

STATE OF MINNESOTA

BEFORE THE

COUNTY OF RAMSEY

MINNESOTA BOARD OF NURSING

In the Matter of the Proposed
Adoption of Rules of the Board
of Nursing Relating to Licensure,
Registration, Nursing Scholarships,
Advanced Nursing Practice,
Registration of Public Health
Nurses and Fees

STATEMENT OF NEED AND
REASONABLENESS

PROFESSIONAL PROGRAM APPROVALS

6301.0100 DEFINITIONS.

Subp. 3. **Affiliation.** Repeal of this definition is necessary as the word has been struck throughout the revision of Chapter 6301. Repeal of this definition is reasonable as the word affiliation is no longer in Minnesota Statutes Chapter 148.

6301.1200 ADVANCED STANDING.

Subp. 6. **Compliance deadline.** The deadline in this rule has been passed, making repeal of this subpart possible. It is reasonable to repeal this subpart as all approved programs are complying with the immediately preceding subparts.

6301.1700 CLINICAL SETTINGS.

Subpart 1. **Use of clinical settings absent affiliation.** The language in this subpart regarding affiliation is being repealed as Minnesota Statutes Chapter 148 no longer authorizes the Board to approve affiliations. The concept of "absent affiliation" is no longer in evidence. As no approved programs have had an affiliation with a clinical facility for the purpose of meeting parts 6301.1500 to 6301.2200 since this subpart was promulgated in 1983.

The language added to this subpart is necessary to clarify the responsibilities of nurse faculty members in regard to clinical learning activities. This change is in accordance with part 6301.1300 which has, since 1983, given professional nurse faculty members the responsibility for teaching and evaluating student understanding of nursing theory and practice. Students gain much of their understanding of nursing theory and practice during learning experiences in clinical facilities. This responsibility must rest with nurse faculty members as only they know the entire curriculum, each student's learning needs, and the expected student outcomes sufficiently to guide and evaluate students during their clinical learning experiences.

Holding nurse faculty members responsible for determining clinical learning activities is reasonable as they have clearly been fulfilling these responsibilities throughout the seven years since these rules were promulgated. Faculty members will continue to have the freedom necessary to determine how best to implement these responsibilities. Such discretion is necessary given the various levels of students being taught in a wide variety of clinical

settings. The need for this discretion was emphasized in written comment received from a practical nursing program director. No other written responses were received after this proposed rule was sent to all approved program directors.

6301.1700 CLINICAL SETTINGS.

Subp. 2. **Clinical use authorizations.** Repeal of this subpart is necessary and reasonable as the Board is no longer authorized in Minnesota Statutes, Chapter 148 to approve affiliations.

Subp. 3. **Beginning affiliation.** Repeal of this subpart is necessary and reasonable as the Board is no longer authorized in Minnesota Statutes, Chapter 148 to approve affiliations.

Subp. 4. **Continuing affiliation.** Repeal of this subpart is necessary and reasonable as the Board is no longer authorized in Minnesota Statutes, Chapter 148 to approve affiliations.

6301.1800 NURSING ABILITIES TO BE EVALUATED.

Subpart 6. **Delegated medical treatment.**

0. The ability to implement treatment related to cardiopulmonary function is being added as this body system has not been specified in this subpart. It is reasonable to correct this omission as new graduates of practical and professional programs must be able to carry out a physician's orders pertaining to this vital body system and its functions. This addition to the rules is necessary to ensure that all program graduates have been evaluated for this crucial ability.

The inclusion of delegated medical treatment related to cardiopulmonary function is consistent with the approach of the other program approval rules. The predeterminations that faculties will make in regard to the delegated treatment to be included in the evaluations and the nursing actions that students must perform to demonstrate the ability, will serve to keep the requirement current and effective.

Faculties may elect to meet this requirement through a cardiopulmonary resuscitation course or through faculty conducted evaluation. Consequently, students who are unable to perform cardiopulmonary resuscitation may be evaluated for the ability to perform a treatment other than cardiopulmonary resuscitation.

LICENSURE OF PROFESSIONAL AND PRACTICAL NURSES

The rule numbers for this chapter are being changed so that the licensure rules will come before the registration rules. This is consistent with the fact that an individual must be licensed before the individual can be registered.

6315.0100 DEFINITIONS.

Subpart 1. **Scope.** The numbers referenced in this subpart are changed to be consistent with the change in all of the numbers for this chapter.

Subp. 7a. **Disaster.** A definition for disaster is being added because of the addition of a new subpart that refers to disaster. The addition is in the section titled "AUTHORIZATION TO PRACTICE". The definition is taken from the American Red Cross. However, events that do not occur in Minnesota, such as hurricanes were omitted from the definition used by the Red Cross. The statement "exceed the health care resources of the community." is not part of the definition of disaster from the American Red Cross. It is added because it is part of what would necessitate allowing individuals licensed in a jurisdiction other than Minnesota to practice without a Minnesota license.

Subp. 10. **Final term of study.** The statement, "The term must have officially begun at least one day prior to the examination" is added for clarification. According to the law applicants may write the examination while they are in their last term. The majority of the questions related to this provision are for clarification of the time frame. According to the law, before the applicant can be admitted to the examination, applicants must submit evidence that they are in their final term of study. Accepting evidence the day before the examination is more than reasonable. Therefore at a minimum the term must have started the day before the examination.

Subp. 15. **Mental Health.** The definition for mental health is being deleted because the requirement for good mental health has been deleted from the law.

Subp. 16. **Moral Character.** The definition for moral character is being deleted because the requirement for good mental health has been deleted from the law.

6315.0300 AUTHORIZATION TO PRACTICE NURSING.

Subpart 1. **Required authorization.** The phrase "and current registration certificate" is added for clarity. According to the law, individuals cannot practice unless they are duly licensed and currently registered to do so. The statement regarding faculty members of-out-of state schools is added for clarification. Again, anyone who practices nursing in Minnesota must be licensed and currently registered to do so. Faculty members of Minnesota schools must be licensed and currently registered. It is reasonable to require the same of faculty of out of state schools. The paragraph that is struck has been deleted because it is a restatement of a provision in the law.

Minnesota Statutes, section 148.271 provides that licensure and current registration are not required when furnishing nursing assistance in an emergency. An emergency has not been defined or clarified in rule. The situations listed in this part of the rule are to clarify what constitutes an emergency.

Because Minnesota borders on four other states, there are frequent situations in which ambulance and air transport teams come into Minnesota to transport a patient to a medical facility outside of Minnesota. There are also situations in which patients from other states are brought to Minnesota medical facilities from other states. It is reasonable to exempt the nurses involved in transport from licensure since it is for a limited time and during a specific activity. The stabilization period in this rule should not be construed to include nurses working in Minnesota facilities whose responsibilities include

stabilizing patients. If care is given after transport or stabilization, a Minnesota license and current registration is required.

Recent events such as the airplane disaster in Iowa, the hurricane in South Carolina and the earthquake in California have prompted boards of nursing to consider allowing nurses from other jurisdictions to provide care during a disaster. At least one other jurisdiction has adopted a provision that allows a nurse from another jurisdiction to provide nursing care without initiating the process of licensure. The key in this rule is that the situation involves a disaster and the needs exceed the health care resources of the community.

Although the Good Samaritan Law addresses the provision of reasonable assistance to an individual at the scene of an emergency, it does not deal with nurses providing reasonable assistance at the scene of an emergency. For clarity this exception to licensure and current registration is included.

According to the statute, an individual does not have to be licensed and currently registered in Minnesota if the individual is licensed in another jurisdiction and is in Minnesota as a student enrolled in a formal course. For clarity and consistency of understanding, the components of a formal, structured course are specified. Courses within an educational institution have written objectives, a course outline, grading system and transcripts that verify the completion of courses and grades received. In order for continuing education activities to be acceptable, the activities must include the following: objectives written in measurable terms, the instructor's qualifications in the subject shall be stated in written form, the method to be utilized to determine whether learning occurred must be in written form, a grade indicating successful completion is provided, and a written statement of participation is provided. Therefore, it is reasonable to include these elements in the definition of a formal, structured course.

It is appropriate to include education departments of health care facilities because the provision in the law includes the enhancement of skills in a clinical field. The statement "in the clinical field" implies that the individual should have the opportunity to acquire or improve their skills while interacting with patients. Many patients are within health care facilities.

A definition of "approved" already exists that is consistent with the language that is proposed in this rule. Since faculty members of Minnesota programs must be licensed and currently registered in Minnesota, it is reasonable to require the same of faculty members of out-of-state schools who are in Minnesota to supervise the practice of nursing students.

Subpa. 1a. **Authorized abbreviations.** According to Minnesota Statute 148.281 it is unlawful for an individual to use any abbreviation tending to imply licensure unless the individual is licensed and currently registered except as authorized by the board by rule. This rule fulfills the provision in the law by authorizing abbreviations.

- A. Public Health Nurse is in the law. There is a provision that it is unlawful for anyone to use any abbreviation or other designation tending to imply registration as a public health nurse unless duly registered by the board. This implies an abbreviation. Therefore it is reasonable to recommend an abbreviation for these individuals.
- B. Although registered nurse, abbreviated "RN," is covered in the law, it is reasonable to restate in rule so that there is a complete list of acceptable abbreviations.

- C. Although licensed practical nurse, abbreviated "LPN," is covered in the law, it is reasonable to restate in rule so that there is a complete list of acceptable abbreviations.
- D. There are individuals who have retired from nursing who are proud of the profession and their participation in it. It is distressing to this group of individuals that they cannot use the titles and abbreviations of registered nurse and licensed practical nurse. Since these individuals are licensed and will not be engaging in activities for which they will receive monetary compensation, it is appropriate for them to use the titles and abbreviations.

Licensees who are in the reregistration process and are taking a refresher course that involves clinical are required to chart and sign the charting. Therefore, these individuals need to know what title and abbreviation they are authorized to use. These licensees do not have current registration. It is reasonable for these licensees to use the titles and abbreviations proposed because they have used the title "registered nurse" abbreviated "RN" and licensed practical nurse, abbreviated "LPN" when they did have current registration. Further, introducing another title or requiring these individuals to use the title "graduate nurse" or graduate practical nurse and the associated abbreviations will only confuse people. Most people interpret the titles "graduate nurse" and "graduate practical nurse" and the associated abbreviations to mean individuals who have just graduated from their nursing programs and who are writing the licensing examination. Reregistration applicants with permits for the clinical component of the refresher course would not be using the titles or abbreviations for monetary gain.

- E. The law provides that no one can use any abbreviation or other designation tending to imply licensure except as authorized by the board by rule. To comply with this provision in the law, titles and abbreviations are suggested for those individuals who function in an assisting role. It is reasonable to distinguish the nursing assistants who are on the registry from the nursing assistants who function in other types of settings.

Subp. 4. **Eligibility for permit to practice with direct supervision.** The reason for disciplinary action is to protect the public. It is reasonable to delay the issuance of a temporary document until the board is assured that allowing the individual to practice will not put the public at risk. According to the law, the burden of proof is on the applicant.

Subp. 5. **Permit to practice nursing without direct supervision.** The reason for disciplinary action is to protect the public. It is reasonable to delay the issuance of a temporary document until the board is assured that allowing the individual to practice will not put the public at risk. According to the law, the burden of proof is upon the applicant.

Subp. 7. **Length of permits.** Permit is made plural so that it is clear that more than one type of permit is addressed in this subpart. The law provides that the permit shall be valid until the board takes action on the application. The board cannot take action until the results of the examination are known. So that permits which are open-ended are not issued, an expiration date is recommended that is reasonable based on experience. From experience we know that the examination results are received and processed within eight weeks

following the examination. However, applicants for licensure who wrote the examination in another jurisdiction may not receive the result within the eight weeks following the administration of the examination. Neither the applicants for licensure who have taken the examination in another jurisdiction before moving to Minnesota nor the board have control over the length of time it will take for the other jurisdiction to process the results of the examination. Our experience has been that the results are received by all individuals within 16 weeks following the examination. Therefore, an eight week extension is being proposed as reasonable.

Subp. 8. **Revocation of permit.** The requirements for the issuance of a permit are that the individual has made application for licensure, paid the required fee, presented evidence of having graduated from an approved program, and is taking the first examination following graduation. Occasionally the board receives evidence from a school that an individual has graduated. Later the school informs the board that the statement regarding graduation was completed in error. In most instances, the permit has been issued. Because one of the requirements for a permit has not been met, it is reasonable to revoke the permit.

The change from "requirement specified" to "requirements" was made by the revisor.

Subp. 9. **Designated titles.** Until the recent changes in the law, it was unlawful for anyone to use the title "registered nurse," abbreviated "RN," or the title, "licensed practical nurse," abbreviated "LPN," unless the individual was duly licensed and currently registered in Minnesota. The change in the law allows the use of abbreviations or titles if they are authorized by the board by rule. This rule authorizes those individuals who have been licensed in another jurisdiction and applying for licensure in Minnesota and who have been issued a Minnesota permit to use the title and abbreviation appropriate to their application for licensure. This authorization is being proposed because individuals who have been licensed in another jurisdiction have been using the title "RN" or "LPN". Also, most people interpret the titles "graduate nurse" and "graduate practical nurse" and the associated abbreviations "GN" and "GPN" to mean individuals who have just graduated from their nursing programs and who are writing the licensing examination.

6315.0400 REQUIREMENTS FOR LICENSURE BY EXAMINATION.

Subpart 1. **Licensure application.** The phrase "causes for denial of licensure" is deleted and replaced with "the grounds for disciplinary action" because the law uses "GROUNDS FOR DISCIPLINARY ACTION."

The phrase "for the registered nurse and Minnesota Statutes, section 148.297 for licensed practical nurses" is deleted because the registered nurse and licensed practical nurse sections were combined in the law.

The phrase "constitutes unethical conduct" is struck because it is redundant. One of the grounds for disciplinary action is employment of fraud or deceit in procuring or attempting to procure a permit, license, or registration certificate.

Subp. 3. **Evidence of good moral character and good mental health.** The evidence of good moral character and good mental health statements are struck because this requirement was deleted from the law. However, the law states that the burden of proof is upon the applicant to demonstrate the qualifications and

satisfaction of requirements. The statement regarding further evidence clarifies for the applicant that the board may request further information in order to make the determination about whether the applicant meets the requirements for licensure (that there are no grounds for the board to deny licensure).

Subp. 6. **Transcripts necessary for applicants educated in foreign countries.** The statement, "in addition to the affidavit of graduation required in subpart 8," has been added for clarity.

From experience we have found that course descriptions are not always helpful. Because of integrated curriculums it is difficult to determine whether the course content meets the educational requirements. School officials are familiar with course content. It is appropriate for the officials to designate whether the student had courses that included the required content. By requesting that this information be submitted on a form prepared by the board, there is assurance that the information that the board requires will be provided.

There have been applicants who have been unable to obtain the required documents because of political situations in their country or because documents have been destroyed. It is appropriate to provide applicants with options for demonstrating the required educational preparation when the individuals have no control over events and that make it impossible to obtain the required documents directly from the school. It is reasonable to accept documents from an official agency because the validity of the documents or statements can be trusted.

Subp. 8. **Affidavit of graduation.** From experience we have found that some countries do not have notary services. Therefore, it is appropriate to provide an alternative for the applicant. We use the affidavit of graduation as evidence that the individual has completed an approved program. We need the transcript from individuals who were educated in a foreign country in order to determine whether their education meets the requirements. The transcript also verifies that the individual graduated from an acceptable program. It is reasonable to accept the transcript to verify completion of a program as well as to verify the content of the courses.

The change from "prior to" to "before" was done by the revisor.

Graduation is one of the requirements for the issuance of a permit, admission to the examination and for licensure. When information is received that the affidavit was completed in error, it is appropriate to reverse any action taken or postpone any actions that are based on the fact that the individual has graduated.

The law requires that individuals be graduated or in their last term at the time of the examination. It is not possible for individuals to be in their last term at the time of the examination if they are notified after the examination that they have not graduated. It is reasonable to require that individuals complete requirements for graduation during the next available school term. Another option is to void the writing of the examination. The purpose of the examination is to determine whether an individual has the necessary knowledge to provide nursing care in a safe manner. If the individual demonstrates this by passing the examination, nothing is gained by requiring the individual to redemonstrate this.

If the individual knew before the examination that graduation requirements were not met and wrote the examination anyway, it is reasonable to handle the

situation through a disciplinary proceeding. One of the grounds for disciplinary action is the employment of fraud or deceit in procuring or attempting to procure a permit or license.

Subp. 10. **Fees.** The effective dates are being deleted since the date is past and the fees are in effect.

Subp. 11. **Deadline for submitting material.** Changing the deadline for the receipt of a late application and fee is reasonable because the day before the examination, a final roster for use at the examination must be printed. A seating assignment must be effected so that the applicant's name can be typed on the work sheet which the proctor must use at the examination to record the distribution of test booklets. Even with good planning and time management there are always last minute details to attend to. If the rule is not changed, individuals can present an application and fee up to 4:30 the day prior to the examination. This does not allow the staff to prepare the necessary documents for use in the administration of the examination during normal office hours. Since Minnesota is one of the few states that accepts late applicants, we are already demonstrating a willingness to assist individuals as much as possible.

Subp. 12 **Written examination.** The licensing examinations used by the board are from the National Council of State Boards of Nursing, Inc. Every board of nursing belongs to the National Council. The voting body of the National Council, the Delegate Assembly, voted for a pass/fail reporting of the results of the examination. The pass/fail reporting was initiated with the October, 1988 examination. The rule reflects this change in the reporting of the results of the examination.

The addition to this subpart G. is reasonable since it is the same requirement as for the original application. The applicant's situation may have changed since the submission of the original application.

6315.0500 REQUIREMENTS FOR LICENSURE WITHOUT EXAMINATION.

Subpart 1. **Proof of licensure in another jurisdiction or country.** "Country" is deleted and "Canada" is inserted because Canada is the only foreign country that used a licensure examination acceptable to the board. Since applicants from Canada are the only foreign country applicants that can qualify for licensure without examination, it is appropriate to be specific.

Current rules provide for verification of licensure from the state of original licensure and from the state in which the individual was most recently employed. The state of original licensure is not synonymous with the state in which the individual wrote an examination acceptable to the board. One of the requirements for licensure that is specified in the law is passing an examination acceptable to the board. Therefore, this addition authorizes the board to request information from the state in which the individual passed an examination acceptable to the board.

Subp. 2 **Licensure application.** The phrase, "causes for denial of licensure," is deleted and replaced with "the grounds for disciplinary action" for consistency with the language in the law. The phrase, "for the registered nurse and Minnesota Statutes, section 148.297 for licensed practical nurses," is deleted because the registered nurse and licensed practical nurse sections were combined in the law. The phrase, "constitutes unethical conduct," is struck because it is redundant.

Subp. 3. **Fee.** The date is deleted because it was a date of implementation. The date is past and the rule is in effect.

Since the fee is the same for registered nurses and licensed practical nurses it is unnecessary to list both.

"Prior to" was changed to "before" by the revisor.

Subp. 4. **Evidence of good moral character and good mental health.** Evidence of good moral character and good mental health statements are struck because this requirement was deleted from the law. However, the law states that the burden of proof is upon the applicant to demonstrate the qualifications and satisfaction of requirements. The statement regarding further evidence clarifies for the applicant that the board may request further information in order to make the determination about whether the applicant meets the requirements for licensure (that there are no grounds for the board to deny licensure).

Subp. 6. **Waiver of graduation requirements.** "NCLEX PN" is struck because it is too restrictive. Minnesota Statutes, section 148.211, subd. 4. states "a licensing examination acceptable to the board." NCLEX PN is not the only acceptable examination.

Subp. 8. **Continuing education for registered nurses.** The additions to this rule provide for continuing education requirements that are similar to the requirements for reregistration. It is reasonable to expect the same level of preparation for return to practice whether the individual is applying for licensure or for reregistration.

Subp. 9. **Continuing education for practical nurses.** The additions to this rule provide for continuing education requirements that are similar to the requirements for reregistration. It is reasonable to expect the same level of preparation for return to practice whether the individual is applying for licensure or for reregistration.

The statement, "in nursing" was struck and "as a licensed practical nurse" was inserted so that the registered nurse requirement and the licensed practical nurse requirement were consistent. Further, the phrase "in nursing" is not clear and is open to interpretation.

The statement regarding 15 clock hours of a refresher course are struck. The requirement for the refresher course is outlined in the second paragraph. Participation in an orientation course is struck because participation in an orientation program has seldom been used by an applicant. Participation in an orientation program requires a permit. Not all applicants qualify for a permit.

Subp. 10. **Affidavit of graduation.** Since the purpose of the affidavit is to verify that the applicant graduated from an approved program and a transcript provides verification of graduation, it is reasonable to accept a transcript in lieu of an affidavit of graduation. There are instances when an affidavit can not be completed; for example, when a school has closed, there is no school official to sign an affidavit. However, transcripts are available.

Subp. 11. **Acceptable examination for registered nurses.** The additions reflect the change in the way the examination result are reported. The board uses the examination available through the National Council of State Boards of Nursing, Inc. All boards of nursing are members of the Council and use this examination for licensure purposes. The voting body of the Council, the

Delegate Assembly, voted to report the results of the examination by a pass/fail designation.

Subp. 12. **Acceptable examination for practical nurses.** The additions reflect the change in the way the examination result are reported. The board uses the examination available through the National Council of State Boards of Nursing, Inc. All boards of nursing are members of the Council and use this examination for licensure purposes. The voting body of the Council, the Delegate Assembly, voted to report the results of the examination by a pass/fail designation.

REGISTRATION OF PROFESSIONAL AND PRACTICAL NURSES

6310.2600 DEFINITIONS

Subp. 5. **Continuing education evidence form.** Changing the continuing education evidence form to report form is done for clarification. Evidence of continuing education is required for audit but not for the renewal process. The form completed for renewal of registration is for reporting information about continuing education only. Each reference to evidence form in the rules is changed to report form.

Subp. 5a. **Deferment.** A definition for deferment is added for clarity.

Subp. 6a. **Late application fee.** Changes are made in this subpart for grammatical reasons and to be consistent with the changes in the law. There no longer is a section 148.294.

Subp. 8a. **Mental Health.** Mental Health is being deleted because evidence of good mental health was deleted from the law.

Subp. 8b. **Moral character.** Moral character is being deleted because evidence of good moral character was deleted from the law.

Subp. 9a. **Permit.** A definition of permit is added because a provision for the issuance of a permit for participation in a refresher course was added to the law. The definition is needed for clarity so as to distinguish the permit in this section from the permits issued to applicants for licensure.

Subp. 9b. **Practical nurse.** The reference to Minnesota Statutes, section 148.29, subdivision 4 is struck because there is no such section in the present law.

Subp. 15. **Registration period.** The registration period definition is being changed for clarification and accuracy. The registration does not begin at the time the certificate is issued. The certificate is printed after the renewal application has been processed and renewal requirements have been met. The certificate is issued while a registration period is still in effect. The registration period begins when the current period ends.

6310.2800 REGISTRATION RENEWAL REQUIREMENTS

Subpart 1. **Requirement.** The date is being deleted because it is a date of implementation. The date is past and the requirement is in effect.

Subp. 2. **Demonstration of professional nursing skill.** The date is being deleted because it is a date of implementation. The date is past and the requirement is in effect. The change from "in accordance with" to "according to" was made by the revisor.

Subp. 4. **Application submission.** Licensed practical nurses and registered nurses are licensees. The submission process is the same for both groups. Therefore it is reasonable to use the inclusive term, "licensee." The second paragraph of the subpart is being deleted because it was date specific and is no longer applicable.

Subp. 5. **Late application fee.** The second paragraph of the subpart is being deleted because it was date specific and is no longer applicable.

Subp. 7. **True information.** The phrase "constitute unethical conduct" is deleted because it is redundant. One of the grounds for disciplinary action is the employment of fraud or deceit in procuring or attempting to procure a permit, license or registration certificate. Suspension or revocation of a license is deleted and disciplinary action is inserted because the former are only two of the many forms of disciplinary action that the board may take. It is inappropriate to limit the action the board may take.

6310.2900 REGISTRATION RENEWAL PROCEDURES

Subp. 2. **Application mailing date.** This rule is being amended for clarity. Applications do not go out to every licensee with a current certificate. Applications are mailed only to those licensees who are due to renew registration. It is the actual renewal application that is sent and not just a notice that it is time to renew. It is appropriate to use the term "licensee" rather than to use the definition of a licensee (license holder). The dates are deleted since the mailing dates were for a specific period of time. The dates are no longer applicable.

Subp. 3. **Late submission.** A portion of this subpart is being deleted because it was date specific and is no longer applicable.

Subp. 4. **Continuing education evidence form.** For clarity the form is changed from an evidence form to a report form. The licensee is not required to provide evidence of continuing education unless the licensee is being audited. The licensee must report participation in continuing education.

Subp. 6. **Initial registration and first registration renewal.** The date is being deleted because it was a date of implementation. The date is past and the process is in effect. The provision regarding obtaining or correcting birth date on the renewal application is no longer necessary. The birth date was necessary in setting up the registration period for every licensee. This has been completed. The birth date is no longer printed on the renewal application.

Subp. 7. **Substantiation of continuing education activities.** For consistency throughout the rules evidence form is deleted and continuing education report form is inserted. The date reference is deleted because it was a date of implementation. The date is past and the requirement is in effect.

Subp. 8. **Insufficient hours.** The word "deferment" is not used until the next subpart entitled "Substantiation after deferment." Since deferment is an option for a licensee who does not have enough hours to report, it is

appropriate to introduce the term when outlining the process for dealing with insufficient hours.

The inclusion of the information about the deferment of a demonstration of skill is added for clarity. The demonstration of skill must be part of one of the continuing education activities and a continuing education activity must be at least one contact hour. Therefore, if the licensee lacks a demonstration of skill one contact hour must be deferred. This is implied. It is reasonable to state it. The licensee is responsible to make up deferred hours. The licensee who does not renew should know about the process for make-up of the deferred hours. Therefore, it is reasonable to include the fact that the deferred hours will be added to the reregistration process.

6310.3100 REREGISTRATION

Subp. 2. **Reregistration requirements.** The initial statement in this subpart is added for clarity. The reference to moral character and mental health is struck because the licensure requirements for good moral character and good mental health have been removed from the law. In place of the requirement for good moral character and good mental health, the requirement is that the applicant has not engaged in conduct warranting disciplinary action. Since applicants for reregistration have not been working, there has been no opportunity for others to observe the individual's ability to engage safely in the practice of professional or practical nursing. Therefore it seems reasonable to require that the individual respond to questions on the application that relate to the causes for the board to take disciplinary action. It is appropriate to require that the licensee submit true information since one of the grounds for disciplinary action is the employment of fraud or deceit in procuring or attempting to procure a permit, license or registration certificate.

Subp. 2a. **Continuing education.** The date is being deleted because it was the date of implementation. The date is past and the requirement is in effect.

Subp. 2b. **Deferred contact hours.** This subpart is being added for clarity. In 6310.2900, subparts 8 and 9, there are provisions for reporting deferred hours in the subsequent renewal period. It is implied that if an individual does not renew, the licensee is not relieved of the responsibility for the deferred hours. Therefore it is appropriate to have a statement in the reregistration rules that clearly details this responsibility and specifies how the licensee must complete the deferred hours before registration is granted.

Subp. 5. **Evidence of moral character and mental health.** Evidence of moral character and mental health is being deleted because good moral character and good mental health have been deleted from the law.

Subp. 6. **Acceptable practice requirement.** The date in this subpart is being deleted because it was the date of implementation. The date is past and the requirement is in effect. The phrase, "by the board," is added for clarity. Section 148.29, subdivision 4, is deleted because there is no section with this number in the current law.

Subp. 7. **Refresher course requirement.** The date in the subpart is being deleted because it was a date of implementation. The date is past. The requirement is in effect. The statement "shall successfully complete a refresher course" is added for clarity. It was implied by the statement "must submit an affidavit of successful completion of a refresher course."

Applicants for reregistration have questioned whether they could use a refresher course to fulfill the refresher course requirement as well as the continuing education requirement. A refresher course is a continuing education activity. The board has accepted a refresher course to fulfill both requirements. It is appropriate to clarify that a refresher course can be used to fulfill the continuing education requirement if it meets the requirements of acceptability.

Subp. 8. **Limited registration certificate.** "Limited registration certificate" is changed to "permit to practice" because of a change in the law which provides for the issuance of a permit. The term "limited" is being used in the law for restrictions on practice. Limited is put on the certificates of licensees who have agreed to this type of disciplinary action. Thus, this change is important for clarity and for compliance with the law.

The remaining portion of the rule is necessary in order to inform the licensee about how to obtain the permit, its length, what it authorizes and what title can be used while the permit is in effect.

Subp. 11. **Nullification and reapplication.** "Registration certificate" is deleted and "permit" is substituted to be in compliance with the law. The word "specified" has been struck by the revisor.

6310.3300 CHANGE OF NAME AND ADDRESS ON RECORDS

Subpart 1. **Name change.** The part that is being deleted is being moved to another section and subpart. The statement that is being deleted does not relate to name change. Therefore it is inappropriate for it to be in this subpart.

6310.3400 DUPLICATE AND REPLACEMENT DOCUMENTS

Subp. 2. **Registration certificate.** The word "upon" has been changed by the revisor to "on." Date of issuance is being struck and effective date is being substituted. Licensees do not know when the certificate is printed/issued. Therefore it is unrealistic to expect that licensees can write to the board within 60 days of a date unknown to them. The effective date is a known date.

Subp. 3. **Lost, stolen or destroyed documents.** This subpart is new to this section. It was moved from the **Name change** subpart because it was not appropriate to that subpart. Since the statements provide for the replacement of lost, stolen or destroyed documents, it is appropriate to be in the section titled "DUPLICATE AND REPLACEMENT DOCUMENTS".

6310.3600 REGISTRATION FEES.

All effective dates are being repealed because they are no longer needed. The proposed fees will go into effect whenever the rules become effective.

Subpart 1. **Amount.**

- A. The registration renewal fee is proposed to increase from \$26.00 to \$32.00 per 24 month registration period. The increased fee is

needed to provide sufficient income to balance expenditures during the current biennium. Minnesota Statutes section 214.06 requires the Board to adjust fees so that the total fees collected "...will as closely as possible equal anticipated expenditures during the fiscal biennium."

The anticipated expenditures for fiscal years 1990 and 1991 are \$1,177,000 and \$1,194,000 respectively, for a total of \$2,371,000. The totals are made up of the following:

<u>Expenditures</u>	<u>FY 90</u>	<u>FY 91</u>
Appropriation	\$1,044	\$1,050
Salary Supplement	6	6
Statewide Indirect Costs	26	36
Agency Indirect Costs	11	12
Attorney General Costs	90	90
	<u>\$1,177</u>	<u>\$1,194</u>

The income for the same period is projected to be \$1,036,575 and \$1,320,765 for a total of \$2,357,765, less than one percent short of anticipated receipts. A FEE REVIEW, FEE REVIEW - Details of Costs and Estimated and Actual Registration Renewal Receipts is attached.

- D. The replacement registration certificate fee is proposed to be reduced from \$20.00 to \$5.00. Experience has shown that the \$20.00 fee discouraged licensees from obtaining a replacement certificate when they had a name or address change. The Board has encouraged licensees to maintain accurate data in their records and on the certificates they carry. The Board believes that the \$5.00 fee will cover most of the cost of processing the replacements and will not deter the licensee from obtaining a corrected certificate. It is anticipated that the reduction of approximately \$400.00 in income from miscellaneous fees will be off set by the increasing number requesting a replacement certificate. Any variation is insignificant in the total budget.

PUBLIC HEALTH NURSE REGISTRATION

6316.0100 REQUIREMENTS FOR REGISTRATION AS A PUBLIC HEALTH NURSE

Subpart 1. **License and current registration.** It is appropriate to require licensure and current registration in Minnesota as a prerequisite for registration as a public health nurse since, according to the law an individual cannot practice nursing in Minnesota unless duly licensed and currently registered to do so.

Subp. 2. **Application.** It is reasonable for the applicant to obtain the application forms from the board of nursing, the agency responsible for registration of public health nurses. The requirement that the information be true and that the form be notarized is consistent with the requirements for licensure.

Subp. 3. **Fee.** Minnesota Statute, Section 148.191, Subd. 2 provides the authority to require a fee. Because of the board's experience with NSF (nonsufficient fund) checks, it is reasonable to require payment in a form other

than personal checks. Although personal checks are accepted for renewal of registration, there are subsequent renewal periods available when the board can contact the licensee. Like licensure, registration as a public health nurse is proposed to be a one-time process.

The fee of \$25.00 is reasonable as an estimate of the cost of processing applications and promulgating the rules. The Board estimates, based on prior experience of the Minnesota Department of Health, that 1000 applications will be processed each year. The annual income is projected to be \$25,000.00. The supporting documents are attached.

The Board believes that Minn. Stat. section 14.11 does not apply because the estimated expenditure of public money by local public bodies should not exceed \$100,00 in either of the two years immediately following adoption of this rule.

Subp. 4. **Education.** It is reasonable to require at least a baccalaureate degree with a major in nursing, considering the following facts:

1. An article in the Journal of Nursing Education titled "Does the Baccalaureate Make a Difference?: Differentiating Nurse Performance by Education and Experience" states that the results of the study suggest that education promotes a broader range of abilities than does experience. In the study, nurses with a baccalaureate degree demonstrated more nursing competencies when compared with their associate degree or diploma colleagues.
2. At a consensus conference on the essentials of public health nursing practice and education conducted in 1984, the participants agreed that a student graduating with a nursing major from a baccalaureate program is prepared to accept an entry level position as a public health nurse. The participants made specific recommendations regarding public health nursing preparation at the baccalaureate level. Since there were no similar recommendations for preparation of individuals at a lesser level, it is reasonable to conclude that the minimum requirement should be preparation at the baccalaureate level.
3. At the 116th Annual Meeting of the American Public Health Association in 1988, the point was made that public health nursing was a specialty which required additional preparation and supervised practice. One of the concerns raised at this meeting was whether the preparation at the baccalaureate level was adequate. A quote from a paper presented at this meeting is as follows: "Public health nursing is a specialty, and it requires more than a basic educational preparation." If there is concern that baccalaureate preparation may not be ideal, certainly less than a baccalaureate would not be appropriate.
4. A report was prepared by the Department of Health Services of California for the California Legislature in 1983. According to this report, public health nursing in the United States has traditionally been recognized as a specialty in which nurses must function independently and in unstructured situations. California, the only other state that certifies public health nurses requires a minimum of a baccalaureate degree.
5. The National Organization of Public Health Nursing believed as early as 1918 that public health nurses should be educated in institutions of higher learning.
6. Public health nursing is a particular specialization in nursing that combines nursing skills with public health science. This definition was affirmed by the American Nurse's Association in a publication, "Standards of Community Health Nursing Practice," in which this specialization of nursing is defined as a practice that "promotes and preserves the health of populations by integrating the skills and

knowledge relevant to both nursing and public health. The practice is comprehensive and general, and is not limited to a particular age or diagnostic group; it is continual, and is not limited to episodic care." The American Nurse's Association says that "Nurses prepared at less than the baccalaureate level are not educationally prepared to meet these standards."

7. Since 1962, a baccalaureate degree in nursing has been the educational requirement of the Public Health Nursing Section of the Minnesota Department of Health for the registration of public health nurses.
8. The board solicited responses to a draft of the rules. A baccalaureate or higher degree was in the draft. We received 31 letters supporting the rules. However, one recommendation included in 28 of the letters was that the baccalaureate or higher degree be in nursing. The majority of these letters were from directors of nursing in county health departments. A letter from the Public Health Nursing Cooperative which represents the seven county metro area also recommended that the baccalaureate or higher degree be in nursing. The Minnesota Association of Colleges of Nursing recommended that the language be changed to "a baccalaureate or higher degree with a major in nursing."

It is reasonable to specify the course content for the public health portion of the individual's education stemming from the following sources:

1. The consensus conference of September 5-7, 1984. The participants recommended that the essential content be as follows:
 - epidemiology, statistics and research;
 - orientation to health care systems;
 - identification of high-risk populations;
 - application of public health concepts to the care of groups of culturally diverse persons;
 - interventions with high-risk populations; and
 - orientation to regulations affecting public health nursing practice.
2. The document, Essentials of College and University Education for Professional Nursing, released by the American Association of Colleges of Nursing in 1986. Preparation of this document was directed by a national panel of representatives from nursing, health care and higher education communities. The major portion of the panel's work was the identification of the essential areas of knowledge for the professional nurse. In addition to nursing knowledge applicable to all situations the panel recommended the following content areas:
 - data collection tools and techniques of assessment for individuals, families, groups and communities;
 - characteristics, concepts, and process related to communities including epidemiology, risk factors and their implications for selected populations, resources and resource assessment techniques, environmental factors and social organizations;
 - community services, institutional resources, and roles of other health care providers;
 - the interactive nature of the sociopolitical, economic and legislative arenas and the system of health care delivery.
3. Twenty-three letters received from county health departments. In each of these letters, there was a statement supporting the inclusion of the specific content for public health nursing education. The Public Health Nursing Cooperative stated in a letter "We agree that the minimal educational preparation is that of a baccalaureate in nursing, with a curriculum that includes the content outlined in Subpart 4. 1-5."

The content areas listed in the rules are a combination of the content areas listed in 1 and 2 above.

Thirty hours of theory is reasonable as a minimum requirement since it is equivalent to a three credit course.

In the past, the requirement has been that the program be accredited by the National League for Nursing (NLN). This approach is not reasonable when the following is considered:

1. It is too restrictive for several reasons. The first is that it automatically disqualifies individuals with adequate preparation in another country, specifically Canada, from being eligible for registration. NLN accreditation is granted only to schools in the United States. A report prepared by the Department of Health Services of California cited that "the National League for Nursing accreditation requirement did not include competent graduates of foreign schools." The NLN criteria for approval of baccalaureate programs is not specific as to course content. Secondly, graduates of programs prior to NLN accreditation would not qualify for registration. Also, it excludes individuals who graduate from a non-NLN accredited baccalaureate in nursing.
2. The supporting documents cited above addressed the importance of essential public health content in preparing for entry into public health nursing practice. Therefore, it is reasonable to take the approach of requiring applicants to document that they have had the essential public health content.
3. The "Criteria for the Evaluation of Baccalaureate and Higher Degree Programs in Nursing" of the National League for Nursing does not have specific content requirements for public health nursing. In examining the characteristics of baccalaureate education in nursing prepared by NLN, a description of what a graduate of the baccalaureate program in nursing is able to do includes the following:
 - a. Assess health status and health potential; plan, implement and evaluate nursing care of individuals, families and communities.
 - b. Collaborate with colleagues and citizens on the interdisciplinary health team to promote the health and welfare of people.
 - c. Participate in identifying community and societal health needs and in designing nursing roles to meet these needs.Although reference is made to communities, societal health needs and collaborating with colleagues and citizens to promote the health and welfare of people, specific content is still not addressed.
4. If there would be any concern about omitting an accrediting body from the requirements, the following should be kept in mind:
 - a. Registration as a public health nurse requires licensure in Minnesota, and one of the requirements for licensure is graduation from an approved program. Programs must be approved by the licensing authority. Although some individuals who apply will have graduated from programs for RNs and therefore do not fall under the jurisdiction of the licensing authority, the requirement that the baccalaureate is in nursing should provide some quality assurance to the program. Existing programs that are of concern, such as the College of St. Francis, does not offer a baccalaureate in nursing.
 - b. Naming an accrediting body disqualifies individuals educated in other countries.

The comments received support preparation at the baccalaureate or higher degree level with a major in nursing and identification of minimum core content in public health nursing.

Subp. 5. **Affidavit of Graduation.** This is the evidence that is required for initial licensure. It is reasonable to accept the same type of document as verification of graduation from a baccalaureate or higher degree program.

Subp. 6. **Affidavit of completion of public health nursing education.** Since the emphasis is on the public health nursing courses that the individual took, it is reasonable to obtain evidence that the courses covered the essential content areas specified in the rules.

6316.0200 ISSUANCE OF PUBLIC HEALTH NURSE REGISTRATION CERTIFICATE.

Subpart 1. **Public health nurse registration certificate.** This rule clarifies when the certificate will be issued. It is reasonable that the certificate is only in effect while the individual is authorized to practice nursing in Minnesota. The necessary authorization is licensure and current registration. Current registration is documented through a registration certificate. Because current registration is documented by a registration certificate and public health nurse registration is documented by a registration certificate it is important to use the complete name of each certificate in order to distinguish one document from the other.

Subp. 2. **Length of the public health nurse registration certificate.** It is reasonable that the certificate is only in effect while the individual is authorized to practice nursing in Minnesota. The necessary authorization is licensure and current registration. Current registration is documented through a registration certificate.

Subp. 3. **Replacement document.** This provision is similar to the provision for the replacement of the registration certificate. Changes in name are not unusual and documents are lost or destroyed. Therefore it is reasonable to make provision for the replacement of the document. Individuals should be able to assure employers of their credentials. One of the ways to do this is to present the employer with the document. Therefore it is appropriate to provide for the replacement of the public health nurse registration certificate.

NURSING PRACTICE AND DISCIPLINE

6321.0100 DEFINITIONS.

Subpart 1. **Scope.** This introductory statement is needed to clarify the limited scope of usage of the two proposed definitions.

Subp. 2. **Monitoring.** The word monitor and its other forms are used twice in the Nurse Practice Act: sections 148.261, subdivision 1 (5) and 148.271 (4). The word refers to a function which both registered nurses and licensed practical nurses carry out. It is necessary to define the word in order to distinguish the function of monitoring from the function of supervising which is carried out only by registered nurses.

The language proposed is reasonable because it clearly describes the parts of supervision that are performed by licensed practical nurses and are within their knowledge and ability. Nurses learn these skills either in their original nursing education program or through on the job training.

During the past ten years of processing complaints about licensed practical nurses, the issue of improper or insufficient monitoring of others was the second most common problem, after chemical abuse. This simple statement, based on general dictionary definitions, will provide the necessary guidance to practicing nurses and employers.

Subp. 3. **Supervision.** The word supervision and its other forms as applied to registered nurses appear several places in the Nurse Practice Act: sections 148.171 (3), 148.261, subdivision 1 (5) and 148.271 (4). It is necessary to define the word in order to differentiate the function from monitoring. Supervising appears only in the definition of professional nursing and is not included in the definition of practical nursing.

The words used to define supervision are from standard dictionaries and reflect the activities of the nursing process. Professional nurses are taught to perform supervision as defined when they obtain their initial nursing education.

6321.0500 REPORTING OBLIGATIONS.

Subpart 1. **Institutions.** This rule is needed in order to provide as much clarity as possible to employers so that they can determine which actions they take are reportable to the Board. The content is reasonable because it adds examples and makes more specific the phrase from section 148.263 subdivision 1 "...or any other disciplinary action."

The terms used are included in employment contracts which hospital and nursing homes have with nurses, therefore they are readily identifiable.

Subp. 2. **Licensed professionals.** It is necessary to include a rule which explains how a therapist should respond to the reporting requirement. It is reasonable to recognize that a client-therapist privilege may exist in some cases and that public protection will be accomplished if the nurse does not continue to function in the troublesome setting.

ADVANCED NURSING PRACTICE

6330.0100 DEFINITIONS.

Subpart 1. **Advanced nursing practice.** Changes made in Minnesota Statutes in 1988 make it necessary and reasonable to broaden this definition to include all of the practitioners specified in the statute. It is necessary to specify the abbreviations for each advanced nurse practitioner for clarity and completeness. The abbreviations for certified registered nurse anesthetists, CRNA, and certified nurse midwives, CNM, remain the same.

Certified nurse practitioners commonly use the abbreviation RN,C. Although the use of the RN,C abbreviation is not exclusive to the specified nurse practitioners, it is the only abbreviation commonly understood to signify nurse practitioner. While some of the specified nurse practitioners may use another

abbreviation for their specialty certificate, RN,C is more generally understood. It is necessary to include this abbreviation for clarification because the comma is often omitted.

Certified clinical specialists commonly use the abbreviation RN,CS. Although the abbreviation is not exclusive to specialists in psychiatric or mental health nursing, it is the only abbreviation used by these nurses.

Subp. 3. **Professional nursing organization for nurse anesthetists.** The repeal of the definition regarding this organization is necessary as the revision of the subsequent parts of this rule makes the definition redundant. The repeal is reasonable as this organization is specified in subsequent subparts.

Subp. 4. **Professional nursing organization for nurse midwives.** The repeal of the definition regarding this organization is necessary as the revision of the subsequent parts of this rule makes the definition redundant. The repeal is reasonable as this organization is specified in subsequent subparts.

Subp. 5. **Program of study.** Repeal of the definition for this term is necessary as the term is not used in the revision of this rule.

6330.0200 PURPOSE.

This revision is necessary to clarify the way in which the purpose of this chapter has been affected by the 1989 amendment of Minnesota Statutes. In keeping with the recent change in the law, the method of determining the services qualified for reimbursement has been changed from the Board listing the programs of study that have been completed by nurses to listing the professional nursing organizations authorized to certify nurses in specific advanced nursing practice roles.

6330.0300 CRITERIA TO BE A PROFESSIONAL NURSING ORGANIZATION WHICH CERTIFIES NURSES IN ADVANCED NURSING PRACTICE.

It is necessary to delete the requirements regarding accreditation of programs of study as the law now focuses on certification by professional organizations rather than accreditation.

It is reasonable to delete the references to programs of study as one of the criteria (new B.) specifies the minimum education requirement which certifying organizations must hold.

It is necessary to specify criteria for the organizations listed so there is a clear standard for updating the list. The criteria are reasonable as none of the professional organizations presently certifying nurses in the advanced nursing practice rules specified in the law are excluded by the criteria.

The criteria are also reasonable in as much as Minnesota nurses have been able to meet the certification requirements of each of the organizations that meet the criteria. Although numbers of certified nurses are not available from each organization, the American Nurses Association indicated that as of October 1, 1989 the following number of Minnesota were certified as:

Adult Nurse Practitioner - 196,
Family Nurse Practitioner - 65,
Gerontological Nurse Practitioner - 21,
School Nurse Practitioner - 3,
Pediatric Nurse Practitioner - 15,
Clinical Specialist in Child and Adolescent Psychiatric and Mental
Health Nursing - 2
Clinical Specialist in Adult Psychiatric and Mental Health Nursing - 33

The American College of Nurse Midwives indicates that approximately 61 certified nurse midwives reside in Minnesota. The Council on Recertification of Nurse Anesthetists indicates that there are 55 newly certified and 727 recertified nurse anesthetists in Minnesota.

- A. This criterion is necessary to assure that the national nature of current certification is maintained and weakening local modifications are prohibited. It is reasonable to insist on a national approach to certification as local variations could result in total confusion for the public.
- B. It is necessary to specify the minimum amount of education now required so at least that standard is upheld in the future. While many certifying organizations have announced goals for high requirements by specified target dates, at least the current minimum requirement must be assured in any new certification programs. This minimal criterion is clearly reasonable as higher requirements have already been specified by many of the certifying organizations.
- C. This criterion is necessary as it is the advanced practice of nursing that is to be certified. Without this criterion it would be possible for certifying organizations to credential a nurse who had never practiced in an advanced role. The criterion is reasonable given the clinical nature of the certification.
- D. This criterion is necessary to prevent future certification of nurses based solely on education and/or practice. While education and practice are necessary components of certification requirements, testing is the only fair way to determine whether a nurse applying for certification has had the knowledge and ability necessary to safely and effectively engage in advanced nursing practice.

The criterion is reasonable given the specialized nature of the practice being certified. All of the organizations make the information regarding the test plan available to applicants.

- E. This criterion is necessary to assure that nurses' certificates are effective for a discreet period. In view of the constantly enlarging knowledge base, the many changes occurring in practice and the fact that the capabilities of a nurse may change, lifetime certification would not be safe or effective.

It is reasonable to require that the certificate be limited in time as nurses can qualify for re-certification.

- F. This criterion is necessary to assure that the certifying organizations take the steps necessary to assure that the caliber of practice by certified nurses remains high. Without periodic review, certification would provide documentation of ability at only one point in the nurse's

career. Periodic review is necessary to provide continued validation of the nurse's ability.

This criterion is reasonable because the organizations make the requirements for the periodic review known to the certified nurses at the time of certification.

6330.0350 PROFESSIONAL NURSING ORGANIZATIONS WITH AUTHORITY TO CERTIFY.

It is necessary to list the professional organizations now certifying professional nurses in the advanced nurse practice roles specified in the law so all interested parties will know what nursing services qualify for reimbursement. It is reasonable to initiate the publication of this list in as much as the list is exhaustive. The professional nursing organizations listed are the only such organizations now certifying nurses for the advanced nurse practice roles specified in the law.

6330.0400 DEMONSTRATING COMPLIANCE.

Repeal of this subpart is necessary as the programs of study are no longer the focus of determining compliance. It is reasonable to repeal this subpart as the criteria for being listed as an organization authorized to certify professional nurses as advanced nursing practitioners includes, in 6330.0300 new B., a minimum education requirement.

6330.0500 MAINTENANCE OF LISTS.

Subpart 1. **List updating.** It is necessary to periodically update the list so the public can readily determine the services eligible for reimbursement. Revision the list annually rather than every six months is reasonable as in the last two years the organizations offering such certification have neither increased or decreased.

Subp. 2. **New accreditations.** All references to accreditations of programs of study are being repealed as the focus of the list has been changed to organizations.

6330.0600 LIST OF NURSE ANESTHESIA PROGRAMS OF STUDY.

6330.0700 LIST OF NURSE MIDWIFERY PROGRAMS OF STUDY.

All lists of programs of study are being repealed as organizations are now listed.

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 an opportunity for small businesses to participate in the rulemaking process.

It is the position of the Board that this provision does not apply to the rules it promulgates. Minn. Stat. section 14.115, subd. 7.b (1988) states that section 14.115 does not apply to "agency rules that do not affect small businesses directly." The Board's authority relates only to nurses not to the businesses they operate. Furthermore, although the Board does not compile statistics on the issue, almost all nurses are simply employees of the facilities at which they work. In these cases, it is clear that a nurse should not be considered a small business.

The Board is also exempt from the provisions of section 14.115, pursuant to its subdivision 7.c. which states that section 14.115 does not apply to "service businesses regulated by government bodies, for standards and costs, such as ... providers of medical care." Nurses provide nursing care and medical care and are regulated for standards and costs. The Board regulates nurses for standards and the Minnesota Department of Human Services regulates some nurses for costs.

However, should these proposed rules in some way be construed as being subject to Minn. Stat. section 14.115, the Board notes below how the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the rules on small businesses should be applied to the proposed rules. The five suggested methods enumerated in subdivision 2 are as follows:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

The feasibility of implementing each of the five suggested methods and whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rule making are considered below.

1. It would not be feasible to incorporate any of the five suggested methods into these proposed rules.

Methods (a) to (c) of subdivision 2 relate to lessening compliance or reporting requirements for small businesses either by (a) establishing less stringent requirements, (b) establishing less stringent schedules or deadlines for compliance with requirements, or (c) consolidating or simplifying the requirements. Since the Board is not proposing any compliance or reporting requirements for either small or large businesses, it follows that there are no such requirements for the Board to lessen with respect to small businesses. If, however, these proposed rule amendments are viewed as compliance or reporting requirements for businesses, then the Board finds that it would be unworkable to lessen the requirements for those few nurses who practice in a solo or group setting of fewer than 50 employees since the proposed rules have no effect on their businesses. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's rules do not

propose design or operational standards for businesses and therefore there is no reason to implement performance standards for small businesses as a replacement for design or operational standards that do not exist. Finally, method (e) suggests exempting small businesses for any or all requirements of the rules. The application of this provision would exempt a few licensees from the purview of the rules with the result that a small number of nurses would be total unregulated, a clear conflict with existing nursing statutes.

2. Reducing the impact of the proposed amendments on small businesses would undermine the objectives of the Minnesota licensing law for nurses.

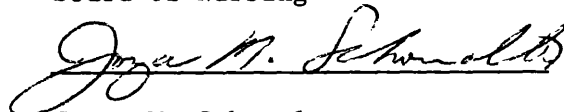
Pursuant to Minn. Stat. section 148.171 et seq., the Board was created for the purpose of establishing requirements for licensure and adopting standards for disciplinary action to govern the practices or behavior of all licensees. Pursuant to Minn. Stat. section 148.191, subd. 2, the Board is specifically mandated to promulgate rules as may be necessary to carry out the Board's purposes. Given these statutory mandates, it is the Board's duty to establish licensure qualifications and disciplinary standards which apply to and govern all applicants and licensees regardless of the nature of their practice. As it has been stated above, it is the Board's position that the proposed rules will not affect small businesses and certainly do not have the potential for imposing a greater impact on nurses in a solo or small practice than on those employed by agencies and organizations. It has also been explained above that the Board considers it unfeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent that the proposed rules may affect the business operation of a nurse or group of nurses and to the extent it may be feasible to implement any of the suggested methods for lessening the impact on small businesses, the Board believes it would be unwise and contrary to the purposes to be served by these rules for the Board to exempt one group of nurses from the requirements of these rules. Similarly, the Board believes it would be unwise and contrary to its statutory mandate for the Board to adopt one set of standards for those nurses (which may consist of a nonexistent class) who work as employees and adopt another, less stringent, set of standards to be applied to those nurses who practice in a solo or small group practice. It is the Board's view that these rules must apply equally to all nurses if the public whom they serve is to be adequately protected.

Licensees, regardless of whether they are considered as individuals or small businesses, have had and will continue to have an opportunity to participate in the rulemaking process for these proposed amendments. The Board has kept the various associations well informed of the proposed rules as they were developed and the associations have in turn informed their constituents. In addition, the Board mailed a copy of the proposed rules to everyone on the mailing list to receive proposed rules.

May 18, 1990

Date

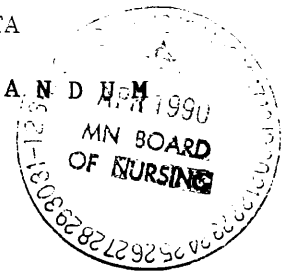
Board of Nursing



Joyce M. Schowalter
Executive Director

Department: Board of Nursing

OFFICE MEMORANDUM



Date: April 10, 1990

To: Bruce J. Reddemann, Director
Budget Operation and Support Division
Department of Finance

From: Joyce M. Schowalter *JMS*
Executive Director

Phone: 642-0567

Subject: Approval of Proposed Fees

The Board of Nursing has found it necessary to propose an increase in the registration renewal fee in order to balance receipts and expenditures during Fiscal Years 1990 and 1991. We also propose to reduce the replacement registration certificate fee in order to encourage more licensees to keep their records up-to-date following name and address changes. The changes proposed are as follows:

<u>Fee</u>	<u>From</u>	<u>To</u>	<u>Effective Date</u>
Registration Renewal	\$26	\$32	Passage of Rules
Replacement Registration Certificate	20	5	Passage of Rules

In addition the Board was granted the responsibility of registering public health nurses and the authority to charge a fee (Minnesota Statute Section 148.191, subdivision 2). This function was transferred to the Board from the Minnesota Department of Health.

Past experience suggests that the Board can expect about 1000 applications per year. The proposed fee of \$25.00 is set to cover the costs of promulgating the rules relating to public health nurse registration and the recurring costs of processing the applications. Since the fee is for lifetime registration the amount is very reasonable.

A fee review form and other documentation is attached.

We request approval of the two fee changes and one new fee proposed above.

If you have any questions, please do not hesitate to call me.

Approved: *B. J. Reddemann* 4-11-90
Bruce J. Reddemann Date

JMS:tjz
Enclosures
cc: Pamela Wheelock
Executive Budget Officer

Department of Finance FEE REVIEW

Date Prepared: 4/1/90

Department/Agency: Board of Nursing	Budget Activity:
Fee Name:	
Legal Citation: M.S. 148.171-148.285	Fee Set By: <input type="checkbox"/> Law <input checked="" type="checkbox"/> Agency
Purpose of Fee: To license registered nurses and licensed practical nurses, approve nursing programs, verify licensure to other states, process complaints and register nursing corporations.	
<input type="checkbox"/> Dedicated <input checked="" type="checkbox"/> Non-Dedicated	Revenue Code: 310

APID: 21513:00	Fund: 12	Accumulated Difference Thru 1988 444	Dollars in Thousands (137,522 = 137.5)
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Fiscal Year	Actual F.Y. 87	Actual F.Y. 88	Actual F.Y. 89	Requested F.Y. 90	Requested F.Y. 91
Actual/Anticipated Receipts	687	992	1318	1037	1321
Less Actual/Anticipated Costs	893	890	1070	1177	1194
Current Difference	(206)	102	248	(140)	127
Accumulated Difference	(206)	(104)	144	4	131
Number Paying Fee					
Present Fee					
Date Fee Last Changed					

Remarks:

Department Authorized Signature:

Finance Department Recommendation:

Executive Budget Officer Signature:

Department of Finance FEE REVIEW – Details of Costs

Date Prepared: 4/1/90

Department/Agency: Board of Nursing	Budget Activity:
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Fee Name:

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	793	791	900	1,044	1,050
Salary Increases	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	6	6
Attorney General	85	90	138	90	90
Statewide Indirect	6	0	22	26	36
Agency Indirect	9	9	10	11	12
Totals – <small>must agree with cost on Fee Review Form</small>	893	890	1,070	1,177	1,194

Remarks: Estimated receipts for FY 90 and 91

	FY 90			FY 91		
	Fee Amt.	Number	Amount	Fee Amt.	Number	Amount
RN Fees						
PHN Registration	\$25	0	0	\$25	1,000	25,000
Nsg. Corp.	\$25	20	\$ 500	\$25	20	\$ 500
Misc. fees	20	150	3,000	20	140	2,800
Misc. fee	-	-	-	5	40	200
Endorsement	55	1,000	55,000	55	1,100	60,500
Examination	75	1,400	105,000	75	1,500	112,500
Re-examination	50	250	12,500	50	250	12,500
Verification	20	2,000	40,000	20	2,250	45,000
Renewal	26	18,300	475,800	32	20,520	656,640
Late penalty	20	800	16,000	20	800	16,000
Late filing fee	50	50	2,500	50	50	2,500
NSF service charge	15	15	225	15	15	225
LPN Fees						
Misc. fees	20	150	3,000	20	140	2,800
Misc. fee	-	-	-	5	40	200
Endorsement	55	250	13,750	55	300	16,500
Examination	50	750	37,500	50	750	37,500
Re-examination	40	100	4,000	40	100	4,000
Verification	20	450	9,000	20	450	9,000
Renewal	26	9,600	249,600	32	9,600	307,200
Late penalty	20	400	8,000	20	400	8,000
Late filing fee	50	15	750	50	15	750
NSF service charge	15	30	450	15	30	450

Total	\$1,036,575	\$ 1,320,765
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MINNESOTA BOARD OF NURSING

Estimated and Actual Registration Renewal Receipts

FY 88 - 93

<u>Group</u> <u>RN</u>	<u>Actual</u> <u>FY 88</u>		<u>Actual</u> <u>FY 89</u>		<u>Estimated</u> <u>FY 90</u>		<u>Estimated</u> <u>FY 91</u>		<u>Estimated</u> <u>FY 92</u>		<u>Estimated</u> <u>FY 93</u>	
	<u>Number</u>	<u>Amount</u> ^A	<u>Number</u>	<u>Amount</u> ^B	<u>Number</u>	<u>Amount</u>	<u>Number</u>	<u>Amount</u>	<u>Number</u>	<u>Amount</u>	<u>Number</u>	<u>Amount</u>
Odd					2,300	\$ 59,800 ^C	5,520	\$176,640 ^F	21,000	\$672,000	21,000	\$672,000
					1,000	26,000 ^C						
Even					15,000	390,000 ^D	15,000	480,000 ^G				
<u>LPN</u>												
Odd					4,800	124,800 ^E	4,800	153,600 ^H				
Even					4,800	124,800	4,800	153,600	9,600	307,200	9,600	307,200
Total		\$708,699		\$913,265		\$725,400		\$963,840		\$979,200		\$979,200

FY 88 & 89 = 1,621,964

A. \$20 and \$25 fees during conversion period.

FY 90 & 91 = 1,689,240

B. \$26 fee during conversion period.

FY 92 & 93 = 1,958,400

C. 5 groups of 460 @ \$26.

D. 12 groups of 1,250 @ \$26.

E. 12 groups of 400 @ \$26.

F. 12 groups of 460 @ \$32.

G. 12 groups of 1,250 @ \$32.

H. 12 groups of 400 @ \$32.