the original license. It is reasonable to require
16 a duplicate license fee because Minnesota Statutes, section
17 148B.17 requires the Board to collect fees so that "the total
18 fees collected by the Board will as closely as possible equal
19 anticipated expenditures during the fiscal biennium"
20 Since it is impossible to predict how many name changes there
21 might be in a biennium, inaccurate estimates can be avoided by
22 collecting fees for the administrative expenses as the expenses
23 occur.
24

25 **4740.0190 RENEWAL OF LICENSE.**

26 This part is needed to clarify which other rule parts
27 govern renewal schedules and to clarify the other requirements
28 for renewals: renewal fees, continuing education, and
29 supervision. The requirements under this part are reasonable
30 because they are consistent with statutes requiring renewal fees
31 (Minnesota Statutes, section 148B.17), continuing education
32 (Minnesota statutes, section 148B.22, subdivision 2), and
33 supervision (Minnesota Statutes, sections 148B.23 and 148B.21).
34 The specific rationale for the fee, continuing education and
35 supervision requirements are discussed under the rule provisions
36 relating directly to those requirements.
37

38 **4740.0195 RENEWAL OF LICENSES ISSUED IN THE TRANSITION PERIOD.**

39 Minnesota Statutes, section 148B.22, subdivision 1 requires
40 licensees to "renew licenses at the time and in the manner
41 established by the rules of the Board." This part is needed to
42 clarify the renewal procedures for licensees. The renewal
43 schedule is reasonable because it is based on the anticipated
44 number of licensees and the work required to process
45 applications. The Board received many more applications than
46 originally anticipated. Instead of receiving approximately 4,000
47 applications, as originally anticipated by the Board, the Board
48 received approximately 10,000 applications. This number of
49 applications increased substantially the number of licensees and
50 therefore the number of renewals that the Board would have to
51 process. The renewal schedules outlined under items A through C
52 spread the workload for processing renewals throughout the year,

1 thereby avoiding "bottlenecks" of work that could interfere with
2 other Board duties, such as processing complaints.

3 It is reasonable to use license numbers and birthdates as
4 criteria for establishing when a particular licensee must renew
5 because those numbers are randomly assigned to applicants.
6

7 **4740.0200 RENEWAL APPLICATION PROCEDURES.**

8 **Subp. 1. Service.** This subpart is needed to clarify what
9 constitutes proper notice from the Board that a licensee must
10 renew. It is reasonable to establish the licensee's
11 responsibility to notify the Board of licensee address changes
12 and to require the Board to mail renewal notices by first-class
13 mail because other means, such as by telephone, would be time
14 consuming and too costly.

15 **Subp. 2. Application mailing date.** The subpart is needed to
16 establish the Board's responsibility for mailing renewal notices
17 to all current licensees and the licensee's responsibility for
18 renewing even if a renewal notice is not received. This is
19 reasonable because it clarifies the licensee's responsibility for
20 renewing the license. The time of 30 days notice of an address
21 change is reasonable because that ensures that licensees can be
22 informed of any changes in licensing laws, rules and policies or
23 procedures in a timely manner.

24 **Subp. 3. Expired license.** This part is needed to clarify
25 that the failure to renew will result in an expired license and
26 that a licensee whose license expires must reapply for licensure
27 under the licensure requirements under part 4740.0205, including
28 the examination requirements. It is reasonable to require an
29 individual with an expired transition license to renew according
30 to part 4740.0205 because the deadline for applying for a license
31 under the transition requirements was June 30, 1989.

32 **Subp. 4. Incomplete application notice.** This subpart is
33 needed to establish a definite expiration date of a transitional
34 license, which is 30 days after the Board notifies the applicant
35 that more information is needed to complete the renewal
36 application. The subpart is reasonable because it is possible
37 that applicants for renewal may not submit all the correct
38 information with the initial renewal application materials.
39

40 **4740.0205 REINSTATEMENT OF EXPIRED LICENSE.**

41 This part is needed to encourage licensees to maintain a
42 current license through renewal and to clarify that an individual
43 with an expired transition license will have to comply with the
44 permanent licensure requirements, including a degree from an
45 accredited social work program and licensure examination. The
46 requirements under this part are reasonable because the
47 transitional licensing period ended June 30, 1989.

48 It is reasonable to require individuals whose license has
49 expired to take the license examination because that ensures that
50 those individuals continue to be qualified for practicing social
51 work.

52 It is reasonable to restrict someone whose license has

1 expired from practicing social work and require them to return
2 their license certificate because that is consistent with
3 Minnesota Statutes, section 148B.27.

4
5 **4740.0210 CONVERSION OF LICENSE RENEWAL PROCEDURES.**

6 This part is needed to convert the renewal process for
7 licenses to a permanent process of biennial renewals and because
8 the initial licensing of transition period applicants was
9 completed by the Board over an extended period of time.
10 Initially the Board thought all applications would be acted on by
11 the end of calendar year 1989. Board action on applications,
12 however has extended into calendar year 1990 because of the large
13 number of applications received. It is reasonable to make this
14 change since it will permanently spread the work load of
15 licensure renewal over the entire year. A permanent biennial
16 renewal cycle (see subparts 3 and 4) is reasonable because it is
17 consistent with statutes requiring two years supervision in order
18 to obtain a license or to move from one license to another (see
19 Minnesota Statutes, section 148B.21) and with Minnesota Statutes,
20 section 148B.22, subdivision 1, says that "licensees shall renew
21 licenses at the time and in the manner established by the rules
22 of the Board." The Board chose a biennial renewal cycle so that
23 the revenue generated by renewal fees would be consistent with
24 the cost of administering the duties of the Board, because it is
25 consistent with the biennial budgeting for state government and
26 because it is consistent with the experience of other Boards such
27 as the Board of Psychology (See Minnesota Rules, part 7200.3200).

28 Finally, all the renewal requirements of this subpart are
29 reasonable because they treat each type of applicant the same.
30 An applicant licensed during any one year will be subject to the
31 same type of renewal requirements.

32 **Subp. 1. License renewal cycle conversion.** This subpart is
33 needed to clarify that the renewal procedures will be ongoing
34 after initial renewals.

35 **Subp. 2. Conversion of license renewal cycles for current**
36 **licenses.** This subpart is needed because the initial renewal
37 dates are different than the ongoing renewal requirements. It is
38 also needed to clarify the exact date on which a biennial renewal
39 cycle will begin and end for someone licensed during the
40 transition period. The provisions under this subpart are needed
41 to avoid requiring a licensee to renew during the same year in
42 which the licensee was licensed and to have the initial renewal
43 be as close to two years as possible. However, since the ongoing
44 renewal will be according to the applicant's birthdate it is
45 impossible to have the birthdate coordinate with the date of the
46 initial licensing of the applicant, which was completed by the
47 Board on random dates after the application deadline of June 30,
48 1989.

49 **Subp. 3. Subsequent renewal cycles.** This part is needed to
50 clarify the ongoing biennial renewal requirement for applicants
51 licensed during the transition period and to clarify the renewal
52 cycles under subpart 2. The renewal cycles under this part are

1 reasonable because they are consistent with the renewal cycles of
2 non-transition period applicants.

3 **Subp. 4. Licenses issued after June 30, 1989.** This subpart
4 is needed because the initial effective date of a license (which
5 is the date on which the Board received payment for a license) is
6 different than the ongoing renewal date which is the birth month
7 of the applicant.

8 **Subp. 5. Conversion period and fees.** This subpart is
9 needed because the initial license periods for licensees will be
10 different depending upon when the applicant was licensed. For
11 some licensees, the initial license period will be closer to one
12 year and for others the initial license period will be closer to
13 two years. Since biennial licensure fees are higher than the
14 "one-year" license fees applicants are required to pay a prorated
15 portion of the license fee which matches the length of the
16 licensee's initial license period. This subpart is reasonable
17 because an applicant should have to pay a license fee only for
18 the length of time that the applicant is licensed. By referring
19 to a base fee that is common to all applicants, an individual
20 applicant must pay proportionately the same fee as all other
21 applicants.

22 **Subp. 6. Initial license period and fees.** The rationale
23 for fees under this subpart is the same as for the fees required
24 under subpart 5, except that it applies to non-transition period
25 licensees. It is reasonable, under item C, to assign a renewal
26 date because applicants are not required to supply their
27 birthmonth with their application for licensure.

28
29
30 **4740.0220 INACTIVE LICENSE STATUS.**

31 It is reasonable to include an inactive license status in
32 these rules to allow for the variety of situations in which
33 social workers may discontinue active practice. Periods of
34 unemployment, withdrawal from the workforce due to illness or
35 family responsibilities, and extended periods of travel are
36 examples of reasons that may lead a licensee to request inactive
37 status. The specific numbers of years indicated under subparts
38 2 and 3 are discretionary numbers chosen on the basis of the
39 amount of social work knowledge and skills an individual can
40 reasonably be expected to maintain over a given period without
41 practicing. The requirement of 25 hours of supervision in the
42 first year following a five or more year absence serves to
43 protect the public.

44 The requirements for reactivating a license serve to put
45 licensees back into the normal renewal cycle once they have
46 provided the necessary information and assurances. LSW's and
47 LGSW's raise specific supervision issues that are addressed in
48 Subparts 5.A and 5.B as they must document supervision to
49 maintain their licenses.

50 **4740.0225 EMERITUS LICENSE STATUS.**

51 This part is reasonable because it is for the purposes of
52 recognizing licensed social workers who are retired from the

1 profession. It is not necessary for an emeritus license holder
2 to maintain continuing education hours because the individual who
3 obtains an emeritus license does not intend to practice social
4 work again.

5 It is reasonable to have a reactivation procedure because
6 licensees may change their plans and desire to resume social work
7 practice. Subpart 4 identifies the procedures and standards
8 needed for emeritus licensees to obtain their previous licensure
9 levels. This procedure parallels that in part 4740.0220 for
10 reactivating an inactive license, including the paying of the
11 inactive fee for the period during which the emeritus status was
12 in effect. This is reasonable to avoid creating a financial
13 incentive to use a less expensive emeritus license in situations
14 more appropriate for inactive status.

15 The specific numbers of months and years indicated in this
16 part are discretionary numbers based on the amount of social work
17 knowledge and skills an individual can maintain over a given
18 period without practicing.

19
20 **4740.0230 CHANGE OF ADDRESS.**

21 This part is needed and reasonable because the Board must
22 communicate with a licensee about license requirements and
23 because it is impossible for the Board to continuously know the
24 whereabouts of issued licenses unless licensees notify the Board.

25
26 **4740.0240 VOLUNTARY TERMINATION OF LICENSE.**

27 This part is needed to create a procedure whereby social
28 workers can terminate voluntarily their licenses. Licensees who
29 are leaving the profession should have a procedure for cancelling
30 their licensure without prejudice. The public is protected by
31 requiring that the licensee who has voluntarily terminated shall
32 not use the title, shall not practice, and must return the
33 license certificate. Such a person can reapply for licensure at
34 a later date, but must meet the normal application requirements.
35 Disciplinary action by the board needs to still be possible to
36 prevent licensees terminating voluntarily to avoid sanctions.

37
38 **4740.0250 SUSPENSION OR REVOCATION OF LICENSE.**

39 This part is needed to clarify for readers of rules
40 regarding social work licensure that sanctions can be applied for
41 failure to obtain and maintain a license according to those rules
42 and according to Minnesota Statutes, section 148B.26. This part
43 is reasonable because it is consistent with Minnesota Statutes,
44 section 148B.26.

45
46 **4740.0260 SUSPENDED OR REVOKED LICENSE.**

47 This part is needed to enforce the suspension or revocation
48 of a license to practice social work. It is reasonable because a
49 person whose license has been suspended or revoked could use the
50 license to falsely show that they are still licensed and
51 therefore allowed to practice social work, which would be
52 inconsistent with Minnesota Statutes, section 148B.27,

1 subdivisions 1 and 2. Subdivisions 1 and 2 say that persons
2 cannot practice social work or present themselves to the public
3 as social workers if they do not hold a valid social work
4 license.

5
6 **4740.0270 VARIANCE.**

7 **Subp. 1. Request for variance.** This subpart is needed to
8 clarify and assign responsibilities for requesting a variance.
9 The information requested in items A through E is needed by the
10 Board to compare the request to the criteria under subpart 2,
11 which are used to determine whether a variance should be granted
12 or denied. It is reasonable to request the information because
13 this ensures that each application for a variance is complete and
14 it reduces the administrative burden on the Board and the
15 licensee in processing incomplete variance applications.

16 A. It is reasonable to state the rule from which the
17 variance is requested because doing so clarifies the rule part
18 under consideration.

19 B. It is reasonable to state the reason for the request so
20 that the Board can determine whether the request meets the
21 criteria under subpart 2 or whether it is a request for a renewal
22 of a variance under subpart 4.

23 C. It is reasonable to request the applicant to state the
24 alternative measures that will be taken to protect the public so
25 that the Board can determine the potential effect of the waiver
26 on the health and safety of the public.

27 D. It is reasonable to state the period of the variance
28 because that enables the Board to consider this factor in
29 evaluating the potential affects of the variance and in ruling on
30 any matters relating to the duration of the variance.

31 E. It is impossible to predict every type of variance that
32 might be requested, therefore it is reasonable to authorize the
33 Board to request "additional information" if the requested
34 information relates to the variance.

35 **Subp. 2. Criteria for approval.** This subpart is needed to
36 clarify when the Board will grant or deny a request for a
37 variance. It is reasonable that the conditions under items A
38 through C be met for the Board to grant a variance because those
39 requirements are consistent with Minnesota Statutes, section
40 148B.20, subdivision 1 (a) which requires the Board to adopt
41 rules that are designed to protect the public.

42 **Subp. 3. Notification.** This subpart is needed and
43 reasonable to clarify the terms of a variance if it is granted
44 and to be sure that the applicant for the variance knows what is
45 expected of the applicant to comply with the variance.

46 **Subp. 4. Renewal.** This subpart is needed because the need
47 for the variance could extend beyond the time for which it was
48 originally granted. A renewal is reasonable because that saves
49 some of the administrative work required to initiate a variance.

50
51 **4740.0285 CONTINUING EDUCATION REQUIREMENTS.**

52 This part is needed to specify the continuing education

1 requirements of Minnesota Statutes, section 148B.22, subdivision
2 2. This part clarifies the types of continuing education that
3 are acceptable for licensure and the number of hours that must be
4 obtained per each licensure renewal. The requirement for
5 continuing education is reasonable because it is consistent with
6 Minnesota Statutes, section 148B.22, subdivision 2.

7 **Subp. 1. Continuing education requirements.** This subpart
8 is needed to clarify the clock-hours required for continuing
9 education and to make the clock hours consistent and proportional
10 with the renewal periods for licensure (see proposed part
11 4740.0190). The requirement for 30 hours over a biennium is
12 equivalent to the requirement for 45 hours over three years as
13 required under Minnesota Statutes, section 148B.22, subdivision
14 2. The requirement for 30 hours also helps to ensure that
15 licensees become aware of developments in the field of social
16 work as those developments occur.

17 **Subp. 2. Transition period.** This subpart is needed and
18 reasonable to make the continuing education requirements for
19 initial licensees consistent with the period of licensure for
20 those licensees.

21 **Subp. 3. Emeritus license holders.** This subpart is needed
22 and reasonable for clarification purposes only. Emeritus license
23 holders do not intend to practice social work and therefore do
24 not need the continuing education. If they were to begin
25 practicing social work they would have to acquire the appropriate
26 continuing education.

27 **Subp. 4. Content areas for continuing education.** This
28 subpart is needed to clarify which educational areas constitute
29 social work education. The content areas under items A through E
30 are reasonable because they represent the traditional subject
31 areas and knowledge of social work and because the content areas
32 are consistent with the content areas of college and university
33 social work programs accredited by the Council on Social Work
34 Education. It is reasonable to have an unspecified area under
35 item F because the health and safety of social work clients would
36 be affected if the Board could not approve content areas that the
37 Board could not predict would be needed, such as programs that
38 address the implications of the acquired immunodeficiency
39 syndrome (AIDS).

40 **Subp. 5. Nonacceptable subject areas.** This subpart is
41 needed to clarify which types of education do not qualify for
42 continuing education credit. It is reasonable to exclude the
43 areas that are listed under this subpart because those areas are
44 not specifically related to social work practice.

45 **Subp. 6. Continuing education program types.** This subpart
46 is needed to provide a diversity of acceptable sources of
47 continuing education for social workers. The program types under
48 items A through G are reasonable because they cover the available
49 sources of continuing education and because they provide for the
50 variety of sources that is available for social workers
51 throughout the state. This ensures that social workers in rural
52 settings have continuing education available to them. The limits

1 under items A, E and F on the number of hours that can be earned
2 in those categories are established to encourage diversification
3 of continuing education subjects and sources. The number of
4 hours (ten) chosen as limits under items A, E and F is a
5 discretionary number based on what is practical for encouraging
6 diversification of continuing education.

7 **Subp. 7. Continuing education hours.** This subpart is
8 needed to define what an "hour" means for purposes of continuing
9 education. Defining an "hour" as fifty minutes is reasonable
10 because this is the standard used for continuing education among
11 other professions. This allows for a 10 minute break for
12 improving comprehension of students and for preparation. The
13 specifications under item B are reasonable because they are
14 consistent with the standard ways colleges and universities
15 define quarter hours and semester hours.

16 It is reasonable for presenters to get continuing education
17 credit for lectures and presentations given because the presenter
18 is trained and educated through the preparation needed for the
19 presentation. It is reasonable to limit credit for the
20 presentation to the initial time the course is presented during
21 the licensure period because the amount of learning gained
22 through preparation is diminished during successive
23 presentations.

24 Item D is reasonable and needed because it clarifies that
25 multi-day conferences are allowed only for the actual number of
26 presentation hours.

27 Item E is needed to expand the availability of continuing
28 education throughout the state. It is reasonable because there
29 are many sources of independent learning, such as journals and
30 other educational publications.

31 **Subp. 8. Documentation of courses.** The documents and
32 information required to be kept by this subpart are needed so the
33 Board can perform an adequate audit of courses taken by a
34 licensee. Audits are needed to enforce the requirements for
35 continuing education. It is reasonable to require licensees to
36 maintain the documents that are required to be maintained because
37 those documents must already be completed by the applicant to
38 apply for the course, or because the information is supplied by
39 the Board of Social Work when it approves a course for continuing
40 education credit. Providers of continuing education also
41 traditionally provide documents needed by participants to verify
42 attendance.

43 It is reasonable to require the Board to audit a random
44 sample of continuing education reports because the Board has the
45 computer ability to randomly select a sample. Random selection
46 is reasonable because the Board does not have the resources nor
47 does it believe it is necessary to audit all the licensees'
48 continuing education credits.

49 **Subp. 9. Violation of continuing education requirements.**
50 This subpart is necessary and reasonable because it is consistent
51 with Minnesota Statutes, section 148B.26, subdivision 1 (3).

52 **Subp. 10. Sponsor application for preapproval of continuing**

1 education programs. This subpart is needed for the convenience
2 of providers of continuing education programs and their potential
3 students. Potential students can plan their acquisition of
4 continuing education if they know a program they intend to sign
5 up for has already been approved by the Board and providers can
6 attract more people to the program if the program is preapproved.

7 **Subp. 11. Board review of continuing education sponsor**
8 **applications.** Item A under this subpart is needed to provide the
9 sponsor with adequate notice of the time it takes the Board to
10 approve applications and to limit the time the Board may take to
11 approve applications. Program sponsors need that information so
12 they can plan and advertise their programs according to the
13 Board's timeline for approving applications.

14 Item B under this subpart is needed by the Board to enforce
15 the requirements for preapproving continuing education programs.
16 The item is reasonable because licensees who participate in
17 preapproved programs assume that the program is approved and that
18 they will be able to use the program for continuing education
19 credit. Also, the continuing education is meant to protect the
20 public health by providing program participants with the skills
21 and knowledge needed to effectively deliver services to consumers
22 of social work services. If a program sponsor does not conduct a
23 continuing education program as approved by the Board, that
24 sponsor could adversely affect the public health. Under
25 Minnesota Statutes, section 148B.20, subdivision 1 (a) the Board
26 must design rules so that they protect the public health.

27 **Subp. 12. Renewal of sponsor applications.** This subpart is
28 needed to give the continuing education committee time to process
29 applications in time for approval at subsequent Board meetings.
30 The time of sixty days is based on the current experience of the
31 Board with applications for continuing education programs.

32 **4740.0290 FEES.**

33 This part is needed because Minnesota Statutes, section
34 148B.17 requires that the Board establish fees by rule, including
35 late fees, for licenses or filings and renewals. The amount of
36 fees collected must, as closely as possible, equal anticipated
37 expenditures during the fiscal biennium (Minnesota Statutes,
38 sections 214.06, and 16A.128, subdivision 1a, and 148B.17),
39 including the prorated costs of the office of social work and
40 mental health Boards.

41 It is reasonable to make fees nonrefundable because,
42 regardless of the outcome of an application, the Board still must
43 cover the cost of administering the application, verifications,
44 and examinations.

45 It is reasonable to have higher fees for the different
46 types of licenses because the amount of the fee is associated
47 with the earning ability of the person holding the license.
48 Licensed independent clinical social workers usually have the
49 opportunity to earn more than licensed social workers.

50 The amounts of the fees are reasonable because they are
51 consistent with the number of license applications received, the
52

1 number of applications approved for licensure, the anticipated
2 renewal cycle for licensees and the resources needed to process
3 those applications.

4 Examination and reexamination fees have a maximum amount
5 rather than a set amount because there are economies of scale
6 when administering the examinations. The more people that take
7 an examination at one time at one location, the less expensive it
8 is to process examinations for those individuals. By setting a
9 maximum, the Board can adjust the examination fee downward
10 depending on whether factors exist that decrease the cost of
11 administering the examination.

12 It is reasonable to have a separate application fee and
13 license fee because the costs of licensure should not be imposed
14 on individuals whose application does not result in licensure of
15 that applicant. An application that does not result in licensure
16 does not result in additional expenditures by the Board.

17 Minnesota Statutes, section 148B.20, subdivision 1,
18 paragraph (h) requires the Board to "establish initial and
19 renewal application fees sufficient to cover operating expenses
20 of the Board and its agents.

21 The "fee review" statement, which is required to accompany
22 this statement of need and reasonableness, is attached as
23 appendix B.

24
25 **4740.0300 CODE OF ETHICS and**
26 **4740.0310 ETHICAL STANDARDS.**

27 Generally, these provisions are reasonable because they are
28 consistent with the standards for practice that have been
29 recognized for almost 30 years by the organized social work
30 profession as embodied, for example, in the National Association
31 of Social Worker's Code of Ethics.

32 Rules proposed under these parts that pertain to sexual
33 activity with clients or former clients are modeled after the
34 laws regarding sexual exploitation under Minnesota Statutes,
35 Chapter 148A. The proposed rule which says that sexual contact
36 cannot occur for two years after the licensee-client relationship
37 ends (under part 4740.0310, subpart 3, item B) is reasonable
38 because it is consistent with the definition of "former client"
39 under Minnesota Statutes, section 148A.01, subdivision 3.

40 Minnesota Statutes, section 148B.20, subdivision 1,
41 paragraph (b) requires the Board to adopt a code of professional
42 ethics. Therefore these parts are needed for the Board to
43 implement duties under Minnesota Statutes, section 148B.20,
44 subdivision 1, paragraph (b).

45 Minnesota Statutes, section 148B.21, subdivision 3, requires
46 that an applicant for licensure provide evidence satisfactory to
47 the Board that the applicant "will conduct all professional
48 activities as a social worker in accordance with standards for
49 professional conduct established by the rules of the Board."
50 Therefore parts 4740.0300 and 4740.0310 are also needed to
51 clarify for licensure applicants the standards for professional
52 conduct that state law says they must follow.

1
2 **4740.0300 CODE OF ETHICS:**

3 **Subp. 1. Code of ethics.** This subpart is needed to clarify
4 who the code of ethics applies to. This subpart is reasonable
5 because if the Board did not enforce the code during the period
6 of education, training and employment required for licensure it
7 could inadvertently imply that behavior contrary to the code
8 occurring during those times is acceptable behavior while
9 licensed. Part of the purpose of the licensure requirements for
10 education and training is to teach prospective licensees that
11 certain behaviors are not acceptable.

12 **Subp. 2. Purpose.** This subpart is needed and reasonable
13 for clarification purposes only.

14 **Subp. 3. Violations.** This subpart is needed and reasonable
15 because it clarifies for applicants and licensees the possible
16 consequences of violating the code of ethics.

17
18 **4740.0310 ETHICAL STANDARDS.**

19 **Subp. 1. Responsibility to clients.** This subpart is
20 needed to clarify a licensee's responsibilities to clients of
21 social workers. It is reasonable because it is consistent with
22 the ideas and responsibilities of "social work practice" as
23 defined under Minnesota Statutes, section 148B.18, subdivision
24 11. The standards under this part regarding reporting under
25 other laws is needed and reasonable because it clarifies for
26 licensees and applicants that violations of these laws will also
27 have consequences for licensure.

28 **Subp. 2. Nondiscrimination.** This subpart is needed and
29 reasonable because age, sex, race, national origin, religion,
30 physical handicap, political affiliation, social or economic
31 status, affectional preference, and choice of lifestyle do not
32 affect an individual's rights to receive social work services.
33 It is reasonable to require referrals because the fact that a
34 licensee cannot provide a service does not diminish a client's
35 need for the service and because making a referral does not
36 impose an unreasonable burden on the licensee.

37 **Subp. 3. Relations with clients.**
38 Items A. and B. Sexual relations with clients is discussed
39 above.

40 C. It is reasonable to prohibit the provision of drugs,
41 medications and controlled substances to clients because this is
42 beyond the scope of social work practice. It is reasonable to
43 prohibit the acceptance of these substances by licensee because
44 this may affect a social worker's professional judgement
45 regarding service provided to a client.

46 D. This subpart is necessary to minimize the possibility
47 that a client is instilled with "false hope" or unreasonable
48 expectations about the outcome of services received. This item
49 is reasonable because a consumer of social work services is
50 entitled to accurate information upon which to make reasonable
51 choices regarding those services.

52 E. This item is needed to prevent financial arrangements

1 from affecting the quality of services provided.
2 It is reasonable to not allow bartering because payment for
3 services with anything but money creates ambiguity regarding the
4 value of the services provided. Bartering could also lead to
5 problems regarding the professional "boundaries" that need to
6 exist between the social worker and client.

7 **Subp. 4. Code of personal conduct.** This subpart is needed
8 to clarify the purpose of licensure. Licensure helps ensure that
9 an individual is qualified to deliver social work services.
10 This subpart is also needed to clarify other circumstances and
11 behaviors which could affect the applicant's or licensee's
12 professional judgement regarding the need for and efficacy of
13 services provided to a client.

14 **Subp. 5. Confidentiality and keeping records.** This subpart
15 is needed to clarify the standards of record keeping that are
16 recognized by the profession and that are consistent with other
17 laws regarding confidentiality and the protection of information
18 regarding clients. The three year retention of records
19 requirement is consistent with other Minnesota rules (e.g. the
20 Department of Human Services Rule 29) and allows for efficient
21 resumption of services to returning clients without creating a
22 cumbersome storage requirement. It is reasonable for item B to
23 require the licensee to inform the client of the limits of
24 confidentiality so that the client can make reasonable
25 determinations about which information the client discloses to
26 the social worker. Item C is reasonable because the legal
27 timeliness for reporting may not be consistent with timeliness
28 that are necessary for the well-being of the client. For
29 example, it may be necessary to report information sooner than is
30 required by law. Item D is necessary and reasonable because it
31 is consistent with the Board's responsibility to protect the
32 public health as required by Minnesota Statutes, section 148B.20,
33 subdivision 1 (a).

34 **Subp. 6. Research.** This subpart is necessary and
35 reasonable because it is consistent with nationally recognized
36 standards of ethical social science research involving humans and
37 with Board's mandate to protect the public health as required
38 under Minnesota Statutes, section 148B.20, subdivision 1 (a).

39 **Subp. 7. Advertising.** This subpart is needed to help
40 accomplish the purposes of Minnesota Statutes, section 148B.20,
41 subdivision 1 (a) and (b), and the provisions under Minnesota
42 Statutes, section 148B.21, subdivisions 3 through 6 which state
43 that a licensed social worker must "conduct all professional
44 activities . . . in accordance with standards for professional
45 conduct established by the rules of the Board." The regulation
46 of false or misleading advertising is a standard of professional
47 conduct adopted by the Board. Even though there is already
48 substantial federal and state law regulating advertising
49 practices, the inclusion of such a standard in social work
50 licensing rules gives the Board direct control over licensees in
51 false, fraudulent or misleading advertising practices, thereby
52 increasing the Board's ability to protect the health, safety and

1 well-being of the public.
2

3 **Expert Witnesses:**

4 The Board of Social Work plans to have expert witnesses who
5 are not members of or employees of the Board testify on behalf of
6 the Board should a public hearing be required. All of the
7 individuals will testify regarding the rules in total and
8 summarize why, from their perspective, that the rules in total
9 are necessary and reasonable. The names and addresses of the
10 expert witnesses can be found in Appendix A.
11
12
13
14
15
16
17
18

19 Date: _____

20 William A. Anderson, Chairperson
21 Board of Social Work

APPENDIX A: LIST OF EXPERT WITNESSES

1
2
3
4
5 Dr. John Bower
6 Chairperson, Social Work Dept.
7 Bethel College
8 3900 Bethel Drive
9 St. Paul, MN 55112

10
11 Ms. Betsy Horton, LICSW
12 3141 Dean Court
13 Minneapolis, MN 55487

14
15 Mr. Alan Ingram
16 Executive Director
17 Natl. Assoc. of Social Workers, MN Chapter
18 480 Concordia Avenue
19 St. Paul, MN 55104

20
21 Ms. Barbara Kaufman
22 Asst. Commissioner of Mental Health Programs
23 Department of Human Services
24 444 Lafayette
25 St. Paul, MN 55155

26
27 Ms. Pam Luinenburg
28 Coalition Coordinator
29 c/o Natl. Assoc. of Social Workers, MN Chapter
30 480 Concordia Avenue
31 St. Paul, MN 55104

32
33 Ms. Rosemary Martin
34 Physicians & Surgeons Bldg
35 63 S. 9th St.
36 Minneapolis, MN 55402

37
38 Ms. Mary White
39 Continuing Education Director
40 Natl. Assoc. of Social Workers, MN Chapter
41 480 Concordia Avenue
42 St. Paul, MN 55104
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APPENDIX B: FEE REVIEW STATEMENT

Department of Finance FEE REVIEW

Date Prepared:
061290

Department/Agency: Board of Social Work Budget Activity:

Fee Name: License Fees

Legal Citation: MN Statute 148B, 1987 Fee Set By: Law Agency

Purpose of Fee:
To recover Operational costs as required by MN Statute 214.

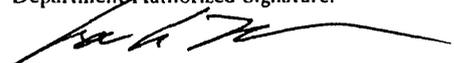
Dedicated Non-Dedicated Revenue Code: 310

APID: 21518-00 Fund: 17 Accumulated Difference Thru 1988: Dollars in Thousands (137,522=138)

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Actual/Anticipated Receipts	415	800	221		
Less Actual/Anticipated Costs	283	348.8	359.9		
Current Difference	132	451.2	(138.9)		
Accumulated Difference	102	553.2	414.30		
Number Paying Fee					
Present Fee					
Date Fee Last Changed					

Remarks:

- *See attached forms for estimated receipts
- *Revenues are based on approximately 8,500 licenses

Department Authorized Signature:


Finance Department Recommendation:

Executive Budget Officer Signature:

Department of Finance
FEE REVIEW - Details of Cost

Date Prepared:
 061290

Department/Agency:
 Board of Social Work

Budget Activity:

Fee Name:
 License Fees

Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-07 Dollars in Thousands (137,522 = 138)

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Agency Direct Expenditures	279	323	325		
Salary Increases	XXXXXXXXXX	1.8	1.9		
Attorney General	2	20	25		
Statewide Indirect		2	5.5		
Agency Indirect	2	2	2.5		
Totals: must agree with cost on Fee Review Form	283	348.8	359.9		

Remarks:

*Agency Direct Expenditures includes a percentage of the administrative office costs to be recovered (61% of 244). It also includes additional appropriations from the legislature (86,000).

*Attorney General costs are estimated at best since past history of costs is limited.

.991 Estimated Receipts: \$221,582.75

Renewal Fees for Odd Trans. Licensed in '89

1326 LSW's	\$30.63 =	\$40,615
93 LGSW's	\$38.28 =	\$3,560
224 LISW's	\$76.56 =	\$17,149
544 LICSW's	\$76.56 =	\$41,649

Renewal Fees for Odd Trans. Licensed in '90

955 LSW's	\$30.63 =	\$29,252
250 LGSW's	\$38.28 =	\$9,570
260 LISW's	\$76.56 =	\$19,906
450 LICSW's	\$76.56 =	\$34,452

Applications for Examination:

164 X	\$25.00 =	\$4,100
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Feb 1990 Exam Applicant Lic. Fees:

106 LSW's	\$60.00 =	\$6,360
19 LGSW's	\$100.00 =	\$1,900
1 LISW	\$150.00 =	\$150

Oct 1990 Exam Applicant Lic. Fees:

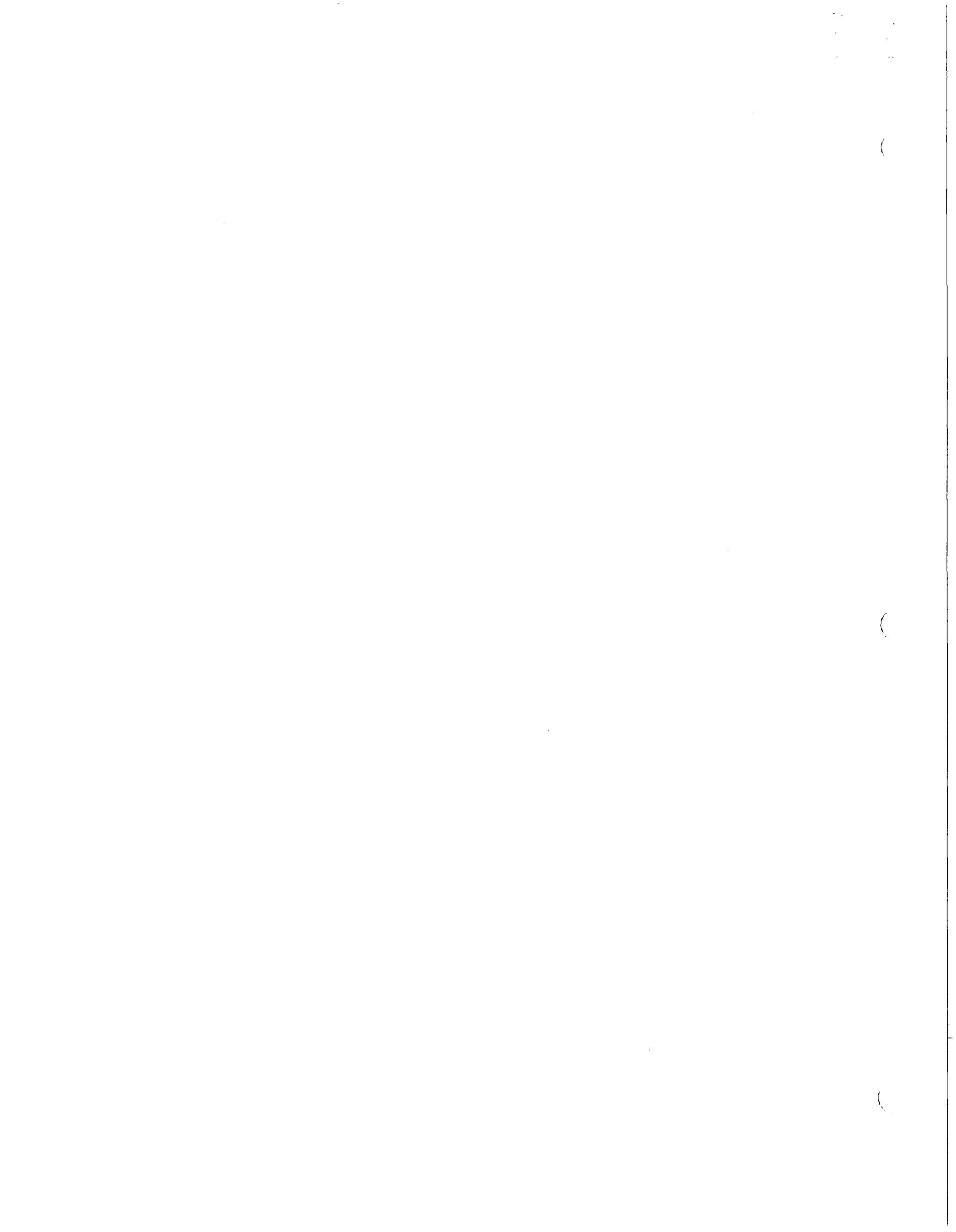
50 LSW's	\$60.00 =	\$3,000
5 LGSW's	\$100.00 =	\$500
5 LISW's	\$150.00 =	\$750
5 LICSW's	\$150.00 =	\$750

Misc. (Duplicate License, copy charges, etc.)

28 Requests	\$15.00 =	\$420
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300 Programs	\$25.00	\$7,500
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**Board of Social Work
Board of Marriage and Family Therapy
Board of Unlicensed Mental Health Service Providers**

STATE OF MINNESOTA

Office of Social Work and Mental Health Boards

2700 University Avenue West • Suite 225 • St. Paul, Minnesota 55114 • (612) 643-2580

August 20, 1990

Ms. Maryanne Hruby
Legislative Commission to
Review Administrative Rules
Room 55, State Office Building
100 Constitution Ave.
St. Paul, MN 55155

Dear Ms. Hruby,

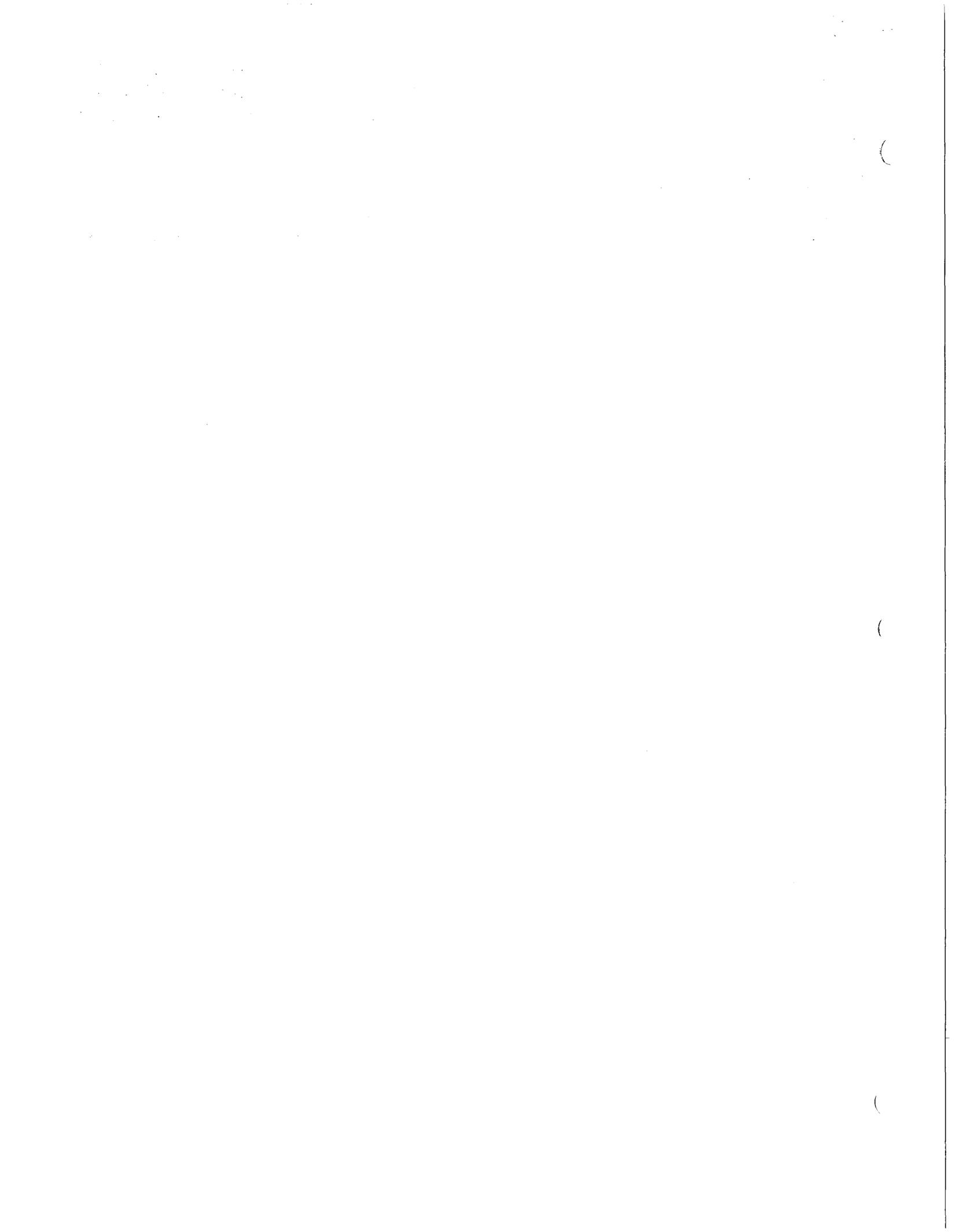
Enclosed please find a copy of the following documents in the matter of the proposed adoption of the permanent rules of the State of Minnesota governing the Board of Social Work:

- Proposed permanent rules
- Statement of need and reasonableness
- Alternative Notices

If you have any questions or comments, please feel free to call myself at 612-643-2585 or the Chairperson of the Board of Social Work, William Anderson at 612-643-2580.

Sincerely,

Lori L. McPherson
Office Executive Director



Board of Social Work

(the Matter of the Proposed
Adoption of the Permanent Rules
of the State of Minnesota Governing
the Board of Social Work

ALTERNATIVE NOTICES:
NOTICE OF INTENT TO ADOPT
A RULE WITHOUT A PUBLIC
HEARING, NOTICE OF INTENT
TO ADOPT RULES 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

I. EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Board of Social Work (hereinafter "Board") is hereby giving notice of its intent to adopt rules without public hearing under the noncontroversial rulemaking procedure of Minnesota Statutes sections 14.22 to 14.28 (1988). However, in the event that 25 or more persons request a hearing, thus necessitating that one be held pursuant to Minnesota Statutes section 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of hearing on the proposed rules pursuant to Minnesota Statutes sections 14.131 to 14.20 (1988). The hearing will, of course, be cancelled if 25 or more people do not request that a hearing be held. The comment period will close on October 2, 1990. This period will give interested persons ample time to contact the Board to find out whether the hearing will be cancelled and to plan accordingly.

II. NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the State of Minnesota Board of Social Work (hereinafter "Board") intends to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.22 to 14.28 (1988).

All persons have 30 days from the date this notice is published in the State Register in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. The 30 days will expire October 2, 1990. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

Any person may make a written request for a public hearing on the proposed rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is not required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20 (1988) and the hearing notice provided below.

Comments or written requests for a public hearing must be submitted to:

Patricia Puetz, Executive Director
State of Minnesota Board of Social Work
2700 University Avenue, Suite 225
St. Paul, MN 55114
(612) 643-2580

The statutory authority to adopt the rule is contained in Minnesota Statutes Sections 148B.17, 148B.20, Subd. 1 (a), (b), (f), (h), 148B.21 Subd. 2, 148B.22, Subd. 1, 148B.23 Subd. 3, and 214.06 (1988).

If adopted, the proposed rules would establish definitions, set forth education, experience and supervision requirements for licensure, establish license examination requirements, define standards for reciprocity licensure, license renewal and reinstatement, continuing education and variances, formulate and implement a code of ethics, and set fees.

The proposed rules will be published in the State Register issue of September 3, 1990, Volume 15, Number 10, and a free copy of the rules may be obtained from the Board by writing or telephoning the Board at the address or telephone number listed above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning the Board at the address and telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by public bodies nor have an impact on agricultural land - see Minnesota Statutes Section 14.11 (1988). It is the position of the Board that it is not subject to Minnesota Statutes section 14.115 (1988) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minnesota Statutes section 14.115, subdivision 2 for reducing the impact of the proposed rules, should it be determined that the Board is governed by sections 14.115, are addressed in the Statement of Need and Reasonableness.

Upon completion of the proposed rules without a public hearing, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 rules as adopted should submit a written request to the Board at the address listed above.

III. NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

Please note that if 25 or more persons submit written requests for a public hearing with respect to the above-captioned rules within the 30-day comment period pursuant to the notice given in part II above, a hearing will be held on October 29, 1990 in accordance with the following notice of public hearing.

Notice is hereby given that a public hearing in the above-captioned matter

will be held pursuant to Minnesota Statutes sections 14.131 to 14.20 (1988), in room 225, Colonial Office Park, 2700 University Avenue West, St. Paul, MN 55114, on October 29, 1990, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George A. Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, MN 55415, telephone (612) 341-7601. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three day period. This rule hearing procedure is governed by Minnesota Statutes Sections 14.131 to 14.20 (1988) and by Minnesota Rules Parts 1400.0200 to 1400.1200 (1989). Questions about procedure may be directed to the administrative law judge.

If adopted, the proposed rules would establish definitions, set forth education, experience and supervision requirements for licensure, establish license examination requirements, define standards for reciprocity licensure, license renewal and reinstatement, continuing education and variances, formulate and implement a code of ethics, and set fees.

The proposed rules will be published in the State Register issue of September 3, 1990, Volume 15, Number 10, and a free copy of the rules may be obtained from the Board by writing or telephoning the Board at the address or telephone number listed above.

The statutory authority to adopt the rule is contained in Minnesota Statutes Sections 148B.17, 148B.20 subd. 1 (a), (b), (f), (h), 148B.21 Subd. 2, 148B.22, Subd. 1, 148B.23 Subd. 3, and 214.06 (1988).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minnesota Statutes Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after she or he commences lobbying. A lobbyist is defined in Minnesota Statutes section 10A.01, Subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his or her own travel expenses or membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than \$250, not including his/her own traveling expenses and membership dues, in any year for the purpose of attempting to influence

legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert, St. Paul, MN 55101, telephone number (612) 296-5615.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Board and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land (- see Minnesota Statutes Section 14.11 (1988).

It is the position of the Board that it is not subject to Minnesota Statutes section 14.115 (1988) regarding small business considerations in rule-making. The basis for this position, and the Board's evaluation of the applicability of the methods contained in Minnesota Statutes section 14.115, subdivision 2 (1988) for reducing the impact of the proposed rules, should it be determined that the Board is governed by sections 14.115, are addressed in the Statement of Need and Reasonableness.

IV. Notice of Intent to Cancel Hearing if Fewer than 25 Persons Request a Hearing

Please note that the hearing, notice of which is given in part III above, will be cancelled if fewer than 25 persons request a hearing in response to the notice given in part II above.

To be informed whether the hearing notice in Part III above will be held, please call or write the Board before October 22, 1990 and leave your name, address, and telephone number. You will be notified as soon as possible after this date and prior to the hearing, if the hearing has been cancelled.

Dated: 17 August 1990

William Anderson, Chairperson
Board of Social Work
(612) 643-2580