

DEPARTMENT : ATTORNEY GENERAL-Bremer Tower

State of Minnesota

Office Memorandum

DATE : August 22, 1991

TO : MARYANNE HRUBY
Executive Director
Legislative Commission to Review Administrative Rules

FROM : LOUIS HOFFMAN
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Attorney General

LH

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SUBJECT : Proposed Board of Abstracters Rules

Enclosed please find the Statement of Need and Reasonableness in connection with the proposed rules pursuant to your request to Mary Bakken, Executive Secretary of the Board of Abstracters.

LH:ew/.wp2

Enclosure(s)



STATE OF MINNESOTA
BOARD OF ABSTRACTERS

In the Matter of the Proposed
Adoption of Rules of the Board
of Abstracters Governing
Examinations, Meetings,
and Discipline of Licensees.

STATEMENT OF NEED
AND REASONABLENESS

1005.0200, subp. 1a. Annual Meeting.

This rule gives the Board flexibility in scheduling its annual meeting. This flexibility is needed because the Board's members live in various parts of the state, serve part-time, and are generally employed full-time elsewhere. Thus, in the past, the Board has been unable to hold its annual meeting on the day prescribed by the current rule because of the unavailability of one or more members.

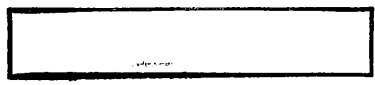
This rule is reasonable because it provides the Board the flexibility it needs to schedule its annual meeting at a time when all members can be present and can participate in its deliberations. This rule recognizes the fact that its members are citizen-members while, at the same time, ensuring that its annual meeting is held on a regular basis.

1005.0200, subp. 1b. Examination.

This rule allows the Board members the ability to grade the examination at its annual meeting. Currently, Board members must make a separate trip to the Board's office after the annual meeting is held to grade the examination which, by rule, must be administered at that meeting. This change is needed to reduce the inconvenience for Board members, to reduce per diem costs for additional trips by Board members to the Board's office,

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allow the Board flexibility in choosing a date on which to administer the examination.

This rule is reasonable because it still requires that the examination be administered annually, yet allows the Board to reduce the costs of its administration.

1005.0200, subp. 4. Call of Meetings.

This rule corrects the title of the Board's administrator. It is necessary because the Board employs an executive secretary instead of a secretary-treasurer. It is reasonable because it removes a reference to a position that no longer exists and avoids confusing the public.

1005.0600. Employing Licensed Abstracters.

This rule eliminates the implication that an abstracter or an abstracting firm may employ only one licensed abstracter. This rule is necessary to clarify that abstracters and abstracting firms may employ any number of licensed abstracters. It is reasonable because there is no prohibition against such employment.

1005.0700. Standards of Conduct;

1005.0800. Fraudulent, Deceptive or Dishonest Practices.

These rules give the Board the authority to refuse to renew licenses and to discipline licensees for certifying abstracts which include some work not their own (Minn. Rules pt. 1005.0700) and for fraudulent, deceptive, or dishonest practices currently specified in Minn. Rules pt. 1005.0800. These rules are needed to give the Board the authority to refuse to renew licenses. Without such authority, the Board is required to renew a license before suspending or revoking it. These rules

are reasonable because they eliminate the wastefulness of having to renew the license of a person whose license is subject to discipline before it can suspend or revoke it.

Minn Rules pt. 1005.0700 is needed to allow the Board to discipline licensees for certifying an abstract part of which is not their work. The present rule implies that such authority exists only where the entire abstract was plagiarized. Partial plagiarization is equally improper and, for that reason, this rule is reasonable.

These rules also remove several gender-specific references. In that the Board licenses women abstracters, this rule is needed to ensure that the statute also applies equally to female abstracters. It is reasonable because there is no intent by the legislature or the Board to exempt female abstracters from its regulation.

Minn. Rules pt. 1005.0800A. makes the making of material misrepresentations to the Attorney General an additional basis for discipline. This rule is necessary because the Attorney General investigates complaints against licensed abstracters pursuant to Minn. Stat. § 214.10 (1990). Without this rule, the making of a material misrepresentation to the Attorney General would not be a basis for discipline. This rule is reasonable because it encourages licensees to truthfully respond to the Attorney General and facilitates the provision of accurate information to the Attorney General.

Minn. Rules pt. 1005.0800H makes the endangerment of individual persons a basis for discipline. The current rule does

not so provide. This rule, is, thus, necessary to ensure that individuals relying on an accurate abstract are protected by the Board's disciplinary authority. It is reasonable because individuals relying on an abstract have the most at stake, often clear title to their property, and, therefore, need the protection now available only to the general public.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Many of the persons licensed by the Board are or are employed by small businesses as defined in Minn. Stat. § 14.115 (1990). The proposed rules do not create compliance or reporting requirements or design or operational standards. The proposed rules primarily affect the internal operations of the Board and clarify and expand its enforcement authority to better protect abstracters' customers and the public generally. Therefore, it is not possible or reasonable to exempt small businesses from the proposed rules.

H.sso