

STATE OF MINNESOTA
BOARD OF PODIATRIC MEDICINE

**In the Matter of the Proposed
Adoption of Rules of the Minnesota
Board of Podiatric Medicine
Increasing Temporary Permit,
Licensure, and License Renewal Fees,
and Establishing a One-Time Fee,
Minnesota Rules, Chapter 6900**

**STATEMENT OF NEED
AND REASONABLENESS**

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BOARD OF PODIATRIC MEDICINE
STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

State law requires a regulatory board to generate sufficient revenue to cover its expenditures within a fiscal biennium, that is, from July 1 in an even-numbered year to June 30 in the following odd-numbered year. Expenditures are divided into two basic categories: (1) operating costs (or budgeted items) that in total cannot exceed the amount appropriated for that purpose by the legislature, and (2) extra-budget costs, such as Statewide Indirect costs related to services provided to the board by other state agencies, and Attorney General's costs related to legal services provided to the board. Extra-budget items do not have a cap as budget items do.

At the time the appropriation for the Board of Podiatric Medicine (hereinafter "Board") was passed by the 1992 legislature for the fiscal 1994-95 biennium, anticipated total expenditures for both budget and extra-budget items were under the anticipated revenues from existing fees. However, since that time, the Board received word that statewide indirect costs would be approximately \$4,000 higher than estimated, and Attorney General's costs for the first quarter (July through September) exceeded one-half the amount estimated for the entire year. It became obvious that existing fee levels could not cover the additional extra-budget expenses.

The approximately \$6,000 shortfall must by law be reduced to zero by means of a rule that increases existing fees. Part V addresses the need and reasonableness of the proposed rule.

II. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

Minn. Stat. S 153.02 (1992) grants the Board the authority to adopt rules as may be necessary to carry out the purposes of the licensing law. Minn. Stat. S 214.06, subdivision 1, requires any licensing board to adjust any fee it is empowered to assess a sufficient amount so that the total of all fees collected will as closely as possible equal anticipated expenditures during the fiscal biennium. Subdivision 2 authorizes licensing boards to promulgate rules providing for renewal of licenses, including fees for license renewal.

Because licensing boards are required to match anticipated revenue with anticipated expenditures, setting fees and increasing them as needed by rule are necessary to carry out the purposes of the podiatric medicine law.

III. SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, Section 14.115, subdivision 2, requires that when an agency proposes new or amended rules, it must consider "methods for reducing the impact of the rule on small business" and "document how it has considered these methods". Subdivision 4 requires the agency to "provide opportunity for small businesses to participate in the rulemaking process." Subdivision 7, clause 2, states that Section 14.115 does not apply to rules that do not affect small businesses directly.

It is the Board's position that the proposed rule increasing some fees does not directly affect businesses in general, whether large or small, because a licensure-related fee paid to the Board is the obligation of the individual seeking licensure or a temporary permit, or holding a license to practice in this state, irrespective of whether the individual is the owner of his or her professional practice, an employee of another entity, or not gainfully employed at all. Licensure-related fees are fees related solely to the right to practice in this state and are not at all concerned with the economic status or condition of the individuals granted the right to practice. The licensure fee or renewal fee is not an obligation of, and is not assessed against, any professional podiatric medical practice (which may be considered by some as belonging to the category designated as "small business").

Despite the fact that this proposed rule does not directly affect small business, the Board examined the methods in subdivision 2 of lessening the impact of the proposed fee increases on small business.

Clause (a) cannot be implemented because (1) a given fee must be equally applied to every person paying the fee in order to be fair, (2) attempting to prorate a fee to take into consideration the economic status of each person paying the fee would be virtually impossible to administer, and (3) no reporting requirements are imposed by the proposed rule.

Clause (b) cannot be implemented because a less stringent schedule for compliance would result in the Board being unable to meet its financial obligations, and in any case would run counter to rules requiring the payment of renewal fees by a certain date.

Clause (c) does not need to be implemented because compliance (that is, paying the fee) is already reduced to the simplest of processes - writing a check and mailing it to the Board.

Clause (d) does not need to be implemented because no performance or operational standards are imposed by the proposed rule.

Clause (e) cannot be implemented because to do so would result in

Bd of Podiatric Medicine - Statement of Need and Reasonableness

the Board being unable to meet its financial obligations.

Further, should the rule be modified as a result of any of the provisions of subdivision 2, the rule would then be contrary to the statutory objectives that are the basis of the proposed rulemaking, in that the Board is required by law to generate sufficient revenues to cover expenses.

Therefore, it remains the Board's position that Section 14.115 does not apply to this proposed rule, but if it does apply, the small business considerations have been examined and determined to be not applicable in this rulemaking process.

IV. EFFECT ON LOCAL PUBLIC BODIES, IMPACT ON AGRICULTURAL LAND

Minnesota Statutes S 14.11 imposes certain duties upon agencies if proposed rules would require the expenditure of public money by local public bodies or would have a direct and substantial adverse impact on agricultural land.

It is the position of the Board that Minnesota Statutes S 14.11, subdivision 1, does not apply in the case of this proposed rule, inasmuch as the proposed increase in fees affect individuals licensed or seeking licensure in Minnesota, and as such, does not require the expenditure of money by local public bodies. While some licensees may provide services to residents of a city or county, for example, the services are provided on a fee-for-service basis. The licensure or renewal fee is the obligation of the podiatrist providing the services, not the local public body contracting for them. Therefore, no fiscal note regarding the proposed cost to local public bodies is required.

It is the position of the Board that subdivision 2 does not apply to the proposed rule, because the rule does not relate at all to agricultural land, and, therefore, cannot have a direct and substantial adverse impact on agricultural land. Therefore, the provisions of Sections 17.81 to 17.84 need not be followed.

V. STATEMENT OF NEED AND REASONABLENESS

6900.0200 LICENSE RENEWAL.

Subpart 1 is amended to change "\$450" to "the renewal fee" in the text that prorates the renewal fee for the first renewal period for licensees licensed less than two full years. The amendment is necessary because part 6900.0250 increases the \$450 renewal fee to \$500, rendering "\$450" inaccurate. It is reasonable to change the reference to "the renewal fee" rather than "\$500" so that any increases necessitated in the future by additional Board obligations will not require an amendment to this part.

Bd of Podiatric Medicine - Statement of Need and Reasonableness

6900.0250 FEES.

Subpart 1 increases the licensure fee from \$450 to \$500, the renewal fee from \$450 to \$500, and the temporary permit fee from \$200 to \$250. The licensure and renewal fees are for a two-year period, the temporary permit for one year.

The Introduction justified the need for fee increases generally. Stated briefly, the increases are necessary because anticipated revenues from existing fees are insufficient to cover the anticipated expenditures in the categories of Statewide Indirect costs and Attorney General's services, and state law requires regulatory boards' revenues to match their obligations.

It is reasonable to raise the license and license renewal fee the same amount because they both have essentially the same purpose and are for the same time period. It is reasonable that the temporary permit fee also be raised by the same amount, although for one year, as the licensure fee because it covers the cost of local administration of the PMLexis (national licensure examination), checking and maintaining lists of authorized post-graduate training sites and trainers, and a greater degree of correspondence and other administrative details not found in connection with licensure applications.

Subdivision 3 imposes a one-time fee of \$15 to be paid by every person who is licensed on the effective date of the rule. It is reasonable to provide a one-time assessment to partially cover a one-time "balloon" expenditure because the fee generation is not perpetuated beyond the biennium in which it is assessed. (It should be noted that if fees generate too much revenue and a large positive balance (compared to total expenditures) results, fees must be decreased accordingly.)

It is reasonable to provide that failure to pay the one-time fee is failure to submit a complete renewal application because an enforcement procedure ensures that the fee will be paid, and the fee must be paid by everyone if the Board's obligations are to be met. Failure to submit a complete renewal application can result in loss of the right to practice if, after proper notice and time to respond, the renewal application remains incomplete.

Part VI reproduces the request to the Finance Department for approval of the proposed fee increases, together with accompanying documents, and the Finance Department's approval of the fee increases. The request includes tables that indicate the changes in anticipated expenditures and revenue, and the balance between expenditures and revenue anticipated because of the increase in fees.

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VI. FINANCE DEPARTMENT APPROVAL

Minnesota Statutes, Section 214.06, subdivision 1, requires that fee increases be approved by the Commissioner of Finance before being promulgated by rule. The request for approval, with documents, and the approval are reproduced on the following pages.

Lois E. Mizuno

Lois E. Mizuno
Executive Director

March 7, 1994

Date



Board of Podiatric Medicine

2700 University Avenue West #10+ 40

St. Paul, MN 55114

(612) 642-0588 0401

TO: Bruce J. Reddemann, Director
Budget Operations
Department of Finance
4th Floor Centennial Bldg.

FROM: Lois E. Mizuno
Executive Director

DATE: January 24, 1994

RE: Request for Approval of Fee Increases

This memo serves as a request for approval of the intention of the Board of Podiatric Medicine to increase fees in F.Y. 1994 for the purpose of covering costs unanticipated at the time the budget for this biennium was adopted.

There are two reasons for the unanticipated extra expenses: (1) the statewide indirect costs to be covered in this fiscal year are about \$4,000 higher than estimated, primarily due to the legislative audit of the Board's finances conducted in the spring of 1992; and (2) Attorney General's fees, which in the first quarter of F.Y. 1994 exceeded half of the amount allocated for the entire year, primarily due to three complaint case that required investigation and conferencing. That degree of activity is unusual; the Board had had no need to take disciplinary action since June, 1991.

The following tables indicate the expenditure amounts estimated for the budget and revised to include the unanticipated amounts (Table I), and the revenues originally estimated, subsequently revised, and anticipated based upon proposed fee increases (Table II).

Table I

Fiscal Year 1994 Expenditures

<u>Category</u>	<u>As Adopted</u>	<u>As Amended</u>
Budget (Operating Expenses)	\$30,000	\$30,000
Statewide Indirect	2,000	6,000
Attorney General	7,000	10,000
MDH - HIV/HBV Monitoring	2,000	1,000 *
TOTAL	41,000	47,000

B. Reddemann - 01/24/94

* The revised figure is based upon actual costs to this Board for F.Y. 1993.

Table II

Fiscal Year 1994 Anticipated Revenues

Category	Original			Corrected			Proposed		
	Fee	#	Amount	Fee	#	Amount	Fee	#	Amount
Temp Permit	200	15	\$3,000	200	15	\$3,000	250	15	\$3,750
Licensure	450	20	9,000	450	20	9,000	500	20	9,750
Renewal	450	67	30,150	450	64	28,800	500	64	31,900
Late Renewal	100	5	500	100	2	200	100	2	200
Corp Regist	100	0	0	100	1	100	100	1	100
Corp Re-regist	25	12	300	25	14	350	25	14	350
TOTAL			42,950			41,450			46,050
Plus a one-time across-the-board fee of \$15 for 135 payers									2,025
GRAND TOTAL									48,075

Note: The figures for renewal and late renewal in the Corrected column include actual revenue from late pay F.Y. 1993 renewals, for two late renewals instead of anticipated five. The correction for corporation registration represents actual revenue from one registration. The two late renewals @ \$450 are included in the renewal total in the Proposed column. The Licensure total in the Proposed column includes 5 applications @ \$450.

It should be noted that because the number of licensees has gradually increased since F.Y. 1989, the Board has been able to meet its expenses without increasing fees since F.Y. 1989. (In F.Y. 1991 the renewal period was changed from one year to two years, and the renewal fee was doubled to match. The per year fee, of course, remained the same.)

Because it is anticipated that the cost of legislative audits in future will be spread over two or three years (rather than the one year balloon assessment in F.Y. 1994) the statewide indirect costs are not expected to be as high from now on. Therefore, the Board proposes that a portion of needed revenue this year come from a one-time only fee paid by all licensees (rather than coming from renewal fees paid by half the licensees each year).

The Board is anticipating passing a formal resolution initiating the rule-making process at its meeting on March 4, 1994. I would appreciate a response before that date. Thank you.

Office Memorandum

Department: of Finance

Date: February 14, 1994

To: Lois E. Mizuno, Executive Director
Board of Podiatric Medicine

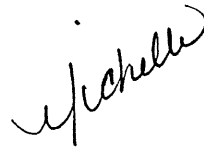
From: Michelle Harper
Budget Operations

Phone: 296-7838

Subject: Departmental Earnings Rate Change Response- Temp. Permits, Initial Licenses,
Renewal, etc.

Pursuant to provisions of Laws 1993, sec. 56, subd. 5 (M.S. 16A.1285), the Department of Finance has reviewed and approved the attached departmental earnings proposal submitted by the Board of Podiatric Medicine on 2/14/94. If you have any questions or concerns, please call me at the above number.

cc Bruce Reddemann
Josie Ashton



Department of Finance
Departmental Earnings: Reporting/Approval

Part A: Explanation

Earnings Title: Fee Revenue of Bd of Podiatric Medicine	Statutory Authority: MS 153.02, 214.06	Date: 02/10/94							
Brief Description of Item: Approvals of proposed fee increases are requested for temporary permits, initial licenses, and license renewal, and a special fee for each licensee on record as of effective date of increases, for the purpose of covering expenses (indirect) unanticipated at the time of budget adoption.									
Earnings Type (check one): 1. <input type="checkbox"/> Service/User 2. <input type="checkbox"/> Business/Industry Regulating 3. <input checked="" type="checkbox"/> Occupational Licensure 4. <input type="checkbox"/> Special Tax/Assessment 5. <input type="checkbox"/> Other (specify):									
Submission Purpose (check one): 1. <input checked="" type="checkbox"/> Chap. 14 Review and Comment 2. <input type="checkbox"/> Approval of Allowable Inflationary Adjustment 3. <input type="checkbox"/> Reporting of Agency Initiated Change in Departmental Earnings Rate 4. <input type="checkbox"/> Other (specify):									
If reporting an agency initiated action (option 3 above), does agency have explicit authority to retain and spend receipts? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, cite pertinent statutes:									
Impact of Proposed Change (change in unit rate, number of payees impacted, etc.):									
	F.Y. 1994	F.Y. 1995							
Fee Code	Fee Name	# Paying	Current Fee	Proposed Fee	Increase	# Paying	Current Fee	Proposed Fee	Increase
101	Temporary Permit	15	200	250	50	15	200	250	50
102	Licensure (2 years)	15	450	500	50	15	450	500	50
200	License Renewal (2 years)	62	450	500	50	62	450	500	50
400	Special Fee	135	0	15	15	0	0	0	0

OK - Josie Ashko
2-14-94

FI-00399-01

Department of Finance

Departmental Earnings: Reporting/Approval (Cont.)

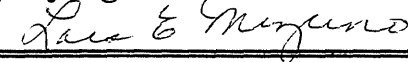
(\$1,000,000 = 1,000)

Part B: Fiscal Detail

APID: 21505-00-17		AID: 941-674		Rev. Code(s): See "Item" column		Dedicated <input type="checkbox"/> Non-Dedicated <input checked="" type="checkbox"/> Both <input type="checkbox"/>	
Item	F.Y. 1991 Revenues:	F.Y. 1992	F.Y. 1993	F.Y. 1994 As Shown in Biennial Budget	F.Y. 1995 As Shown in Biennial Budget	F.Y. 1994 As Currently Proposed	F.Y. 1995 As Currently Proposed
101 Temporary Permit	3	3	3	3	3	3.7	3.7
102 Licensure	2	9	8.3	9	9	9.8	10.0
200 License Renewal	29	29	26.1	30	31	31.9	31.
202 Late Renewal	1	2	0.5	1	1	0.2	0.2
500 Corp Regist.	0	0	0.1	0	0	0.1	0
505 Corp Re-regist	0.3	0.3	0.4	0.4	0.4	0.4	0.4
600 Civil Penalty	0	1	0	0	0	0	0
400 Special Fee	0	0	0	0	0	2.0	0
TOTAL	36.3	44.3	38.4	43.4	44.4	48.1	45.3
	Expenditures:						
Direct	26	26	29.7	30	30	30	30
Indirect	13	8	9.8	11	11	17	13
Total	39	34	39.5	41	41	47	43
Current Deficit/Excess	(3)	10	(1)	2	3	1	2
Accumulated Excess/Deficit*		7	6	8	11	7	9

As necessary, attach detailed schedule/listing of proposed changes in departmental earnings rates. Please see memo dated 01/24/94 for revenue/expenditure details

Agency Signature:



* F.Y. 1991 beginning accumulated balance to include amount of accumulated excess/deficit (if any) carried forward from F.Y. 1990.

- 1 Board of Podiatric Medicine
2
3 Proposed Permanent Rules Relating to Fee Increases
4
5 Rules as Proposed

6 6900.0200 LICENSE RENEWAL.

7 Subpart 1. Active status. The license renewal term is 24
8 months beginning on July 1 and ending on June 30. Applications
9 received and postmarked after June 30 in the year due will be
10 returned for addition of the late renewal fee. The term of
11 renewal begins on July 1 in odd-numbered years for a licensee
12 whose license number is an odd number and in even-numbered years
13 for a licensee whose license number is an even number. The July
14 1, 1991, renewal term for a licensee who renews in even-numbered
15 years shall end June 30, 1992, and the renewal fee and
16 continuing education hours shall be half the amount required for
17 a 24-month renewal period. For the first renewal period
18 following the initial licensure period, the fee for renewal of
19 license is that fraction of ~~\$450~~ the renewal fee, to the nearest
20 dollar, that is represented by the ratio of the number of days
21 the license is held in the initial licensure period to 730 days.

22 An applicant for license renewal must submit to the board:

23 [For text of items A to C, see M.R.]

24 [For text of subps 2 to 7, see M.R.]

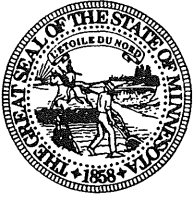
25 6900.0250 FEES.

26 Subpart 1. Amounts. Fees are as follows:

- 27 A. licensure, ~~\$450~~ \$500;
28 B. renewal of a license, ~~\$450~~ \$500;
29 C. late renewal of a license, an additional \$100;
30 D. temporary permit, ~~\$200~~ \$250;
31 E. replacement of an original license document or
32 renewal certificate, \$10; and
33 F. relicensure following expiration of license, \$550.

34 [For text of subp 2, see M.R.]

35 Subp. 3. Special fee. A one-time fee of \$15 is assessed
1 against the license of each person holding a license to practice
2 on the effective date of this part, to be paid on or before June
3 30, 1994. Failure to pay the fee by the licensee's renewal date
4 is failure to submit a completed license renewal application as
5 provided in part 6900.0200.



Board of Podiatric Medicine

2700 University Avenue West #1014a
St. Paul, MN 55114
(612) 642-0588 0401

March 14, 1994

Maryanne Hruby, Executive Director
LCRAR
Room 55 State Office Building

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, Section 14.131, I am hereby forwarding to you a copy of the Statement of Need and Reasonableness that justifies the proposed rule increasing fees. The Notice was submitted to the State Register on March 7, 1994, for publication on March 21, 1994. The Notice will be mailed to all persons who indicated they wish to be notified on or before March 16, 1994.

Also enclosed is a copy of the proposed rule.

If you have any questions, please contact me.

Sincerely,

Lois E. Mizuno
Executive Director

enclosures