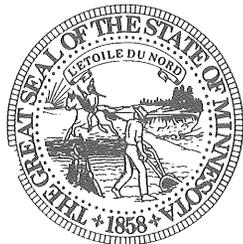


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Minnesota Board of Chiropractic Examiners

March 29, 1995

Maryanne Hruby
Legislative Commission to Review Administrative Rules
55 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Enclosed you will find a copy of the Statement of Need and Reasonableness for Minnesota Board of Chiropractic Examiners proposed rules relating to advertising, continuing education, and definitions. Notification of publication of the *Notice of Intent to Adopt Rules Without a Public Hearing* was sent under separate cover.

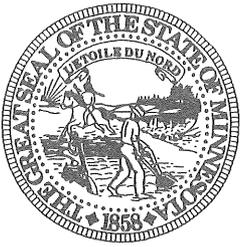
If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Lori A. Campbell

Lori A. Campbell
Office Manager

/lac



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 definitions, advertising,
and continuing education.**

STATEMENT OF NEED AND REASONABLENESS

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 definitions, board certification advertising and continuing education .

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

Minnesota Board of Chiropractic Examiners

**S.O.N.A.R.- Definitions, advertising,
and continuing education.**

2700 University Avenue West, Suite 20, St. Paul, Minnesota 55114-1089 Telephone (612) 642-0591 Fax (612) 643-3535

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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."

2. STATEMENT OF NEED AND REASONABLENESS

2500.0100 - DEFINITIONS

When administrative rules 2500.2500-2500.2530 were adopted in 1991, the rules included a number of definitions relating to the practice of chiropractic as well as the Graduate Preceptorship program. The specific rules in question are M.R. 2500.2500 Subp. 3, **DIAGNOSIS** (proposed 2500.0100, Subp. 5); 2500.2500 Subp. 4, **INTERN** (proposed 2500.0100, Subp. 8a); 2500.2500, Subp. 5, **LICENSE** (proposed 2500.0100, Subp. 10); 2500.2500, Subp. 6, **PRACTICE OF CHIROPRACTIC** (proposed 2500.0100, Subp. 10a); 2500.2500, Subp. 7, **PRECEPTOR** (proposed 2500.0100, subp. 10b); 2500.2500, Subp. 8, **PRECEPTORSHIP TRAINING PROGRAM** (proposed 2500.0100, Subp. 10c); 2500.2500, Subp. 9, **PRIVATE PRACTICE** (proposed 2500.0100, subp. 10d). While it was expected that some of the definitions contained therein would be

specific to those participating in the Graduate Preceptorship Program, it was not the intention of the board that all of these definitions be confined to this program. Some of these definitions apply generally to all chiropractors. Moreover, those chiropractors not participating in the Graduate Preceptorship program would not be likely to peruse that portion of the rules not pertaining to them, to find definitions that may otherwise affect them. They would more likely review M.R. 2500.0100 to find the definitions of terms, and not finding them there, may remain confused about rules containing such terms. Therefore, the board has determined it would be more appropriate to place all such definitions in one place. This necessitates a numeric change in the subparts of 2500.0100 Subp. 5, **DIRECT PATIENT CARE**, (proposed 2500.0100 Subp. 5a) and 2500.0100 Subp. 10 **QUALIFIED STAFF**, (proposed 2500.0100 10e). There are no language changes in any of the above mentioned rules, merely a change in their location within the rules. Further, it is expected that any and all future definitions applying to the profession in general, will be initially written to this same location. This is in an effort to clarify the responsibilities and accountabilities of practitioners licensed in the state of Minnesota. Therefore, they are needed and reasonable.

The only definition not previously existing in rule is proposed 2500.0100, subp. 5b **GOOD STANDING**. Commonly, we are contacted by other state agencies, requesting the standing of a license. Previously, a license that was the subject of disciplinary action was not considered to be in good standing during the period of the license action. However, on August 1, 1993, Minnesota statutes were modified to

include another action available for the health care related boards to resolve complaints (See MS 214.103 subd. 6). This action, referred to as corrective action, was established to handle less egregious violations, and those which could generally be resolved by virtue of some form of correction, rather than by some form of disciplinary action against the license. The question became whether or not the action, or the violation the corrective action sought to remedy, was sufficient to relegate the practitioners license to a status that could have significant adverse ramifications, to include severely impacting the ability of a licensee to acquire providerships with third party payors. An action that placed the license in anything other than "good standing" would likely have this effect. It was felt by the board that relegating the license to a status other than good standing was excessive in the case of a corrective action, but that the concept was now ambiguous as a result of the new legislation. This rule is designed to clarify that licensees subject to disciplinary action are to be removed from good standing, with whatever attendant consequences this entails, while those subject to corrective action do not incur any such penalty. Further, it defines such status to inform the licensees of the potential implications of behavior that violates statutes and administrative rules, as well as the public trust. Therefore this rule is needed and reasonable.

2500.0600 - BOARD CERTIFICATION ADVERTISING

Recently, numerous postgraduate certification courses have become available to licensees, resulting in advertising that may be misleading in nature. Such courses cover a wide variety of education regimens and certification requirements. Education

may vary from a weekend course, to a full time three year residency, and certification covering the spectrum from no examination in any form, to extensive examination in which the practitioner may or may not be successful. The organizations providing such education/certification also cover a wide variety from institutions fully accredited by a state or federal accreditation agency, to those started up only recently under the auspices of a business name. Nevertheless, there is a growing trend for a licensee to refer to themselves as "board certified", giving the impression to the public that they are additionally certified by the Minnesota Board of Chiropractic Examiners. This misleads the public as to quality or quantity of additional postgraduate education the licensee has. Further, it indirectly suggests that such education is validated by approval of the board. This rule requires that in any venue in which the licensee chooses to advertise utilizing such credentials, they will clearly notify the public of what agency provides such certification. In this way, the public has an opportunity to determine the value of such a credential. While the board takes no direct position on the quality of any educational process beyond the original doctoral degree, they feel that the public at least has a right to know who the certifying/credentialing agency is. Therefore this rule is needed and reasonable.

2500.1250 - CONTINUING EDUCATION PROGRAM APPROVAL

In January of 1993, a significant new rule was established allowing for organizations or agencies to take on the administrative responsibility for approving continuing education programs by entering into a sponsorship agreement with the board. This sponsorship agreement was intended for those agencies/organizations intending to deliver five or more programs on a yearly basis. The rule was substantial, and resulted in a repeal of most of the rest of the continuing education rules. While it did shift much of this responsibility, it did not entirely remove the need for the board to continue to approve programs for those agencies/organizations delivering more occasional programs, which the board continues to do. However, it is not uncommon for the board to receive an application that is either incomplete, or insufficient to allow for approval of the program requested. In this case, the board must have time to engage in necessary correspondence to acquire sufficient information from the requesting agencies/organizations to allow for approval or disapproval of the programs. The repeal of that portion of the original rule which allowed the board to require a submission 45 days in advance of the program, was not intended, and is intended to be rectified by resurrecting that portion of the rule. It further notifies those interested parties who may be making submissions, that the 45 day requirement is in place, so they are aware of the need for timely submission to the board. 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 the rules related to definitions, advertising, and continuing education would have no effect on small business . **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 With 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 rules; 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 rules

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. Since there is no fee considered as part of these rules, the Commissioner's approval of the proposed fee is not required, and has not been sought.

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. Additionally, a notice of the proposed rules will be mailed to the Minnesota Chiropractic Association, an organization which will likely represent small businesses affected by the amendments. Further, a notice will be sent to the local chiropractic college, and all continuing education sponsors registered with the board, organizations which may also be impacted by the continuing education rule .

Dated: March 27, 1995 **STATE OF MINNESOTA**

BOARD OF CHIROPRACTIC EXAMINERS


Larry A. Spicer, D.C.
Executive Director