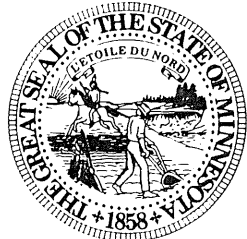


4/31/94



Minnesota Board of Chiropractic Examiners

STATE OF MINNESOTA

BEFORE THE MINNESOTA

COUNTY OF RAMSEY

BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of the
Proposed rules or
Amendments to rules of the
Board of Chiropractic Examiners
relating to Test Administration, Voluntarily
Retired Licenses, Reports of Sponsors,
Graduate Preceptorship Program, Advertising
Free Services, and use of Designation
of Chiropractor when Advertising.

STATEMENT OF NEED AND REASONABLNESS

Pursuant to Minn. Stat. 14.23 (1992) the Minnesota Board of Chiropractic Examiners (hereinafter "Board") hereby affirmatively presents the need for, and facts establishing the need for, and reasonableness of, a proposed addition to Minnesota Rules, chapter 2500, relating to test administration deadlines as well as retake procedures, voluntarily retired licenses as well as reinstatement of same, reports of sponsors of continuing education credits to the Board, graduate preceptorship program length, advertising free services, and use of designation of chiropractor/chiropractic when advertising.

In order to adopt the proposed rules or amendments to the rules, the Board must demonstrate that it has complied with all procedural and substantive requirements for rulemaking. Those requirements are as follows: 1) there is statutory authority to adopt or amend the rules; 2) the rules or amendments are needed and are reasonable; 3) all necessary procedural steps have been taken; and 4) any additional requirements imposed by law have been satisfied. This Statement demonstrates that the Board has met these requirements.

1. STATUTORY AUTHORITY

The statutory authority of the Board to adopt or amend these rules is as follows:

Minnesota Statutes, section 148.08 (1992) authorizes the Board to "promulgate rules necessary to administer sections 148.01 to 148.105 to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic, and defining any terms, whether or not used in sections 148.01 to 148.105, if the definitions are not inconsistent with the provisions of 148.01 to 148.105."

Minnesota Statutes 16A.128 (1992) and 214.06 (1992), require the Board to set any fee which the Board is empowered to assess so that the total fees collected will as closely as possible equal anticipated expenditures, including support costs and statewide indirect costs attributable to the fee function.

2. STATEMENT OF NEED AND REASONABLENESS

A. Test Administration Deadline and Retake Procedure It has been determined that language existing in administrative rule 2500.0730 and 2500.0750 may be confusing to candidates seeking licensure. The net effect of a misunderstanding or misinterpretation of the rule may be to cause a candidate who is otherwise qualified, to be prohibited from sitting for the examination. The intention of this rule is to alter some of the language in chapter 2500.0730 to clarify the deadline requirements for application submission.

Further, for those candidates who may have been unsuccessful in their initial attempt at the examination, they are allowed to retake the missed portions at the next examination, at no charge. Should they elect not to access the very next available examination, they would forfeit their right to take only the failed portion of the exam, and would be required to submit a complete new application with fees, at any time in the future in which they would wish to take the examination. It is the feeling of the Board that the language contained in MR 2500.0750 may be interpreted as ambiguous, and lead to a misunderstanding of this requirement, resulting in significant hardship to an applicant. The changes in this rule are intended to clarify the applicant's responsibilities to avoid this hardship. Therefore these amendments are needed and reasonable.

B. Voluntarily Retired Licenses According to the rules in existence, there are no provisions for a practitioner who sincerely wishes to retire from the practice of chiropractic, and changes their mind due to modifications in the circumstances of their lives. The only option currently available is to continue paying fees (at the rate of 75% of the annual ACTIVE renewal fee) while giving the practitioner a three year "window" to make up his or her mind about retirement. Recently, the Board has been contacted by some practitioners who legitimately retired their licenses (with no expectation at the time of modifying this status), and then sought reinstatement at a later time. There were no specific provisions to allow for this other than to retake the licensing examination. Further, there are questions of how to assess fees and continuing education requirements for reinstatement, that were not addressed by current rule.

The status of Voluntarily Retired would allow a practitioner a five year window to remain retired without the need to pay fees nor acquire the normally mandated level of continuing education during this period. Provisions are also made for the reinstatement of the retiree to a fully active status after acquiring a reasonable amount of continuing education, and payment of a nominal administrative fee. Further, a maximum of five years is allowed for the retirement prior to requiring the practitioner to retake the licensing exam, thereby examining for the ability to practice with reasonable skill and safety. Therefore, this rule is needed and reasonable.

C. Reports of Sponsors In January of 1993, a rule regarding the approval of continuing education sponsors was adopted allowing said sponsors to take on the administrative responsibility of approving continuing education units for programs attended by licensees needing continuing education credits for relicensure. (See MR 2500.1410). As part of this responsibility, the sponsors are required to report participant attendance to the Board within 14 days of attending the event (See MR 2500.1420). Since the rules have been in place, contact with the various sponsoring agencies has illuminated the fact that the 14 day requirement is an administrative hardship. This is particularly true when programs sponsored may be out of state and the sponsor must acquire information from a third party, some distance away, before compiling it in reportable form to the Board. Failure to comply with current rules, could result in the revocation of the sponsorship status, the consequence of which may be substantial financial hardship to the sponsor, and increasing administrative burden to the Board. In response to this, the Board intends to extend the reporting period to 21 days, to accommodate the reasonable requests of the sponsoring agencies, who are more understanding of their administrative needs and requirements. Therefore, this amendment is needed and reasonable.

D. Graduate Preceptorship Program Length The Graduate Preceptorship Program (GPP) was originally established to allow graduates of chiropractic colleges to enter the field and begin to work immediately under the auspices of another practitioner's license, while awaiting licensing examination and results. This is particularly important in that, for most graduates, student loans come due within six months of graduation. However given the cyclical nature of the examination, the candidate may not yet even be licensed by this time and may, therefore, be producing little or no income. In addition, it is felt that the GPP presents an opportunity for the graduate to continue their education under the guidance of a skilled and experienced field practitioner. The original GPP was limited to a nine month period of time being calculated from the date of graduation.

Occasionally, an intern may not be successful in completing all portions of the licensing examination with a passing grade. The current length of the GPP does not allow them time to retake the failed portions of the exam and receive results, before it must be terminated. This may create a substantial hardship to the intern, the preceptor, and the patients that have been being served in the meantime. It is felt that extending the length of the GPP to twelve months, allows the intern an opportunity to retake the exam one time and receive results, without imposing this hardship. Therefore, this amendment is needed and reasonable.

E. Advertising Free Services Current administrative rules allow for practitioners to advertise and provide free services as a method of making themselves known and available to a larger population. On occasion, this has been abused by the practitioner in that they may provide a limited examination at no charge (as advertised), notify the patient that more information is required, and ultimately provide a more extensive examination at a charge. It is the position of the Board, that the lesser examination is of no diagnostic value, and therefore of no real benefit to the patient. Further, it may be misleading to the public who expect to receive something of value based on the advertisement. It is the intention of the Board that any examination should be of value, and can only be so, if capable of leading to a diagnostic impression, upon which clinical management can be based. Therefore this amendment is needed and reasonable.

F. Advertising; Use of term "Chiropractic" or "Chiropractor" It has been noted that many forms of advertising, which designate the licensee as "doctor" often misleads the public into believing that they are medical doctors. This advertising often comes in the forms of flyers, brochures, handbills, business cards, or verbal advertising such as radio or television. This has been the basis for numerous complaints handled by this Board. It is the intention of the Board that forms of advertising used by chiropractors should clearly identify their designation, thereby allowing the public to make reasonable decisions when evaluating their health care choices. Therefore this rule is needed and reasonable.

3. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minnesota Statutes, sections 14.05-14.12 and 14.22-14.28, specify certain procedures which must be followed when an agency adopts or amends rules. Procedures applicable to all rules, Minnesota Statutes, sections 14.05-14.12 as well as 14.22-14.28 are being complied with by the Board as noted below.

The adoption of, or amendments to, these rules will not require the expenditure of public money by local public bodies, nor do the rules have any impact on agricultural land. **See** Minn. Stat. 14.11. The adoption of these rules could have a negligible effect on small business as discussed below. **See** Minn. Stat. 14.115.

Pursuant to Minnesota Statutes, section 14.23, the Board has prepared this Statement of Need and Reasonableness which is available to the public.

The Board will publish a Notice of Intent to Amend or Adopt the Rules Without a Public Hearing in the **State Register** and mail copies of the Notice and proposed amendment to persons registered with the Minnesota Board of Chiropractic Examiners pursuant to Minnesota Statutes, section 14.14, subdivision 1a. As required by Minn. Stat. 14.22, and M.R. 2010.0300, the notice will include the following information: a) that the public has 30 days in which to submit comments in support of, or in opposition to, the rule; b) a statement that if 25 or more persons submit a written request for a public hearing within the 30 day comment period, a hearing will be held; c) giving information on the manner in which persons may submit comments; d) that the rule

may be modified if modifications are supported by data and the views submitted; and e) that notice of the date of submission of the proposed amendment to the Attorney General for review will be mailed to any person requesting to receive the notice, and giving information on how to request the notice.

The Board will submit the proposed amendment and notice as published, the amendment as proposed for adoption, any written comments which have been received, and this Statement of Need and Reasonableness to the Attorney General for approval of the amendment as to the legality and form.

These rules will become effective five working days after publication of a notice of adoption in the **State Register**.

4. ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance. Pursuant to Minnesota Statutes, Section 16A.128, subdivision 1, if a fee is to be fixed by rule, the Commissioner of Finance must approve the fee, and the Commissioner's approval must be in the Statement of Need and Reasonableness. The Commissioner's Approval of the proposed fee is attached as exhibit 1 to the Statement of Need and Reasonableness.

Small Business Considerations. In preparing to propose these amendments and/or adoptions, the Board considered the methods for reducing the impact of amendments on small business as set forth in Minnesota Statutes, section 14.115, subdivision 2 (1992). The Board noted that the suggested methods for reducing the impact of the rules on small business concern compliance and reporting requirements


and performance standards. After review, it has been determined that there is essentially no impact on business of an adverse nature. To the contrary, two of the amendments (*i.e.* Reports of Sponsors, and Length of the GPP) appear to have a beneficial impact in that they are in response to the requests of the small businesses directly affected, and allow more latitude to the businesses impacted by the rule. In effect, the Board is attempting to be responsive to the needs of the small business community.

Nevertheless, any small business which believes they may be affected by the proposed amendments will have opportunity to participate in the rulemaking procedure. Further, a notice of the proposed rule will be mailed to the Minnesota Chiropractic Association, an organization which will likely represent small businesses affected by the amendments.

Dated: OCTOBER 14, _____, 1993

STATE OF MINNESOTA

BOARD OF CHIROPRACTIC EXAMINERS


Larry A. Spicer, D.C.
Executive Director