

STATEMENT OF NEED AND REASONABLENESS
REGARDING PROPOSED RULES OF THE
MINNESOTA BOARD OF PEACE OFFICER STANDARDS AND TRAINING

6700.0100 Definitions

Subp. 21. Conviction of a felony. It is necessary and reasonable to define this term in order to eliminate any ambiguity. By amending this definition, the Board is also expanding its jurisdiction so that the Board is permitted to take action in cases where the licensee is convicted of a felony but the sentence imposed includes a stay of imposition. The Board believes that it shall have jurisdiction in any case where the licensee is convicted of a felony, regardless of the sentence.

6700.0500 Academic and Skills Licensing Examinations

Subp. 5. Reinstatement of eligibility. It is necessary and reasonable to redefine peace officer licensing examination in this subpart as academic and skills licensing examinations to differentiate these from the reciprocity licensing examination which, for purposes of organization, is now addressed in 6700.0501.

6700.0501 Reciprocity Licensing Examination

It is necessary and reasonable to have a mechanism by which individuals trained in a state other than Minnesota who wish to become employed here as peace officers can become licensed without having to duplicate basic police training unnecessarily. Until now, the board has relied on the standard of "professionally recognized peace officer training...deemed comparable to the [Minnesota] basic course," as set forth in the present rule 6700.0500, subp. 4, to determine whether officers from another state should qualify for a peace officer license. Experience with this rule has disclosed two problems which proposed rule 6700.0501 seeks to address. First, the concept of comparable police education is too vague to ensure uniform application. Second, some highly qualified officers with long experience in other states began careers in states where mandatory basic police training was not required, or was of such short duration that their training alone cannot be considered comparable to Minnesota's basic course. This rule seeks to recognize the value of experience as a peace officer to prevent the exclusion of an individual solely because the individual's basic training course was not as extensive as that now required in Minnesota.

The point system set forth in this rule was formulated by the Board after careful examination of the concept of comparable preemployment education established in 6700.0500, Subp. 4. The point scale was formulated by the board as a necessary means of achieving greater uniformity in applying this rule and to address the problem arising when a shorter than average basic training course might otherwise prevent an individual with substantial police experience from obtaining employment in Minnesota. In order to evaluate as objectively as possible whether applicants for reciprocity meet the criteria the Board has established for eligibility, the Board has assigned points to these criteria. Points are given for length of basic training (course hours) and years of experience. An additional point is given for possession of a post-secondary degree because post-secondary education is a vital component of Minnesota's licensing system, but is not required by other states. The point scale is reasonable because it allows for a degree of flexibility and fairness in determining eligibility for individuals with widely varying experience and training in law enforcement.

Other features of this rule are discussed under the corresponding subpart heading.

Subp. 1. Scope. It is reasonable and necessary to clearly define terms in this rule which may have different or ambiguous meanings for individuals trained in another state.

Subp. 2. Basic Police Education. It is necessary and reasonable to limit consideration of an applicant's training in another state to that which leads to peace officer certification in that state because the concept of reciprocity depends on an applicant's having been officially licensed or certified in another jurisdiction. Federal law enforcement agents constitute a separate category because they function within an entirely different kind of criminal justice system from those of each of the 50 states. The federal training listed includes the most common types with which the Board has had experience. Other forms of federal law enforcement training may be considered only if the training leads to a position classified as law enforcement by the United States Office of Personnel Management.

Subp. 3. Law Enforcement Officer. It is necessary to carefully define the term "law enforcement officer" to exclude any experience which does not meet the twin criteria of the officer's having had powers of arrest and having had authority to carry a firearm. These criteria define the difference between peace officers, part-time peace officers, and constables and all other kinds of quasi-law enforcement positions, including security guards and reserve officers.

The United States Office of Personnel Management classifies federal law enforcement positions as a special category of federal employee which is consistent with our own narrow definition of peace officer. We have relied upon that classification in the past to differentiate federal law enforcement officers from other kinds of federal agents.

Subp. 4. Comparable pre-employment education. As explained earlier, this point system was carefully designed to weigh the training and experience of applicants seeking a Minnesota peace officer license through reciprocity. The basic norm of this scale is eight to ten weeks of basic training plus a minimum of one year of experience. Additional weight is given to eligibility if the applicant possesses a college degree because this is a feature of Minnesota's present pre-service training system but not of that of other states. The points are scaled so that a greater amount of basic training may compensate for a lesser amount of experience and vice versa. It is necessary and reasonable for the Board to have a system that will ensure consistency and flexibility in determining eligibility for applicants with widely differing backgrounds.

Subp. 5. Post-secondary Degree. Additional weight for flexibility is given in determining eligibility to applicants who possess a formal post-secondary degree. Possession of a post-secondary degree is now necessary to obtain a peace officer license in Minnesota through our academic and skills system.

A two year or four year degree is not necessary for certification in other states. However, credit is given in this rating system in such a way so as to enhance any slight deficit in either training or experience.

Subp. 6. Years of experience. It is reasonable and necessary to count experience only from the point when law enforcement training has been completed because many states allow individuals to work in a peace officer or quasi-peace officer capacity prior to being trained. We have no reliable way to evaluate experience prior to training. Because reciprocity extends only to individuals who have met training and certification standards of a state, it is reasonable to exclude experience gained before licensing or certification.

Subp. 7. Qualifications. There are five conditions the Board wishes to impose upon applicants seeking reciprocity. Two of these conditions have to do with time restrictions. It is a common practice in most states to set a time limit on the duration of an applicant's absence from any formal law enforcement position. It is reasonable and necessary to set such a time limit because successful performance of law enforcement duties is dependent on an officer's receiving up-to-date training and on contin-

uously exercising the skills required for such work. The Board chose a six year limit because the Board has concluded, based on its own research and experience, that six years is the maximum period of time that an individual who has left the law enforcement field can maintain the knowledge and skills necessary to function in a law enforcement capacity. The constant evolution of criminal and civil law, and innovations in technology and police procedures make such a time limit reasonable and necessary.

The requirement of a minimum of one year's experience will ensure that applicants from other states have met probationary requirements, have achieved certification status and have a significant degree of practical law enforcement experience. By this requirement, the Board seeks to prevent Minnesota residents from obtaining training in other states for the sole purpose of applying for reciprocity in Minnesota. Such a practice is contrary to the purpose of the reciprocity system and undercuts the strength of our training system.

Because the concept of reciprocity is to accommodate experienced and qualified peace officers who wish to relocate in Minnesota, a one year's minimum experience is reasonable and necessary.

The last area addressed in this subpart, prior suspension or revocation, is necessary to prevent unqualified individuals from entering Minnesota law enforcement through the reciprocity process. The Board wishes to grant licenses to experienced and qualified individuals from other states as eligible for reciprocity. It is reasonable to eliminate from consideration for eligibility an individual who does not presently qualify under his or her state's certification or licensing standards for a peace officer position in that state.

Subp. 8. Eligibility. Because eligibility for reciprocity is dependent on an applicant's having functioned in an official peace officer capacity during the previous six years, it is reasonable and necessary to set a time limit on an applicant's eligibility to take the examination. One year is more than ample time to prepare for, schedule and take the reciprocity examination. It is the Board's experience that most applicants have taken the examination within three months of submitting an application.

Subp. 9. License eligibility. Once a person has qualified for reciprocity and has passed the reciprocity examination, it is necessary to set a time limit for becoming licensed similar to that set for skills reinstatement in 6700.0500, Subp. 5. This is reasonable and necessary to ensure that the applicant has a working knowledge of recent changes in the criminal and traffic codes and any other developments in Minnesota state statutes or administrative rules required by the Board.

Subp. 10. Applicability. It is necessary and reasonable to clarify the Board's desire that a peace officer whose license has lapsed or has been suspended or revoked in Minnesota not have available to him or her the reciprocity process to bypass the terms of the revocation or suspension.

6700.0601 Examination Standards.

Subp. 1. Grounds for denial. It is necessary and reasonable to establish a procedure for denying the issuance of a license to anyone who has passed or assisted another in passing any of the Board's examinations dishonestly. Similarly, the board should have the authority to deny a license to anyone who has been convicted of a felony, here or elsewhere. Without this rule, the Board's only recourse in dealing with individuals in either of these groups is to issue a license and then revoke it using the procedure outlined in 6700.1700 - an unnecessarily cumbersome process for dealing with such individuals.

Subp. 2. Disciplinary proceedings. This subpart mirrors the Board's existing complaint procedures and applies those procedures to violations of subp. 1. It is reasonable and necessary to have an established formal process for cases when the Board denies an applicant a license upon grounds established in Subp. 1 in order to ensure due process to that applicant.

Subp. 3. Suspension or revocation of a license. It is necessary to establish a mechanism for dealing with those who have violated the provisions of Subp. 1 but whose violations are not disclosed to the Board until after a license has been issued to the violator. These violations are not covered in 6700.1600.

6700.0700 Minimum Selection Standards.

Subp. 1 H. Selection standards. It is necessary to add the words oral interview to the requirement for applicants to undergo a psychological evaluation in order to distinguish the kind of psychological evaluation the Board considered in formulating 6700.0700, Subp. 1 H, from the primarily psychological screening that is commonly used by the skills programs written evaluation. It is the opinion of most, if not all, psychologists with whom the Board has consulted, that an adequate psychological evaluation cannot be done without an oral interview.

Subp. 2. Documentation. It has become common practice for law enforcement agencies to consider successful completion of the skills school to meet the requirement for a test of physical strength and agility as set forth in 6700.0700, Subp. 1 I. Completion of the Skills course is widely accepted as the best indication of an individual's level of physical strength and agility. This rule allows hiring agencies to consider the

requirement for physical strength and agility to have been met without having to obtain documentation to that effect. The fact that an individual has obtained eligibility for a license by completing such a course is sufficient evidence. This rule does not limit the local agency's ability to set its own standards of physical strength and agility or to request documentation of completion from the skills schools.

6700.0701 Notification of conviction. It is necessary and reasonable to require agencies to report to the Board information learned during a background investigation when that information would prevent the individual from obtaining or maintaining a peace officer license. Presently there is no requirement for agencies to report such disclosures and the Board must rely primarily on newspaper accounts or citizen complaints to learn of violations of 6700.1600.

6700.0901 Definitions

The terms accreditation, continuing education coordinator, and continuing education sponsor are defined in relation to their use in the POST Board rules. These definitions are reasonable and necessary in order to establish common usage and understanding among the continuing education sponsors and members of the POST Board and POST Board staff.

6700.0902 Accreditation of Continuing Education Sponsors

Subp. 1. Application form. This section outlines the minimum requirements necessary for an applicant to become an accredited course sponsor. These minimum requirements are reasonable and necessary in order to ensure that the same quality of continuing education courses are maintained at the sponsor location as at the POST Board Continuing Education Unit.

Subp. 2. Provisional certification. The section providing for provisional accreditation will provide the Board with time to review each program's facilities and coordinator for a sufficient period to insure the new program is working correctly. It is reasonable and necessary because without such time for review, the Board could not adequately assess whether all requirements for accreditation are being met.

Subp. 3. Accreditation. It is necessary that the applicant and the Board have a specified time limit to either approve or deny the application.

Subp. 4. Continuing education coordinator duties. In order to insure the quality of the continuing education courses it is reasonable and necessary to specify the duties of the program coordinators. This will ensure that the Board's rules outlining the criteria for continuing education will be followed.

A. It is reasonable and necessary for the continuing education coordinator to have the authority to determine whether instructor qualifications and course subject matter meet the criteria given in 6700.0900, Subp. 3, items e, f, and g., because the coordinator is in the best position to make this determination.

B. This refers to rule 6700.0900 (H) which states that a credit hour must have a minimum of 50 minutes of class time. It is reasonable and necessary to establish such a minimum number of class minutes to ensure that all credit hours represent a similar measurement of classroom experiences.

C. It is reasonable and necessary to require the continuing education coordinator to retain lesson plans, instructor credentials and other course-related materials because the coordinator is in the best position to collect such documentation. (See 6700.0902, Subp. 8.)

Subp. 5. Change of continuing education coordinator. Because the coordinator's position is vital to the functioning of the program, it is necessary that the Board be aware of any changes in that position that occur. The coordinator must meet all of the requirements of the Board as well as demonstrate the ability to perform the functions related to the course approval process. It is reasonable to require the sponsor to notify the Board because the sponsor is in the best position to know of a change.

Subp. 6. Rosters. It is necessary for the Board to collect course rosters so that officers who have successfully completed any given course can be credited with partial fulfillment of the requirements of 6700.1000, Subp. 3. This is identical to the record keeping procedures used to collect information on non-accredited courses, as provided in 6700.0900, Subp. 8. It is reasonable for the sponsor to be required to supply the list to the Board because the sponsor is in the best position to gather the information required.

Subp. 7. Course notices. It is necessary and reasonable to establish a uniform means of informing each prospective student of the number of Board approved credit hours that can be earned through successful completion of the course to enable the student to evaluate his or her own training needs.

Subp. 8. Documentation. It is necessary and reasonable to establish a uniform policy for the maintenance and disposition of documents relating to course approval and that this information be available to the POST Board upon request. The five-year limit is in accordance with the Record's Retention Schedule worked out with the Department of Administration. Because the sponsor collects the information it is reasonable to require it to maintain the records.

Subp. 9. Course statements. It is reasonable and necessary to establish a uniform procedure for course instructors to inform their students how course results will be transmitted to the Board to avoid confusion among students about course results.

Subp. 10. Violations. It is both reasonable and necessary to insure that the accredited course sponsors comply with all of the Board's requirements. In order to assure that the program is successful, a disciplinary procedure is necessary. Should an accredited course sponsor fail to follow the established rules or fail to cooperate with the Board, there must be a procedure to address the problem. It is necessary to have sanctions in order to enforce compliance with the program. These sanctions are intended to assist in correcting potential problems and only in severe cases would the Board anticipate the initiation of these sanctions.

Subp. 11. Disciplinary proceedings. The purpose of this requirement is to assure that due process requirements are met if a hearing is required under Subp. 10.

6700.1101 Part-time Peace Officers

Subp. 7. Inactive status of part-time peace officer license. It is necessary and reasonable to set the same requirements for inactive part-time peace officer licensees as those for peace officer licensees set forth in 6700.1400, Subp. 3.

6700.1201 Constables

Subp. 7. Inactive status of constable license. It is necessary and reasonable to set the same requirements for inactive constable licensees as those for peace officer and part-time peace officer licensees set forth in 6700.1101 and 6700.1400, Subp. 3.

6700.1400 Inactive Status of Peace Officer Licenses

Subp. 3. Selection standards. The Board's experience with this rule has demonstrated that there is a problem with inactive licensees appointed to law enforcement positions after being out of law enforcement for one year or more being required to meet the selection standards again. In the majority of cases, the new hiring agency simply adopts previously completed standards; consequently the Board's selection standards have little actual effect. The majority of those who move from one law enforcement position to another do so within the period of a year, during which time there is little likelihood that any significant change in an individual's ability to meet the selection standards has occurred. It is reasonable and necessary: (1) to allow agencies more flexibility in hiring inactive licensed officers by extending the one year requirement for meeting selection standards to three; and (2) to require officers who have been on inactive status for more than three years to meet all selection standards (6700.0700) at the time of hire and to disallow the adoption of previously completed standards. The intent of this rule is to raise entrance requirements for individuals who have been out of law enforcement for a significant period. This rule does not limit an agency's ability to impose more rigorous standards of its own.

6700.1600 Violations of Standards of Conduct

Subp. G. The Board's experience with the standards of conduct established by this rule and Minn. Stat. 214.10, Subd. 2a, has uncovered the following problem. Peace officers charged with a violation of a statute, which is also a violation of local ordinance, may, at the discretion of the local court system, be convicted under the ordinance. Such cases will result in placing the violator outside of the Board's authority to enforce its own standards. For example, a peace officer convicted of theft under a city ordinance, rather than under Minn. Stat. 609.52, (for example, shoplifting), would result in no Board action without this proposed amendment. It is reasonable and necessary to provide this necessary correlation between the state statutes and local ordinance to allow the Board to enforce its own standards of conduct.