

STATE OF MINNESOTA  
COUNTY OF RAMSEY

BEFORE THE MINNESOTA  
BOARD OF MEDICAL EXAMINERS

In the Matter of the  
Adoption of Minnesota  
Board of Medical Examiners  
Rules Relating to Licensing

STATEMENT OF  
NEED AND REASONABLENESS

Pursuant to Minn. Stat. § 14.23(1988), the Minnesota Board of Medical Examiners (hereinafter "Board") hereby affirmatively presents the need for and facts establishing the reasonableness of proposed rules, Minn. Rules, pts. 5600.0605 and 5600.0610 and amendments to Minn. Rule, pt. 5605.0200, subp. 1, relating to the licensing of physicians.

In order to adopt the proposed rules and amendments, the Board must show that it has complied with all procedural and substantive requirements for rulemaking. These requirements are as follows: 1) there is statutory authority to adopt the rules; 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 of Need and Reasonableness demonstrates that the Board has met these requirements.

## 1. STATUTORY AUTHORITY

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

Minn. Stat. §§ 146.13(1989) and 214.06, subd. 2(1985) authorize the Board to promulgate rules for physician licensing and for the renewal of such licenses. Minn. Stat. § 147.01, subd. 3(1990) authorizes the Board to adopt rules as may be necessary to carry out the purposes of Minn. Stat. §§ 147.01 to 147.33.

## 2. STATEMENT OF NEED

The need for the proposed rules and amendments governing the licensing of physicians is based on the following considerations:

1. The large number of physicians currently licensed by the Board (approximately 15,000) and expected continued growth in the number of physician licensees;

2. The automation of the Board licensing process which will replace the current manually maintained/computer supplemented system.

3. The uneven workflow pattern created by the bulk of licensees renewing in December/January causing delays in processing licensure materials because of the sudden large influx renewal documents. (Renewal processing can take three weeks in January.)

4. The absence of regulatory information available to licensees concerning license registration and renewal deadlines, penalties for late submission of application or renewal materials, and notification requirements when applicants change their name or address.

The Board as of mid-1990 is licensing approximately 15,000 physicians with about 150-200 new applications for licensure received each month. With the large number of current licensees and the expected continued growth of the number of new licensees, the Board determined that computerization of its licensing process was necessary in order to more effectively and economically manage the amount of information received and to insure all licensees are properly licensed or renewed as expeditiously as possible. The number of new physicians licensed increased by 99 licensees with 767 in FY 1985 to 866 in FY 1990.

In developing a computerized information processing system for licensing, priority was given to establishing a system to more effectively manage the workflow involved. Under the present system, the majority of licensees renew their license in December/January and thus the workflow is centered around those months. It was decided that a system of license

registration/renewal based on the licensee's birth month would provide a more cost effective workflow arrangement for licensing purposes both in terms of license processing time and the amount of licensure staff needed.

With the birth month license renewal system, the workflow distribution is approximately 1/12 of the physician licensees per month (about 1250 licensees per month). Under the current January license renewal cycle system, the majority of licensees usually submit materials in December and January thus slowing the processing of licenses because of the sheer volume of documents received. With a more consistent workflow spread evenly over the year, processing time would be faster and could be done with existing staff.

The birth month license renewal system is consumer convenient with its built-in renewal reminder (the licensee's birthday) and more recognizable deadline for submission of materials (the end of the birth month rather than the first day of the month). Thus licensees may be less inclined to wait until the last day to apply for license renewal and delay processing.

The concept of the birth month license renewal is modeled after a similar system used by the Minnesota Board of Nursing but is done annually rather than on a two year renewal cycle. [See Attachment #1 Minnesota Board of Nursing Rule, pts. 6310.2800 and 6310.2900.] The Massachusetts Board of Registration in Medicine and Minnesota Department of Public Safety - Driver Services also employ the idea of a birth month registration but

the deadline is the birthday rather than the end of the birth month. [See Attachments #2 and #6 Massachusetts General Law, Chapter 112, section 2 (1986) and Minnesota Stat. § 171.27]

In the 1989 legislative session, Minn. Stat. § 146.13 was amended to permit the Board and other healing arts boards to conduct license renewal on an annual basis without a specified month for license renewal. Previously the law required license renewals occur in January of each year. [See Attachment #7 Minnesota Statute § 146.13]

With the decision of having a license renewal cycle based on the licensee's birth month, it is necessary for the Board to have rules which describe the new licensure cycle. Because there must be a transition from the January license renewal cycle to the licensee birth month cycle, rules are needed to explain the conversion period involved and how the conversion period affects reporting of continuing medical education credits and the amount of license fees to be paid. The rules would also establish deadlines for submission of materials to comport with the changed license renewal schedule. Lastly, the rules clarify requirements necessary to expedite processing of licensure materials such as procedures and penalties governing incomplete license documents and deadlines/protocols involving change of name and/or address.

These proposed rules will allow the Board to put in place a more modern, cost effective and consumer convenient licensing process to better serve its existing and expanding physician licensee population.

3. STATEMENT OF REASONABLENESS

On January 21, 1989, the Board approved a resolution authorizing the Executive Director of the Board, H. Leonard Boche, to sign and give the Notice of Board's Intent to adopt a Rule Amendment Without a Public Hearing governing the FLEX Examination and Licensing Registration and Renewal. The Board also approved a draft of the proposed rules subject to changes required by the Revisor's Office.

On November 13, 1989, the Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Relating to Licensing and Examination was published in the State Register.

The following is the text of the proposed rules and amendments and information regarding the need for and reasonableness of each provision.

5605.0200 LICENSEE CLASSES.

Subpart 1. ESTABLISHMENT. For the purpose of administering this chapter, each individual initially licensed on or after June 4, 1984, commences his or her first three-year cycle on January 1 following the date of initial licensure. After January 1, 1991, the cycle of an individual starting a new three-year cycle will start on the first day of the individual's

month of birth. The first three-year cycle of an individual initially licensed after January 1, 1991, will start on the first day of the individual's month of birth. Future cycles will run consecutively from that point. After January 1, 1991, continuing medical education taken between the expiration date of an individual's three-year cycle and the first day of the individual's birth month starting a new three-year cycle may be credited towards this first new three-year cycle. Continuing medical education taken between the date of initial licensure and the ~~January 1~~ first day of the individual's month of birth following the date of initial licensure may be credited towards the first cycle after January 1, 1991.

Those individuals assigned three-year reporting prior to June 4, 1984 shall remain in their assigned reporting cycle.

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It is reasonable and necessary for the Board to amend Minn. Rule, pt. 5605.0200, subp. 1., in order to provide consistent cycles for both license registration/renewal and continuing medical education (hereinafter "CME") reporting. Because proposed Minn. Rule, pts. 5600.0605 and 5600.0610 will change the license cycle to one based on the licensee's birth month rather than a cycle which begins in January of each year, it is necessary the CME reporting cycle be merged into the new license cycle to avoid having licensees have separate CME reporting and license renewal deadlines.

Minn. Rule, pt. 5605.0900 establishes the reporting of CME as a condition of relicensure. The proposed rule language maintains the requirement of CME reporting as a condition of relicensure but accommodates the reporting to the licensee's birth month license renewal cycle. If left unchanged, licensees would be renewing their license on their birth month and reporting CME in January every three years. With the rule change, the CME reporting will coincide every three years with the birth month license renewal, thus eliminating the confusion that separate CME and license renewal cycles would produce.

The Board determined it would be less confusing for licensees and less costly administratively to allow current licensees to finish their existing three year continuing education reporting cycles as directed under Minn. Rule, pt. 5605.0200, subp. 1. and then merge into the birth month cycle with the new three year CME reporting cycle. To have attempted the immediate merger of the existing CME reporting cycle into the birth month license renewal cycle would have resulted in great confusion since the CME cycle would have had to have been shortened or extended to match the birth month license renewal cycle. This would have unnecessarily complicated the reporting deadlines for licensees or resulted in fractioning of credit hours to be reported during the transition period. Thus, the rule keeps the transition process simple and easy to comply with.

What will occur, is that about one-third of current licensees will report their CME in January 1991, the second one-third will report CME in January 1992 and the last third of



existing licensees will report CME in January 1993. The next three year CME reporting cycle will run from the licensee's birth month following the January in which their existing three year CME cycle was reported.

The effect of having licensees start their new three year continuing education reporting cycle on the birth month following the January they completed their previous CME cycle is to provide some licensees an extra one to eleven months before the start of their first three year reporting cycle starting on their birth month. The Board determined that this extra time does not significantly advantage those licensees with a birth month after January since all licensees will have three years to complete their CME requirements. Any incidental benefits some licensees may obtain by taking courses during the transition period is based solely on the licensee's choice to take the course at that time. The Board believes that the transition process described in the amendment to Minn. Rule, pt. 5600.0200 subp. 1, is simple and consumer convenient and that use of this transition process outweighs any incidental benefits which may occur for some licensees. It was also thought any attempt to require additional credits on a prorated basis for licensees with extra time would be unduly complicated and result in fractions of hours to be reported thus making the process unnecessarily confusing.

New licensees (after January 1, 1991) will also undergo a transition period between the time of initial licensure and the licensee's birth month following initial licensure in order to be

merged into the continuing education cycle starting on the licensee's birth month. Here again the Board believes in making as simple a transition as possible for new licensees into the three year continuing education cycle. Because any benefit, in terms of extra time to take courses prior to the start of a three year cycle is measured from the time of initial licensure, any advantage to new licensees is coincidental to time of initial licensure, and would not intentionally advantage any one group of new licensees over another. All new licensees will still have three years in which to complete their continuing education. As stated above with licensees existing as of December 31, 1990, the Board believes this transition method is the most simple and consumer-convenient way to have new licensees enter into the three year continuing education cycle starting on their birth month and outweighs any incidental benefits of time which may occur for some licensees. Likewise it avoids having additional credits on a fractional basis for licensees with extra time and the confusion attendant with reporting fractions of hours.

Rules as Proposed (all new material)

5600.0605 LICENSE RENEWAL PROCEDURES

Subpart 1. License renewal cycle conversion. This part converts the license renewal cycle for physicians from an annual cycle that begins on January 1 of each year to an annual cycle that begins with the last day of the licensee's month of birth. The conversion of the renewal cycle begins January 1, 1991. Subparts 2 to 12 contain license renewal procedures for licensees

who were licensed before the effective date of this part. Under the conversion requirements of subpart 2 or 3, the license period following license renewal is from six to 17 months ending the last day of the licensee's month of birth.

Subpart 2. Conversion of license renewal cycle for current licenses. After January 1, 1991, for a licensee whose license is current as of December 31, 1990, the licensee's first renewal cycle begins on January 1, 1991, and ends on the last day of the licensee's month of birth. However, if the licensee's month of birth is January, February, March, April, May, or June, the licensee's renewal cycle ends on the last day of the licensee's month of birth in 1992.

Subpart 3. Conversion of license renewal cycle for noncurrent licenses. This subpart applies to a person who was licensed before the effective date of this part, but whose license is not current as of December 31, 1990. When the licensee renews after the effective date of this part, the renewal period begins with the date the licensee applies for renewal and ends with the last day of the licensee's month of birth. However, if the last day of the month of birth is less than six months after the date the license is renewed, then the renewal period ends on the last day of the licensee's month of birth in the next year after the year in which the renewal period began.

Subpart 4. Subsequent renewal cycle. After the licensee's renewal during the conversion period under subpart 2 or 3, the subsequent renewal cycles shall be annual cycles that

begin on the last day of the month of the licensee's birth.

It is reasonable and necessary for the Board to have rules which describe its license renewal requirements so its licensees are fully aware of the procedures involved for compliance purposes. It is especially important the process be described because of the transition from a January renewal cycle to one based on the licensee's birth month.

To briefly summarize the transition process for licensees existing as of December 31, 1990, a licensee who is currently licensed as of December 31, 1990 with a birth month of July, August, September, October, November or December, will have their first birth month renewal cycle start on their birth month in 1991 and end on their birth month in 1992. From then on the licensee is on the annual birth month license renewal cycle. For licensees currently licensed as of December 31, 1990 with a birth month of January, February, March, April, May or June, the first annual birth month license renewal cycle will begin on their birth month in 1992 and end on their birth month in 1993. From then on the licensee is on the annual birth month renewal cycle.

Thus, for licensees with the July-December birth months theirs is a six to 11 month conversion period which overlaps with the last January license renewal cycle. For licensees with a January-June birth month, the conversion period is 13 to 17 months covering the whole year of 1991 and the time up to their birth month in 1992. A graph outlining the renewal dates and fees can be found in the attachments (See Attachments #3 -

License Renewal Schedule and Fees for Licensees Current as of January 1, 1991.)

By having the conversion period split into a half year system (July-December and January-June), licensees can easily figure out when their first birth month license renewal cycle starts and the length of the conversion period involved. With this process all current licensees will be on their first birth month license renewal cycle by June of 1992.

In studying different options to change from a January license renewal cycle to a licensee birth month renewal cycle, the Board preferred the proposed conversion period/process because it finished the transition in only 17 months. Other approaches involved starting half the licensees in alternate years or extending the license renewal cycle to two years rather than an annual cycle. In either case the transition would be two years and would involve more complex rule changes.

Because licensees can reactivate a license not renewed for over one year, it is necessary the proposed rules include noncurrent licensees and describe how such licensees would be merged into the birth month license renewal cycle system. Here again the rules employ a split year placement concept but measures it starting from the time of license reactivation. If the birth month is more than six months from the month of license reactivation, then the first birth month license renewal cycle will start in the next year following the year the license was reactivated. In effect, reactivating licensees and licensee

current as of December 31, 1990 are following the same procedural process and conversion period to merge into the birth month license renewal cycle except that current licensees have a fixed time frame (July-December and January-June) whereas reactivating licensees merge using the time period of six months or greater from the month of reactivation as the standard. [See Attachment #4 License Renewal/Fee Schedule for Individuals Reactivating their License in 1991.]

With the language of Minn. Rule, pt. 5600.0605, subp. 3., there is procedural consistency in the treatment of different types of licensees. Proposed Minn. Rule, pt. 5600.0610 will also employ the same procedural mechanism for handling new licensees registering after January 1991. Thus, even with the existence of three different types of licensees, (existing as December 1990, reactivating, and new licensees), the rules will effectively process each licensee using the same procedural arrangement and therefore avoids creating any unfair benefits or hardships to a particular group of licensees.

Minn. Rule, pt. 5600.0605, subp. 4, makes clear that after the conversion period all subsequent renewals are annual cycles that begin on the last day of the licensee's month of birth. By having the cycle begin on the last day of the birth month, licensees are allowed the whole birth month to submit license documents. This avoids licensees presuming their birth date as the expiration date of their license and clearly reinforces the deadline for renewal application material as the end of the month.

As stated earlier, proposed Minn. Rules pt. 5600.0605, subps. 1-4 represents the process by which licensees will be merged into the birth month license renewal cycle. It is designed to be easily read and complied with by licensees. It also provides the Board the capability to administer the transition from the January license renewal cycle to the licensee birth month cycle in the most expeditious, simple and consistent manner for all present and future licensees.

Subp. 5. Service. The licensee must maintain a correct mailing address with the board for receiving board communications, notices and licensure renewal documents. Placing the license renewal application in first class United States mail, addressed to the licensee at the licensee's last known address with postage prepaid, constitutes valid service. Failure to receive the renewal documents does not relieve a license holder of the obligation to comply with this part.

Proposed Minn. Rule, pt. 5600.0605, subp. 5, is a necessary and reasonable requirement so that licensees know of their obligation of keeping the Board informed of their current mailing address. Such an obligation is mandatory under Minn. Stat. § 146.13 and is reasonable since the Board has no way other than communication from the licensee to know this information. Without requiring this information, the Board could not issue or renew a license since the licensee could not be properly located. This language is patterned after a similar requirement in Minnesota Board of Nursing Rules. [See Minn.

The language regarding valid service to the licensee by the Board of license renewal documents is a necessary procedural requirement to establish what steps the Board took in providing renewal documents to the licensees. Thus, if the Board should remove a licensee's name from the list of physicians authorized to practice in Minnesota for failing to send renewal documents, the licensee has been adequately warned that they have a continuous and affirmative obligation to maintain compliance with the rules regarding license renewal and to advise the Board of any problems which hinder compliance.

Subpart 6. Late submission. A license renewal application and annual license fee received in the Board office after the last day of the month in which the licensee's license expires shall not be processed and shall be returned to the licensee for payment of the late fee indicated in part 5600.2500, item K.

Subpart 7. Incomplete application: notice. If a licensee submits an application form or annual license fee that is incomplete, incorrect, or not in compliance with this part, the Board shall notify the licensee of the deficiency within 30 calendar days after the Board receives the licensee's application and shall give the licensee instructions for completing or correcting the application. The Board will nullify a license renewal if the correction required in the Board notice is not made within 30 days after the licensee receives the notice.



Proposed Minn. Rule, pt. 5600.0605 subps. 6 and 7, are reasonable and necessary regulations so that licensees are made aware of the procedural repercussions and/or financial penalties for a late and/or incomplete application for renewal of licensure. By informing licensees of the consequences, the Board seeks to avoid having applicants submit late or incomplete materials and insures compliance with the rules regarding license renewal. Subpart 6 is also necessary so that the rules on late submission comport with the change from the January renewal to the licensee's birth month renewal system.

In the event of an incomplete or non-complying renewal application form or renewal fee, the Board believes it to be reasonable to give licensees notice of the deficiencies and instructions to correct or complete the application form or fee in order to obtain compliance. Such notification will be given by the Board within 30 days after receiving the application. This is to insure rapid processing of incomplete applications by the Board. The Board also requires that the licensee, within 30 days of the Board's notice of deficiency and correction to the licensee, make such corrections and return the documents and fees. The 30 days is a sufficient time period to obtain any missing materials, fill in any missing information or correct any insufficient check or money order. The notice of deficiency and correction also serves as a warning regarding nullification of license renewal and thus practicing without a license. Here again the rule is modeled after Minnesota Board of Nursing regulations. [See Minnesota Board of Nursing Rule, pt. 6310.2900

subp. 5]

Subpart 8. Removal of name from list. The name of licensees who do not return a complete license renewal application, the annual license fee, or the late application fee within the time period listed in subpart 7, shall be removed from the list of individuals authorized to practice medicine and surgery during the current renewal period. Upon reinstatement of licensure, the licensee's name will be placed on the list of individuals authorized to practice medicine and surgery.

Proposed Minn. Rule pt. 5600.0605, subp. 8. is reasonable and necessary for the purpose of making licensees clearly aware that failure to comply with the requirements regarding submission of license renewal materials and fees will result in being withdrawn from the list of physicians authorized to practice medicine. Because the Board receives inquiries from hospitals, clinics, nursing homes, federal health agencies and other state medical boards regarding the license status of physicians, it is important such license information be as complete and correct as possible. By indicating to licensees the severe repercussion for non-compliance, the Board insures license information is kept current and complete. The rule also provides that with reinstatement of licensure (after coming into proper compliance for license renewal), the licensee will again be listed as authorized to practice. This provision is need to indicate to licensees that license reinstatement is a necessary prerequisite prior to being authorized to practice and that any previous deficiencies must be corrected to insure reinstatement.

By this language the Board does not require that a new license application be submitted only that a licensee correct past deficiencies which existed with the license renewal fees or forms.

The proposed rule is modeled after language found in Minnesota Board of Nursing regulations. [See Minn. Rule, pt. 6310.3100, subp. 1.]

Suppart 9. Conversion period and fees. A licensee who holds a license issued before the effective date of this part, and who renews that license during the conversion period under subpart 2 or 3, shall pay the required license fees according to items A to E.

A. Licensees will be charged the annual license fee listed in part 5600.2500, item E for the licensure renewal occurring at the start of the conversion period.

B. For licensees whose conversion period was six to 11 months, the first annual license fee charge after the conversion period shall be adjusted to credit the excess fee payment made during the conversion period. The credit is calculated based on the difference between the fee paid during the conversion period and the prorated license fee cost assessed based on the number of months of the licensee's conversion period, up to 11 months, at a rate of 1/12 of the annual fee per month rounded upward to the nearest dollar.

C. For licensees whose conversion period was 12 months, the first annual license fee charged after the conversion period shall not be adjusted. They will be charged the annual license fee listed in part 5600.2500, item E.

D. For licensees whose conversion period was between 13 and 17 months, the first annual license fee charged after the conversion period shall be adjusted to add the payment for the number of licensure months in excess of 12 months in the licensee's conversion period that were not paid for initially. The added payment is calculated based on the difference between the fee paid during the conversion period and the prorated license fee cost assessed at a rate of 1/12 of the annual fee per month rounded upward to the nearest dollar. The difference calculated is added to the full fee charged.

E. The second license renewal made after the conversion period and all subsequent license renewals shall be assessed the annual license fee in part 5600.2500, item E.

Proposed Minn. Rule pt. 5600.0605, subp. 9. Items A. to E. is needed to describe the payment schedule which will be used during the conversion period. The system involves having licensees with a conversion period of six to 11 months pay a full year's license renewal fee in January 1991 and then the Board credits the excess fee paid into the first birth month license renewal cycle in the conversion period. Licensees with a 12 month conversion period will pay the license renewal fee with no adjustments being necessary. Licensees with a conversion period

of 13 to 17 months will pay the regular license renewal fee in January 1991. Upon the start of the first birth month license renewal in 1992, the Board will adjust the licensee renewal payment to include the number of months in 1992 in excess of 12 months (during the licensee's conversion period) which were not paid for initially in 1991.

The above described payment arrangement is designed to coincide with the conversion period set out in Minn. Rule, pt. 5600.0605 Subps. 2 and 3. This approach was chosen because it allows for a relatively easy transition and does not burden licensees with any excessive advance payment of fees.

Initially, all renewing licensee (current as December 31, 1990) will pay the January license renewal cycle payment for 1991. Thus, no change is required either by licensees or the Board. The Board will start billing in 1991 on the birth month cycle starting with July licensees. Here again the transition is kept simple because the licensees will know they are starting their birth month renewal. Since their 1991 license was paid for in January 1991, licensees are only billed for the remaining months in 1992 prior to their birth month. Therefore licensees with the earliest payment time (July) only pay \$58 to cover the first six months of 1992. The fees are prorated upward as the months get closer to January. After January 1992, licensees who had a birth month from February to June in 1991 pay both for the months prior to their birth month in 1992 and for the birth month license renewal cycle starting in 1992 when payment is due on their birth month.

If licensees were billed up front based on the length of their conversion period, those licensees with the 13 to 17 months time period would be confronted with much higher initial payments. Here licensees with the 13 to 17 month conversion period pay for both a new license year and the time prior to their birth month in 1992 but have the extra time before payment is required. Where advance payment is made (licensees with a July to December (1991) birth months), the fee assessed is reduced according to the amount already credited for 1991. Thus, licensees will have the benefit of a prorated fee or more time to pay for the longer period of licensure.

For February to June licensees (those with 13 to 17 month conversion period), the maximum payment amount required in addition to the next year's license renewal fee will be \$58 for June licensees (i.e.  $\$115 + \$58 = \$163$ ). The amount is prorated downward by about \$10 per month as you get closer to January. The \$58 was not considered unduly burdensome for licensees because of the extra time accompanying the added cost. Likewise, for July licensee's in 1991 paying \$58 was not considered excessive and here again the cost only increases as the amount of time increases (about \$10 per month going from July thru December).

As reflected by the chart explaining the conversion period and fee payment required found in the attachments (See Attachment #3) the transition from the January licensee renewal cycle to the birth month cycle for current licensee (those

existing on December 31, 1990) is relatively easy for licensees to understand needing only to know their birth month. Such information would accompany licensure documents during the transition process.

The process described under subpart 9. is one which can be readily implemented by the Board. With about six months between the last January billing and July 1991 birth month billing, the Board can reorganize staff and equipment to adjust to the new renewal cycle. Because only about 1/12 of the licensee will begin the new license renewal cycle in July 1991, the licensure staff will not be flooded with licensure renewals and processing should go faster.

Subpart 10. Change of name and address. A licensee shall notify the Board in writing within 30 days of any change in name or address. If the licensee is changing his or her name only, the licensee must request a revised licensure certificate. The licensee shall return the current certificate to the Board. If an address change is requested, no request for a revised licensure certificate is required. If the licensee's current license certificate has been lost, stolen, or destroyed, the licensee shall provide a written explanation of the situation.

The Board may require the licensee to substantiate the name change by submitting official documentation from a court of law or agency authorized under law to receive and officially record a name change.

Proposed Rule, Part 5600.0605, subpart 10. is reasonable and necessary so that the Board can maintain an accurate mailing address on its licensees. It is essential such information be accurate and up-to-date so that the licensee can receive license renewal materials and other official notices from the Board and that the Board is able to provide the most accurate identification information on a licensee if requested by authorized agencies, individuals, or organizations.

The 30 day notification time period for licensees to advise the Board of a change of name and/or address is reasonable and gives a licensee sufficient time to have settled into their new location or for a name change situation such as a marriage. The 30 day time period is modeled after a similar regulation used by the Minnesota Board of Nursing. [See Minn. Rule pt. 6310.3300]

The procedural language regarding the change of name or address is intended to inform licensees of the steps necessary to properly update their licensure record. A name change will require a revised licensure certificate with the previous certificate being returned to the Board. The return of the certificate is to prevent misidentification of the licensee by fraudulent use of the old certificate. Because a new identity is involved, a new certificate is necessary. An address change does not change the licensee's identity and can be temporarily recorded on computer till the next license renewal. Thus no new certificate of licensure is required as matter of convenience to the licensee.



The language regarding the reporting of the loss or destruction of a license certificate is necessary to protect licensees from having individuals wrongfully obtain an official copy of their license. By requiring a written explanation of the loss situation to be filed with the Board, the Board can assess the identity of the person making the request and deter any fraudulent attempt to secure records.

The written loss/destruction report will be on file with the Board in the event there is unlawful use of the lost license certificate and thus will assist the Board in determining if investigation of the licensee or other individuals is necessary.

The requirement of having licensees provide official documentation of a name change from a court of law or authorized agency is a simple identity verification method and insures such licensing information is accurate and reasonably verified as possible. Having such documentation provided does not unduly burden licensees and is similarly required for other licenses. (i.e. Minnesota Board of Nursing - Minn. Rule, pt. 6310.3300 subp. 1.)

#### 5600.0610 INITIAL LICENSE PROCEDURES

Subpart 1. Applicability to persons initially licensed.  
Subparts 2 to 3 contain licensing procedures for persons who are

initially licensed by the Board after the effective date of this part.

Proposed Minn. Rule pt. 5600.0610, subp. 1 is reasonable and necessary to identify the individuals governed by the initial licensure registration procedures of Part 5600.0610.

Since individuals will become licensed after January 1, 1991, it is necessary that the rules be written to describe how such individuals will merge into the future license renewal cycle based on the licensee's month of birth.

Subpart 2. Initial licensure. An individual who is initially licensed by the Board after the effective date of this part shall pay the physician application and annual license fees listed in part 5600.2500, items D. and E.

Effective January 1, 1991, the initial licensure period begins with the date the person becomes licensed and ends the last day of the licensee's month of birth. However, if the last day of the individual's month of birth is less than six months after the individual becomes licensed, then the initial licensure period ends on the last day of the individual's month of birth in the next year after the initial licensure period began. After the initial licensure period, subsequent renewal periods shall be annual periods that begin on the last day of the month of the licensee's birth.

Under proposed Minn. Rule, pt. 5600.0610, subp. 2, new

licensees after January 1991 must pay the application fee and first annual license fee together. The reason for merging these fees is to avoid separate billings of the two fees. With two separate billings there is a greater chance the licensing process will be delayed by a late or incomplete payment. By making payment of the total amount a condition of licensure, there is less confusion regarding when payment is required and avoids having to disfranchise a newly licensed individual for failing to pay their first license year fee and thus delay their ability to practice medicine.

Proposed Minn. Rule, pt. 5600.0610, subp. 2. describes the process which will be used to merge individuals licensed after January 1991 into the birth month license renewal cycle. As a matter of procedural and administrative consistency, the process uses the same concept found in proposed Minn. Rule, pt. 5600.0605 but works from the date of initial licensure rather than fixed time period described in Part 5600.0605, Subp. 2. [See Attachment #5 - License Renewal/Fee Schedule for Individuals Initially licensed in 1991.] Here again, licensees whether renewing, new or reactivating will follow similar procedural standards.

To have allowed new licensees (after January 1991) or reactivating licensees to merge into the birth month cycle in less than six months would have created a confusing and cumbersome system of licensing. An example of this problem would be a licensee, granted licensure in September, with a December birth month. They are billed for a year in September and then

billed again three months later in December an additional three months to cover the months previous to their birth month in the next year not covered by the September payment. The most extreme variation of this problem is billing a licensee for one month the month after they become licensed when that month is their birth month. By having the conversion billing not start for at least six months, licensees do not get billed for an amount covering less than six months or as small as \$10.

Proposed Minn. Rule, pt. 5600.0610, subp. 2 provides an easy to understand and a procedurally and administratively consistent system for merging new licensees into the birth month license renewal cycle. Without this system, the confusion of merging new and existing licensee renewals would create a billing nightmare and possibly create delays in the licensing process.

Subpart 3. Conversion period and fees. Individuals initially licensed by the Board after the effective date of this part will have a conversion period according to items A to F.

A. An individual will be assigned a conversion period of at least six months and no more than 17 months, ending on the last day of the individual's month of birth.

B. The full physician application fee and physician annual license fee found in part 5600.2500, items D. and E. will be charged to the individual at the start of the conversion period.

C. For an individual whose conversion period was 11

months or less, the first annual license fee charged after the conversion period shall be adjusted to credit the excess fee payment made during the conversion period. The credit is calculated based on the difference between the license fee paid during the conversion period and the prorated license fee cost assessed based on the number of months of the individual's conversion period, up to 11 months, at the rate of 1/12 of the annual fee per month rounded upward to the nearest dollar amount.

D. For an individual whose conversion period was 12 months, the first annual license fee charged after the conversion period shall not be adjusted. The individual will be charged the annual license fee listed in part 5600.2500, item E.

E. For an individual whose conversion period was between 13 and 17 full calendar months, the first annual license fee charged after the conversion period shall be adjusted to add the payment for the number of months in excess of 12 months in the licensee's conversion period that were not paid for initially. The added payment is calculated based on the difference between prorated license fee cost assessed using the number of months of the individual's conversion period, up to 17 months, at the rate of 1/12 of the annual fee per month rounded upward to the nearest dollar amount. The difference calculated is added to the full fee charged.

F. The second license renewal made after the conversion period for the individual and all subsequent license renewals shall be assessed the annual license fee in part 5600.2500, item

E.

Proposed Minn. Rule, pt. 5600.0610, subp. 3, is needed to explain the schedule for fee payment occurring during the conversion period established under subparts 1 and 2. The system used in this rule follows the same proration method found in proposed Minn. Rule, pt. 5600.0605, subp. 9. wherein licensees with a conversion period of 6-11 months pay a reduced first birth month license renewal fee adjusted to credit the amount paid at the time of initial licensure which overlaps the previous license year. Licensees with the 13 to 17 month conversion period are billed at the time of their first license renewal for the months prior to their birth month not cover by the license payment made at the month of initial licensure in addition to their next annual license renewal fee.

By having licensees (after January 1991), follow this billing arrangement, the billing is systematized and avoids the problems described earlier in the provisions discussed in subpart 2 with licensees being billed twice in less than six months for amounts as small as \$10. This also makes for administrative and procedural consistency for compliance purposes by not having different systems for new licensees and existing licensees.

An additional benefit of proposed Minn. Rule, pt. 5600.0610 subp. 3, is that it removes an unfairness which exists under the current rules. Because licensees can become licensed during different times of the year (January, March, May, July, September or November), a situation exists where licensees are billed for an entire license year even though less than a

year existed from the time of initial licensure. The most extreme example of this was for licensees initially licensed in November. They are required to pay for the existing license year even though they are licensed for less than two months in it. They are again billed in January for the new license year. Under the proposed rules, new licensees pay from the time of initial licensure and are covered until their birth license renewal cycle starts as determined under the conversion period in the rules. Thus, new licensees will avoid being unfairly penalized because of the time of their initial licensure.

Here again this rule provision like proposed rule Minn. Rule, pt. 5600.0605 subp. 9 is modeled after a similar approach found in Minnesota Board of Nursing Rule pt. 6310.2900 subp. 6a, item A and B.

#### SUMMATION

The overall purpose of proposed Minnesota Rules, parts 5600.0605 and 5600.0610 and the amendments to Minnesota Rule, part 5605.0200, subp. 1., is to allow the Board to establish a system of licensing registration and renewal better adapted to serving its growing physician licensee population. To effectuate this purpose, these rules provide a transition to a new system for licensing. With the new system (involving the use of the birth month license renewal cycle), the Board will more

effectively manage the workflow involved in processing the licensing information and documents.

With only 1/12 of licensees renewing per month, the Board does not have to increase or change staff to handle the licensing process. If left unchanged, the burden of attempting to process licensing information and documents for nearly 15,000 licensees (and growing) in a January renewal cycle would have resulted in longer delays in processing licenses or would require increases in staff size necessary to meet the growing demand. With the birth month license renewal system, the cost of licensing remains stable since additional staffing is not required and the existing staff will be better able to process licensure materials because of a more even distribution of licensees submitting materials rather than the one large influx of documents.

The birth month license renewal system has a proven track record of success with large licensee populations as demonstrated by its use by the Minnesota Board of Nursing and similar systems as found with the Massachusetts Board of Registration in Medicine and Minnesota Department of Public Safety-Driver Services. An additional convenience of the birth month license renewal system is that it has a built in reminder for renewal with the licensee's birthday.

The transition process from the January renewal cycle to



the birth month renewal cycle was kept relatively simple and applies to all licensees whether new, existing or reactivating in a very similar manner. Allowing at least six months before starting the birth month license cycle avoids a confusing arrangement where licensees may be billed twice in less than six months. It also avoids billing in very small amounts such as \$10 for one month. Alternative systems would have either taken more time to complete or resulted in larger up front payments by some licensees.

The proposed rules also make the transition from a (January) three year CME reporting cycle to a (licensee birth month) three year CME reporting cycle easy and convenient for licensees. Basically licensees complete their existing cycle and then merge into the birth month renewal cycle. All licensees will still have three years to complete the courses required. Any excess time for some individuals was preferred over establishing a system where fractions of hours would be required to be completed thus possibly complicating the rules.

The provisions of proposed Minn. Rule, pts. 5600.0605 and 5600.0610 also fill in informational gaps concerning the licensing process. The rules clarify for licensees the required document submission deadlines, the penalties for late or incomplete license renewal form or fees, the license nullification penalty for license materials are not received in time and licensee notification obligations to the Board regarding the licensee's identity (name/address change) or problems regarding compliance (obligation to report failure to receive documents).

With these rules in place the Board will have a good licensing system made better. The transition incorporated in the proposed rules is understandable, fair and the most expeditious process to accomplish the Board's purpose of having a birth month license renewal cycle. As noted earlier in this document, the Board is looking to the future in terms of computerization and constituency size. These rules are a necessary step to insure the Board will be ready and able to serve its physician constituency.

#### 4. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

Minn. Stat., §§ 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, Minn. Stat., §§ 14.05-14.12, have been complied with by the Board as noted below. The procedures for adoption of non-controversial rules in sections 14.22 to 14.28 are being used, except that no public hearing is presently planned and need not be held unless 25 or more persons make a timely written request for a public hearing.

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. The adoption of these rules could have negligible effect on small businesses as discussed below. See Minn. Stat., § 14.115. Pursuant to Minn.

Stat. § 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 Adopt Rules Without a Public Hearing in the State Register and mail copies of the notice and proposed rules to persons registered with the Minnesota Board of Medical Examiners pursuant to Minn. Stat. § 14.14, subd. 1a. The notice will include the following information: 1) that the public has thirty days in which to submit comments on the proposed rules and give information pertaining to the manner in which persons may comment; b) that no public hearing will be held pursuant to Minn. Stat. § 14.25, unless 25 or more persons request in writing a public hearing on the proposed rule within the 30 day comment period; 3) that the rule may be modified if modifications are supported by data and the view submitted; and 4) that notice of the date of submission of the proposed rules to the Attorney General for review will be mailed to any persons requesting to receive the notice and give information on how to request the notice.

#### 5. ADDITIONAL REQUIREMENTS

##### Small Business Considerations

It is the position of the Board of Medical Examiners that Minn. Stat. § 14.115(1988), relating to small business considerations in rulemaking does not apply to the rules it promulgates. Minn. Stat. § 14.115, subd. 6 b, does not apply to "agency rules that do not affect small business directly." The Board's authority relates only to physicians and not to the

businesses they operate.

The Board is also exempt from the provisions of section 14.115, pursuant to subdivision 7(c) which states that section 14.115 does not apply to "service businesses regulated by government bodies, for standards and cost, such as...providers of medical care." Physicians provide medical care and are regulated by the state for standards and cost. The Board regulates physicians for standards. The Minnesota Department of Human Services regulates physicians for costs with respect to the Medicaid system.

However, should these proposed rules be construed as being subject to Minn. Stat. § 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 amendments. The five suggested methods enumerated in subdivision 2 are as follows:

a) the establishment of less stringent compliance or reporting requirements for small business;

b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

c) the consolidation or simplification for 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;

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 proposed rules.

Methods (a) to (c) of subdivision 2 relate to lessening compliance or reporting requirements for small businesses either by (a) establishing less stringent requirements (b) establishing less stringent schedules or deadlines for compliance with the requirements, or (c) consolidating or simplifying the requirement. 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 businesses. If, however, these proposed rules and amendments are viewed as compliance or reporting requirements for businesses, then the Board finds that it should be unworkable to lessen the requirements for those physicians who practice in the solo or clinic setting of fewer than 50 employees, since that would include the vast majority of

licensees. 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 small businesses as a replacement for design or operation 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 most licensees from the purview of the rules, a result which would be absurd.

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

Pursuant to Minn. Stat. §§ 147.01 et seq., the Board was designated as the agency for establishing requirements for licensure and for disciplinary action to govern the practices or behavior of all physicians. Pursuant to Minn. Stat. § 147.01, subd. 3., the Board is specifically mandated to promulgate rules as may be necessary to carry out the purposes of the Minn. Stat. §§ 147.01 to 147.33. Given these statutory mandates, it is the Board's duty to establish licensure qualifications and disciplinary standards which apply to and govern all applicants and licensees regardless 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 physicians in solo or small practice than those practices large enough to remove themselves from the definition of small business. 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 rules may affect the business operation of a physician or group of physicians 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 physicians indeed possibly the vast majority of physicians, from the requirement 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 physicians (which may consist of a nonexistent class) who work in a large business setting and adopt another, less stringent set of standards to be applied to those physicians who practice in a solo or small clinic type of setting. It is the Board's view that these rules must apply equally to all physicians or the licensing system will be chaotic.

Licensees, regardless of whether they are considered as individuals or small businesses, have had and will continue to have an opportunity to participate in the rulemaking process for the proposed rules and amendments. The Board has used a very open process to draft these rules. The Board has kept the various associations well informed of the proposed rules as they were developed and has also provided notices and articles about the proposed rules in its newsletter issued to all licensees.