

Minnesota Board of Social Work

In the Matter of the Proposed Adoption
of the Rule of the State Board
of Social Work Governing Licensure
and Continuing Education Fees

STATEMENT OF NEED AND REASONABLENESS

I. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

Minnesota Statutes, section 148B.20, subdivision 1 (1992) directs the Board of Social Work to "[e]stablish initial and renewal application and examination fees sufficient to cover operating expenses of the board and its agents." Further, Minnesota Statutes, section 148B.17 (1992) directs that "the total fees collected by the board will as closely as possible equal anticipated expenditures during the fiscal biennium"

II. STATEMENT OF NEED AND REASONABLENESS

In general, the proposed increases to licensure and continuing education are needed to cover the Board's anticipated expenses during Fiscal Year 1994 and Fiscal Year 1995. The proposed increases are reasonable in that they have been determined to cover anticipated costs as closely as possible with minimal surplus.

Minnesota Rules, parts 8740.0185, 8740.0205, and 8740.0220

The proposed changes in these subparts are necessary so that citations to the fee rule, part 8740.0290, are consistent with proposed change to the fee rule.

Minnesota Rules, part 8740.0290

The proposed fee increases in items A. Application fee, B. Initial license fee, C. Biennial fee, F. Inactive status fee, and G. Application fee for continuing education program sponsor are based on an estimated number of applications for licensure and initial licenses granted, licensure renewals, inactive status applications, and continuing education program sponsor applications during January to June 1994 and July 1994 to June 1995. The proposed fee increase was determined, based on the numbers in the attached material which was submitted to the Department of Finance for approval, to cover anticipated expenditures during Fiscal Year 1994 and Fiscal Year 1995 as closely as possible.

The increases to items A, F, and G are reasonable as the proposed fee reflects an estimate of the amount of time which it takes to process these different applications. The proposed increase to the application fee (item A) is reasonable because it reflects an increase in the costs of staff time in the processing of applications. The proposed increase to the inactive status fee (item F) is reasonable in that inactive status applications take at least as long to process as do biennial renewal applications. The

fee is still a one-time fee which covers a person for up to ten years. Finally, the proposed increase to the continuing education program sponsor fee (item G) reflects that the cost of processing sponsor applications is related to the number of continuing education hours applied for, as the staff time to review sponsor applications increases in proportion to the number of hours applied for. The current fee is in no way related to the actual staff time required for processing program sponsor applications.

The proposed increases to items B and C are reasonable in that they reflect a 50% increase to the initial and renewal licensure fees for the Licensed Social Worker level, the Licensed Graduate Social Worker level, and the Licensed Independent Social Worker level. The proposed increases reflect a 67% increase to the Licensed Independent Clinical Social Worker level, which is reasonable given that applications for this level of licensure usually require more staff time to process than the other levels as well as the fact that the majority of complaints which need to be investigated by the Attorney General's Office are against persons licensed at this level.

Finally, the proposed revisions to former items C, D, E, and J (current rules) are reasonable because these fee designations are either duplicative or are not used. The examination fee identified in item C is not paid to the Board so it is not appropriate to identify this fee as a Board fee. The examination fee is paid directly to the testing agency. The reciprocity licensure fee identified in item D is duplicative of the initial license fee identified in item B; that is, the fee is the same for reciprocity licensure, and there is no basis for making a distinction between initial licensure and reciprocity licensure. The transition fee for licensure renewal identified in item E is no longer used, as the transition period is now over. Finally, the fee for restoration of license after suspension, revocation, or expiration identified in item J is not needed, as there is no reasonable basis for a person to pay a standard fee after removal of the suspension of a current license, and persons whose licenses are revoked or expired would pay the initial license fee if they are approved subsequently for licensure.

III. SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115 (1992) 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 Minnesota Statutes, section 14.115 does not apply to this proposed rule amendment, as it should have no impact on small businesses.

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 rule 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 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, this proposed amendment is viewed as compliance or reporting requirements for businesses, then the Board finds that it would be unworkable to lessen the requirements for those social workers who practice in a solo or clinic setting of fewer than 50 employees, since that would include the vast majority of social workers. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's proposed rules do not propose design or operational standards for businesses, and therefore there is no reason to implement performance 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 rules do not in any way regulate the business operation of social workers, there are no rule requirements from which to exempt small businesses. However, if these proposed rules are viewed as regulating businesses insofar as they regulate social workers, then it would hardly make sense for the Board to exempt from its rule those social workers who practice in a solo or clinic setting with fewer than 50 employees, since they constitute the vast majority of social workers. For all of these reasons, it is not feasible for the Board to incorporate into its proposed rules 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 social workers.

Pursuant to the Minnesota licensing law for social workers, Chapter 148B, the Board was created for the purpose of establishing requirements for licensure and adopting ethical standards governing appropriate practices or behavior for social workers. Pursuant to Minnesota Statutes, section 148B.20, subdivision 1(a) and (h), the Board is directed to adopt and enforce rules for licensure of social workers and for regulation of their professional conduct and to establish fees to cover operating expenses of the board and its agents. Given these statutory mandates, it is the Board's duty to establish rules relating to the practice of social work 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 amendment will not affect small businesses, and certainly does not have the potential for imposing a greater impact on social workers practicing in a large business setting. It has also been explained above that the Board does not consider it feasible 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 amendment may affect the business operation of a social worker or a group of social workers, 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 this rule for the Board to exempt one group of social workers - indeed, the majority of social workers - from the requirements of this rule. 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 social workers who work in a large business setting and adopt another, less stringent, set of licensure requirements to be applied to those social workers who practice in a solo or small clinic practice. It is the Board's view that this rule amendment must apply equally to all social workers.

IV. EXPENDITURE OF PUBLIC MONEY BY LOCAL PUBLIC BODIES

The Board of Social Work has reviewed the proposed rules and finds no evidence that the rules would cause the expenditure of public money by any local public body.

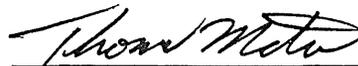
V. IMPACT ON AGRICULTURE LANDS

The Board of Social Work has reviewed the proposed rules and finds that the subject matter of the rules is not related to agriculture lands.

VI. DEPARTMENT OF FINANCE APPROVAL

The Board's materials as submitted to the Department of Finance and the Department of Finance's memorandum of approval are attached to this Statement of Need and Reasonableness.

9/1/93
Date



Thomas McSteen
Executive Director



STATE OF MINNESOTA
Board of Social Work

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September 2, 1993

Maryanne V. Hruby
Executive Director
Legislative Commission to Review Administrative Rules
Room 55 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155-1201

RE: In the Matter of the Proposed Adoption of the Rule of the
State Board of Social Work Governing Licensure and
Continuing Education Fees

Dear Ms. Hruby:

In compliance with Minnesota Statutes, section 14.23, I am sending you a copy of the Statement of Need and Reasonableness for the above-captioned rule. The proposed rule is due to be published in the State Register on September 8, 1993.

Please call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Tom McSteen".

Thomas M. McSteen
Executive Director

Enclosure