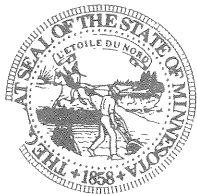


DEC 15 1995



STATE OF MINNESOTA  
BOARD OF NURSING

2700 University Avenue West • Suite 108 • St. Paul, Minnesota 55114 • (612) 642-0567

MN Relay Service For Hearing/Speech Impaired: (612) 297-5353 or 1-800-627-3529 • Fax: (612) 642-0574

December 11, 1995

Maryanne V. Hruby, Executive Director  
Legislative Commission to Review Administrative Rules  
55 State Office Building  
St. Paul, MN 55155

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, section 14.23, enclosed please find a copy of a Statement of Need and Reasonableness for rules the Board intends to adopt. The rules pertain to nursing program approval and fees.

For your information I have also enclosed a copy of the Notice of Intent to Adopt Rules Without a Public Hearing and a copy of proposed rules in this matter.

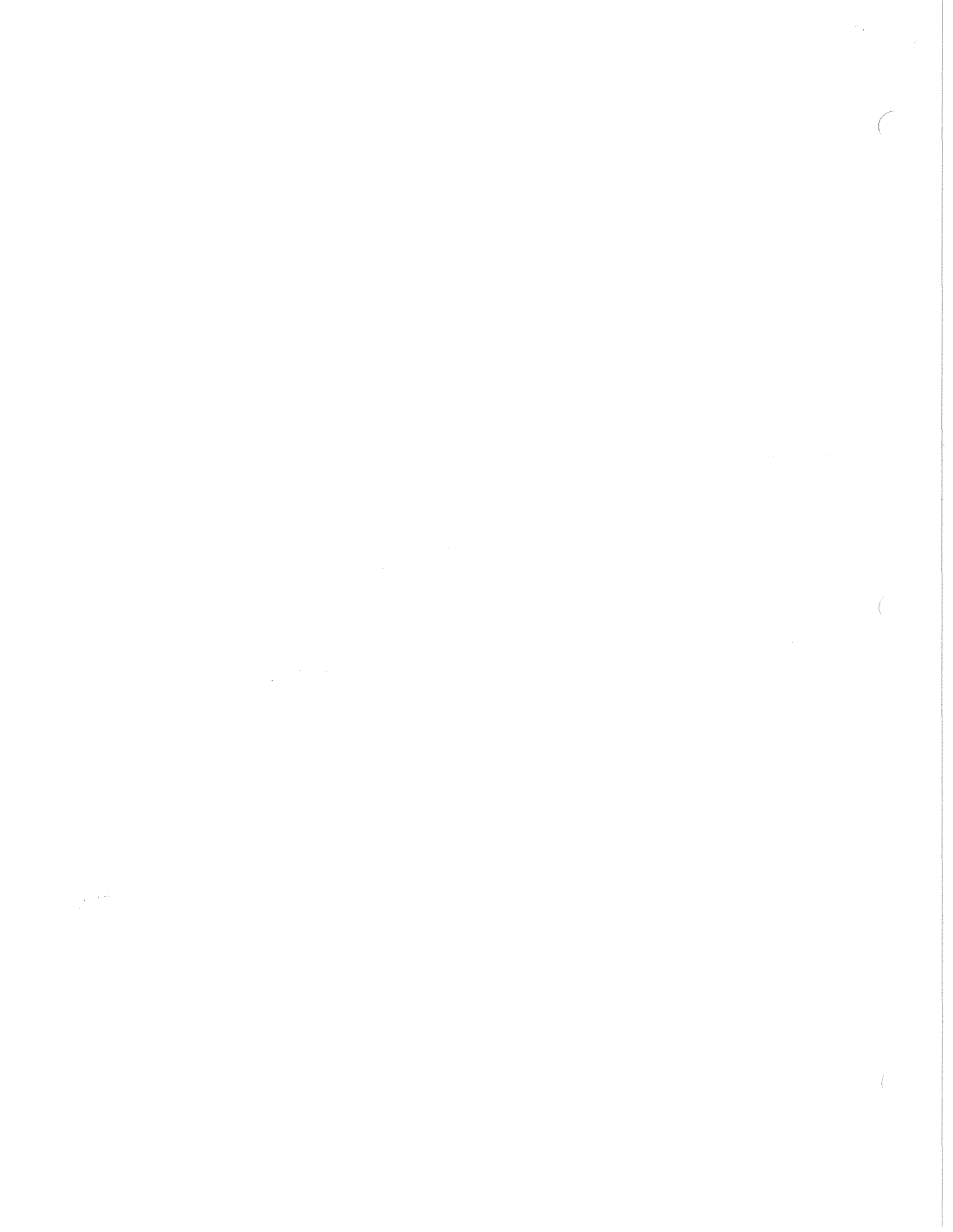
If you have any questions, please contact me at (612) 642-0549.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joyce M. Schowalter".

Joyce M. Schowalter  
Executive Director

JMS:kmr  
Enclosures (3)



STATE OF MINNESOTA

BEFORE THE

COUNTY OF RAMSEY

MINNESOTA BOARD OF NURSING

In the Matter of the Proposed  
Adoption of Rules of the  
Board of Nursing Governing  
Approved Nursing Programs,  
Licensure and Registration  
Renewal Fees and the Service  
Charge for a Dishonored Check

STATEMENT OF NEED AND  
REASONABLENESS

#### Introduction

These proposed rules address two issues: providing an exemption from certain Board of Nursing (Board) rules for approved nursing programs and fees.

Changes in the health care system today make it necessary for educational programs which prepare persons for licensure either as a registered nurse or licensed practical nurse to adapt quickly to those changes, yet continue to prepare safe, competent and ethical nurses. In April, 1995, the Board joined the National League for Nursing in a project to develop a model for change and model curricula and to identify legal barriers to implement recommended changes. In October, 1995, the Board became part of a request for a Robert Wood Johnson grant called "Colleagues In Caring: Regional Collaboratives for Nursing Work Force Development." One objective of the grant request is the examination of the existing nurse practice act and recommendation of any necessary changes. In order for nursing programs to change and meet the needs of today's health-care workforce the Board has recognized the need to remove obstacles to planned change. By proposing this new rule the Board is attempting to be proactive and remove barriers for nursing programs ready to respond to community concerns.

Minnesota Statutes, Section 214.06 subdivision 1 requires all health-related licensing boards to adjust any fee which the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during a fiscal biennium. The Board of Nursing, therefore, must make such adjustments whenever revenues anticipated from existing fees are insufficient for actual or anticipated expenditures. The proposed fee changes are presented for the purpose of reaching the required balance of income and expenses.

#### Statutory Authority

The authority for the Board to establish rules and assess fees is found in Minn. Stat., sections 148.191 subdivision 2, 148.211 subd. 1 and 2, 148.231 subd. 1, 148.251 subd. 1, 214.06 and 332.50 subd. 2(d).

## 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) (1992) 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), (b), and (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 business, 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.

#### Agricultural Land Impact

Promulgation of the proposed rules will not have an impact on agricultural land. Therefore, no further information need be provided under Minnesota Statutes, section 14.11, subdivision 2 (1994).

#### Cost to Public Bodies

Promulgation of the proposed rules will not cause the expenditure of public money by any local public body. Therefore, no further information need be provided under Minnesota Statutes section 14.11, subdivision 1 (1994).

#### Rule Analysis

##### 6301.0810 Experimental Programs; Exemption from Certain Rules

This is a time of rapid social change. Nursing has not gone unaffected by these changes. Two particular dimensions of this social change that have had direct impact on nursing are in the health care delivery and education systems.

Health care delivery has moved from primarily acute care centers into community settings. In this process, nurses are beginning to be cast in roles that are more independent from other health care providers. In addition, the expectation continues that nurses be members of interdisciplinary health care teams.

Leaders in nursing in Minnesota are responding to these changing expectations for nurses in the health care delivery system with the previously referenced nursing projects. Very basic questions about the nature of nursing as a profession are being addressed. Questions about education for this new nurse will follow. Specific objectives of the National League for Nursing project are to develop:

- a model for change within Minnesota;
- a model curriculum(a) including clinical experiences; and
- model relationships between schools of nursing, the Board of Nursing and other regulatory bodies.

It is expected that the results of this project will be far reaching in terms of defining the practice of nursing and nursing education.

A second systemic change affecting nursing in Minnesota is in education. With the merger of the state colleges and universities, two realities will affect the structure of nursing education: the change to semesters and the requirement for articulation between levels of nursing programs.

Minnesota has 45 approved nursing programs: 24 licensed practical nurse (one year), 12 associate degree (two year) and 9 baccalaureate programs (four year) which prepare graduates for licensure. There are additionally baccalaureate programs that accept only licensed nurses as well as graduate programs preparing nurses for advanced practice. These are not regulated by the Minnesota Board of Nursing.

Changing from a quarter to a semester system will require a re-structuring in the way a nursing program is delivered. The requirement for statewide articulation wherein a nurse may pass through the levels of education without repeating the material previously taught will require statewide planning and cooperation. In an articulated system each succeeding level builds on the previous knowledge as the foundation for new learning. This articulation requirement may also result therefore in the necessity to restructure the delivery of nursing programs.

Within this backdrop of change affecting the role of the nurse and nursing education, barriers to designing an appropriate response to change must be eliminated. It is perceived by nursing educators and regulators that certain Minnesota program approval rules provide an impediment to innovation in response to this change. It is necessary to remove these regulatory barriers to achieving desired outcomes in the emerging systems.

It is reasonable to remove barriers by providing exemptions from certain rules perceived as barriers to change for programs of experimental design. Removing these barriers will enable major innovation in nursing programs. However, these proposed exemptions to certain rules deal only with those rules that define the educational process that prepares graduates for licensure. Programs will continue to be expected to educate graduates who are generalists in nursing, who are able to pass the licensing examination, and who are prepared to practice safely, competently and ethically to the full scope of practice as defined in Minnesota Statutes 148.171 paragraphs 3 or 5.

**Subpart 1. Eligibility for Exemption.** It is necessary to set criteria for who may apply for the exemption so nursing programs and the Board use the same guidelines for determining eligibility for the exemption. It is reasonable that the criteria continue to enforce compliance with MN Statute 148.251 which defines requirements for nursing programs.

All nursing programs that prepare graduates to practice professional nursing or to practice practical nursing must be approved by the Minnesota Board of Nursing. Approval and renewal of approval are based on compliance to the rules established by the Board. All 45 nursing programs in Minnesota have Board approval. No program currently approved has had Board approval terminated.

It is necessary to set parameters for which programs may apply for exemption to ensure that only a program meeting Board established standards be enabled to take uncharted approaches to designing and implementing its nursing program. It is reasonable that any new proposed programs applying for initial Board approval must follow already demonstrated approaches to designing a nursing program.

Program approval rules allow flexibility as to how each program chooses to comply with requirements. It is necessary, however, to go beyond flexibility

to allow for a paradigm change in a nursing program. It is reasonable that only a nursing program envisioning such major change be granted the exemption . . . a program contemplating smaller change can be accommodated within the flexibility of the established program approval rules.

It is necessary to provide some guidelines for the scope of anticipated change in a nursing program for clarification to program directors. It is reasonable to identify some examples of paradigm change for greater clarity.

The rules for which an eligible program is granted exemption are those that regulate the process of education. This exemption will remove barriers to innovation while still holding programs to the same standards of accountability for preparing graduates for licensure and to practice to the full scope of nursing as defined in statute.

A nursing program will continue to admit cohorts of students during the planning time for the experimental program. Because the experimental program will have many changed elements, it is necessary to safeguard the success of the program being phased out. Therefore it is necessary to set a time limit from the granting of exemption from certain rules to the implementation of the experimental program to encourage experimental program implementation in a timely fashion. This will be a safeguard for already admitted cohorts. An eighteen month planning time is reasonable because it allows time to accommodate varying teaching loads and leaves of absence for faculty members who have planning responsibilities for the experimental program.

**Subpart 2. Exemption.** It is necessary to specify the rules from which a program is exempted to provide clarity to the program directors. It is reasonable that they be informed in advance what the exemptions will be. Having this information will reduce ambiguity about the nature of the exemption. Because the exemption will remove barriers to innovation, it is reasonable that program directors be notified in advance which rules will be exempted to inform their innovation decisions.

Each rule proposed for exemption will be discussed. Compliance with all other program approval rules will continue to be required.

#### **6301.0800 Rule Compliance Survey**

This rule specifies that nursing programs are to be surveyed by the Board for compliance with applicable program approval rules. Further, it specifies the conditions under which a program is to be surveyed. The purpose of the survey is to document whether or not a program is in compliance with applicable rules. It is this survey that is used to determine whether Board approval is to be granted, renewed, denied or terminated.

Some of the school approval rules are considered by directors of nursing programs to be barriers to innovation. It is the purpose of this exemption to remove the requirement of compliance with these rules defined as barriers.

A program eligible for the exemption will be required to submit an application for exemption as specified in Subpart 3, and an annual report on the status of the experimental program. Additionally the program



director will continue to attest to compliance with all remaining applicable rules. These combined requirements will result in greater surveillance of the experimental program than for the currently approved program.

Because a program that is granted an exemption from certain rules may be scheduled for a rule compliance survey during the period of exemption, it is necessary to determine whether a survey is appropriate. It is reasonable that a nursing program not be expected to maintain two different sets of standards, one for experimental programs and one for currently approved programs. Also, the reporting requirements for the experimental program granted the exemption from certain rules are more stringent than those required for currently approved programs. This will make possible greater Board oversight of the experimental program. It is reasonable that the requirement for a Board survey be exempted for an experimental nursing program because the information will be available in other required reports to the Board.

**6301.1300 Subpart 1. Faculty Responsibility.** This rule defines faculty responsibility. It specifies that only the director and faculty members who are registered professional nurses may teach and evaluate student understanding of nursing theory and practice.

Historically, nurses have defined the practice of nursing, which has then been taught by nurses. With the changing role of the nurse, other voices beyond nurses' need to be heard. What does the present consumer of health care need that nursing can provide?

The present rule allows only nursing faculty members to teach nursing. This can present barriers to a more broad perspective in the process of nursing education. It is necessary to remove these barriers to those who may teach nursing for an experimental program.

It is reasonable to think that some non-faculty members or non-nurses may be even more qualified than nurse faculty members to teach and evaluate student understanding of some portions of the program. It is reasonable also that recipients of care, representatives from groups in the population, non-nurse professionals, or technologies may be used to enhance student understanding of nursing theory and practice.

**6301.1300 Subpart 2B. Faculty Qualifications.** This rule specifies the requirement that nurse faculty members must successfully complete at least ten hours of educational preparation in principles and methods of evaluation.

The purpose of this rule is to prepare nurse faculty members to evaluate the abilities listed in 6301.1800-6301.1900. These abilities are included in this exemption. It is necessary to include this rule exemption to be consistent with the exemption of 6301.1800-6301.1900, Nursing Abilities to be Evaluated.

When re-designing a nursing program it is certain that some expertise will be sought outside nursing. To make the material ones own in order to evaluate and integrate it, nurses will need to seek new opportunities for

new kinds of learnings. Since the rule exemptions will not change required outcomes, it seems reasonable to avoid prescribing new learnings the faculty and non-faculty educators must have.

#### **6301.1500 Student Clinical Activities**

MN Statute 148.251, subdivision 1, paragraph (1) states that an institution desiring to conduct a nursing program shall submit evidence that "it is prepared to provide a program of theory and practice in professional or practical nursing that meets the program approval standards adopted by the Board."

These proposed exemptions do not exempt a nursing program from these requirements of providing a program of theory and practice. MN Rule 6301.1500 specifies the categories of clinical activities in which each student must participate. These activities are primarily acute care centered. With the changing health care delivery system, much care is provided outside the acute care setting. Indeed, many program directors report difficulty in finding traditional clinical opportunities for each student in each required clinical area. This is related in part to the increase in ambulatory care, the decreased lengths of stay in acute care centers, and the move to community based care delivery.

It is necessary to remove the specific structure of required clinical experiences for students to more adequately reflect the current health care delivery system. It is reasonable to remove these barriers to enable the student to gain experience in varied clinical settings where together the whole continuum of care is delivered. It is reasonable to provide students with clinical learning experiences that reflect the settings in which they are likely to practice as licensed nurses.

To prepare the graduate to practice where most care is being provided, it is necessary to remove barriers to more expansive clinical activity for student learning and evaluation.

Additionally, this rule requires experience with "patients" in each specified category. It is necessary to remove this outdated conceptualization of the recipient of nursing care. Consumers of nursing services are not only "patients", but well persons, families and communities. It is reasonable that the experimental program should design student interactions with clients in innovative ways.

#### **6301.1600 Evidence of Student Clinical Activities**

This rule specifies the documentation requirements for the above clinical activities.

It is necessary to exempt an experimental program from documenting compliance with Rule 6301.1500 because a program granted an exemption to certain rules is exempted from MN Rule 6301.1500. It is reasonable to allow a program experimenting with clinical activity structures to also experiment with the documentation of these activities.

#### **6301.1700 Clinical Settings**

This rule states that registered nurse faculty members must be responsible for determining clinical learning activities and for guiding and evaluating students in that setting.

This rule is a further elaboration of MN Rule 6301.1300 Subp. 1 which states that only the director and faculty members who are registered professional nurses teach and evaluate student understanding of nursing theory and practice.

As stated in the Statement of Need and Reasonableness from MN Rule 6301.1300 subpart 1, it is reasonable to allow a greater variety of teachers of theory and of practice. It is necessary to include this rule in the exemption to be consistent with the exemption of Rule 6301.1300 subpart 1.

#### **6301.1800 Nursing Abilities to be Evaluated**

Each subpart in the rule is a nursing ability considered essential to the practice of practical and of professional nursing as delivered primarily in an acute care setting. Abilities are an elaboration of the nursing process found in the definitions of professional and practical nursing in Minnesota Statutes 148 (3) and (5). These abilities reflected the needs of the workplace in 1983 when these rules were written.

With the rapidly changing health care delivery system, required nursing abilities are evolving. It is assumed that they are not yet all identified. It is hoped that a visionary experimental nursing program will provide some elaboration of the emerging role of the nurse.

Requiring that programs continue to evaluate student abilities as identified in 1983 presents a barrier to the identification and evaluation of nursing abilities for the contemporary health care delivery system.

It is necessary to allow experimental programs to be exempted from the evaluation of these abilities to enable an exploration and identification of elements of nursing practice in the current workplace.

It is reasonable to grant this exemption since many program directors report difficulty in finding experiences for all students for each of these abilities. If they are no longer a common part of nursing practice, it is reasonable to exempt programs preparing nurses for the future from the evaluation of these abilities.

#### **6301.1900 Additional Professional Nursing Abilities to be Evaluated**

These abilities are those required of the professional nurse only and represent more comprehensive nursing care than the care delivered by either a licensed practical nurse or professional nurse.

Within this changing health care delivery system, it is essential that it is the role of the professional nurse that will be the nursing role most transformed. It is the professional nurse who is educated to assess the client - whether a individual, family, community - and determine the needs which nursing can help to meet.

It is necessary to remove the evaluation of abilities identified as appropriate to the professional nurse in 1983 when these rules were written to enable a contemporary nursing program to be more visionary in its identification of essential nursing abilities. It is reasonable to

encourage creative innovation in the role of the professional nurse since this is a major purpose of the experimental program design.

#### **6301.2000 Preparation for Evaluation**

This rule specifies the form the documentation of the evaluation of nursing abilities in 6301.1800 and 6301.1900 must take.

Since Rules 6301.1800 and 6301.1900 are included in the rules for exemption, it is necessary to exempt an experimental program from their documentation to provide consistency in rules.

It is reasonable to remove restrictions in documentation to enable a program to devise a documentation system that represents its evolving program. It is reasonable, as a program has greater freedom in program design, to also have greater freedom in the documentation of students' nursing abilities.

#### **6301.2100 Evaluation of Nursing Abilities**

This rule specifies that each student must be evaluated for the applicable nursing abilities in 6301.1800-6301.1900 and specifies what constitutes appropriate evidence of this evaluation.

Again, because this rule refers to 6301.1800-6301.1900, and since those rules are part of the exemption from certain rules, it is necessary to include this rule in the exemption in order to keep the rules consistent. It is reasonable to allow a program to design not only the experimental program, but also the evidence of documentation of students' nursing abilities.

#### **6301.2200 Evaluation of Combining Nursing Categories**

This rule requires that each student be evaluated for the ability to combine categories of nursing practice into a coordinated, interrelated performance of nursing actions. That is, the categories of abilities from 6301.1800-6301.1900 are to be combined.

If the evaluation of nursing abilities is to be exempted as indicated above, for rule consistency, it is also necessary to exempt the combining of these abilities. It is reasonable to enable a program to define, evaluate nursing abilities and document this evaluation as is appropriate to the changing workplace.

Present program approval allows for flexibility within compliance with the rules. Nursing programs that anticipate changing their programs within the parameters set by the program rules do not need to apply for an exemption from certain rules. Only programs that are planning a major paradigm shift are eligible to apply for this exemption.

It is necessary to provide the eligible experimental program with the possibility for the widest scope of change that will enable it to be visionary in the preparation of graduates who are prepared to the full definition of professional or of practical nursing. It is reasonable that change of lesser nature stay within compliance with program approval rules. It is further reasonable that an experimental program be provided the exemption from all reasonable barriers to this process of paradigm change.

To encourage programs of truly experimental nature, it is reasonable not to grant only partial exemptions. Change of lesser nature in a program does not require an exemption from present rules that do in fact allow for flexibility in compliance with the rules.

**Subpart 3. Application for Exemption.** Because of the broad scope of the proposed exemptions, to maintain oversight of an experimental program to ensure continued public protection, it is necessary for the Board to obtain materials about the proposed program for evaluation prior to granting an exemption from certain rules. Requiring that the application be submitted thirty calendar days prior to the Board meeting when the exemption can be expected to be granted is necessary to assure time for printing and mailing the application to Board members for evaluation prior to taking action at the meeting. It is necessary to specify the elements of the application for exemption for clarity in expectations to enable an informed decision about the application.

A. MN Statute 148.251, subdivisions 1 and 3 state that for initial approval "an institution desiring to conduct a nursing program shall apply to the Board and submit evidence that it is prepared to provide a program of theory and practice in professional or practical nursing that meets the program approval standards adopted by the board . . . from time to time as deemed necessary by the board . . . (the Board shall) survey all nursing programs in the state. If the results of the survey show that a nursing program meets all board rules, the board shall continue approval of the nursing program."

It is necessary to have a statement about how the proposed experimental program will comply with MN Statutes 148.251, subdivisions 1 and 3. Because the rules that provide most regulatory oversight to programs are those being exempted, there needs to be assurance that the program will continue to meet statutory requirements. It is reasonable that this statement to the Board be a description of how the experimental program will fulfill statutory obligations.

B. Because the program as currently delivered has Board approval, it is necessary to have a description of at least some of the corresponding elements of the proposed experimental program as a basis for deciding whether a program is eligible for the exemption from rules considered a barrier to innovation. Again, because of outcomes in terms of licensure, with expectations for the graduate to practice nursing to the full scope as defined in statute, it is necessary that the program provide this information to the Board for decision making. It is reasonable to include general statements of "description of the experimental program" to avoid pre-defining the required data elements which could be barriers to creative thinking.

C. Because it is expected that cohorts of students will continue to be admitted to the approved program while the experimental program is being designed, and because faculty time is finite, it is reasonable to assume that there will be indirect effects on the approved program. It is reasonable to assume that the approved program will maintain the status quo while the major changes of the experimental program are being designed, not making smaller changes which would otherwise be made if barriers to experimentation continued.

It is necessary to request the experimental program to provide a time-line to assure a timely implementation of the experimental program. Because there will presumably be students for the currently approved and experimental programs in successive cohorts, it is reasonable to require the program to consider how the experimental program will impact on current students.

D. With granting this rule exemption to certain rules, the requirement of compliance with these rules is removed. To compensate for the removal of certain rules it is necessary that the program predetermine at least some of

the evaluation components for the program. Because of the experimental nature of the program, it is necessary to assess employer satisfaction with the graduates of the experimental program to document that its graduates are able to practice up to the full statutory definition of professional or of practical nursing. It is reasonable to expect changes in the program based on relevant employer feedback.

E. As a nursing program designs its plans for change, an ingredient must include the length of time that is required to plan, implement, evaluate and change the program. Depending on the nature and length of the experimental program, this time frame may have considerable variation. However, to put parameters on the program to keep on schedule, it is necessary for the program to define its time period for the complete project. It is reasonable that setting parameters be the responsibility of the experimental program because it is a critical element in the program design. It is necessary to permit broad variation in time requirements among programs.

F. Occasionally information in any application may not be entirely clear and complete. At times information that is provided raises questions not addressed in an application. It is necessary for the Board to have authorization to request additional information to enable it to determine a program's eligibility for the exemption from certain rules. It is reasonable to request the experimental program to provide other relevant information to the Board that the Board deems necessary to determine a program's eligibility.

**Subpart 4. Granting Exemption.** It is necessary to specify how the decision on granting the exemption to certain rules is to be determined. This will provide clarity for the program director and for Board members. It is reasonable that a program that has submitted a complete application that demonstrated eligibility for the exemption be granted the exemption. No additional information is necessary.

It is reasonable to allow differing periods of time for the exemption from certain rules because programs vary in length, the planning stage may vary and responding time for employer feedback may vary. It is necessary to indicate the length of time of the exemption for clarity.

It is reasonable that programmatic change requiring less than one year be made within the parameters of the existing program approval rules. Only programs planning major change are eligible for this exemption.

It is further reasonable to grant up to eight years of exemption. Programs require planning time which includes the necessity of having the experimental program detailed in the college catalogue. Most colleges print new catalogues only every second year with its contents established up to one semester before being sent to the printer. Depending on whether a college is in the first or second year of a catalogue can add to the time period after the exemption is granted but before the program can be implemented.

Programs vary in length. Also the stage in the students' academic career when admitted to the nursing program may vary. For a baccalaureate program that may consider restructuring its program beginning with the first year students, it would be four years before the first students are graduated from the experimental program. Graduates must apply, be scheduled, take and pass the licensing examination before seeking employment as a licensed nurse. The licensed nurse must find employment and be employed for a period that is long

enough for the employer to make a valid assessment of the performance of that nurse. The program will receive the assessment of performance for its graduates, make decisions about relevance for programmatic change, then implement the change. Feedback on the change would then be solicited.

It is reasonable that this process could potentially require eight years. During this period, the experimental program would be providing the Board with annual reports as outlined in Subpart 5. These reports are much more extensive than those required of approved programs not seeking the exemption from certain rules.

**Subpart 5. Board monitoring of programs.** To assure continued public protection and Board approval, it is necessary that the experimental program provide the Board with an annual update of the program. An annual affidavit of compliance to all applicable rules is required of all Board approved programs. It is necessary that the program with exemptions to certain rules provide detailed summary of the implementation of the program since no systematic outcome indicators are available. It is reasonable that the annual report be an update to all the elements in the original application for exemption. Additionally it is reasonable for the program to indicate changes planned for the next year to ascertain continued eligibility for the exemption and continued Board approval. It is reasonable that this annual report contain a statement of compliance with the remaining applicable rules in Chapter 6301 as is required of all Board approved programs.

Currently, a program that is in compliance with all applicable rules is granted renewal of Board approval after a survey. Because of the exemption to rule 6301.0800 Rule Compliance Survey, the experimental program will not be surveyed. Instead the director of an experimental program will attest to compliance with all applicable rules and provide the annual report as an update to the application for exemption. This will allow for closer monitoring than is used for programs not exempted from certain rules. This closer monitoring is reasonable because of the experimental nature of the program and the expansiveness of the rules from which experimental programs are exempted.

**6305.0500 Requirements for Licensure Without Examination**  
**Subpart 3. Fee.**

The fee for licensure without examination has not changed since January 1, 1987. The current amount, \$55, no longer reflects the amount of staff work necessary to process an application. Processing involves review of documents, communication with the applicant, former employers and other state boards of nursing. Permits are usually issued, involving more processing and communication. As staff and supply costs have risen, the cost of interstate endorsement has risen.

Last year, calendar 1994, 847 registered nurse and 159 licensed practical nurse applications were reviewed and approved. The numbers vary each year with a combined RN-LPN total of 1765 in 1989 and a combined low of 906 in 1992.

The amount of \$80 is reasonable for several reasons, primarily because it assures that costs will be covered. But also, making the fee the same as the fee charged for licensure by examination simplifies the processes for staff and eliminates one source of error, that is, accepting the incorrect amount from an applicant.

In 1994, the last year national data are available, 34 of the boards licensing RNs and 29 of the Boards licensing LPNs had an endorsement fee of \$55 or higher. RNs licensed by six boards and LPNs licensed by seven boards paid \$80 or above. At that time the Minnesota fee was \$55. The 1994 endorsement fees for surrounding states are:

Iowa	\$78
North Dakota	\$75
South Dakota	\$75 RN, \$50 LPN
Wisconsin	\$50

**6310.3600 Registration Fees**

**Subpart 1. Amount.**

A. **Registration renewal.** The registration renewal fee will be increased from \$50 to \$55 per two year registration period. The increase is necessary to meet anticipated expenses in Fiscal Years 1996 and 1997. Increased costs during these years include services from the Attorney General's office and the Administrative Services Unit, a support unit jointly funded by the 13 health-related licensing boards, and the agency's computer project.

The amount of the increase is reasonable because it covers expenses and reduces the accumulated balance. The renewal fee is the lowest of all the Minnesota health-related licensing boards.

In 1994, the last year national data are available, about half of the boards of nursing around the country had renewal fees of \$35 or more. Twelve boards had renewal fees \$55 or higher for RNs and 10 boards had \$55 or higher renewal fees for LPNs. At that time the Minnesota fee was shown as \$35. The current renewal fees for the surrounding states are:

Iowa	\$63 for three years
North Dakota	RN \$60, LPN \$50 for two years
South Dakota	\$55 for two years
Wisconsin	\$40 for two years

B. **Late application.** This fee is referred to as late registration on the attached estimated receipts detail. It is intended as a deterrent to submission of a late application for registration renewal. The amount has previously been set in relation to the registration renewal fee, therefore it is reasonable to increase it at this time. The increase is large enough to deter tardiness, but small enough not to be burdensome.

H. **Service Charge for a Dishonored Check.** The board processed 78 dishonored checks in Fiscal Year 1994 and 101 in Fiscal Year 1995. The service charge is needed as a deterrent to licensees so as to discourage them from sending invalid checks for board services and to cover the costs entailed with processing such a check. The processing includes communicating several times with the person and the bank, placing a hold on board activities with the person and creating special files. Because the statute has been amended to allow recovery of \$20, it is reasonable to amend the rule to enable assessment of the higher amount.

Documentation submitted to the Commissioner of Finance and the Commissioner's approval are attached.



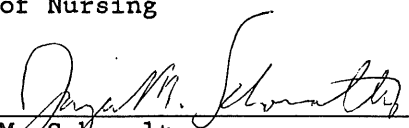
Bibliography

Profiles of Member Boards - 1994, National Council of State Boards of Nursing, Inc., Chicago, IL, "Licensure Requirements: Fees", pages 30-31.

Date:

12/8/95

Board of Nursing

  
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Joyce M. Schowalter  
Executive Director

