

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
BOARD OF DENTISTRY

In the Matter of Proposed
Amendments to a Dentistry Rule
Relating to Fees,
Minn. Rule pt. 3100.2000

STATEMENT OF NEED FOR AND
FACTS ESTABLISHING
REASONABLENESS OF AMENDMENTS

Pursuant to Minn. Stat. § 14.23 (1984), the Minnesota Board of Dentistry (hereinafter "Board"), hereby affirmatively presents the need for and facts establishing the reasonableness of proposed amendments to Minnesota Rules, part 3100.2000, relating to fees.

In order to adopt the proposed amendments, the Board must demonstrate that it has complied with all the procedural and substantive requirements of rulemaking. Those requirements are as follows: 1) there is statutory authority to adopt the rule; 2) the rules are needed; 3) the rules are reasonable; 4) all necessary procedural steps have been taken; and 5) any additional requirements imposed by law have been satisfied. This statement demonstrates that the Board has met these requirements.

1. STATUTORY AUTHORITY

The statutory authority of the Board to adopt these rules is as follows:

Minnesota Statutes, section 150A.04, subdivision 5 (1984), authorizes the Board to promulgate rules necessary to carry out the provisions and purposes of the Minnesota Dental Practices Act, Minnesota Statutes, chapter 150A;

Minnesota Statutes, sections 16A.128 and 214.06 (1984), require the Board to adjust any fee which the Board 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, including support costs and statewide indirect costs attributable to the fee function.

2. STATEMENT OF NEED

The Board has reviewed its anticipated expenditures for the 1986-1987 biennium and found that if its revenue is derived from the existing fees, the Board's expenditures would exceed revenue by more than \$75,000. Thus, the Board would not be in compliance with Minnesota Statutes, section 16A.128 and 214.06 (1984). Therefore, the need for the Board to adjust its fees is so that the Board can comply with the statute.

The Board is proposing new subpart 9 to cover the Board's costs for the preparation of affidavits of licensure. An affidavit of licensure is commonly required by persons under the Board's jurisdiction who are applying for licensure or registration in another jurisdiction. Because of the costs incurred in researching the necessary information and preparing special affidavit of licensure forms, it is necessary for the Board to recover the costs through a \$10 fee for the function.

3. STATEMENT OF REASONABLENESS

Before submitting its 1986-1987 biennial budget request to the Legislature, the Board carefully scrutinized all expenses anticipated over the biennium and found that it would reduce contract expenses paid in the previous biennium by \$17,800. When the Legislature approved the Board's budget, it reduced it by the \$17,800 and by another \$3,800. The Board has since reviewed its anticipated expenditures and has found that further reductions cannot be made to meet anticipated revenue from the current fee schedule. Therefore, it is reasonable to raise the fees.

4. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minnesota Statutes, sections 14.05-14.12 and 14.22-14.28, specify certain procedures which must be followed when an agency adopts or amends rules. Procedures

applicable to all rules, Minnesota Statutes, sections 14.05-14.12, have been complied with by the Board as noted below. Because Board fees are fixed by rule rather than by law, the procedures for adoption of noncontroversial rules in sections 14.22 to 14.28 are being used except no public hearing may be held. See Minnesota Statutes, section 16A.128, subdivision 2.a. (1984).

Procedural Rulemaking Requirements of the Administrative Procedure Act

Minnesota Statutes section 14.10, requires an agency which seeks information or opinions in preparing to propose the adoption or amendment of rules from sources outside the agency to publish a notice in the State Register and afford all interested persons an opportunity to submit data or comments on the subject matter of the proposed changes. In the State Register issue of Monday, April 29, 1985, at page 2402, the Board published a notice entitled "Outside Opinions Sought Concerning Fees Amendment."

The adoption of these rules will not require the expenditure of public money by local public bodies, nor do the rules have any impact on agricultural land. See, Minn. Stat. § 14.11. The adoption of these rules will affect small businesses as discussed below. See Minnesota Statutes, section 14.115.

Pursuant to Minnesota Statutes, section 14.23, the Board has prepared this Statement of Need and Reasonableness which is available to the public. The Board will publish a Notice of Intent to Amend the Rules Without a Public Hearing in the State Register and mail copies of the notice and proposed amendments to persons registered with the Minnesota Board of Dentistry pursuant to Minnesota Statutes, section 14.14, subd. 1.a. The notice will include the following information: a) that the public have 30 days in which to submit comments on the proposed amendments and giving information pertaining to the manner in which persons may comment; b) that no public hearing will be held pursuant to Minn. Stat. § 16A.128, subd. 2.a. (1984); c) that the rule may be

modified if modifications are supported by data and the views submitted; and d) that notice of the date of submission of the proposed amendments to the attorney general for review will be mailed to any person requesting to receive the notice, and giving information on how to request the notice.

The Board will submit the proposed amendments and notice as published, the amendments as proposed for adoption, any written comments which have been received, and this Statement of Need and Reasonableness to the Attorney General for approval of the amendments as to legality and form.

These rules will become effective upon publication of a notice of adoption in the State Register.

5. ADDITIONAL REQUIREMENTS

Approval of the Commissioner of Finance. Pursuant to Minnesota Statutes, section 16A.128, subdivision 1, if a fee adjustment is required to be fixed by rule, the Commissioner of Finance must approve the adjustment, and the Commissioner's approval must be in the Statement of Need and Reasonableness. The Commissioner's approval of the proposed amendments to part 3100.2000 is contained in the attached document entitled "Commissioner of Finance Approval."

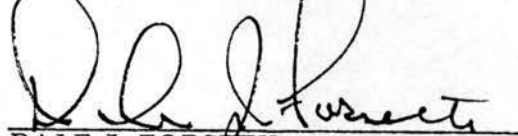
Small Business Considerations. In preparing to propose these amendments, the Board considered the methods for reducing the impact of the amendments on small businesses set forth in Minnesota Statutes, section 14.115, subdivision 2 (1984). The Board noted that the suggested methods for reducing the impact of the rules on small business concern compliance and reporting requirements and performance standards. Since the proposed amendments merely raise fees charged by the Board for licensure and other administrative functions, reducing the impact of the amendments on small businesses would be contrary to the statutory objectives that are the basis for requiring the Board to adjust fees to meet anticipated expenditures.

Small businesses effected by the proposed amendments will have an opportunity to participate in the rulemaking procedure. A notice of the proposed rulemaking will be mailed to the following organizations which will likely represent small businesses affected by the amendments: Minnesota Dental Association, Minneapolis District Dental Society, Northeastern District Dental Society, St. Paul District Dental Society, Northwestern District Dental Society, Southeastern District Dental Society, Southern District Dental Society and West Central District Dental Society.

Dated: June 5, 1985

STATE OF MINNESOTA

BOARD OF DENTISTRY



DALE J. FORSYTH
Executive Secretary