

DEC 27 1994

BEFORE THE MINNESOTA

BOARD OF NURSING

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*KBV ✓*

In the Matter of the  
Proposed Adoption of  
Rules of the Board of  
Nursing Governing Prescribing  
Authority for Clinical Specialists  
in Psychiatric and Mental Health Nursing;  
Requirements for Licensure without  
Examination; Registration; and Advanced  
Nursing Practice

NOTICE OF INTENT  
TO ADOPT RULES  
WITHOUT A PUBLIC  
HEARING

The Minnesota Board of Nursing (hereinafter "Board") intends to adopt and amend permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. You have 30 days to submit a written request that a hearing be held on the rules.

**Agency Contact Person:** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to:

Sandra J. MacKenzie  
Assistant Director  
Minnesota Board of Nursing  
Suite 108  
2700 University Avenue West  
St. Paul, Minnesota 55114  
Telephone: (612) 642-0572

**Subject of Rules and Statutory Authority:** The proposed rules relate to prescribing authority for clinical specialists in psychiatric and mental health nursing, requirements for licensure without examination, registration, and advanced nursing practice. Minnesota Statutes, section 148.191, subd. 2 authorizes the Board to adopt and revise rules as necessary to carry into effect the provisions of sections 148.171 to 148.285. Minnesota Statutes, section 147.235, subd. 4 authorizes the Board to promulgate rules for nurse practitioners, clinical specialists in psychiatric and mental health nursing, and certified nurse midwives eligible to prescribe. The advanced practice rules are authorized by Minnesota Statutes, section 62A.15, subd. 3a. A copy of the proposed rules is published in the State Register and is attached to this notice as mailed.

**Comments:** You have until 4:30 p.m. February 2, 1995, to submit written comments in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comments must be in writing and received by the

agency contact person by the due date. Comments are encouraged. Your comments should identify the portion of the proposed rules addressed, the reasons for your comments, and any change that you propose.

**Request for a Hearing:** In addition to submitted comments, you may also request that a public hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m., February 2, 1995. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rules on which you request a hearing, the reason for the request, and any changes that you recommend to the proposed rules. If 25 or more persons submit written requests for a hearing, a public hearing will be held, unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedure in Minnesota Statutes, section 14.131 to 14.20. Pursuant to Minnesota Statutes, section 214.06 Subdivision 3 (1994), no public hearing will be held on the proposed fee charges.

**Modifications:** The proposed rules may be modified as a result of public comment, if such modification is supported by the data and views submitted to the agency and does not result in substantial change from the proposed rules as attached and printed in the State Register. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness:** A Statement of Need and Reasonableness is now available from the agency contact person, Sandra J. MacKenzie. If you would like a copy of the Statement of Need and Reasonableness, please call Ms. MacKenzie at (612) 642-0572. This statement describes the need for, and reasonableness of, each provision of the proposed rules, and identifies the data and information upon which the Board relied to support the proposed rules.


**Small Business Considerations:** It is the position of the Board the Minnesota Statutes, section 14.115, subdivision 2 (1992), relating to small business considerations in rulemaking, does not apply to these proposed rules changes. The basis for this position and the Board's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2 (1992) for reducing the impact of the proposed rules, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

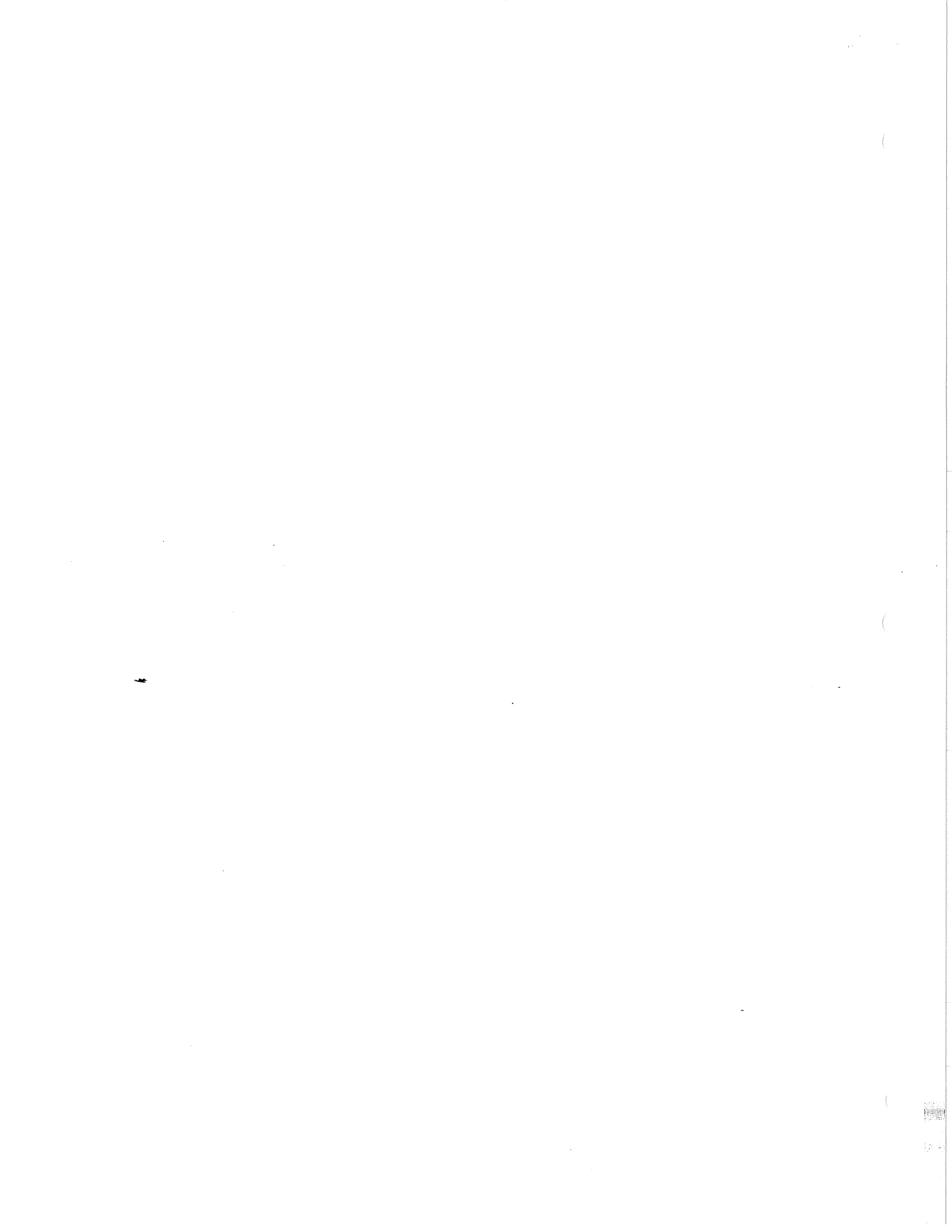
**Expenditure of Public Money by Local Public Bodies and Impact on Agricultural Land:** Promulgation of these proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11 (1992).

**Adoption and Review of Rules:** If no hearing is required after the end of the comment period, then the Board may adopt the rules. The rules and supporting documents will then be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rules are submitted to the Attorney General or be notified of the Attorney General's decision on the rules. If you

wish to be so notified, or wish to receive a copy of the adopted rules, submit your request to the agency contact person listed above.

Date: December 14, 1994

  
Joyce M. Schowalter  
Executive Director



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STATE OF MINNESOTA  
COUNTY OF RAMSEY

BEFORE THE  
MINNESOTA BOARD OF NURSING

In the Matter of the Proposed  
Adoption of Rules of the State  
Board of Nursing Governing  
Prescribing Authority for  
Clinical Specialists in  
Psychiatric and Mental Health  
Nursing; Requirements for Licensure  
without Examination; Registration;  
and Advanced Nursing Practice.

STATEMENT OF NEED AND  
REASONABLENESS

INTRODUCTION

In 1994, the legislature passed a bill which amended Minnesota Statutes, section 148.235, PRESCRIBING DRUGS AND THERAPEUTIC DEVICES. Subdivision 3 authorizes clinical specialists in psychiatric and mental health nursing to prescribe drugs, provided certain requirements are met. The Board of Nursing established a committee composed of three clinical specialists in psychiatric and mental health nursing and one member of the Board. The clinical specialists were referred by the Minnesota Nurses Association.

The committee began meeting on June 16, 1994. The committee met five times. The committee presented a draft to the Board at its July 1994 meeting. The committee presented a final draft of the rules to the Board at their September 1994 meeting. The Board accepted the draft at that meeting and passed the motion of intent to adopt the rules without a public hearing. After this action concerns were expressed about several details regarding the prescribing course that were not included in the draft of rules. These concerns and proposed language were presented to the Board on December 2, 1994. The proposed additions to the language were adopted by the Board and again the Board passed the motion of intent to adopt the rules without a public hearing.

The Notice of Solicitation of Outside Opinion was published in the State Register on May 23, 1994. The minutes of the committee meetings and rule drafts have been mailed to individuals and organizations that have requested placement on the mailing list. At varying times, representatives from the Minnesota Psychiatric Society and the Minnesota Medical Association have attended meetings. One or more members of the Minnesota Nurses Association have attended every meeting.

The only issues of concern have come from the Minnesota Psychiatric Society. One concern is that clinical specialist is defined in the definition section of the rules as "a clinical specialist in psychiatric and mental health nursing," but in the remainder of the rules the term "clinical specialist" is used. The concern is that readers would extend the application of this term to

mean any clinical specialist. It has been explained that the purpose of the definition is to provide an explanation for the use of the term throughout the rules so that repetition of the entire title would be unnecessary. The Revisor concurs that the concern is covered through the scope statement, "For the purposes of this chapter, the following terms have the meaning given them."

The second concern was that individuals could have been certified without a master's degree. The national organization that certifies clinical specialists in psychiatric and mental health nursing, the American Nurses Association, has required a master's degree or higher in nursing or a mental health field since it began the certification process in 1977. The American Nurses Association is the only national professional nursing organization which offers certification in this advanced practice nursing specialty.

In the periodical, Archives of Psychiatric Nursing for April 1992, the following statement is made: "A growing number of states have passed legislation authorizing prescriptive authority for this specialty group." Clinical specialists in psychiatric and mental health nursing have prescriptive authority in 16 jurisdictions. Qualifications for prescriptive authority vary among states, although most require that the applicant have advanced preparation beyond minimal standards for licensure, evidence of certification from a national certifying body, and evidence of recently acquired hours of pharmacology preparation.

In 1990, the legislature authorized nurse practitioners to prescribe, provided the nurse practitioners met the requirements specified in the laws. Rules were formulated and went into effect in October 1991. The committee used these rules as the basis for formulating the proposed rules for the prescribing authority of clinical specialists. Because it would have been duplicative to draft a separate set of rules for the prescribing authority of clinical specialists in psychiatric and mental health nursing, the provisions for the clinical specialists were incorporated into the existing rules. Whenever the rules apply specifically to nurse practitioners, clinical specialists, or nurse midwives, the exception is indicated in the rule.

The additions or deletions for requirements for licensure without examination, registration, and advanced nurse practice are included with the prescribing authority rules. These changes are proposed for the purpose of clarification. Details regarding each of these rule changes are presented below.

#### STATUTORY AUTHORITY

Minnesota Statutes, section 148.191, subd. 2 authorizes the Board to adopt and revise rules as necessary to carry into effect the provisions of sections 148.171 to 148.285, which address requirements for licensure, registration, reregistration, and prescribing as it relates to nurse practitioners, clinical specialists, and nurse midwives. Specific rule making authority is found in Minnesota Statutes, section 148.191, subd. 2 for licensure, registration, and renewal of registration. Minnesota Statutes, section 148.235 subd. 4 authorizes the board to promulgate rules for nurse practitioners, clinical specialists in psychiatric and mental health nursing, and certified nurse midwives eligible to prescribe. The Advanced Nursing Practice rules are authorized by Minnesota Statutes, section 62A.15, subd. 3a.

## SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115 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 an opportunity for small businesses to participate in the rulemaking process.

It is the position of the Board that this provision does not apply to the rules it promulgates. Minnesota Statutes, section 14.115, subd. 7, clause (2) (1990) states that section 14.115 does not apply to "agency rules that do not affect small businesses directly." The Board's authority relates only to nurses, not to the businesses they operate. Furthermore, although the Board does not compile statistics on the issue, almost all nurses are simply employees of the agencies or facilities at which they work. In these cases, it is clear that a nurse should not be considered a small business.

The Board is also exempt from the provisions of section 14.115, pursuant to its subdivision 7, clause (3) which states that section 14.115 does not apply to "service businesses regulated by government bodies, for standards and costs, such as ... providers of medical care." Nurses provide nursing care and medical care and are regulated for standards and costs. The Board regulates nurses for standards and the Minnesota Department of Human Services regulates some nurses for costs.

However, should these proposed rules in some way be construed as being subject to Minnesota Statutes, section 14.115, the Board notes below how the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the rules on small businesses should be applied to the proposed rules. 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.

The feasibility of implementing each of the five suggested methods and whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rulemaking are considered below.

1. It would not be feasible to incorporate any of the five suggested methods into these rules.

Methods (a) to (c) relate to lessening compliance or reporting requirements for small businesses either by establishing less stringent requirements, establishing less stringent schedules or deadlines for compliance with the requirements, or 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, these proposed rules are viewed as compliance or reporting requirements for businesses, then the board finds that it would be unworkable to lessen the requirements for those few nurses who practice in a solo or group setting of fewer than 50 employees since the proposed rules have no effect on their businesses. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's rules do not propose design or operational standards for businesses, and therefore there is no reason to implement performance standards for small businesses as a replacement for design or operational standards that do not exist. Finally, method (e) suggests exempting small businesses from any or all requirements of the rules. The application of this provision would exempt a few licensees from the purview of the rules with the result that a small number of nurses would be totally unregulated, a clear conflict with existing nursing statutes.

2. Reducing the impact of the proposed amendments on small businesses would undermine the objectives of the Minnesota licensing law for nurses.

Pursuant to Minnesota Statutes, section 148.171 et seq., the Board was created for the purpose of establishing requirements for licensure and adopting standards for disciplinary action to govern the practices or behavior of all licensees. Pursuant to Minnesota Statutes, section 148.191, subd. 2, the Board is specifically mandated to promulgate rules as may be necessary to carry out the Board's purposes. Given these statutory mandates, it is the Board's duty to establish licensure qualifications and disciplinary standards which apply 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 rules will not affect small businesses and certainly do not have the potential for imposing a greater impact on nurses in a solo or small practice than on those employed by agencies and organizations. It has also been explained above that the Board considers it unfeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent that the proposed rules may affect the business operation of a nurse or group of nurses 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 these rules for the Board to exempt one group of nurses from the requirements of these rules. Similarly, the Board believes it would be unwise and contrary to its statutory mandate for the Board to adopt one set of standards for those nurses (which may consist of a nonexistent class) who work as employees and adopt another, less stringent, set of standards to be applied to those nurses who practice in a solo or small group practice. It is the Board's view that these rules must apply equally to all nurses if the public whom they serve is to be adequately protected.

Licensees, regardless of whether they are considered as individuals or small businesses, have had and will continue to have an opportunity to



participate in the rulemaking process for these proposed rules. The Board has kept the various associations well informed of the proposed rules as they were developed and the associations have in turn informed their constituents. In addition, the Board has mailed a copy of the proposed rules to everyone on the mailing list to receive proposed rules.

#### EXPENDITURE OF PUBLIC MONIES AND IMPACT ON AGRICULTURAL LAND

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land. Therefore, no further information need be provided under Minnesota Statutes, section 14.11.

#### RULE ANALYSIS

##### **6305.0500 REQUIREMENTS FOR LICENSURE WITHOUT EXAMINATION.**

Subp. 14. **Unacceptable examination.** Minnesota Statutes, 148.211, subd. 2, requires that an individual licensed in another jurisdiction and applying to Minnesota for licensure must have qualifications equivalent to the requirements for individuals licensed by examination. Chapter 6305.0500, subparts 11 and 12, list the examinations acceptable for registered nurse and practical nurse licensure. It is necessary to indicate by rule how individuals can meet this requirement if they have not passed an examination acceptable to the board. The only acceptable examination currently available is the National Council Licensure Examination. The National Council of State Boards of Nursing make this national examination available for administration through a test service. It is important for applicants not only to know what the requirements for licensure are, but how to make up deficits and to know at what point each of the requirements must be met. Accepting a passing score on the examination in lieu of nursing practice or continuing education is reasonable. The examination is used by other boards of nursing as the requirement for reentry into practice after a period of not practicing. Success on the examination is evidence that an individual is safe to practice.

##### **6310.2600 DEFINITIONS.**

Subp. 1a. **Acceptable nursing practice.** Participation in clinical nursing courses is not generally perceived as the practice of nursing. Since its inclusion in the rules, very few individuals have used participation in a clinical course as evidence of nursing practice. Participation in a clinical nursing course is more appropriately considered as education. If an applicant cannot meet the nursing practice requirement, then continuing education is required. If the applicant has participated in a clinical nursing course, it may be used to meet the continuing education requirement. Therefore, the deletion of a clinical nursing course as nursing practice does not have a negative impact on applicants. It allows for the use of a clinical course appropriately as an educational experience.

## **6310.2900 REGISTRATION RENEWAL PROCEDURES.**

### **Subp. 6. Insufficient hours.**

B. The words "participation" and "contact" are added for clarity. It is reasonable to add these words to be consistent with other statements in the rules.

It is necessary to clarify how the deferment of a fraction of an hour and of infection control will be handled by the Board. Licensee should know the consequences for failure to comply with requirements.

A continuing education activity must last at least an hour according to part 6310.2800, subp. 3, B. Licensees would have to participate in an hour of continuing education to meet the requirement for their current renewal period. Therefore, if the licensee elects to defer, it is reasonable to defer a whole hour because that is what the licensee must do if the licensee was not deferring.

Part 6310.2800, subp. 3, requires that two of the required contact hours must be on the subject of infection control. Two hours on another subject do not fulfill the requirement. Therefore, it is reasonable to defer the number of contact hours and increase the requirement of contact hours for the next period as well as the proportion of the hours that must be on infection control.

## **6310.3200 REREGISTRATION PROCEDURES.**

Subp. 9. **Initial registration following reregistration.** When the continuing education requirement was established for practical nurses, this subpart in the rules was overlooked. It is necessary to add the statement regarding licensed practical nurses to be consistent with the rest of the rules. According to part 6310.2800, subp. 3, a licensed practical nurse is required to participate in the ratio of at least one contact hour for each two months of registration. It is reasonable to add this clarifying statement so that there are no conflicting statements within the rules.

## **6330.0350 PROFESSIONAL NURSING ORGANIZATION WITH AUTHORITY TO CERTIFY.**

C. (2) It is necessary to change the word "or" to "and" because this is the official title of the specialty. It is reasonable to use the title assigned by the organization that certifies the individuals in the specialty.

E. (1) It is necessary to change the title of the specialty from "obstetric-gynecological" to "women's health care" nurse practitioner because this is the official name change made by the organization that certifies this specialty group. It is reasonable to use the title assigned by the organization which certifies the individuals in that specialty.

F. According to Minnesota Statutes, 62A.15, subd. 3a, "The board of nursing shall, by rule, adopt a list of professional nursing organizations which have the authority to certify nurses in advanced practice." It is

necessary to add the American Academy of Nurse Practitioners in order to be in compliance with the statutes. It is reasonable to add this nursing organization because it meets the criteria established by rule, part 6330.0300.

**CHAPTER 6340  
BOARD OF NURSING  
PRESCRIBING AUTHORITY**

**6340.0050 SCOPE.** This rule is necessary because the changes to Minnesota Statutes, section 148.235, add clinical specialists in psychiatric and mental health nursing and, to a limited extent, nurse midwives. It is reasonable to identify at the beginning of the chapter of the rules, the rules that govern nurse practitioners, clinical specialists, and nurse midwives. Only certain of the rules apply to nurse midwives.

**6340.0100 DEFINITIONS.**

Subp. 2. **Attachments.** Minnesota Statutes, section 148.235, subd. 3, states the eligibility requirements for prescribing authority for clinical specialists in psychiatric and mental health nursing. The justification for submission of evidence regarding the requirements will be covered in part 6340.0300. It is necessary to add "evidence of successful completion of the required prescribing course" because this is a specific requirement for the clinical specialists in the amendments to Minnesota Statutes, section 148.235. It is reasonable to incorporate this evidence in the definition for attachments so that each time the attachments are referred to in the rules, the individual pieces of evidence do not have to be listed.

It is necessary to add the phrase "from the national professional nursing organization" for clarification to distinguish this certificate from the certificate that the board issues as evidence of renewal of registration. It is reasonable to name the certificate to minimize confusion about which certificate is being referred to.

It is necessary to delete the word "completion" as the adjective to "document" and name the document so that "completion" will not be used twice in this rule to refer to two different documents. It is reasonable to name both documents by describing the documents so that it is clear that there are two separate documents and that each is evidence of different course work.

Subp. 4. **Certificate.** It is necessary to add clinical specialists to this rule because Minnesota Statutes, section 148.235, refers to a registered nurse who is certified through a national professional nursing organization which certifies nurse practitioners and clinical specialists. It is reasonable to add "clinical specialists" to reflect accurately and completely the provisions in the Statutes.

Subp. 4a. **Clinical Specialist.** Minnesota Statutes, section 148.235, subd. 3, refers to clinical specialists and states that a clinical specialist is a registered nurse who has a master's degree and is certified through a national professional nursing organization which certifies clinical specialists in psychiatric and mental health nursing. The national professional nursing organization that certifies this group is the American Nurses Credentialing Center. It is necessary to restate in the rules who qualifies as a clinical specialist for clarity and completeness. It is reasonable to use the existing description of clinical specialist from the statutes rather than to create another definition.

Subp. 5. **Collaborating physician.** Minnesota Statutes, section 148.235, subd. 3, clause (3) requires the clinical specialist to have a written agreement with a psychiatrist. It is reasonable to add "psychiatrist" to the definition that already exists in the rules so as to minimize duplication in the rules. A psychiatrist is a physician who specializes in psychiatric medicine.

Subp. 6. **Drug.** It is necessary to define drug so that there is a clear definition of what constitutes a drug. It is reasonable to use a pre-existing definition rather than to create a new definition and to use the definition provided in the Minnesota Board of Pharmacy laws, Minnesota Statutes, section 151.01, subd. 5. Since the Board of Pharmacy is responsible for regulating the the manufacturing and managing of drugs it is reasonable to use the definition of drug provided in the Pharmacy laws. Further, it is reasonable to provide the actual definition rather than the citation so that individuals do not have to refer to the statutes of another board for the definition.

Subp. 7. **Drug categories or drug types.** It is necessary to include clinical specialists in this rule because Minnesota Statutes, section 148.235, subd. 3, clause (4) refers to the fact that clinical specialists may prescribe and administer drugs used to treat psychiatric and behavioral disorders and the side effects of those drugs. The drugs used to treat disorders and the side effects of these drugs, according to drug formularies, are within the categories presently listed in this rule. Tally and Brooke (1992) state that there are several different classifications of drugs commonly used to treat mental illness and to counteract side effects and that within each drug classification group, there may be several different types of drugs capable of bringing about the desired effect. Therefore, it is reasonable to state in the rule that the drugs that clinical specialists in psychiatric and mental health nursing will be prescribing are subsumed in the categories already listed in the rules.

Subp. 9. **National professional nursing organizations.** Minnesota Statutes, section 148.235, subd. 3, clause (2) requires that the registered nurse "is certified through a national professional nursing organization which certifies clinical specialists in psychiatric and mental health nursing and is included in the list of professional nursing organizations adopted by the board under section 62A.15, subdivision 3a." It is reasonable to add clinical specialists to this rule because the statute requirement is the same as for nurse practitioners. The national professional nursing organizations that certify nurse practitioners and clinical specialists in psychiatric and mental health nursing adopted by the Board and listed in Chapter 6330 of the Rules Relating to the Minnesota Board of Nursing are the organizations listed in this

definition. It is necessary to change the names in this rule to reflect the changes made in the list in Chapter 6330. It is reasonable to amend this rule so that it is consistent with Chapter 6330.

Subp. 11. **Practice setting.** It is necessary to add clinical specialist to this rule because this term applies to nurse practitioners as well as to clinical specialists. The term "practice setting" was included in the nurse practitioner rules to clarify that a written agreement is specific to the organizational entity under whose auspices the nurse practitioner provides care to clients. This clarification is necessary for clinical specialists because, like nurse practitioners, they may work at several locations within an organization or may work for more than one organization. It is necessary to delete "and collaborating physician provide" because the physician is not always present at the same physical location providing care to patients. It is reasonable to delete from the rule an implied restriction that was not intended.

Subp. 12. **Practice specialty.** It is necessary to delete "obstetric-gynecological" and insert "women's health care" because the national professional nursing organization changed the title of the practice specialty. It is reasonable to be consistent with the national professional nursing organization, the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Specialties.

Subp. 18. **Written agreement.** Minnesota Statutes, section 148.235, subd. 3, requires that the clinical specialist have a written agreement with a psychiatrist based on standards established between the Minnesota Psychiatric Society and the Minnesota Nurses Association. It is reasonable to add clinical specialists to this rule because the requirement for the nurse practitioner is that there be a written agreement based on standards established between the Minnesota Nurses Association and the Minnesota Medical Association. This is an example of where the requirements are similar, namely, that there be a written agreement based on standards developed between two groups. The only difference is the medical group involved in the development of the standards. This difference is noted. The exception, as noted, is that the clinical specialist's agreement must be consistent with the standards established between the Minnesota Nurses Association and the Minnesota Psychiatric Society rather than the Minnesota Medical Association.

#### **6340.0200 ELIGIBILITY CRITERIA FOR PRESCRIBING AUTHORITY.**

Subp. 2. **Graduation.** Minnesota Statutes, section 148.235, subd. 3, clause (1) requires that the clinical specialist must have a master's degree. There is a graduation requirement for the nurse practitioner as well. It is necessary to restate the requirements in the law so that all of the requirements and processes are identified in one document. It is reasonable to include clinical specialists in this rule to minimize duplication. The exception for the clinical specialist is noted, namely, that the applicant have a master's or higher degree in nursing or a mental health field.

Subd. 3. **Prescribing course.** It is necessary to include the prescribing course in the list of requirements because the course is required by Minnesota Statutes, section 148.235, subd. 3, clause (3). It is reasonable to repeat the

provision of the law in the rules so that all of the requirements may be found in one place. It is reasonable to clarify that this requirement is only for clinical specialists. There is no authorization in the statutes to require a prescribing course for nurse practitioners.

It is necessary to define formal study so that there is a clear understanding of what constitutes a formal course of study. Consistency in preparation for prescribing is aided by defining how the course must be structured. This clarity will assist sponsors of courses to design appropriate courses and will assist clinical specialists to select a course that will fulfill the requirements. It is necessary to specify how current the education must be so that those authorized to prescribe are knowledgeable about the recent medications that are developed and approved for use. It is assumed that those individuals who are prescribing attain this familiarity through their prescriptive practice. Four years was selected for the following reasons:

1. In the last four years there has been a significant increase in new psychotropic medications.
2. If a prescribing course is part of the master's degree program, a master's program is two years in length. Certifying examinations are offered two times each year. Thus, it could be at least three years from the time the course is taken for the individual to graduate and achieve certification. One more year allows the individual to become employed, establish a collaborative relationship with a psychiatrist, and develop a prescriptive writing agreement.
3. At least one other jurisdiction, Arizona, requires that the course be within five years of application for prescriptive privileges.
4. Four years is consistent with the Boards requirement for continuing education for applicants for licensure. If the individual has not practiced within the two years preceding application but has graduated from a nursing program, the individual does not have to participate in and report continuing education until the time of first renewal of registration. Although renewal varies for these individuals, individuals may not have to renew for up to 29 months.

Subp. 3. **Certification.** It is necessary to include clinical specialists in this requirement because Minnesota Statute, section 148.235, subd. 3, clause (2) requires certification by a national professional nursing organization for nurse practitioners as well as for clinical specialists in psychiatric and mental health nursing. It is reasonable to use the generic term "applicant" because the statute requirements are the same for nurse practitioners and clinical specialists. It is reasonable to delete the phrase "from the national professional nursing organization that granted certification" because it is redundant.

Subp. 4. **Written agreement.** Minnesota Statutes, section 148.235, subd. 2, clause (3) states that the nurse practitioner must have a written agreement with a physician, and Minnesota Statutes, section 148.235, subd. 3, clause (4) states that the clinical specialist must have a written agreement with a psychiatrist. It is reasonable to include the clinical specialists in this rule to minimize duplication. The requirements are essentially the same for

both groups. The difference, as noted, is that for clinical specialists the written agreement must be consistent with standards developed in conjunction with the Minnesota Psychiatric Society.

#### **6340.0300 INITIAL APPLICATION PROCEDURE.**

Subpart 1. **Procedure.** It is necessary for clarification to emphasize that a practice agreement is required for each practice setting. It is reasonable to include this clarification in the rule so that all applicants understand that for each practice setting they must apply for prescribing authority.

Subp. 2. **Application.** It is necessary to include clinical specialists in this rule because, like the nurse practitioners, the statute requires that there be a mechanism for identifying the clinical specialists who are authorized to prescribe. The mechanism for doing this is through an application. It is reasonable to include clinical specialists by deleting the term "nurse practitioner" and substituting the generic term "applicant." Because the rule will apply to nurse practitioners as well as to clinical specialists, it is necessary to note the exception that applies to nurse practitioners. The difference is that nurse practitioners may prescribe therapeutic devices.

Subp. 3. **Fee.** Minnesota Statutes, section 148.235, subd. 4, clause (3) authorizes a fee to nurse practitioners and clinical specialists. Therefore, it is necessary to establish a fee for clinical specialists. It is reasonable to assess the same fee to all individuals with prescribing authority. To assess a different fee to one specific group of prescribers would be discriminatory. There is no justification for discrimination since the process is the same for both groups, the nurse practitioners and the clinical specialists. The Board will have expenses related to monitoring and regulating the prescribing authority of both groups. The fee in the current rules for nurse practitioners is \$50. Approval by the Commissioner of Finance is attached.

Subp 4. **Certificate.** Minnesota Statutes, section 148.235, subd. 3, clause (2) requires that the registered nurse be certified through a national professional nursing organization. It is reasonable to include clinical specialists in this rule because the requirement is the same as for nurse practitioners. It is reasonable to delete the term "nurse practitioner" and substitute the generic term "applicant" because the rule applies to nurse practitioners and clinical specialists.

Subp. 5. **Graduation verification.** Minnesota Statutes, section 148.235, subd. 2, clause (a) (1) requires that the registered nurse have graduated from a program of study designed to prepare registered nurses for advanced practice as nurse practitioners. Subd. 3, clause (1) requires that the registered nurse who is a clinical specialist in psychiatric and mental health nursing must have a master's degree. It is reasonable to accept the certification from the national professional organization for clinical specialists in psychiatric and mental health nursing because the organization has always required a master's degree in nursing or mental health field. It would be redundant for the Board to require evidence of the degree. On the other hand, the preparation of nurse practitioners has varied. In some instances, experience without additional

education has qualified the nurse for certification as a nurse practitioner. Because the educational criteria for certification are different, it is reasonable to have dissimilar requirements for documenting educational preparation.

Subd. 5a. **Prescribing course.** Minnesota Statutes, section 148.235, subd. 3, clause (3) requires that the registered nurse successfully complete a prescribing course. It is reasonable to require evidence of successful completion of the course because evidence of meeting the other qualifications is required.

Subp. 6. **Written agreement.** Minnesota Statutes, section 148.235, subd. 3, clause (4) requires that the clinical specialist in psychiatric and mental health nursing have a written agreement with a psychiatrist based on standards established by the Minnesota Psychiatric Society and the Minnesota Nurses Association. This requirement is similar to that for the nurse practitioner. Therefore, it is reasonable to include clinical specialists in this rule. It is reasonable to require evidence that all of the eligibility requirements are met because all of the eligibility requirements are of equal importance. Therefore, the clinical specialist has to make a copy of the agreement, just as the clinical specialist has to submit a copy of the certificate from the national professional nursing organization.

#### **6340.0400 CONFIRMATION OF ELIGIBILITY.**

Subpart 1. **Procedure.** It is necessary to outline a procedure for notifying clinical specialists that they are eligible to prescribe so that clinical specialists know what to expect. It is reasonable to notify the clinical specialists that they are eligible to prescribe so that they know when they may begin to prescribe. It is reasonable to communicate via a document that they are eligible to prescribe. The document may be used as evidence that they are authorized to prescribe. Because this procedure is the same as that established for nurse practitioners, it is reasonable to add clinical specialists to this rule.

Subp. 2. **Document.** It is necessary to include clinical specialists in this rule because authorization to prescribe is intended to be practice setting specific. If the clinical specialist is authorized to prescribe in more than one practice setting, the clinical specialist will be issued a document for each practice setting. The proposed rules indicate that for each practice setting, an application, fee, and attachments must be submitted. It is reasonable to include clinical specialists in this rule because the requirement is the same as for nurse practitioners and thus minimizes duplication.

It is necessary to add the new language for clarification. The additional language emphasizes that the document authorizes practice only in the practice setting named in the document. So that there is no misunderstanding about the parameters of practice, it is reasonable to emphasize that the document issued is applicant specific, the authorization is for a specific period of time, and that eligibility ceases automatically under certain circumstances.

Subp. 3. **Identification number.** It is necessary to have an identification number because a clinical specialist may have the same name as another clinical



specialist. Nurses have a unique license number issued to them by the Board of Nursing. It is reasonable to have a unique identifier to distinguish one practitioner from another and to use the unique identifier that has already been issued to the nurse. It is reasonable to use the initials "CS" as part of the number because the initials "CS" are generally recognized as signifying clinical specialist and this combination is unique. It is reasonable to include the clinical specialist in this rule because the arguments for the establishment of this rule for nurse practitioners was the same. Incorporating the clinical specialist provision into an already existing rule minimizes duplication in the rules.

Subp. 4. **Replacement document.** It is necessary to provide for the replacement of documents because documents are sometimes lost or destroyed. All other documents issued by the Board may be replaced according to rules established for each document. Therefore, for consistency, it is reasonable to provide for the replacement of the document that authorizes prescribing. The requirements for a replacement are the same as for other documents, such as the registration certificate. The fee for other replacement documents, with the exception of the license, is \$5. Approval by the Commissioner of Finance is attached.

#### **6340.0500 VERIFICATION OF CONTINUING ELIGIBILITY.**

Subpart 1. **Cycle.** Minnesota Statutes, section 148.235, subd. 4., clause (b), require that the rules provide for a system of identifying advanced practice nurses eligible to prescribe and a system for transmitting this information to pharmacists. In order for the information to be useful, it must be current. A system has already been established for maintaining current information on nurse practitioners. It is reasonable to establish the same system for maintaining current information on clinical specialists. Therefore, clinical specialists in psychiatric and mental health nursing are included in this rule. It minimizes duplication in the rules.

Subp. 2. **Required information.** Minnesota Statutes, section 148.235, subd. 4, clause (b), require that the rules provide for a system of identifying advanced practice nurses eligible to prescribe and a system for transmitting this information to pharmacists. Because this requirement applies to nurse practitioners, as well as to clinical specialists in psychiatric and mental health nursing, it is reasonable to expect the clinical specialist to provide the same information on the verification form as the nurse practitioner. The exception for the nurse practitioner relates to therapeutic devices. Because clinical specialists are not authorized to prescribe therapeutic devices it is necessary to note this exception in the rule.

Subp. 3. **Fee.** Minnesota Statutes, section 148.235, subd. 4, clause (3) authorizes a fee to nurse practitioners and clinical specialists. Therefore, it is necessary to establish a fee for clinical specialists. It is reasonable to assess the same fee for all individuals with prescribing authority. To assess a different fee to one group of prescribers would be discriminatory. There is no justification for discrimination since the process is the same for both groups, the nurse practitioners and the clinical specialists. The Board will have expenses related to monitoring and regulating the prescribing authority of both groups.

Twenty dollars is reasonable because it is based on the cost of processing applications for continuing eligibility to prescribe biennially and for annually mailing to all pharmacies a list of nurse practitioners and clinical specialists authorized to prescribe (see rule, part 6340.1000, subpart 1). The proposed procedure is needed to comply with Minnesota Statutes, section 148.235, subd. 4, clause (2).

The costs for processing applications each year and mailing to about 1,200 pharmacies was determined when the rules were established for nurse practitioners. Since the process will be the same as for nurse practitioners, there is no reason to assess a different fee to clinical specialists in psychiatric and mental health nursing. Approval by the Commissioner of Finance is attached.

#### **6340.0600 LOSS OF ELIGIBILITY.**

A. change in collaborating physician. Minnesota Statutes, section 148.235, subd. 2, clause (a) (3) requires that a nurse practitioner have a written agreement with a physician. Minnesota Statutes, section 148.235, subd. 3, clause (4) requires that a clinical specialist in psychiatric and mental health nursing have a written agreement with a psychiatrist. It is reasonable to include clinical specialists in this rule because the requirement is essentially the same for both groups. If the physician or psychiatrist no longer practices in the same setting with the nurse practitioner or clinical specialist, then the physician or psychiatrist has discontinued the collaborative relationship with the nurse practitioner or clinical specialist and can no longer delegate the prescribing of drugs. One of the eligibility requirements is no longer being met. Therefore, it is reasonable to clarify that the nurse practitioner or the clinical specialist is no longer eligible to prescribe.

B. failure to renew. Minnesota Statutes, section 148.281 subdivision 1, clause (3) states that it is unlawful for any person to practice professional nursing unless currently registered to do so. In order to practice as a clinical specialist, the nurse must be registered to practice. If the clinical specialist is not registered to practice, it is reasonable to clarify that the clinical specialist is not eligible to prescribe. This is also true for the nurse practitioner. Therefore, it is reasonable to include the clinical specialist in the rule that already exists for the nurse practitioner.

C. failure to demonstrate continuing eligibility to prescribe. The need and reasonableness for requiring verification of on-going eligibility to prescribe has been provided. It is reasonable to have a consequence for failure to comply with a rule and that the consequence for failure to demonstrate eligibility to prescribe results in loss of eligibility. This is true for nurse practitioners, as well as for clinical specialist. Therefore, it is reasonable to include clinical specialists in the existing rule.

D. failure to maintain clinical specialist certificate. Minnesota Statutes, section 148.235, subd. 3, clause 2 requires that the clinical nurse specialist be certified through a national professional nursing organization which certifies clinical specialists in psychiatric and mental health nursing. If the clinical specialist is no longer certified, one of the eligibility

requirements is not being met. Therefore, it is reasonable to clarify that the clinical specialist is no longer eligible to prescribe. This argument was used to justify the need and reasonableness of this rule for the nurse practitioners since Minnesota Statutes, section 148.235, subd. 2, clause (a) (2) requires that the nurse practitioner be certified by a national professional nursing organization. Therefore, the rule is applicable to both groups and supports the appropriateness of including clinical nurse specialists in this rule.

E. change of employer. Minnesota Statutes, section 148.235, subd. 2, clause (3) requires that a nurse practitioner have a written agreement with a physician, and Minnesota Statutes, section 148.235, subd. 3, clause 4 requires that a clinical specialist have a written agreement with a psychiatrist. If the clinical specialist no longer practices in the same setting with the psychiatrist, then the collaborative relationship ceases to exist and the physician can no longer delegate the prescribing of drugs to the clinical specialist. One of the eligibility requirements is no longer being met. Therefore, it is reasonable to clarify that the clinical specialist is no longer eligible to prescribe. Because the requirements in the statutes are the same for clinical specialists and nurse practitioners, it is reasonable to include the clinical specialists in the rule already established for nurse practitioners.

It is necessary to delete the word "employer" and substitute "practice setting" in order to be consistent with the other rules in this chapter. It is reasonable to make this change in order to minimize any confusion about the rules. "Practice setting" is used frequently within the rules, "employer" is not used anywhere else in the rules.

F. termination of the written agreement. Minnesota Statutes, section 148.235, subd. 3, clause (4) requires that a clinical specialist have a written agreement with a psychiatrist. If the clinical specialist or the psychiatrist terminate the written agreement, then the written agreement no longer exists. One of the eligibility requirements is no longer being met. Therefore, it is reasonable to clarify that the clinical specialist is no longer eligible to prescribe. Minnesota Statutes, section 148.235, subd. 2, clause (3) requires that a nurse practitioner have a written agreement with a physician. The same statements for reasonableness were presented to justify the current rule. Because the requirements are the same, it is reasonable to add the clinical specialists to this rule. It minimizes duplication in the rules.

G. revocation of the certificate by the national professional organization. Minnesota Statutes, section 148.235, subd. 3, clause (4) requires that the clinical specialist be certified by a national professional nursing organization. If the clinical specialist is no longer certified, one of the eligibility criteria is not being met. Therefore, it is reasonable to clarify that the clinical specialist is no longer eligible to prescribe. Minnesota Statutes, section 148.235, subd. 2, clause (2) requires that the nurse practitioner be certified by a national professional nursing organization. The requirements for clinical specialists and nurse practitioners are the same. Therefore, it is reasonable to include the clinical specialists in the current rule.

H. disciplinary action taken by the Board. Minnesota Statutes, section 148.281 subdivision 1, clause (3) states that it is unlawful for any person to

practice professional nursing unless licensed and currently registered to do so. In order to practice as a clinical specialist, the nurse must be licensed and currently registered to practice. If the Board imposes any disciplinary action on the nurse's license and registration, the clinical specialist's privilege to practice professional nursing may be limited, conditioned, suspended, or revoked. Since advanced nursing practice is contingent upon the registered nurse having the authorization to practice, it is reasonable to conclude that the clinical specialist is no longer eligible to prescribe if the license has been revoked or suspended. This is also true for nurse practitioners. Therefore, it is reasonable to include clinical specialists in the same rule as that for nurse practitioners.

Minnesota Statutes, section 148.235, subd. 4, clause (2) requires that the rules provide for a system of identifying nurse practitioners and clinical specialists eligible to prescribe and a system for transmitting this information to pharmacists. In order for the information to be useful, it must be current. All of the conditions described in A. thru H. directly relate to the criteria for identifying clinical specialists who are eligible to prescribe. Therefore, it is reasonable to require the clinical specialists to report these conditions to the board. Because the requirements are the same for clinical specialists and nurse practitioners, it is reasonable to add clinical specialists to the existing rules.

#### **6340.0700 PROCEDURE FOR REESTABLISHING PRESCRIBING AUTHORITY.**

Each reason for loss of eligibility directly relates to a requirement for eligibility. It is reasonable to provide for a process for regaining eligibility to prescribe drugs and therapeutic devices. Each of the procedures required by the rules assist the nurse to take corrective action so that the eligibility requirements are again met. It is reasonable to have these rules apply to both groups since the reasons for loss of eligibility apply to both groups, nurse practitioners and clinical specialists in psychiatric and mental health nursing.

##### **Subpart. 1. Reestablishing prescribing authority; first part.**

A. Change in collaborating physician. Essential information that must be conveyed to pharmacists does not include the name of the collaborating physician. However, to meet eligibility requirements to prescribe drugs, the clinical specialist must have a collaborating physician (psychiatrist). It is necessary to provide the clinical specialist with a procedure to reestablish eligibility to prescribe. It is reasonable to require submission of a copy of the agreement with the new psychiatrist's signature on it if the only change in the agreement is the collaborating physician. The eligibility requirements are again met.

B. Failure to renew. Essential information that must be conveyed to pharmacists does not include that the clinical specialist has current registration as a registered nurse. However, to practice as a clinical specialist, a nurse must have current registration as a registered nurse. If a nurse fails to renew, the nurse does not have current registration. A procedure for the nurse to reestablish eligibility to prescribe is necessary. Generally, failure to renew registration is basically a procedural issue that

may be easily remedied by fulfilling the requirements for reregistration. Through reregistration, the clinical specialist regains the authority to practice as a registered nurse, which includes the authorization to practice in the advanced practice role as a clinical specialist. It is reasonable only to require the clinical specialist to correct the deficiency. The records at the Board of Nursing will indicate whether the clinical specialist has current registration. Therefore, there are no further documents needed from the clinical specialist or procedures to be completed to correct the situation. It is reasonable to delete "nurse practitioner" and substitute the generic term, "licensee" because the rule will apply to both groups.

C. Failure to demonstrate continuing eligibility to prescribe. It is necessary to provide a procedure for the clinical specialist to use to reestablish eligibility to prescribe. It is reasonable to require only that the clinical specialist verify that eligibility requirements continue to be met. It is reasonable to take this approach because, generally, failure to verify continuing eligibility to prescribe is a procedural issue. This may be easily remedied by fulfilling the requirements for verification of ongoing eligibility. Essential information that must be conveyed to pharmacists is the same as that which must be conveyed at the time the clinical specialist was initially eligible to prescribe.

D. Failure to maintain current certification. It is necessary to provide a procedure for the clinical specialist to use to reestablish eligibility to prescribe. Generally, failure to maintain certification is basically a procedural issue that may be easily remedied by fulfilling the requirements for recertification. Essential information that must be conveyed to pharmacists is the same as that which must be conveyed at the time the clinical specialist was initially eligible to prescribe. For these reasons, it is reasonable to require only that the clinical specialist correct the deficiency.

Subp. 2. **Reestablishing prescribing authority; second part.** Minnesota Statutes, section 148.235, subd. 3, clause (4) requires that the clinical specialist have a written agreement with a psychiatrist. When a clinical specialist changes practice settings or the written agreement is terminated by either the psychiatrist or the clinical specialist, an agreement no longer exists. One of the criteria for eligibility to prescribe is no longer being met. It is necessary to provide a procedure for the nurse to reestablish eligibility to prescribe. The procedures provide a mechanism for the nurse to demonstrate that all three criteria for eligibility to prescribe are met. It is reasonable to require resubmission of an application, fee, and attachments for the following reasons:

- a. Unlike the causes for loss of eligibility in subpart 1 that were basically procedural in nature, subpart 2 addresses a loss due to failure to meet one of the eligibility requirements.
- b. Because an agreement no longer exists, a new agreement with a psychiatrist must be developed. The following information will change: psychiatrist, practice setting, and types of drugs the clinical specialist will be authorized to prescribe.

- c. A change in practice setting is comparable to the situation in which the clinical specialist works in more than one practice setting. The need and reasonableness for requiring an application, fee, and attachments for each practice setting has been established.
- d. The information that must be conveyed to pharmacists, such as practice setting, telephone number, address of practice setting, collaborating physician, and categories of drugs may be different from the information provided in the original application.

It is reasonable to add clinical specialists to the current rules because the rationale is the same for both groups, and it would be redundant to have separate rules for each group.

In B., the words "in United States currency, cashier's check, or money order. Personal checks are not accepted." are deleted. It is necessary to do so in order to be consistent with part 6340.0300. It is reasonable to require the same form of payment each time the clinical specialists and nurse practitioners submit applications relative to prescribing authority.

In D., it is reasonable to delete the phrase "between the nurse practitioner and the current collaborating physician" because it is redundant.

**Subp. 3. Reestablishing prescribing authority; third part.** Minnesota Statutes, section 148.235, subd. 3, clause (2) requires that the registered nurse be certified by a national professional nursing organization authorized to certify clinical specialists. When the national professional nursing organization revokes a certificate, one of the eligibility requirements is no longer met. It is necessary to provide the nurse with the procedure that will allow the nurse to reestablish eligibility to prescribe. The procedures provide for the nurse to demonstrate that all three criteria for eligibility to prescribe are met. It is reasonable to require submission of an application, fee, and attachments for the following reasons:

- a. Unlike the causes for loss of eligibility in subpart 1 that were basically procedural in nature, subpart 3 addresses loss due to failure to meet one of the eligibility requirements.
- b. The reasons for revoking certification are serious. Revocation occurs if the nurse has used fraud or deceit in an attempt to become certified. Other reasons for revocation relate to the clinical specialist's ability to meet the professional practice standards established by the professional organization.

**Subp. 4. Reestablishing prescribing authority; fourth part.** Minnesota Statutes, section 148.281, subdivision 1., clause (3) specifies that it is unlawful for any person to practice professional nursing unless duly licensed and currently registered. Disciplinary action on the part of the Board affects the individual's authority to practice as a registered nurse. The registered nurse may not practice as a clinical specialist if the nurse is not authorized to practice as a registered nurse. Practice in the advanced practice role is dependent upon the nurse having the authority to practice as a professional nurse. Procedures in the rules that provide a means for the nurse to

reestablish eligibility to prescribe are necessary. It is reasonable to require submission of an application, fee, and attachments for the following reasons:

- a. Unlike the causes for loss of eligibility in subpart 1 that were basically procedural in nature, subpart 4 addresses the fact that the clinical specialist is not authorized to practice professional nursing.
- b. The reasons for disciplinary action are serious. The reasons relate to the individual's ability to practice professional nursing safely or relate to the lack of knowledge and skill necessary to function as a registered nurse.

It is reasonable to incorporate the clinical specialist requirements into the pre-existing rules for nurse practitioners because the requirements are the same for both groups. It would be redundant to establish the same rule statements in a separate section for nurse practitioners and a separate section for clinical specialists.

#### **6340.0800 CHANGES REQUIRING NOTIFICATION TO THE BOARD.**

Minnesota Statutes, section 148.235, Subd. 4, clause (2) requires a system for transmitting to pharmacists information concerning nurse practitioners and clinical specialists eligible to prescribe drugs and the types of drugs they have been delegated to prescribe. Because the statutes require that pharmacists be notified, there is a need to identify the information that nurse practitioners and clinical specialists must provide to the Board and the time line that nurse practitioners and clinical specialists must follow in providing current information. It is reasonable to expect the nurse practitioner and clinical specialist to keep the Board informed of the current name, address, telephone number and categories of drugs because this is the information that must be transmitted to pharmacists. The information is not useful to pharmacists unless it is current. Because the statutes list nurse practitioners and clinical specialists in the same clause, it is reasonable to include both groups in the same rule.

#### **6340.0900 IDENTIFICATION.**

Subpart 1. **Identification.** Minnesota Statutes, section 151.01, subpart 16, specifies that a prescription must include the name and address of the prescriber. Therefore, it is reasonable to require that clinical specialists provide this information when they write a prescription. It is reasonable to require that clinical specialists include their practice setting phone number on their prescriptions so that if there is a question about a prescription, the prescriber may be contacted by phone. Because the situation for the clinical specialist is the same as for the nurse practitioner, it is reasonable to add the clinical specialists to the current nurse practitioner rule that covers this matter.

Subp. 2. **Initials.** Minnesota Statutes, section 148.235, subd. 3, clause (2) specifies that the clinical specialist must be certified through a national

professional nursing organization which certifies clinical specialists and is included in the list of professional nursing organizations adopted by the Board under section 62A.15, subdivision 3a. Minnesota Rules, Chapter 6330, Advanced Nursing Practice, are the rules adopted under section 62A.15. These rules state that advanced nursing practice includes certified clinical specialists, abbreviated "RN, CS." Therefore, it is reasonable to require clinical specialists in psychiatric and mental health nursing to use the initials provided for in another chapter of the rules.

It is necessary to change the practice specialty title of "obstetric-gynecological" to "women's health care" nurse practitioner because the national professional nursing organization has renamed the practice specialty title. It is necessary to change the initials of the practice specialty so that there is consistency between the title of the specialty and the initials. Chapter 6330, Advanced Nursing Practice, has been amended in response to the requirement in Minnesota Statutes, section 62A.15 to maintain the list of organizations that have the authority to certify nurses. Maintaining the list includes changing the title of the advanced nursing practice specialty when the organization changes the title. It is reasonable to reflect this change of title in this rule to be consistent with the change in Chapter 6330, part 6330.0350, E. It is reasonable to change the initials from "OGNP" to "WHNP" so that the initials reflect the title of the specialty. The abbreviation proposed follows the format adopted for the other specialties.

#### **6340.0950 CERTIFIED NURSE MIDWIFE.**

Subpart 1. **Requirements.** Minnesota Statutes, section 148.235, subd. 4., clause (2) requires a system of transmitting to pharmacists the identity of advanced practice nurses eligible to prescribe drugs under section 148.235. Advanced practice nurses eligible to prescribe according to this section of the statutes include nurse midwives. To comply with this statutory requirement to transmit information regarding nurse midwives, the Board needs to know who the certified nurse midwives are in Minnesota. It is reasonable to require nurse midwives to inform the Board that they are certified nurse midwives at any time that they apply for the authority to practice nursing in Minnesota because to practice as a nurse midwife in Minnesota the individual must first be authorized to practice professional nursing. The Board authorizes the practice of professional nursing at the time of licensure, at the time of renewal of registration, and at the time of reregistration. Therefore, it is reasonable to require that certified nurse midwives inform the Board of their certification at the same time as they are providing other information to the Board. Because there is the possibility that a nurse midwife may have the same name as another nurse midwife, it is necessary to require another identifier that will distinguish one from another. In addition to a license number, which is a unique identifier, the practice setting address may assist the pharmacist in distinguishing one advance practice nurse from another.

Because the statute requires the Board to notify pharmacists of those eligible to prescribe and loss of certification nullifies the advanced practice status as a nurse midwife, it is reasonable to require that the nurse notify the Board of loss of certification. Information forwarded to pharmacists will, therefore, remain accurate.



Subp. 2. **Information to pharmacists.** The need to transmit information on nurse midwives has already been established. Unlike the nurse practitioners and clinical specialists, nurse midwives are not required by statute to submit an application to the Board of Nursing nor is the Board required to deem nurse midwives eligible to prescribe. It is reasonable to transmit the name and practice address of nurse midwives because this information will assist the pharmacists in identifying the professional nurses who are authorized to prescribe, as well as the location of their practice. It is reasonable to transmit the certified nurse midwives' license number because this is the unique identifier that will distinguish one nurse midwife from another if the names are the same.

#### **6340.1000 NOTIFICATION TO PHARMACISTS.**

Subpart 1. **Initial notification.** Minnesota Statutes, section 148.235, subd. 4, clause (2) requires a system of transmitting to pharmacists the identity of advanced practice nurses eligible to prescribe drugs under section 148.235. Advanced practice nurses eligible to prescribe according to this section of the statutes are nurse practitioner, clinical specialists in psychiatric and mental health nursing, and nurse midwives. It is necessary to establish a procedure for informing pharmacists of the information. It is reasonable to include nurse midwives and clinical specialists in the current rules regarding notification of pharmacists for nurse practitioners because the statutory requirement is the same for all three groups.

Subp. 2. **Maintaining notification.** Minnesota Statutes, section 148.235, subd. 4, clause (2) requires a system of transmitting to pharmacists the identity of advanced practice nurses eligible to prescribe drugs under section 148.235. Advanced practice nurses eligible to prescribe according to this section of the statutes are nurse practitioners, clinical specialists in psychiatric and mental health nursing, and nurse midwives. It is necessary to establish a procedure for informing pharmacists of the information. It is reasonable to include nurse midwives and clinical specialists in the current rules that specify the mechanism for notifying pharmacists because the statute requirement is the same for all three groups.

It is necessary to provide for ongoing notification because applications will be submitted by advanced practice nurses as they obtain the necessary credentials to qualify them for prescribing authority. In addition, some advanced practice nurses may lose their eligibility to prescribe. It is reasonable to provide a mechanism whereby pharmacists can be notified of the changes that occur between the annual reports sent to pharmacist. This assures that the information that pharmacists have access to is as current as possible.

Subp. 3. **Nurse practitioner, clinical specialist, or nurse midwife information.** Minnesota Statutes, section 148.235, subd. 4, clause (2) requires a system of transmitting to pharmacists information concerning advanced practice nurses eligible to prescribe drugs. Advanced practice nurses eligible to prescribe according to this section of the statutes are nurse practitioners, clinical specialists in psychiatric and mental health nursing, and nurse midwives. It is necessary to establish the information that will be transmitted to pharmacists for each of the groups. It is reasonable to include nurse midwives and clinical specialists in the current rules that specify the

mechanism to be used to notify pharmacists. The statute requirement is the same for all three groups. It is reasonable to provide the name and identification number of the nurses practitioners and clinical specialists for purposes of identification. Because more than one nurse practitioner or clinical specialist may have the same name, it is reasonable to have a unique number that distinguishes one advanced practice nurse from another. In the case of the nurse midwives, it is necessary to transmit the license number and practice setting to provide unique identifiers because certified nurse midwives are not issued a unique identification number other than their Minnesota license number.

It is reasonable to transmit the practice specialty of the nurse practitioner and clinical specialist because it assists the pharmacist in determining whether the prescription is appropriate.

In Minnesota Statute 151.01, subpart 16, "prescription" requires that the name and address of the prescriber be on the prescription. It is reasonable to require that the same information be transmitted to pharmacists from the Board of Nursing.

Subp. 4. **Master record.** Minnesota Statutes, section 148.235, subd. 4, clause (2) requires that there be a system of transmitting to pharmacists information concerning nurse practitioners and clinical specialists eligible to prescribe drugs. Because nurse practitioners and clinical specialists who apply for prescribing authority must provide more information than will be transmitted to pharmacists in the reports, it is reasonable to indicate by rule that additional information will be made available on request. It is not reasonable to transmit in a report all the information on file at the Board. The information is not essential to the pharmacists and it would be costly to provide all of the information. Information on licensees is public. Therefore, making information available on request is consistent with the Minnesota Data Practices Act.

#### **6340.1100 VIOLATION OF RULES.**

Minnesota Statutes, section 148.191, subd. 2, states that the Board shall cause the prosecution of all persons violating sections 148.171 to 148.285. Minnesota Statutes, section 148.261, subdivision 1, provides that the Board has the power to deny, revoke, suspend, limit, or condition the license and registration of any person to practice professional nursing pursuant to sections 148.171 to 148.285. In addition, clause (17) provides that one of the grounds for disciplinary action is violating a rule adopted by the Board. This rule is reasonable because clinical specialists and nurse midwives, as well as, nurse practitioners are professional nurses and therefore subject to disciplinary action by the Board. Furthermore, the proposed rules are authorized by Minnesota Statutes, section 148.235. Section 148.235 is included within the sections referenced. There is a current rule that applies to nurse practitioners. It is reasonable to include the clinical specialist and nurse midwives in this rule to minimize redundancy.

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American Nurses' Association, Division on Psychiatric and Mental Health Nursing Practice, (1976), Certification as a Clinical Specialist in Psychiatric and Mental Health Nursing. Provided by the American Nurses Credentialing Center, Washington, DC

Talley, S., Brooke, P. S., (1992), Prescriptive Authority for Psychiatric Clinical Specialists: Framing the Issue. Archives of Psychiatric Nursing, 6(2), pp. 71-82.

Board of Nursing

*12/30/94*

Date

*Joyce M. Schowalter*  
\_\_\_\_\_  
Joyce M. Schowalter  
Executive Director

# Office Memorandum



Department: of Finance

Date: November 8, 1994

To: Joyce M. Schowalter, Executive Director  
Board of Nursing

From: Michelle Harper *MH*  
Budget Operations

Phone: 296-7838

Subject: Departmental Earnings Rate Change Response- Nurse Prescribing Authority

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 Nursing on 10/31/94. If you have any questions or concerns, please call me at the above number.

cc Bruce Reddemann  
Dwight Pederson

STATE OF MINNESOTA

Department: Board of Nursing

O F F I C E M E M O R A N D U M

Date: October 31, 1994

To: Dwight L. Pederson  
Executive Budget Officer  
Department of Finance

From: Joyce M. Schowalter *JMS*  
Executive Director

Phone: 642-0549

Subject: Application of Existing Fees (Nurse Practitioners) to Clinical Specialists in Psychiatric and Mental Health Nursing.

The attached materials are submitted for your approval. Revisions in Minn. Stat. section 148.235 subd. 4 during the 1994 session (chapter 470) authorized the Board of Nursing to assess a fee to clinical specialists in psychiatric and mental health nursing who seek prescribing authority from the Board. We are developing the rules and propose to apply the same fee which has been authorized previously for nurse practitioners to the clinical specialists.

Therefore the amount of the initial authorization fee (\$50) and the renewal of authorization fee (\$20) will not change, but it would be applied to an additional category. The result will be an additional income estimated at no more than \$3,100 per year.

If you have any questions, please contact me at 642-0549.

JMS:lr

Enclosure

*D. L. Pederson*  
11/ 8/94

## Department of Finance Departmental Earnings: Reporting/Approval

### Part A: Explanation

<b>Earnings Title:</b> Nurse Prescribing Authority	<b>Statutory Authority:</b> Chapter 470, Laws of MN 1994; 148.191, Subd. 2	<b>Date:</b> 9-29-94																																			
<b>Brief Description of Item:</b>																																					
1) Initial and renewal of prescribing authority - clinical specialists in psychiatric or mental health nursing.  2) Replacement documents for Nurse Practitioners and Clinical Specialists.																																					
<b>Earnings Type (check one):</b>																																					
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):																																					
<b>Submission Purpose (check one):</b>																																					
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 type="checkbox"/> No If yes, cite pertinent statutes:																																					
<b>Impact of Proposed Change (change in unit rate, number of payees impacted, etc.):</b>																																					
Increase in annual revenues: <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th></th> <th colspan="2" style="text-align: center;">FY95</th> <th colspan="2" style="text-align: center;">FY96</th> <th colspan="2" style="text-align: center;">FY97</th> </tr> <tr> <th></th> <th style="text-align: center;">number</th> <th style="text-align: center;">total</th> <th style="text-align: center;">number</th> <th style="text-align: center;">total</th> <th style="text-align: center;">number</th> <th style="text-align: center;">total</th> </tr> </thead> <tbody> <tr> <td>Initial (\$50)</td> <td style="text-align: center;">30</td> <td style="text-align: right;">\$1,500</td> <td style="text-align: center;">50</td> <td style="text-align: right;">\$2,500</td> <td style="text-align: center;">20</td> <td style="text-align: right;">\$1,000</td> </tr> <tr> <td>Renewal (\$20)</td> <td style="text-align: center;">0</td> <td style="text-align: right;">0</td> <td style="text-align: center;">30</td> <td style="text-align: right;">\$600</td> <td style="text-align: center;">60</td> <td style="text-align: right;">\$1,200</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 3px double black;">\$1,500</td> <td></td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 3px double black;">\$3,100</td> <td></td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 3px double black;">\$2,200</td> </tr> </tbody> </table>				FY95		FY96		FY97			number	total	number	total	number	total	Initial (\$50)	30	\$1,500	50	\$2,500	20	\$1,000	Renewal (\$20)	0	0	30	\$600	60	\$1,200			\$1,500		\$3,100		\$2,200
	FY95		FY96		FY97																																
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		\$1,500		\$3,100		\$2,200																															
The fees remain unchanged but will be applied to new categories.																																					

Department of Finance

Departmental Earnings: Reporting/Approval (Cont.)

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

Part B: Fiscal Detail

APFD: 21513:00:17		AID: 938118		Rev. Code(s): 310		<input type="checkbox"/> Dedicated <input checked="" type="checkbox"/> Non-Dedicated <input type="checkbox"/> Both									
Item	F.Y. 1991			F.Y. 1992			F.Y. 1993			F.Y. 1994			F.Y. 1995		
	Revenues:			As Shown in Biennial Budget			As Shown in Biennial Budget			As Currently Proposed			As Currently Proposed		
	1,387	1,585	1,738	1,754	1,758	1,766	2,127								
Proposed Fee							2								
Total							2,129								
<b>Expenditures:</b>															
Direct	1,017	1,186	1,378	1,501	1,504	1,488	1,548								
Indirect	154	162	234	255	258	377	564								
Total	1,171	1,348	1,612	1,756	1,762	1,865	2,112								
Current Deficit/Excess	216	237	126	(2)	(4)	(99)	17								
Accumulated Excess/Deficit*	330	567	693	691	687	- 594	611								

As necessary, attach detailed schedule/listing of proposed changes in departmental earnings rates.

Agency Signature: *[Handwritten Signature]* 10/1/94

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

