

State of Minnesota
Board of Dietetics and Nutrition Practice

2700 University Avenue West, Suite 103, St. Paul, MN 55114-1087

(612)643-2121

June 1, 1995

Maryanne V. Hruby
LCRAR
Room 55 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1201

Dear Ms. Hruby:

Please find enclosed the Statement of Need and Reasonableness prepared by the Board of Dietetics and Nutrition Practice. This SONAR is for proposed rules relating to Initial Licensure and Fees.

The Notice of Intent to Adopt Rules Without a Public Hearing is scheduled for publication in the State Register Monday, June 5, 1995.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Mickelson".

Laurie Mickelson
Executive Director

**State of Minnesota
County of Ramsey**

**Before the Minnesota
Board of Dietetics and
Nutrition Practice**

In the Matter of Proposed Rules
of the Minnesota Board of Dietetics
and Nutrition Practice Relating to
Initial Licensure and Fees

**Statement of Need and
Reasonableness**

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Board of Dietetics and Nutrition Practice

Statement of Need and Reasonableness

I. Introduction

The Board of Dietetics and Nutrition Practice was created during the 1994 legislative session. One mission of the members of the board is to license those persons meeting the educational and experiential requirements set forth in statute. To effectively process the applications for licensure, clarification of the statutes is needed in rule. The financial structure of regulatory boards is that anticipated expenses are covered by revenue generated by the individual boards. Therefore, the establishment of the proposed fee structure for license application, license registration and license renewal is needed.

II. Statement of the Board's Statutory Authority

Minn. Stat. 148.623 (1994) grants the Board power to make any rules that it may deem necessary to administer and enforce sections 148.621 - 148.633. The purpose of the licensing law for dietetics and nutritionists is clearly the protection of the public from incompetent, unprofessional, and/or unethical practice.

In addition, Minn. Stat. 214.06, subd. 1 (1992) requires the board to establish and adjust any fee that it is empowered to assess a sufficient amount so that the total fees collected will as closely as possible equal anticipated expenditures during the fiscal biennium.

III. Small Business Considerations

Minn. Stat. 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 opportunity for small businesses to participate in the rulemaking process. It is the Board's opinion that Minn. Stat. 14.115 does not apply to this proposed rule, as it should have no impact on small businesses.

However, in the event of disagreement with the Board's position, the Board has reviewed the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the rule on small businesses. The five suggested methods enumerated in subdivision 2 are as follows:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for

small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

As part of its review the Board considered the feasibility of implementing each of the five suggested methods, and considered whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rulemaking.

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

Methods (a) - (c) of subdivision 2 relate to lessening compliance or reporting requirements for small businesses either by (a) establishing less stringent requirement, (b) establishing less stringent schedules or deadlines for compliance with the requirements, or (c) consolidating or simplifying the requirements. Since the Board is not proposing any compliance or reporting requirements for either small or large businesses, it follows that there are no such requirements for the Board to lessen with respect to small businesses. If, however, this proposed rule is viewed as compliance or reporting requirements for businesses, then the Board finds that it would be unworkable to lessen the requirements for those dietitians and nutritionists who practice in a solo or other setting of fewer than 50 employees, since that would include the majority of dietitians and nutritionists covered by the statute. 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 that do not exist. Finally, method (e) suggests exempting small businesses from any or all requirements of the rules. Under the Board's view that these proposed rules do not in any way regulate the business operation of dietitians and nutritionists, there are no rule requirements from which to exempt small businesses. However, if these proposed rules are viewed as regulating businesses insofar as they regulate dietitians and nutritionists, then it would hardly make sense for the Board to exempt from its rule those dietitians and nutritionists who practice in a solo or other setting with fewer than 50 employees, since they constitute the majority of dietitians and nutritionists covered by the statute. For all of these reasons, it is not feasible for the Board to incorporate into its proposed rules any of the five methods specified in subdivision 2 of the small business statute.

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

Pursuant to the Minnesota licensing law for dietitians and nutritionists, Minn. Stat. Chapter 148, the Board was created for the purpose of establishing requirements for licensure and adopting ethical standards governing appropriate practices or behavior for dietitians and nutritionists. Pursuant to Minn. Stat. S 148.623 the Board is empowered to "adopt rules necessary to administer and enforce" the Minnesota licensing law for dietitians and nutritionists.

Given these statutory mandates, it is the Board's duty to establish rules relating to the practice which apply to and govern all applicants and licensees, regardless of the nature of their practice. As it has been stated above, it is the Board's position that the proposed amendment will not affect small businesses, and certainly does not have the potential for imposing a greater impact on dietitians and nutritionists practicing in a large business setting. It has also been explained above that the Board considers it infeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent that the proposed rule may affect the business operation of a dietitian or nutritionist or a group of those persons, and to the extent it may be feasible to implement any of the suggested methods for lessening the impact on small businesses, the Board believes it would be unwise and contrary to the purposes to be served by this rule for the Board to exempt one group of dietitians and nutritionists - indeed, the majority of dietitians and nutritionists - from the requirements of this rule. Similarly, the Board believes it would be unwise and contrary to its statutory mandate for the Board to adopt one set of licensure requirements for those persons who work in a large business setting and adopt another, less stringent, set of licensure requirements to be applied to those persons who practice in a solo or small clinic practice. It is the Board's view that this rule must apply equally to all dietitians and nutritionists, if the public whom they serve is to be adequately protected.

IV. Expenditure of Public Money By Local Public Bodies

The Minnesota Board of Dietetics and Nutrition Practice has reviewed the proposed rules, and find no evidence that the rules would cause the expenditure of public money by any local public body.

V. Impact on Agriculture Lands

The Minnesota Board of Dietetics and Nutrition Practice has reviewed the proposed rules, and find that the subject matter of the rules is not related to agriculture lands.

VI. Statement of Need and Reasonableness

3250.0010 REQUIREMENTS FOR LICENSURE AS A DIETITIAN.

Subpart 1. Generally. This subpart is needed to clarify that each applicant must submit the same application and fee and that the applicant meet one of three sets of requirements for licensure. This subpart is also needed to comply with the requirement of Minnesota Statutes, section 148.625.

Subpart 2. Education and experience. This subpart is needed to clarify the documentation that applicants for licensure must submit.

Item A is needed to verify the applicant's graduation from an accredited school with an appropriate major. It is reasonable to require official transcripts from the institution granting the degree because these institutions can readily prepare such documentation and this prevents the opportunity for tampering.

Item B is needed to verify the minimum experience training requirements for licensure, and that supervisors are qualified individuals meeting set educational standards. It is reasonable because preprofessional experience is commonly part of the required education.

Item C is needed to verify completion of an examination within a specified period of time. It is reasonable in order to test the applicant's current knowledge in the required subject matter.

Subpart 3. National registration. This subpart is needed to verify an applicant's credentials for licensure. It is reasonable because requirements for registration by the Commission on Dietetic Registration are the same as those requirements for licensure in Subpart 2 and also include continuing education for continued registration.

Subpart 4. Applicants holding foreign degrees. This subpart is needed to clarify the documentation that applicants with foreign degrees must submit for licensure.

Item A is needed to verify that foreign education is equivalent to that education required in Subparts 2 and 3. It is reasonable to expect that all applicants for licensure have equal education.

Item B is needed to verify the minimum experience training for licensure, and that supervisors are qualified individuals meeting set educational standards. It is reasonable because preprofessional experience is commonly part of the required education.

Item C is needed to verify completion of an examination within a specified period of time. It is reasonable in order to test an applicant's current knowledge of the required subject.

3250.0020 NUTRITIONIST REQUIREMENTS.

Subpart 1. Generally. This subpart is needed to clarify that each applicant must submit the same application and fee and that the applicant meet one of four sets of requirements for licensure. This subpart is also needed to comply with the requirements of Minnesota Statutes 148.625.

Subpart 2. Education and experience. This subpart is needed to clarify the documentation that applicants for licensure must submit.

Item A is needed to verify that an applicant has a postgraduate degree from an accredited school with an appropriate major. It is reasonable to require official transcripts from the institution granting the degree because these institutions can readily prepare such documentation and this prevents the opportunity for tampering.

Item B is needed to verify the minimum experience training requirements for licensure, and that supervisors are qualified individuals meeting set educational standards. It is reasonable because preprofessional experience is commonly part of the required education.

Subpart 3. National registration. This subpart is needed to verify an applicant's credentials for licensure. It is reasonable because requirements for registration by the American Board of Nutrition are the same as those requirements for licensure in Subpart 2.

Subpart 4. Applicants petitioning for independent review. This subpart is needed to clarify the documentation that applicants for licensure must submit.

Item A is needed to verify education for those applicant's who have not completed the traditional courses of education. It is reasonable that individuals may have appropriate education background without a degree being granted in a generally accepted major.

Item B is needed to verify the minimum experience training requirements for licensure, and that supervisors are qualified individuals meeting set education standards. It is reasonable because preprofessional experience is commonly part of the required education.

Subpart 5. Applicants holding foreign degrees. This subpart is needed to verify the documentation that applicants with foreign degrees must submit for licensure.

Item A is needed to verify that the applicant's foreign education is equivalent to that education required in Subparts 2, 3. It is reasonable to expect that all applicants for licensure have equal education.

Item B is needed to verify completion of experience training within a specified period of time and that supervisors are qualified individuals meeting set education standards. It is reasonable because preprofessional experience is commonly part of the required education and the applicant's need for current experience training.

3250.0030 TRANSITION PERIOD REQUIREMENTS.

Subpart 1 Dietitian requirements. This subpart is needed to clarify, for a limited period of time, that each applicant must submit the same application and fee and that the applicant meet set requirements for licensure. This subpart is also needed to comply with the requirements of Minnesota Statutes, section 148.625.

Item A is needed to verify an applicant's education background. Both registration with the Commission on Dietetic Registration and a degree require equal education study. It is reasonable to require a notarized copy of the applicant's registration card to prevent the opportunity for applicants to tamper with a registration card. The alternate requirement of an official transcript is reasonable in that an institution can readily prepare such documentation and this prevents the opportunity for tampering.

Item B is needed to verify current practice capability. It is reasonable to expect that applicants have been actively working in the field of dietetics and that verification of this is attainable by the applicant.

Subpart 2 Nutritionist requirements. This subpart is needed to clarify, for a limited period of time, that each applicant must submit the same application and fee and that the applicant meet set requirements for licensure. This subpart is also needed to comply with the requirements of Minnesota Statutes, section 148.625.

Item A is needed to verify both educational background and practice competency. It is reasonable to require official transcripts in that an institution can readily prepare the necessary document and this prevents the opportunity for tampering. It is reasonable to expect that applicants have been actively working in the field of nutrition and that verification of this is attainable.

Item B is needed to verify education and practice competency. It is reasonable to require a notarized copy of the applicant's certification as a clinical nutritionist to prevent the opportunity for applicants to tamper with a certification document. It is reasonable to expect that applicants have been actively working in the field of nutrition and that verification of this is attainable.

Item C is needed to verify education and current practice competency. Certification as a nutrition specialist requires equal education as required in Items A. It is reasonable to require a notarized copy of certification from the Board of Nutrition Specialists to prevent the opportunity for applicants to tamper with a certification document.

3250.0040 INITIAL LICENSING.

This part is needed to clarify the scheduled dates for board action regarding granting of licensure to applicants and deadline dates for filing applications with the board. It is reasonable that the board establish specific months in which it will review applications for licensure. It is also reasonable that applicants may select a month for licensure and provide all necessary

material in a timely manner.

3250.0050 FEE SCHEDULE

Subpart 1. Application fees. This subpart is needed to set the application fees for the various means of application for licensure. It is reasonable that fees are set so that an applicant may choose which mode of practice to pursue through application.

Subpart 2. Licensing fee. This subpart is needed to establish a fee for the initial licensing period for an individual. It is reasonable for each applicant to pay an initial licensing fee to cover the expenses of the board relating to this person's license for the first year of issuance.

Subpart 3. License renewal fee. This subpart is needed to set the annual renewal deadline date and establish a license renewal fee and late penalty fee. This subpart is also needed to comply with the requirements of Minnesota Statutes, section 148.62, subdivision 4. It is reasonable to require that licensees apply for license renewal on an annual basis. This provides the board an opportunity to review each licensee for competent practice. It is also reasonable that applicants for license renewal submit applications in a timely manner, thereby eliminating the need for further correspondence from the board.

The Minnesota Board of Dietetics and Nutrition Practice, according to MN Stat. 214.06, Subd.1 and 2, has authority to establish any fee which the board is empowered to assess.

With the creation of the board, and legislative appropriation of operational funds the board finds it necessary to establish fees in order to collect fees to closely as possible equal anticipated expenditures for fiscal year 1995 and the biennium 1996-97.

Repayment of expenses incurred in fiscal year 1995 will be prorated over a period of five years. This amount plus the anticipated expenses for the biennium 1996-97 determined the fee structure, set forth in the proposed rules.

VII. Department of Finance Approval

The proposed fee structure has been submitted to and approved by the Department of Finance. Evidence is attached.

Date:

June 2, 1995

Laurie Mickelson


Laurie Mickelson
Executive Director

Office Memorandum

Department: of Finance

Date: May 5, 1995

To: Laurie Mickelson, Executive Director
Board of Dietetics and Nutrition Practice

From: Michelle Harper 
Budget Operations

Phone: 296-7838

Subject: Departmental Earnings Rate Change Response-Establishing Various Fees

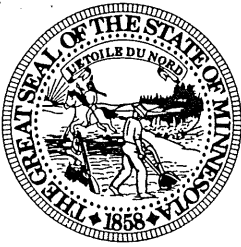
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MAY 09 1995

MINNESOTA BOARD OF
DIETETIC & NUTRITION PRACTICE

Pursuant to provisions of M.S. 16A.1285, the Department of Finance has reviewed and approved the attached departmental earnings proposal submitted by the Board of Dietetics and Nutrition Practice on 4/18/95. If you have any questions or concerns, please call me at the above number.

cc Bruce Reddemann



State of Minnesota
Board of Dietetics and Nutrition Practice

2700 University Avenue West, Suite 103, St. Paul, MN 55114-1087

(612)643-2121

OFFICE MEMORANDUM

TO: Dwight Pederson, Executive Budget Officer
Department of Finance

FROM: Laurie Mickelson
Executive Director

LAM

DATE: April 18, 1995

SUBJECT: Request For Fee Approval

The Board of Dietetics and Nutrition Practice (BDNP) requests Department of Finance review and approval for the establishment of a fee structure for the initial licensing of dietitians and nutritionists in the State of Minnesota. MN Stats. 148.623, 148.624, Subd. 1, 2, 4, 148.625 provide statutory authority for fees to be established by the board in rule.

The BDNP was created by the 1994 legislature, and that legislation became effective August 1, 1994. The BDNP is prepared to begin the initial licensing process by August 1, 1995. Since the board will be collecting both application fees and licensing fees in FY 96, thereby generating an excess over anticipated expenditures and the required one fifth (1/5) repayment of FY95 expenses, the board will be in a position to repay FY95 expenses in advance of the due date.

WJL

Departmental Earnings: Reporting/Approval

Part A: Explanation

Earnings Title: Board of Dietetics and Nutrition Practice	Statutory Authority: MN Stat. 148.625 MN Stat. 148.624, subd. 1,2,4,	Date: April 20, 1995
Brief Description of Item: Application Fee, License Fee, Renewal Fee, Late Penalty Fee		
Earnings Classification (check one): 1. <input type="checkbox"/> Service/User 2. <input type="checkbox"/> Business/Industry Regulating 3. <input checked="" type="checkbox"/> Occupational Licensure 4. <input type="checkbox"/> Special Tax/Assessment 5. <input type="checkbox"/> Other (specify):		
Submission Purpose (check one): 1. <input checked="" type="checkbox"/> Chap. 14 Review and Comment 2. <input type="checkbox"/> Approval of Allowable Inflationary Adjustment 3. <input type="checkbox"/> Reporting of Agency Initiated Change in Departmental Earnings Rate 4. <input type="checkbox"/> Other (specify):		
If reporting an agency initiated action (option 3 above), does agency have explicit authority to retain and spend receipts? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, cite pertinent statutes:		
Impact of Proposed Change (For rate changes included in the biennial budget, reference page number. For rate changes not included in the biennial budget, reference authority to make such changes.) The BDNP is establishing a fee structure for licensing of dietitians and nutritionists. The fees have been set to cover proposed expenditures of the Board for FY's 96-97 and 1/5 or more of the expenses for FY 95. Licensing for this Board was effective August 1, 1994.		
Current Unit Rate(s): not applicable (new board)	Proposed Unit Rate(s): See attachment	

Department of Finance

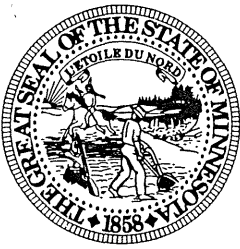
Departmental Earnings: Reporting/Approval (Cont.)

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

Part B: Fiscal Detail

APID: 21515:0017		AID: 938613		Rev. Source Code(s): 310		<input type="checkbox"/> Dedicated <input checked="" type="checkbox"/> Non-Dedicated <input type="checkbox"/> Both	
Item	F.Y. 1993	F.Y. 1994	F.Y. 1995	F.Y. 1996 As Shown in Biennial Budget	F.Y. 1997 As Shown in Biennial Budget	F.Y. 1996 As Currently Proposed	F.Y. 1997 As Currently Proposed
REVENUES:							
BDNP				106	83	125	80
EXPENDITURES:							
Direct			41	63	64	63	64
Indirect			11	12	16	12	16
Total			52	75	80	75	80
Current Deficit/Excess			<52>	31	3	50	0
Accumulated Excess/Deficit*			<52>	<21>	<18>	< 2>	< 2>
Agency Signature: <i>(See attached memo)</i>					Executive Budget Officer: <i>D. W. ...</i>		
					Approval Date: <i>5/5/97</i>		

* F.Y. 1993 beginning accumulated balance to include amount of accumulated excess/deficit (if any) carried forward from F.Y. 1992. As necessary, attach detailed schedule/listing of proposed changes in departmental earnings rates.



State of Minnesota
Board of Dietetics and Nutrition Practice

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ATTACHMENT TO: Departmental Earnings: Reporting/Approval

Proposed Rates:

Application fees:

nutritionist or dietitian by petition	\$200
nutritionist	\$175
dietitian without registration by the Commission on Dietetic Registration	\$175
dietitian with registration by the Commission on Dietetic Registration	\$100

Licensing fee:

initial licensing	\$150
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License renewal fee:

annual renewal fee	\$150
late renewal penalty	\$ 50