

STATE OF MINNESOTA

BEFORE THE MINNESOTA

COUNTY OF RAMSEY

BOARD OF PSYCHOLOGY

In the Matter of the  
Proposed Adoption of  
Rules of the Minnesota  
Board of Psychology  
Relating to Licensure  
and Examination Fees

STATEMENT OF NEED  
AND REASONABLENESS

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MINNESOTA BOARD OF PSYCHOLOGY

September 24, 1990

STATEMENT OF NEED AND REASONABLENESS

**INTRODUCTION**

The Minnesota Board of Psychology is proposing amendments to existing rule part 7200.6100, increasing fees to cover a deficit from fiscal year 1990 and a projected deficit for fiscal year 1991. The existing rules are Minnesota Rules, Chapter 7200 (1990).

No internal references will be affected by the proposed change.

Small business considerations are addressed in the section following the Statement of the Board's Authority, which is in turn followed by the Statement of Need and Reasonableness.

**STATEMENT OF THE BOARD'S STATUTORY AUTHORITY**

The Board's statutory authority to adopt and amend rules relating to licensure fees is set forth in Minn. Stat. SS 148.90, subd. 2(4) and subd. 3; 148.91, subd. 3; and 214.06, subs. 1 and 2 (1988 and 1989 Supplement). Section 148.90, subdivision 2(4) grants the Board the authority to prescribe rules as may be necessary to effectuate the provisions of the licensing law. Section 148.90, subdivision 3 requires that the setting of board fees shall be as provided in Chapter 214. Section 148.91, subdivision 3 authorizes the Board to set application and renewal fees. Section 214.06, subdivision 1 requires each regulatory board to promulgate rules providing for the adjustment of fees so that the total fees collected will as closely as possible equal anticipated expenditures during the fiscal biennium. Section 214.06, subdivision 2 requires each regulatory board to promulgate rules providing for the renewal of licenses. Under these statutes, the Board has the authority to amend its rules relating to fees.

**SMALL BUSINESS CONSIDERATIONS**

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

However, in the event of disagreement with the Board's position, the Board has reviewed the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the rules on small businesses. 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.

As part of its review the Board considered the feasibility of implementing each of the five suggested methods, and considered whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rulemaking.

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

Methods (a)-(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 the 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 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 psychologists who practice in a solo or clinic setting of fewer than 50 employees, since that would include the vast majority of psychologists. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's amendments 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 from any or all requirements of the rules. Under the Board's view that these proposed rule amendments do not in any way regulate the business operation of psychologists, there are no rule requirements from which to exempt small businesses. However, if these proposed amendments are viewed as regulating businesses insofar as they regulate psychologists, then it would hardly make sense for the Board to exempt from its rules those psychologists who practice in a solo or clinic setting with fewer than 50 employees, since they constitute the vast majority of psychologists. For all of these reasons, it is not feasible for the Board to incorporate into its proposed amendments any of the five methods specified in subdivision 2 of the small business statute.

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

Pursuant to the Minnesota licensing law for psychologists, Minn. Stat. §§ 148.88 to 148.98, the Board was created for the purpose of establishing requirements for licensure and adopting a code of ethics governing appropriate practices or behavior for psychologists. Pursuant to Minn. Stat. § 148.90, subd. 2(4), the Board is specifically mandated to "prescribe rules as may be necessary to enable it

to carry into effect" the Minnesota licensing law for psychologists. Given these statutory mandates, it is the Board's duty to establish rules relating to psychology practice 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 amendments will not affect small businesses, and certainly do not have the potential for imposing a greater impact on psychologists in a solo or small practice than on psychologists practicing in a large business setting. It has also been explained above that the Board considers it infeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent that the proposed rule amendments may affect the business operation of a psychologist or group of psychologists, 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 psychologists - indeed, the majority of psychologists - 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 licensure requirements for those psychologists who work in a large business setting and adopt another, less stringent, set of licensure requirements to be applied to those psychologists who practice in a solo or small clinic practice. It is the Board's view that these rule amendments must apply equally to all psychologists, if the public whom they serve is to be adequately protected.

**STATEMENT OF NEED AND REASONABLENESS**

The proposed amendments to rule part 7200.6100 increase the fees for application for admission to examination, licensure, license renewal, and late renewal of license as follows:

Table I			
Fee Source	Current	Proposed Increase	Proposed Total Fee
Application: Admission to Examination	\$15	\$10	\$25
Application for Licensure	170	80	250
Application for License Renewal	170	80	250
Late Renewal	150	10	160

The purpose of the proposed amendments is to generate sufficient revenue to cover an actual deficit from fiscal year 1990 and an anticipated deficit for fiscal year 1991, as is required by Minn. Stat. S 214.06, subd. 1.

**Statement of Need**

As Table II on the next page indicates, the revenue generated from existing fees in FY 90 was approximately \$20,000 less than expenditures in the same time period, and revenue for FY 91 is anticipated to be approximately \$40,000 less than anticipated expenses, for a total deficit of slightly more than \$60,000.

Because Minn. Stat. S 214.06, subd. 1 requires fees to equal expenditures within the biennium, the fee increase is needed to comply with that statutory mandate.

It should be noted that in both FY 89 and FY 90 the actual payments for services rendered by the Attorney General's office exceeded anticipated payments by \$30,000, for a total of \$60,000, and that this underestimate contributed heavily to the accumulated deficit. (Attorney General's fees are not part of appropriations made to regulatory boards and are, therefore, not subject to expenditure restrictions, but must be covered by fee-generated revenue.) A regulatory board has little or no control over these expenses: they are largely governed by the number and seriousness of the complaints of unethical practice received by the Board. The unpredictability of these complaints makes it extremely difficult to anticipate with reasonable accuracy what the total costs will be. However, there is no valid reason to believe that total costs for Attorney General's services will be less in FY 91 than they were in FY 89 and FY 90.

Board of Psychology - Statement of Need and Reasonableness

Table II - Receipts and Expenditures

Receipts

Fee Type	Fee Amount	FY 1990		Estimated FY 1991	
		# Paying	Receipts	# Paying	Receipts
App Exam	FY 90 \$150 FY 91 15	506	\$ 75,985	500	\$ 7,500
App License	170	234	39,780	250	42,500
Renewal	170	1,074	182,585	1,150	195,500
Late Renewal	150	61	9,210	60	9,000
Corp Regist.	100	4	400	1	100
Corp. Re-regist .	25	42	1,050	40	1,000
Miscellaneous			1,195		1,000
<b>TOTAL</b>			<b>310,205</b>		<b>256,600</b>

Expenditure Summary

Cost Code	Category	FY90 Actual Expenditures	Holdover to FY91	FY91 Anticipated Expenditures	Actual Avail.
01-03	Salaries	\$107,768	\$	\$ 126,860	\$
08	Per Diem	8,090	1,435	10,000	8,565
10	Rent	10,797	188	12,148	12,000
12-16	Repairs, Etc.*	7,393		8,000	
18	Purchased Serv	71,693	8,270	15,000	6,730
20	Communications	7,051		6,000	
21-22	Travel In/Out S	10,514	1,181	10,863	6,200
29	AASPB Fees	2,190		2,500	
30	Supplies	551		2,500	
84	Refunds	320		0	
90	Agency Indirect	1,904		2,000	
92	State Indirect	2,924		6,900	
	<b>TOTAL</b>	<b>231,195</b>		<b>202,771</b>	
	Atty Gen Fees	98,474	est. thru 6/30**	102,000	
	<b>GRAND TOTAL</b>	<b>330,669</b>		<b>304,871</b>	
	Receipts	310,205		265,000	
	Negative Bal.	[ 20,424]		[ 39,871]	
	<b>TOTAL DEFICIT</b>			<b>[ 60,315]</b>	

\* Etc. = Bonds/Insurance/Printing/Consultants/Prof/Tech Service

\*\* Actual through 6/19/90 = \$96,974; estimate 6/20 -6/30/90 = \$2,500.

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**Statement of Reasonableness**

Table III indicates the amount of additional revenue anticipated to be generated by the proposed fee increases.

**Table III**

Fee	Est. No. Paying	Proposed Increase	Proposed Total \$ Generated
Licensure and Renewal	715	\$80	\$57,200
Appl. for Examination	280	10	2,800
Late Renewal Fee	30	10	300
<b>TOTAL</b>			<b>\$60,300</b>

The Board holds that the proposed fee increase for licensure and license renewal of \$80 is reasonable, based upon the following facts:

(1) The Board's chief sources of revenue are the licensure application fee and the renewal fee. These two sources cover most of the overall operating expenses of the Board, including the Attorney General's fees. Since July, 1988, these fees have been the same because they serve the same purpose - a payment for the right to engage in private practice. For practical purposes, the two fees should be considered as one source of revenue. Because these are the chief sources of revenue for operating expenses, it is reasonable that these fees be the source of needed additional funds.

(2) Because of the amount of lead time necessitated by following required administrative procedures, the increases cannot be implemented until December, 1990, at the earliest. This means that only approximately one-half of the population normally paying fees in any one year will be affected by the increase. With a smaller base available to pay the fee, the amount of the increase must be greater, and only licensure applicants and renewing licensees are sufficiently numerous (taking both as one group) to keep the increase within rational bounds. For example, a \$10 increase in licensure/renewal fees would generate \$7,150 in FY 91, compared with \$2,800 from applications for admission to examination or \$300 for late renewals. If the needed revenue were to be raised from an equal increase to all fees, the amount would be \$60 per individual paying any one of the fees, which does not decrease the amount to be paid by licensure applicants/renewing licensees sufficiently to justify the excessive amount which would have to be paid by exam applicants and licensees who renew late.



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The Board holds that the proposed \$10 increase in the application for admission to examination is reasonable because the existing \$15 fee is insufficient to cover the costs incurred in processing exam applications and administering the national examination. (It should be noted that beginning in FY 91 applicants pay \$135 to take the exam directly to the testing service.) The fee paid to the Board should cover staff time, Board members' per diem for application review, rental of space and tables, postage, stationery, forms, supplies, and compensation for exam monitors. It is also reasonable to expect that the fee should cover only expenses associated with exam administration because the unpredictability of numbers of applicants for examination in any year makes the fee an unreliable and potentially erratic source of income.

The Board holds that a \$10 increase in the late renewal fee is reasonable because the revenue generated will contribute to the total needed to cover the deficit without being unduly burdensome to the licensee whose renewal is late.

The Board will make every effort to hold down expenditures so that the total will be less than the budgeted amount, but cannot predict how much saving might be possible.

STATE OF MINNESOTA

## Office Memorandum

DEPARTMENT : of Finance

DATE : September 24, 1990

TO : Lois E. Mizuno, Executive Director  
Board of Psychology

FROM : Bruce J. Reddemann, Director *BJR*  
Budget Operations

PHONE : 296-5188

SUBJECT : Change in Fees

The following fees are approved for the Board of Psychology:

	<u>Current Fee</u>	<u>Approved Proposed Fee</u>
A. Application for admission to examination	\$ 15	\$ 25
B. Application for licensure	\$ 170	\$ 250
C. Renewal of license	\$ 170	\$ 250
D. Late renewal of license	\$ 150	\$ 160