

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
DEPARTMENT OF HEALTH

In the Matter of the Proposed
Adoption of Rules of the Department
of Health Governing the Registration
System for Speech-Language Pathologists
and Audiologists

STATEMENT OF NEED
AND REASONABLENESS

PREFACE

This Statement of Need and Reasonableness (Statement) concerns the proposed registration system for speech-language pathologists and audiologists. Since the regulation of speech-language pathologists is related in some respect to the regulation of hearing instrument sellers and hearing instrument dispensers, it is necessary in this Statement to occasionally discuss related regulation of hearing instrument sellers by an existing permit system and to discuss a proposed registration system for hearing instrument dispensers. However, such discussion will be limited to areas where those regulations are related to the proposed registration of speech-language pathologists and audiologists. Separate Statements of Need and Reasonableness discuss the proposed permit system for hearing instrument sellers and the proposed registration system for hearing instrument dispensers.

BACKGROUND

The development of rules for registration of speech-language pathologists and audiologists is the result of several events that began approximately ten years ago. At that time neither occupation was regulated by a state-wide

regulation system. However, some people with training in communication disorders, were then, and are now, licensed by the Minnesota Board of Teaching. The Minnesota Board of Teaching was then, and is now, responsible for licensing teachers in the public school system. A special education teacher, who meets the qualifications set by the Minnesota Board of Teaching, may receive a license with the endorsement: "speech correction." See, Minnesota Rules, part 8700.5405. The American Speech-Language-Hearing Association, a professional, private organization for speech-language pathologists and audiologists, set voluntary minimum requirements for the occupations. During 1979 through early 1981, a review of the occupations of speech-language pathology and audiology was performed by what was then the Occupational Analysis Section of the Minnesota Department of Health. In March 1981 the Commissioner of Health, George R. Petterson, determined that additional state regulation of speech language pathologists and audiologists was not warranted.

In 1985, Minnesota Laws 1985, chapter 290 was enacted (Minnesota Statutes, chapter 153A). Chapter 153A authorized the Commissioner of Commerce to regulate hearing instrument sellers through licensure. This chapter regulated all aspects of hearing instrument seller licensing including exemptions, prohibited acts, examinations, qualifications, reciprocity, bonding, advertising, and internships. However, this chapter was not to be effective until 12 months after completion of a study required by Minnesota Laws 1985, chapter 290, section 13 (hereinafter "Section 13"). Section 13 stated, in part:

The commissioner of he shall reconsider the application of speech language pathologists and audiologists for credentialing. The reconsideration must be conducted according to section 214.13 and must be conducted before considering any application for

credentialing received after July 1, 1984. The commissioner of health shall include a study of hearing instrument dispensing by physicians, audiologists, and hearing instrument dispensers in connection with the application.

In response to the 1985 legislation, the Minnesota Speech-Language-Hearing Association (MSHA), the professional association representing Minnesota speech-language pathologists and audiologists, submitted a formal application for licensure of speech-language pathologists and audiologists to the Minnesota Department of Health in 1986. A public forum was held at the Health Department on March 19, 1987. The Health Department reviewed the application for credentialing under the procedures and criteria dictated by Minnesota Statutes, section 214.001 et seq. The statute requires that any regulation must be imposed only for the "safety and well being of the citizens of the state." Minnesota Statutes, section 214.001, subdivision 2. In addition to this standard there are four factors to be considered in determining whether regulation is necessary. These are as follows:

- (a) Whether the unregulated practice of an occupation may harm or endanger the health, safety and welfare of citizens of the state and whether the potential for harm is recognizable and not remote;
- (b) Whether the practice of an occupation requires specialized skill or training and whether the public needs and will benefit by assurances of initial and continuing occupational ability;
- (c) Whether the citizens of this state are or may be effectively protected by other means; and
- (d) Whether the overall cost effectiveness and economic impact would be positive for the citizens of this state.

Minnesota Statutes, section 214.001, subdivision 2. In addition to considering these factors, the statute requires that the least restrictive regulatory scheme be chosen, if any regulation is appropriate. See Minnesota Statutes, section 214.001, subdivision 3.

Based on a thorough review of the applications, the recommendations of the Human Services Occupations Advisory Council (HSOAC) and the Minnesota Department of Health staff, and after evaluating the criteria for regulation set out in Minnesota Statutes, section 214.001, subdivision 2, the Commissioner concluded that licensure of speech-language pathologists and audiologists was not necessary and that the public could be effectively protected by a registration system for speech-language pathologists and audiologists. The Determination of the Commissioner of Health, signed by Sister Mary Madonna Ashton on January 28, 1988, is incorporated into this Statement as Attachment A. In February 1988, the Commissioner requested that the legislature amend chapter 153A to repeal the provision authorizing licensure of hearing instrument sellers and enact a consumer protection package in its stead.

The Commissioner found in her Determination, Attachment A at page 8, that there was insufficient evidence to show actual harm to the public from improperly or inadequately trained speech-language pathologists and audiologists. The evidence did not meet the statutory requirements needed for licensure which are set out in Minnesota Statutes, section 214.001. Due to this finding, the Commissioner decision was to register speech-language pathologists and audiologists. Registration is a less restrictive form of regulation than licensure. Licensure prohibits practice of an occupation by those without a license. Under a registration system, practitioners who meet minimum qualifications set by the state and register with the state are allowed to use protected titles. Unlike a licensure system, which prohibits unlicensed persons from practicing the profession, registration does not prohibit practice by non-registered persons but rather prohibits use of

protected titles by people who are not registered.

At the conclusion of the credentialing review, the HSOAC in its recommendation to the Commissioner expressed concerns about ineffective or improper delivery of speech and hearing services from speech-language pathologists and audiologists. However, it found that those concerns did not constitute actual harm or potential harm which is not remote, which is one of the four factors to be considered pursuant to section 214.001, subdivision 2. The Commissioner concluded that registration of the occupations was the appropriate mode of regulation because it would avoid potential confusion among consumers regarding the level of education and training among practitioners in the three occupations of hearing instrument dispensing, audiology, and speech language pathology. See, Commissioner's Determination, Attachment A at page 9. Registration could also eliminate confusion over the use of the term "audiologist" by persons with varying educational backgrounds. The Commissioner further concluded that registration would preserve the education and training distinctions between the three occupations, allow for minimal functional overlap that may exist in the testing of hearing and dispensing of hearing aids, and provide consumers with a listing of individuals who have met state-determined standards of education and training in those occupations.

As a result of the above described events, Department staff have drafted these proposed rules for the registration of speech-language pathologists and audiologists.

STATUTORY AUTHORITY

The Commissioner's statutory authority to adopt rules relating to the registration of speech language pathologists and audiologists is set forth in Minnesota Statutes, section 214.13, subdivision 1. This provision states in part:

The commissioner shall, consistent with section 214.001, establish procedures for the identification of human services occupations not now credentialed by the state, recommend appropriate regulatory modes, and promulgate by rule standards and procedures relating to the credentialing of persons practicing in the affected occupations.... If the commissioner determines that credentialing of an occupation is appropriate, the commissioner is empowered only to register the occupation.

Under this statute, the Commissioner is authorized to propose and adopt these registration rules.

ADDITIONAL REQUIREMENTS

1. Approval of the Commissioner of Finance.

Pursuant to Minnesota Statutes, section 16A.128, subdivision 1a, if a fee is required to be fixed by rule, the Commissioner of Finance must approve the fee and that approval must be in the statement of need and reasonableness. The Finance Commissioner's approval of fees established in the proposed registration rules is contained in Attachment B, which is incorporated into this Statement of Need and Reasonableness.

2. Small Business Considerations.

Minnesota Statutes, section 14.115 requires administrative agencies, when

proposing rules, to consider various methods for reducing the impact of the proposed rules on small businesses and to provide the opportunity for small business to participate in the rulemaking process. The policy behind this statute is clearly to protect small businesses. However, section 14.115, subdivision 7, states that "agency rules that do not affect small businesses directly " are not to be bound by this section. (emphasis added). It is the Commissioner's position that, although some of the work settings of speech-language pathologists and audiologists in Minnesota are small businesses within the definition of Minnesota Statutes, section 14.115, subdivision 1, the proposed registration rules will not affect small businesses directly, and therefore are exempt from the small business statute pursuant to Minnesota Statutes, section 14.115, subdivision 7(b).

The Commissioner's position that these proposed rules are exempt from the small business statute pursuant to Minnesota Statutes, section 14.115, subdivision 7(b), is based on three facts. First, the proposed registration system allows for the registration of people, not businesses, and regulates speech-language pathologists and audiologists whether or not they are operating as part of or as a small business. Second, the registration system is voluntary. Registration is not a prerequisite for working as a speech-language pathologist or an audiologist. The only restrictions in a registration system involve the use of protected titles, such as "speech-language pathologist" or "audiologist". Only those individuals who have met predetermined qualifications and have registered with the Commissioner will be allowed to use the protected titles. All others will be prohibited from using the protected titles. Therefore, if the registration system is considered a burden by small businesses that employ one or more

speech-language pathologists or audiologists, than those small businesses may choose not to hire registered individuals.

Third, the proposed registration rules for speech-language pathologists and audiologists do not directly affect the small businesses within the meaning of the statute. Minnesota Statutes, section 14.115 requires an agency to consider the impact on small businesses when the proposed rules establish compliance or reporting requirements or design or operational standards for businesses. Here, the proposed registration rules for speech-language pathologists and audiologists do not set up compliance or reporting requirements or design or operational standards for businesses. Minnesota Statutes, section 214.13, subdivision 1, authorizes the Commissioner of Health to regulate "... persons practicing in ... occupations" (emphasis added), not businesses. Individuals, not businesses, are allowed to register as speech-language pathologists and audiologists. Section 14.115 is designed to require agencies to consider minimizing the impact of proposed rules that directly require small businesses to meet compliance or reporting requirements within specified schedules or deadlines or to meet design or operational standards. It is not designed to require agencies to consider the indirect effects rules which regulate individuals may have on small businesses.

However, should these proposed rules in some way be construed as directly affecting small businesses, the Commissioner has considered the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the proposed rules on small businesses. The five suggested methods enumerated in subdivision 2 are as follows:

- (a) the establishment of less stringent compliance or reporting requirements for small business;
- (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 Commissioner has considered the feasibility of implementing each of the five suggested methods, considered whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rulemaking, and concluded the following. First, it would not be feasible to incorporate any of the five suggested methods into these proposed rules; and second, reducing the impact of these rules on small businesses would undermine the objective of the registration system. Before discussing these conclusions, it may be helpful to examine information obtained by Department staff about the number of speech-language pathologists and audiologists in Minnesota and their typical work settings.

Complete statistical information about the number of speech-language pathologists and audiologists, the size of businesses that employ them or are owned by them, and typical work settings of the practitioners does not exist because no state regulation currently requires such information from all speech-language pathologists and audiologists in the state. However, Health Department staff have relied on two sources to estimate the number of speech-language pathologists and audiologists in the state and to determine their typical work settings. Information was obtained from MSHA and the Minnesota Department of Education.

In August 1989, MSHA provided the following information regarding speech-language pathologists:

| | |
|--------------------------------|-------|
| Total number employed in state | 1,358 |
| MSHA members | 458 |
| Master's level | 840 |
| Baccalaureate level | 518 |

In August 1989, MSHA provided the following information about audiologists in the state:

| | |
|--------------|-----|
| Total number | 173 |
| MSHA members | 80 |

In March 1990, Health Department staff contacted MSHA to see if more recent estimates were available regarding the numbers stated above. Health Department staff was informed that MSHA would only have more recent numbers on MSHA members because MSHA has had no reason to take a more recent survey of the total number of speech-language pathologists and audiologists in the state. MSHA does not have statistical information about the size of businesses that employ or are owned by speech-language pathologists and audiologists. MSHA indicates that typical work settings of speech-language pathologists are the school system, licensed health care facilities such as hospitals, nursing homes and intermediate care facilities for the mentally retarded, and federally certified Medicare rehabilitation facilities. Work settings for audiologists include contractual arrangements with the public school system, medical clinic settings, universities, industry, government agencies, health maintenance organizations, nursing homes and other licensed health care facilities. Some audiologists have independent practices, but the number is believed to be small.

The Minnesota Department of Education has information about special education teachers who are licensed by the Minnesota Board of Teaching to work in speech correction. For the 1988 - 1989 school year, the District Data Unit of the Education, Finance and Analysis Section of the Department of Education provided the following information:

Full time equivalent positions in speech correction.
(This is the number of jobs currently filled.
A headcount could be higher if many people
are working part time jobs.) 1,049

Number of teachers who, as part of their job,
work in speech correction.
(A headcount could be lower if there are
several people doing the same job in more
than one district.) 1,322

The Department of Education does not have a headcount of teachers licensed as special education teachers who work in speech correction. However, the number is estimated to be greater than 1,049 and less than 1,322.

Although audiologists are employed by school districts on an independent contract basis, the Minnesota Board of Teaching does not license audiologists and the Minnesota Department of Education does not record the number of audiologists who are employed by school districts on an independent contract basis.

Using the above information, Health Department staff estimate that there are approximately 1,400 speech-language pathologists and 180 audiologists in Minnesota. Health Department staff also estimate that the majority of speech-language pathologists in the state, approximately 1,100, work in the public school system.

Based on the above information and for the reasons presented below, the Commissioner has reached the following conclusions concerning the feasibility of implementing the methods listed in Minnesota Statutes, section 14.115, subdivision 2:

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

Methods (a) - (c) of subdivision 2 relate to lessening compliance or reporting requirements for small businesses either by (a) establishing less

stringent requirements, (b) establishing less stringent schedules or deadlines for compliance with the requirements, or (c) consolidating or simplifying the requirements. Since the Commissioner is not proposing any compliance or reporting requirements for either small or large businesses, it follows that there are no such requirements for the Commissioner to lessen with respect to small businesses. If, however, these proposed rules are viewed as compliance or reporting requirements for businesses, then the Commissioner finds that it would be unworkable to lessen the requirements for those speech-language pathologists and audiologists who are in a business setting with fewer than 50 employees, since that would include a large number of speech-language pathologists and audiologists who are in employment settings other than the school system. Lessening the requirements for speech-language pathologists and audiologists in business settings with 50 employees or less would be unworkable because the lessened requirements may become the predominant requirement, not the exception. Also, as stated above, the registration system is voluntary and will not prohibit anyone from working or engaging in their area of livelihood.

Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Commissioner is not proposing 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. Under the Commissioner's view that these proposed rules do not in any way regulate the business operation of speech-language pathologists and audiologists there are no rule requirements from which to

exempt small businesses. However, if these proposed rules are viewed as regulating businesses insofar as they regulate speech-language pathologists and audiologists, then it would hardly make sense for the Commissioner to exempt from these rules those speech-language pathologists and audiologists who practice in a business setting with fewer than 50 employees, since they constitute a large number of those practitioners not working in the school system. Also, as discussed above, the registration system is voluntary. Individuals are free to not register, regardless of their affiliation with small businesses. Therefore, the Commissioner does not consider it to be feasible to exempt small business from these proposed rules.

For all of these reasons, it is not feasible for the Commissioner to incorporate into these proposed rules any of the five methods specified in subdivision 2 of the small business statute.

b. Reducing the impact of these rules on small businesses would undermine the objectives of the registration system.

Minnesota Statutes, section 214.13, subdivisions 1 and 3, charge the Commissioner with the duty of recommending appropriate regulatory modes for human service occupations not now credentialed by the state and further require the Commissioner to promulgate rules for standards and procedures relating to the credentialing of persons practicing in the occupations. Given these statutory mandates, it is the Commissioner's duty to establish registration procedures which apply equally to and govern all applicants and registrants, regardless of the size of their business setting. As stated above, it is the Commissioner's position that the proposed rules will not directly affect small businesses, and do not have the potential for imposing a greater impact on speech-language pathologists and audiologists in a setting with fewer than 50 employees than on speech-language pathologists and

audiologists in a large business setting. It also has been explained above that the Commissioner 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 speech-language pathologist or an audiologist and to the extent it may be feasible to implement any of the suggested methods for lessening the impact on small businesses, the Commissioner believes it would be unwise and contrary to the purposes to be served by these rules for her to exempt one group of speech-language pathologists and audiologists from the requirements of these proposed rules.

The Commissioner's decision to register the occupations was, in part, based on her conclusion that some consumer confusion may exist regarding the level of education and training possessed by individuals in the occupations of speech-language pathology, audiology and hearing instrument selling. The Commissioner has authority to register individuals in occupations and to promulgate rules for registration. Minnesota Statutes, section 214.13, subdivisions 1 and 3. The basic statutory intent of Minnesota Statutes, section 214.13, is to protect consumers receiving health-related services. Given this statutory authority and the intent of 214.13, it is the Commissioner's duty to establish a registration system which applies to and governs all speech-language pathologists and audiologists, regardless of the size of their business setting. If small businesses were allowed different speech-language pathology and audiology registration standards, the consumer who chooses to receive services from the small business may be less protected than one who receives services from a large business. While it is true that applying different standards to small businesses would be less burdensome for

the small businesses, such an action would badly frustrate the intent of section 214.13 to protect all consumers of speech-language pathology and audiology services. In fact, applying lesser standards to small businesses may actually weaken the small business market for services of speech-language pathology and audiology services because consumers may choose larger business settings that offer more protection through the registration system. Therefore, if the registration requirements were less for speech-language pathologists and audiologists in small businesses, they may not be as competitive in a market with larger businesses that comply with the proposed registration system. Also, as stated above, the registration system is voluntary. A person may choose not to be registered.

It would be contrary to the Commissioner's statutory authority to adopt one set of regulations that apply to those speech-language pathologists and audiologists who work in a large business setting and adopt another less stringent set of regulations to be applied to those speech-language pathologists and audiologists who work in a small business setting. It is the Commissioner's view that these proposed rules must apply equally to all speech-language pathologists and audiologists if the public whom they serve is to be adequately protected.

Minnesota Statutes, section 214.001, subdivision 2, paragraph (d) requires the Commissioner to consider whether the overall cost effectiveness and economic impact of the proposed regulation would be positive for the citizens of the state. Therefore, the Commissioner has already taken the cost impact of the proposed registration system into consideration and determined that the proposed registration system is the least costly method of regulating the occupation so as to protect the public.

Speech-language pathologists and audiologists, regardless of whether they are considered as individuals or small businesses, will have an opportunity to participate in the rulemaking process. A notice of the proposed rulemaking will be mailed to the following organizations which will likely represent any entity affected by the rules which may claim to be a small business:

1. Minnesota Hearing Aid Society;
2. Minnesota Speech-Language-Hearing Association;
3. American Association for Retired Persons; and
4. Minnesota Foundation for Better Hearing and Speech.

A notice of the proposed rulemaking will also be mailed to supervisors of special education teachers licensed in speech correction in the public school system and to all those who have requested to be on the Department of Health's mailing list.

In addition to mailing the notice as described above, Department staff have maintained informal contact with members of MSHA and the Department of Education during the entire rulemaking process. Department staff also hosted an informal meeting to discuss the proposed rules with approximately nine occupational representatives as well as representatives from the Minnesota Board of Teaching, Department of Education and the Department of Human Services.

3. Other statutory considerations.

Minnesota Statutes, section 14.11, subdivision 1 states:

Fiscal note on rule in notice. If the adoption of a rule by an agency will require the expenditure of public money by local public bodies, the appropriate notice of the agency's intent to adopt a rule shall be accompanied by a written statement giving the agency's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two

years immediately following adoption of the rule if the estimated total cost exceeds \$100,000 in either of the two years. For purposes of this subdivision, local public bodies shall mean officers and governing bodies of the political subdivisions of the state and other officers and bodies of less than statewide jurisdiction which have the authority to levy taxes.

Minnesota Statutes, section 14.11, subdivision 2 states:

Agricultural land. If the agency proposing the adoption of the rule determines that the rule may have a direct and substantial adverse impact on agricultural land in the state, the agency shall comply with the requirements of sections 17.80 to 17.84.

The Commissioner has determined that Minnesota Statutes, section 14.11, subdivision 2 does not apply to the proposed registration rules. Therefore, this Statement does not address the topic referenced in that statute.

It is the position of the Commissioner that Minnesota Statutes, section 14.11, subdivision 1 does not apply to the proposed registration rules for the reasons discussed below.

The statute in issue, Minnesota Statutes, section 14.11, subdivision 1, imposes a duty, under certain conditions, on the agency adopting the rules to prepare a specific type of fiscal note by stating in part that, "If the adoption of a rule by an agency will require the expenditure of public money by local public bodies, the appropriate notice of the agency's intent to adopt a rule shall be accompanied by a written statement ...". Minnesota Statutes, section 14.11, subdivision 1. Local public bodies is defined for the purposes of the subdivision as a term which "... shall mean officers and governing bodies of the political subdivisions of the state and other officers and bodies of less than statewide jurisdiction which have the authority to levy taxes". Id. The meaning of the term "local public bodies," for purposes of the subdivision, includes Minnesota school districts. Minnesota school districts are required to levy taxes for normal operating expenses.

Therefore, Minnesota school districts are included in the term "local public bodies."

There is some concern that a possible interpretation of a federal law regarding standards for school personnel would result in these proposed registration rules having a secondary effect of requiring Minnesota school districts to exclusively employ people with masters degrees to work with children with speech handicaps. Also, depending on the interpretation of the federal law, there has been some concern that these proposed rules would require Minnesota school districts to retrain to a master's degree level those baccalaureate level trained personnel who currently work with children who have speech-handicaps. The federal law involved is Part B of The Education of the Handicapped Act (EHA-B), Pub. L. 99-457, the Education of the Handicapped Act Amendments of 1986 (1986 Amendments), also known as the Education of the Handicapped Act (hereinafter referred to as EHA-B). This law and related issues are discussed further at pages 61 to 62 of this Statement.

If EHA-B is interpreted to require the exclusive hiring of people with master's degrees or the retraining of personnel as described above, the adoption of these proposed rules could be seen as requiring "... the expenditure of public money by local public bodies..." because the school districts would be required to hire personnel who could potentially demand higher salary than baccalaureate level trained personnel or the school districts could be required to spend money on retraining of personnel. However, the Department obtained a letter from the United States Department of Education (Attachment C) which gives assurances that Minnesota school districts would not be required to exclusively hire people with master's degrees or retrain personnel as a result of these proposed rules.

Thus the Commissioner's first reason for asserting that Minnesota Statutes, section 14.11, subdivision 2 does not apply to these proposed rules is that adoption of these proposed rules will not require the expenditure of public money by "local public bodies" (school districts). The Commissioner's position is based on the letter from the United States Department of Education, Attachment C. The letter, which is discussed further at pages 61 to 62 of this Statement states in part:

[I]t is permissible under EHA-B for Minnesota to establish different entry level professional requirements standards for the professions or disciplines of "speech-language pathologist" and "speech correctionist" for personnel who provide speech services to children with handicaps, provided there is a difference in the required scope of responsibility or degree of supervision for individuals in these specific occupational categories.

The Commissioner's second reason for asserting that Minnesota Statutes, section 14.11, subdivision 2 does not apply to these proposed rules is that local public bodies will not be implementing the proposed rules. Instead, the Department will be implementing the proposed rules. The fiscal note that is required by Minnesota Statutes, section 14.11, subdivision 2 is for the purpose of "... giving the agency's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule if the estimated total cost exceeds \$100,000 in either of the two years". [emphasis added]. Under Minnesota Statutes, section 214.06, costs of implementing these regulations are paid by fees required of registrants.

For these reasons, the Commissioner asserts that Minnesota Statutes, section 14.11, subdivision 2 does not apply to these proposed rules.

4. Other Statutory Requirements.

The Commissioner has determined that Minnesota Statutes, sections 17.80 to 17.84; 115.43; 116.07, subdivision 6; and 144A.29, subdivision 4 do not apply to the proposed registration rules. Therefore, this Statement does not address the topics referenced in those statutes.

STATEMENT OF NEED AND REASONABLENESS

A. General Statement of Need and Reasonableness.

In addition to the statutory authority allowing the Commissioner to implement the registration system, there are several public policy reasons for creating a registration system for speech-language pathologists and audiologists in this state. The Determination of the Commissioner of Health (Attachment A) sets out, at pages 8 and 9, the Commissioner's recommendations regarding the registration system. First, the Commissioner determined that licensure was not justified because:

In the evidence presented by the applicants or discovered by the HSOAC [the Human Services Occupations Advisory Council] and Health Department staff review, little or no evidence of actual harm to the public was demonstrated from improperly or inadequately trained speech-language pathologists, audiologists or hearing instrument dispensers. In order to justify restricting the practice of any profession to only those who meet certain criteria, as regulation by licensure would do, it must be shown that the public is harmed by individuals who do not meet educational or training standards and that the harm is caused by the lack of adequate educational or training standards.

In the HSOAC review, some concerns were raised "... about the screening, testing and evaluation of hearing loss and the various practitioners who may perform one or more of the functions involved in screening, testing and

evaluating hearing loss." The HSOAC also raised concerns "... about ineffective or improper delivery of speech and hearing services from speech-language pathologists and audiologists and the potential for harm resulting from poorly trained hearing instrument dispensers." The Commissioner stated in the Determination, on page 8, that "... licensure is justified where there is actual evidence of a non-remote risk of harm related specifically to inadequate education and training. The Commissioner's Determination also noted that there was "... evidence of harm, on a very limited basis, that some hearing instrument dispensers may 'overbill' their qualifications. Use of the term 'certified hearing aid audiologist' may be deceptive and misleading to Hearing impaired consumers when used by persons without academic and professional training as audiologists." The Commissioner determined that registration of the three occupations would eliminate the potential misrepresentation of qualifications caused by use of the term "certified hearing aid audiologist" by persons without academic and professional training as audiologists.

The Commissioner's Determination separates the public policy reasons for establishing the registration system into three parts. First, the Commissioner determined that licensure was not needed as explained above. Second, the registration system would avoid potential confusion among consumers regarding the level of education and training possessed by practitioners in those occupations, and eliminate confusion over use of the term "audiologist" by persons with varying educational backgrounds. In line with the concern regarding confusion over the use of titles, the Commissioner determined that registration "... will preserve the education and training distinctions between the three occupations [and] allow for minimal functional

overlap that may exist in the testing of hearing and dispensing of hearing aids" The Commissioner's Determination, Attachment A at page 9. Third, the registration system would provide consumers with a listing of individuals who have met state-determined standards of education and training in the occupations of hearing instrument dispensing, speech-language pathology and audiology. The minimum qualifications are those the Department of Health considers essential to the practice of speech-language pathology and audiology in the state. This information would be useful to consumers to lessen or eliminate confusion about the training and credentials of speech-language pathologists and audiologists in Minnesota.

The proposed registration system provides the state with a mechanism for disciplining speech-language pathologists and audiologists by, for example, denying initial registration, denying renewal of registration, suspending registration, or revoking registration. Therefore, the registration system provides not only a roster of all of the registered speech-language pathologists and audiologists in Minnesota, but also a new mechanism for the state to effectively monitor registered speech-language pathologists and audiologists.

The four points that follow are the Commissioner's conclusions relating to the four factors to be considered pursuant to Minnesota Statutes, section 214.001, et seq., and listed on page three of this Statement.

1. The unregulated practice of speech-language pathologists and audiologists may harm or endanger the health, safety and welfare of citizens of the state and the potential for harm is recognizable and not remote.

The Commissioner concluded that the type of harm identified during the review of the occupations of speech-language pathology and audiology did not justify licensure. However, the harm identified was sufficient for the

Commissioner to require the development of a registration system for the occupations. Harm identified during the occupational review included the following:

- a. ineffective or improper delivery of speech and hearing services from speech-language pathologists and audiologists;
- b. "overbilling" by some hearing instrument dispensers of their qualifications by using the term "certified hearing aid audiologist" when the hearing instrument dispenser does not have academic and professional training as an audiologist;
- c. unethical practice; for example, financial harm to the state occurred in one case because a speech-language pathologist falsified her credentials and billed the state for improperly delivered services to medical assistance clients; and
- d. incompetent practice; for example, at the public forum held during the review of the occupations, several parents and speech-language pathologists, spoke of harm caused by misdiagnosis or poor judgment on the part of the speech clinicians in the public schools.

The Commissioner found that information presented by the applicants or discovered by HSOAC and Health Department staff review involved little or no evidence of actual harm to the public from improperly or inadequately trained speech-language pathologists, audiologists or hearing instrument dispensers. With that information in mind, the Commissioner did not recommend licensure for speech-language pathologists and audiologists, but recommended a registration system be developed for the occupations. The registration system will provide consumers a listing of speech-language pathologists and audiologists who have met predetermined minimum qualifications and have registered with the Department of Health. The registration system will also provide the state with a means of effectively monitoring speech-language pathologists and audiologists.

2. The practice of speech-language pathology and audiology requires specialized skill or training and the public may benefit by assurances of initial and continuing occupational ability.

Following the review of the occupations of speech-language pathology and audiology, the Commissioner made several conclusions about the issue of specialized skill and training required by speech-language pathologists and audiologists. First, the Commissioner found that the existing level of professionalism within the professions of speech-language pathology and audiology is commendably high. "Practitioners in speech-language pathology are trained at the bachelor's and master's degree levels, and generally employed at the master's degree level. Audiologists are trained at the master's degree level. The majority of both groups of practitioners work in licensed facilities or in supervised settings." See, Commissioner's Determination, Attachment A at page 9. Health Department staff found that, for speech-language pathologists, the master's degree is the credential that employers view as the entry degree across the range of employment options, the exception being the public school system. Second, the Commissioner found that little or no evidence of actual harm to the public was demonstrated from improperly or inadequately trained speech-language pathologists and audiologists. The Commissioner recognized that specialized skill and training are required in the fields of speech-language pathology and audiology. She also recognized that the existing degree of professionalism in the fields of speech-language pathology and audiology is high and that the acceptable level of training for employment in those fields in all settings, except the school setting, requires a master's degree. People working in the field of speech-language pathology in the school setting may be employed at the baccalaureate level, may have supervision and are regulated by the Minnesota

Board of Teaching. See, Commissioner's Determination, Attachment A at pages 3 and 5. The above information, in combination with the lack of evidence of actual harm found due to improper or inadequate training, was the basis for the Commissioner's decision against licensure and for registration of speech-language pathologists and audiologists.

3. The citizens of Minnesota are not effectively protected by other means.

HSOAC and Health Department staff found that the majority of speech-language pathologists and many audiologists work in settings where there is either some supervision and/or the employer is legally responsible for the speech-language pathologist's and audiologist's plan of care and delivery of service.

The majority of speech-language pathologists work in the public school system. Speech-language pathologists are also employed by or have another type of contractual relationship with licensed health care facilities, including hospitals, nursing homes, intermediate care facilities for the mentally retarded, and federally certified Medicare rehabilitation facilities. Speech-language pathologists who participate as providers under the state Medical Assistance Program must meet the education and training requirements necessary to obtain a Certificate of Clinical Competence (CCC) from the American Speech-Language-Hearing Association (ASHA). ASHA is a national, private certifying organization for speech-language pathologists and audiologists. One of the prerequisites for obtaining a CCC is a master's degree.

Speech-language pathologists and audiologists who receive Medicare reimbursement must comply with Medicare rules. Under Medicare rules a licensed physician must periodically review each plan of care developed by a

speech-language pathologist. Medicare rules further state "skilled nursing and skilled rehabilitation services" means services that:

(1) Are ordered by a physician; (2) Require the skills of technical or professional personnel such as registered nurses, licensed practical (vocational) nurses, physical therapists, occupational therapists, and speech pathologists or audiologists; and (3) are furnished by or under the supervision of, such personnel. 42 CFR 409.31 (a)

Audiologists are not directly supervised by another professional from a regulated occupation, but many audiologists work in an employment setting where the employer maybe legally responsible for the audiologist's service delivery and conduct. See, Commissioner's Determination, Attachment A at page 9. Audiologists may be employed in medical clinic settings, health maintenance organizations, nursing homes and other licensed health care facilities. Some audiologists have contractual relationships with the public school system. However, audiologists are not licensed by the Minnesota Board of Teaching as are those who work in the field of speech-language pathology in the school system. A small number of audiologists in Minnesota have independent practices.

The Commissioner concluded that, based on the above information, "other means" were available to provide some protection to the consumers of speech-language pathology and audiology services. However, she also concluded that registering the three occupations of hearing instrument dispensing, speech-language pathology and audiology would provide further protection to consumers by eliminating or reducing confusion over the level of education and training practitioners in those occupations have and eliminating confusion over the term "audiologist." See discussion above at page 19. The Commissioner determined that registration will preserve the education and training distinctions between the three occupations, allow for minimal functional

overlap that may exist in the testing of hearing and dispensing of hearing aids, and provide consumers with a listing of individuals who have met state determined standards of education and training in those occupations.

4. The overall cost effectiveness and economic impact would be positive for citizens of Minnesota.

Pursuant to Minnesota Statutes, sections 16A.128, 214.06 and 214.13, the registration fee and any other fees necessary for the administration of the registration system will be borne by the registered speech-language pathologists and audiologists. The fact that the registered speech-language pathologists and audiologists will bear the cost of all fees required for the administration of the registration system means that the very group to be regulated will be paying the cost of its administration. The consumers of speech-language pathology and audiology services in Minnesota may ultimately have to bear the costs due to increased service costs reflecting the cost of the registration fees, but these consumers are also the primary beneficiaries of the regulatory activity. The proposed registration fees may not exceed the administrative costs under Minnesota Statutes, section 16A.128.

B. Specific Statement of Need and Reasonableness.

Minnesota Statutes section 214.13, subdivision 3 states in part:

Rules promulgated by the commissioner pursuant to subdivision 1 may include procedures and standards relating to the registration requirement, the scope of authorized practice, fees, supervision required, continuing education, career progression and disciplinary matters.

The proposed registration rules include provisions relating to all of the above except supervision required and career progression.

Although no provision in the rules is entitled "scope of authorized practice," the definitions set out in the rules for "audiologist," "the

practice of audiology," "speech-language pathologist," and "the practice of speech-language pathology," when taken together, generally define the scope of practice of audiologists and speech-language pathologists. These definitions are discussed below in the Definitions section of the proposed rules.

Other than providing the definitions as set out below, there is no need to further define the scope of authorized practice for speech-language pathologists and audiologists. Further, it is reasonable that parts 4750.0010 to 4750.0700 do not further define scope of authorized practice because the registration system does not prohibit anyone from practicing speech-language pathology or audiology whether registered or not; therefore, limiting the activities of a registered speech-language pathologist or audiologist could be viewed as unreasonable.

Although supervision is defined regarding fulfillment of certain minimum entry requirements, the rules do not have a provision regarding supervision required in the practice of speech-language pathology or audiology because supervision, or lack of it, was not found to be a problem in the occupations of speech-language pathology and audiology during the Health Department's review. Therefore, the Commissioner found that there was no need in parts 4750.0010 to 4750.0700 to require practicing speech-language pathologists and audiologists to be supervised.

No provision in parts 4750.0010 to 4750.0700 deals with career progression of speech-language pathologists or audiologists. The Health Department review did not find career progression, marked by different titles or duties, to be characteristic of the occupations of speech-language pathology or audiology. Also, no need to provide for regulation of career progression was found during the credentialing review because no specific harm

was shown to be due to improper career progression. A speech-language pathologist or audiologist must meet the minimum requirements set by parts 4750.0010 to 4750.0700 and register with the commissioner before he or she can use the protected titles provided by the rules. Continuing education is required as a prerequisite of registration renewal. However, other than meeting entry and continuing education requirements these registration rules do not require the meeting of standards to show evidence of career progression.

PROPOSED PERMANENT RULES RELATING TO SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST REGISTRATION

4750.0010 SCOPE

PARTS 4750.0020 TO 4750.0700 APPLY ONLY TO PERSONS WHO ARE APPLICANTS FOR REGISTRATION, WHO ARE REGISTERED, WHO USE PROTECTED TITLES, OR WHO REPRESENT THAT THEY ARE REGISTERED.

It is necessary to set out the scope of these proposed rules to lessen confusion that might arise if the scope section was not included in the proposed rules. These proposed rules do not apply to every person who practices speech-language pathology or audiology unless the practitioner also fits into one of the categories set out above, that is, is an applicant for registration, is registered, uses protected titles or represents that he or she is registered.

The scope section is reasonable because it only includes those people who are subject to the proposed rules. Further, it is reasonable because the people who are included in the scope are those over whom the Commissioner has jurisdiction pursuant to several sections of Minnesota Statutes, chapter 214.

A full explanation of the Commissioner's jurisdiction pursuant to Minnesota Statutes, chapter 214 is given in this Statement following the definition of the term "individual."

4750.0020 DEFINITIONS

Subpart 1. SCOPE. FOR THE PURPOSE OF PARTS 4750.0010 TO 4750.0700, THE FOLLOWING TERMS HAVE THE MEANINGS GIVEN TO THEM.

It is necessary and reasonable to define in this part those words which are used in these proposed rules because they are key to understanding the practice of speech-language pathology and audiology and the registration system for speech-language pathologists and audiologists.

Subp. 2. ACCREDITED EDUCATIONAL INSTITUTION. "ACCREDITED EDUCATIONAL INSTITUTION" MEANS A UNIVERSITY, COLLEGE OR OTHER POST-SECONDARY EDUCATIONAL INSTITUTION THAT OFFERS SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY TRAINING AND THAT IS ACCREDITED BY THE AMERICAN-SPEECH-LANGUAGE-HEARING ASSOCIATION OR THE NATIONAL COUNCIL FOR ACCREDITATION OF TEACHER EDUCATION.

It is necessary to include this definition in the rules because the phrase "accredited educational institution" is referred to in the rules, and, as used in the rules, has a special meaning when used to describe educational institutions that offer speech-language pathology or audiology training. It is reasonable to define "accredited educational institution" as set out above because the definition takes into consideration the fact that educational institutions offering training in speech-language pathology or audiology may be accredited by the American-Speech-Language-Hearing Association (ASHA) and/or the National Council for Accreditation of Teacher Education (NCATE).

ASHA is a national, private certifying organization for people in the fields of speech-language pathology and audiology. ASHA grants the Certificate of Clinical Competence (CCC) to people in the fields of speech-language pathology and audiology who have fulfilled educational and

training prerequisites set by ASHA. The Educational Standards Board of ASHA approves programs offering graduate coursework and clinical practicum in speech-language pathology and audiology. It is reasonable that ASHA be identified as an accrediting entity for the purposes of parts 4750.0010 to 4750.0700 because it is a national organization which sets standards for speech-language pathology and audiology that are recognized throughout the nation.

The National Council for Accreditation of Teacher Education (NCATE) is a private, non-profit organization authorized by the Council on Post-Secondary Accreditation to adopt standards and procedures for accrediting and to determine accrediting status of institutional units for the preparation of all teachers and other professional school personnel at the elementary and secondary levels. NCATE is recognized by the United States Department of Education as an authorized accrediting agency in the field of school personnel preparation.

The following is an excerpt under the heading, "Authority for Accreditation Activities" from a publication of NCATE entitled, "NCATE Standards, Procedures, and Policies for the Accreditation of Professional Education Units," revised January 1990, p. 2.,

National accreditation of college and university units for the preparation of all teachers and other professional school personnel at the elementary and secondary levels is the sole responsibility of the National Council for Accreditation of Teacher Education (NCATE). NCATE has been recognized by the Council on Postsecondary Accreditation (COPA) to adopt standards and procedures for accreditation and to determine the accreditation status of institutional units. NCATE is also recognized by the U.S. Department of Education as the only authorized accrediting agency in the field of school personnel preparation.

Subp. 3. ADVISORY COUNCIL. "ADVISORY COUNCIL" MEANS THE MINNESOTA SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST ADVISORY COUNCIL ESTABLISHED UNDER

MINNESOTA STATUTES, SECTION 214.13, SUBDIVISION 4.

It is necessary to include this definition in the rules because an advisory council is created by these proposed rules to advise the commissioner on matters relating to the registration and regulation of the occupations. Although other advisory councils exist in Minnesota, the term as used in these proposed rules refers only to the Minnesota Speech-Language Pathologist and Audiologist Advisory Council. The definition is reasonable because it clearly indicates the advisory council referred to in these rules and because it cites the statutory authority for creating the advisory council. Minnesota Statutes section 214.13, subdivision 4 states in part: "The commissioner of health may establish an advisory council to advise the commissioner or the appropriate health-related licensing board on matters relating to the registration and regulation of an occupation".

Subp. 4. APPLICANT. "APPLICANT" MEANS A PERSON WHO APPLIES TO THE COMMISSIONER FOR REGISTRATION OR REGISTRATION RENEWAL.

It is necessary to define an applicant as described in order to have a term to describe those seeking registration or registration renewal. The definition is reasonable because it clarifies that an applicant is one who has submitted an application to the Commissioner of Health for registration or registration renewal.

Subp. 5. APPROVED CONTINUING EDUCATION SPONSOR. "APPROVED CONTINUING EDUCATION SPONSOR" MEANS AN ORGANIZATION THAT OFFERS A LEARNING EXPERIENCE DESIGNED TO PROMOTE CONTINUING COMPETENCY IN THE PROCEDURES AND TECHNIQUES OF THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY AS DEFINED IN SUBPARTS 7 AND 17, AND THAT MEETS THE CRITERIA IN PART 4750.0400, SUBPART 3 OR IS A PREAPPROVED SPONSOR LISTED IN PART 4750.0400, SUBPART 2.

It is necessary to include this definition in the rules because the phrase "approved continuing education" is referred to in the rules and means an organization that has met specific criteria provided in part 4750.0400 of

the rules. The definition is reasonable because it refers to concrete standards provided in the rules.

Subp. 6. AUDIOLOGIST. "AUDIOLOGIST" MEANS A NATURAL PERSON WHO ENGAGES IN THE PRACTICE OF AUDIOLOGY AS DEFINED IN SUBPART 7, MEETS THE QUALIFICATIONS REQUIRED BY PARTS 4750.0010 TO 4750.0700, AND REGISTERS AS AN AUDIOLOGIST WITH THE COMMISSIONER. AS USED IN PARTS 4750.0010 TO 4750.0700, AUDIOLOGIST ALSO MEANS A NATURAL PERSON USING ANY DESCRIPTIVE WORD WITH THE TITLE AUDIOLOGIST.

It is necessary to include this term in the definitions section because it will be used in the proposed rules to indicate persons who meet minimum qualifications set by the rules and who are registered with the commissioner. It is also necessary to define the term to clarify that the registration system regulates individuals and not businesses. The definition is reasonable because it clearly states the elements necessary to use the term. The definition is also reasonable because the Commissioner has authority, pursuant to Minnesota Statutes, sections 214.001, subdivision 3, paragraph (c) and 214.13, subdivision 3, to set prerequisites for registration and to protect certain titles.

Subp. 7. THE PRACTICE OF AUDIOLOGY. "THE PRACTICE OF AUDIOLOGY" MEANS

- A) SCREENING, IDENTIFICATION, ASSESSMENT AND INTERPRETATION, DIAGNOSIS, REHABILITATION, AND PREVENTION OF HEARING DISORDERS;
- B) CONSERVATION OF THE AUDITORY SYSTEM FUNCTION; DEVELOPMENT AND IMPLEMENTATION OF HEARING CONSERVATION PROGRAMS;
- C) MEASUREMENT, ASSESSMENT AND INTERPRETATION OF AUDITORY AND VESTIBULAR FUNCTION;
- D) SELECTING, FITTING AND DISPENSING OF ASSISTIVE LISTENING DEVICES, ALERTING AND AMPLIFICATION DEVICES AND SYSTEMS FOR PERSONAL AND PUBLIC USE, INCLUDING HEARING AIDS AND DEVICES, AND PROVIDING TRAINING IN THEIR USE;
- E) AURAL HABILITATION AND REHABILITATION AND RELATED COUNSELING FOR HEARING IMPAIRED INDIVIDUALS AND THEIR FAMILIES;
- F) SCREENING OF SPEECH, LANGUAGE, VOICE OR FLUENCY FOR THE PURPOSES OF AUDIOLOGIC EVALUATION OR IDENTIFICATION OF POSSIBLE COMMUNICATION DISORDERS; OR

G) TEACHING OF, CONSULTATION OR RESEARCH ABOUT, OR SUPERVISION OF THE FUNCTIONS IN ITEMS A TO F.

It is necessary to define the term "practice of audiology" because the term will be used in the proposed rules to indicate a function or set of functions performed by audiologists. The definition is reasonable because it encompasses all of the common functions performed by audiologists.

Subp. 8. COMMISSIONER. "COMMISSIONER" MEANS THE COMMISSIONER OF THE DEPARTMENT OF HEALTH OR A DESIGNEE.

It is necessary to define the term "Commissioner" as the Commissioner of the Department of Health because it distinguishes this commissioner from those of other state agencies. It is reasonable to define Commissioner as the Commissioner of Health because it is consistent with the definition provided in the authorizing statute, Minnesota Statutes, section 214.13, subdivision 1. It is also necessary to define "Commissioner" as including designee because it may be necessary for the commissioner to assign to a person within or outside of the Department of Health tasks that she is authorized to perform. It is reasonable that the Commissioner be able to delegate administrative tasks. The designee is authorized to do only that which the Commissioner is authorized to do and has chosen to delegate.

Subp. 9. CONTACT HOUR. "CONTACT HOUR" MEANS AN INSTRUCTIONAL SESSION OF 50 CONSECUTIVE MINUTES, EXCLUDING COFFEE BREAKS, REGISTRATION, MEALS WITH OR WITHOUT A SPEAKER, AND SOCIAL ACTIVITIES.

It is necessary to define the term "contact hour" because the term is used in the rules as a uniform unit of measurement to designate attendance at continuing education activities. It is reasonable to define the minimum unit of time as 50 minutes for the following reasons. When time periods set apart for continuing education exceed two or three clock hours (one clock hour is 60 minutes), small amounts of time are needed for primarily social or

administrative functions such as coffee breaks, registration and meals with a speaker. Due to the primary social or administrative character of the time described, it makes sense that the time for those functions would not be considered continuing education activities. Following that reasoning, it is logical to exclude the time used for those functions from the term used to measure attendance at a continuing education activity. However, the Commissioner also recognizes that time is needed for primarily administrative and social functions in order to conduct continuing education functions. Another registration system in Minnesota defines contact hour in a similar way to the above definition. The rules for the registration of environmental health specialists/sanitaricians at part 4695.2600, subpart 5 defines "contact hour" as "... an instructional session of 50 consecutive minutes excluding coffee breaks, registration, meals (with or without a speaker), or other social activities." For all of the above reasons, it is reasonable to define a contact hour as 50 minutes.

Subp. 10. CONTINUING EDUCATION. "CONTINUING EDUCATION" IS A PLANNED LEARNING EXPERIENCE IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY NOT INCLUDING THE BASIC EDUCATIONAL PROGRAM LEADING TO A DEGREE IF THE EDUCATION IS USED BY THE REGISTRANT FOR CREDIT TO ACHIEVE A BACCALAUREATE OR MASTER'S DEGREE IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY.

It is necessary to include the definition of the term "continuing education" in the rules because the term is used in the rules and has a meaning that is different from the meaning of the term "education" that is required as partial fulfillment to meet the minimum registration requirements set out in parts 4750.0010 to 4750.0700. The definition is reasonable because it is consistent with the meaning given to the term in common usage when applied to a subject area, such as speech-language pathology or audiology. It is also reasonable to exclude the basic educational program leading to a

degree if the education is used by the registrant for credit to achieve a baccalaureate or master's degree in speech-language pathology or audiology because the descriptive word "continuing" in the phrase indicates that the education is meant to be beyond the degree requirements for a speech-language pathologist or audiologist. However, the Commissioner recognizes that once a registrant has achieved a baccalaureate or master's degree there would be value, for continuing education purposes, in a registrant taking a university course in the areas of speech-language pathology or audiology and possibly in areas related to speech-language pathology or audiology.

Subp. 11. CREDENTIAL. "CREDENTIAL" MEANS A LICENSE, PERMIT, CERTIFICATION, REGISTRATION, OR OTHER EVIDENCE OF QUALIFICATION OR AUTHORIZATION TO ENGAGE IN THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY ISSUED BY ANY AUTHORITY.

It is necessary to include this definition in the rules because the term "credential" is used in the rules and has a meaning that, although consistent with the common usage of the term, may differ from definitions given in dictionaries and is specific to the subject area of occupational regulation. The definition is reasonable because (1) it is consistent with common usage, and (2) clarifies that any qualification or authorization to engage in speech-language pathology or audiology issued by a private body or governmental unit will be considered a credential for the purposes of these rules. States regulate speech-language pathologists and audiologists and their practices in a variety of ways. Private organizations also issue evidence of qualification for various occupations. This definition encompasses any evidence of qualification or authorization issued by either type of body.

Subp. 12. INDIVIDUAL. "INDIVIDUAL" MEANS A PERSON OVER WHOM THE COMMISSIONER HAS JURISDICTION UNDER PARTS 4750.0010 TO 4750.0700. INDIVIDUAL INCLUDES AN APPLICANT, REGISTRANT, OR PERSON WHO USES ANY TITLE PROTECTED BY PART 4750.0030, WHETHER OR NOT AUTHORIZED TO DO SO BY PARTS 4750.0010 TO 4750.0700.

It is necessary to define the term "individual" because the word is used in the proposed rules and has a specific meaning as used in these rules. It is also necessary to define the term to put people on notice as to who is subject to the provisions of the rules.

It is reasonable to define individual to include the three categories of persons described because pursuant to the statutory authority set out below, the Commissioner's jurisdiction extends beyond applicants and registrants to any person who uses titles protected by the registration system whether or not they are authorized to do so.

The authority for the Commissioner to take disciplinary action against individuals who violate parts 4750.0010 to 4750.0700, including persons who use a title protected by part 4750.0030 whether or not they are authorized to do so, arises out of several sections of Minnesota Statutes, chapter 214. First, the Commissioner is authorized to register an occupation. Minnesota Statutes, section 214.13, subdivision 1, states in part "If the commissioner determines that credentialing of an occupation is appropriate, the commissioner is empowered only to register the occupation." Second, the Commissioner is authorized to protect titles through the registration system. Minnesota Statutes, section 214.001, subdivision 3, paragraph (c) defines registration. It states, "Implementation of a system of registration whereby practitioners who will be the only persons permitted to use a designated title are listed on an official roster after having met predetermined qualifications" Emphasis supplied. Third, the Commissioner is allowed to include in the registration system procedures and standards relating to several topics, including disciplinary matters. Minnesota Statutes, section 214.13, subdivision 3, states in part that "Rules promulgated by the commissioner

pursuant to subdivision 1 may include procedures and standards relating to the registration requirement, the scope of authorized practice, fees, supervision required, continuing education, career progression and disciplinary matters." Emphasis supplied. Fourth, in conjunction with authority to register an occupation, the Commissioner is given authority and guidelines regarding complaints, investigation and hearing by Minnesota Statutes, section 214.13, subdivision 6:

The provisions of section 214.10, shall apply to any complaint or other communication, whether oral or written, received by the commissioner of health which alleges or implies a violation of a statute or rule which the commissioner is empowered to enforce relating to a specific occupational group for which a registration requirement has been created pursuant to this section.

Minnesota Statutes, section 214.10, subdivisions 1 and 2 relate to receipt of complaints, investigation and hearing by regulatory boards. A regulatory board is not involved in administering this proposed registration system, therefore Minnesota Statutes, section 214.13, subdivision 6, is key to providing the Commissioner's disciplinary authority. Fifth, the Commissioner is given subpoena powers and allowed to delegate some duties regarding discipline by Minnesota Statutes, section 214.13, subdivision 7.

The duties of the executive secretary or board members specified in section 214.10, subdivision 1 and 2, shall be performed with respect to occupations regulated pursuant to this section by the advisory council established under subdivision 4, or if no council has been created, by the health-related licensing board which has been delegated the administration of regulation activities, or if no such delegation has been made, by a staff member appointed by the commissioner. For the purposes of subdivision 6 and this subdivision, the commissioner may exercise the powers granted to boards by section 214.10, subdivision 3, when carrying out the duties of this subdivision.

The last sentence cited above refers to subpoena powers granted by Minnesota Statutes, section 214.10, subdivision 3.

The language of all the statutes cited above, when taken together, give

the Commissioner jurisdiction over applicants, registrants and persons who use any title protected by part 4745.0030, whether or not authorized to do so.

Subp. 13. REGISTER OR REGISTERED. "REGISTER" OR "REGISTERED" MEANS THE ACT OR STATUS OF A NATURAL PERSON WHO MEETS THE REQUIREMENTS OF PARTS 4750.0010 TO 4750.0700 AND WHO IS AUTHORIZED BY THE COMMISSIONER TO USE THE TITLES IN PARTS 4750.0030.

It is necessary to include these terms in the definition section because the terms are used in the proposed rules to indicate people who go through the process of registration or have registered. The definition is reasonable because it clarifies the specific meaning of the terms as used in parts 4750.0010 to 4750.0700.

Subp. 14. REGISTRANT. "REGISTRANT" MEANS A PERSON WHO MEETS THE REQUIREMENTS OF PARTS 4750.0010 TO 4750.0700 AND IS AUTHORIZED BY THE COMMISSIONER TO USE THE TITLES IN PART 4750.0030.

It is necessary to define the term "registrant" because the term is used throughout the rules to indicate a person who meets the qualifications of the rules and is authorized to use the titles in part 4750.0030. The definition is reasonable because it is consistent with the requirements provided for in the rules.

Subp. 15. REGISTRATION. "REGISTRATION" IS THE SYSTEM OF REGULATION DEFINED IN MINNESOTA STATUTES SECTION 214.001, SUBDIVISION 3, PARAGRAPH (c) AND IS THE PROCESS SPECIFIED IN PARTS 4750.0010 TO 4750.0700.

It is reasonable and necessary to define the term "registration" as it is defined in the authorizing statute for this registration system in order to reduce confusion. By directing the reader to the statute, the reader is assured that the rules use the same definition for this term as is used in the authorizing statute.

Subp. 16. SPEECH-LANGUAGE PATHOLOGIST. "SPEECH-LANGUAGE PATHOLOGIST" MEANS A PERSON WHO PRACTICES SPEECH-LANGUAGE PATHOLOGY AS DEFINED IN SUBPART 17, MEETS THE QUALIFICATIONS IN PARTS 4750.0010 TO 4750.0700, AND REGISTERS WITH THE COMMISSIONER. SPEECH-LANGUAGE PATHOLOGIST ALSO MEANS A NATURAL PERSON USING AS AN OCCUPATIONAL TITLE A TERM IDENTIFIED IN PART 4750.0030.

It is necessary to include this definition in the proposed rules because the term is used to indicate persons who meet minimum qualifications set by the rules and who are registered with the commissioner. It is also necessary to define the term to clarify that the registration system regulates individuals and not businesses. The definition is reasonable because it clearly states the elements necessary to use the term. The definition is also reasonable because the Commissioner has authority, pursuant to Minnesota Statutes, sections 214.001, subdivision 3, paragraph (c) and 214.13, subdivision 3, to set prerequisites for registration and to protect certain titles.

Subp. 17. THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY. "THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY" MEANS:

- A) SCREENING, IDENTIFICATION, ASSESSMENT, AND INTERPRETATION, DIAGNOSIS, HABILITATION, REHABILITATION, TREATMENT AND PREVENTION OF DISORDERS OF SPEECH, ARTICULATION, FLUENCY, VOICE, AND LANGUAGE;
- B) SCREENING, IDENTIFICATION, ASSESSMENT AND INTERPRETATION, DIAGNOSIS, HABILITATION AND REHABILITATION OF DISORDERS OF ORAL-PHARYNGEAL FUNCTION AND RELATED DISORDERS;
- C) SCREENING, IDENTIFICATION, ASSESSMENT AND INTERPRETATION, DIAGNOSIS, HABILITATION AND REHABILITATION OF COMMUNICATION DISORDERS ASSOCIATED WITH COGNITION;
- D) ASSESSING, SELECTING AND DEVELOPING AUGMENTATIVE AND ALTERNATIVE COMMUNICATION SYSTEMS AND PROVIDING TRAINING IN THEIR USE;
- E) AURAL HABILITATION AND REHABILITATION AND RELATED COUNSELING FOR HEARING IMPAIRED INDIVIDUALS AND THEIR FAMILIES;
- F) ENHANCING SPEECH-LANGUAGE PROFICIENCY AND COMMUNICATION EFFECTIVENESS;
- G) AUDIOMETRIC SCREENING FOR THE PURPOSES OF SPEECH-LANGUAGE EVALUATION OR FOR THE IDENTIFICATION OF POSSIBLE HEARING DISORDERS; OR
- H) TEACHING OF, CONSULTATION OR RESEARCH ABOUT, OR SUPERVISION OF THE FUNCTIONS IN ITEMS A TO G.

It is necessary to define the term "the practice of speech-language

pathology" because the term is used in the proposed rules to indicate a function or set of functions performed by speech-language pathologists. The definition is reasonable because it encompasses all of the common functions performed by speech-language pathologists.

Subp. 18. SUPERVISEE. "SUPERVISEE" MEANS AN INDIVIDUAL WHO, UNDER THE DIRECTION OR EVALUATION OF A SUPERVISOR, IS:

A. ENGAGING IN THE SUPERVISED PRACTICE OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY;

B. PERFORMING A FUNCTION OF SUPERVISED CLINICAL TRAINING AS A STUDENT OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY; OR

C. PERFORMING A FUNCTION OF SUPERVISED POSTGRADUATE CLINICAL EXPERIENCE IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY.

It is necessary to define the term "supervisee" because the term is used in the proposed rules to designate a person performing duties under certain conditions or restrictions. A supervisee may be found in the three situations set out in the definition. Therefore, in order to make the definition complete, it is necessary to include a description of the three situations.

The definition of "supervisee" is reasonable because it encompasses situations that are commonplace and, in some instances, may be required in the practice of speech-language pathology and audiology.

Subp. 19. SUPERVISION. "SUPERVISION" MEANS THE DIRECT OR INDIRECT EVALUATION OR DIRECTION OF:

A. A PRACTITIONER OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY;

B. A PERSON PERFORMING A FUNCTION OF SUPERVISED CLINICAL TRAINING AS A STUDENT OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY; OR

C. A PERSON PERFORMING A FUNCTION OF SUPERVISED POST-GRADUATE CLINICAL EXPERIENCE IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY.

It is necessary to define the term "supervision" because it has a unique meaning in the proposed rules especially as used in relation to the academic clinical training and post-graduate clinical experience requirements and when

used in reference to supervisory relationships in the practice of speech-language pathology and audiology.

The definition is reasonable because it includes supervisory settings that exist in the practice of speech-language pathology and audiology.

Subp. 20. SUPERVISOR. "SUPERVISOR" MEANS A PERSON WHO HAS THE AUTHORITY TO DIRECT OR EVALUATE A SUPERVISEE AND WHO IS:

A. A REGISTERED SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST; OR

B. WHEN THE COMMISSIONER DETERMINES THAT SUPERVISION BY A REGISTERED SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST AS REQUIRED IN ITEM A IS UNOBTAINABLE, AND IN OTHER SITUATIONS CONSIDERED APPROPRIATE BY THE COMMISSIONER, A PERSON PRACTICING SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY WHO HOLDS A CURRENT CERTIFICATE OF CLINICAL COMPETENCE FROM THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION.

It is necessary to define the term "supervisor" because the term as used in the proposed rules has a unique meaning. It is also necessary to define the term because the proposed rules require supervision in a variety of circumstances as a prerequisite of registration. Department staff have been informed by members of the occupations to be regulated that a registered speech-language pathologist or audiologist may not be available in every circumstance or geographic area in which they are needed to act as supervisors. Therefore, item B of the definition is necessary to insure that an adequate number of supervisors in all geographic areas of the state are available to those who are interested in fulfilling requirements for registration. The provision is consistent with the voluntary characteristic of registration as a mode of regulation.

The definition of "supervisor" is reasonable because a person who is registered under the proposed rules will hold very similar qualifications to a person who holds a current Certificate of Clinical Competence from the American Speech-Language-Hearing Association. Therefore, it is reasonable to

allow a person who is qualified in either way to act as a supervisor. Also, the provisions of item B will eliminate what could be a burdensome requirement if a supervisor was only allowed to be qualified through registration.

4750.0030 PROTECTED TITLES AND RESTRICTIONS ON USE

Subpart 1. PROTECTED TITLES. A PERSON SHALL NOT USE A TITLE RELATING TO SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY, EXCEPT AS PROVIDED IN ITEMS A TO D.

A. USE OF THE FOLLOWING TITLES, IN COMBINATION WITH ANY WORD OR WORDS, BY ANY PERSON IS PROHIBITED UNLESS THAT PERSON IS REGISTERED PURSUANT TO PARTS 4750.0010 TO 4750.0700:

- (1) SPEECH-LANGUAGE PATHOLOGIST
- (2) SPEECH PATHOLOGIST
- (3) LANGUAGE PATHOLOGIST
- (4) AUDIOLOGIST

B. USE OF THE TERM "MINNESOTA REGISTERED" IN CONJUNCTION WITH TITLES PROTECTED UNDER THIS PART BY ANY PERSON IS PROHIBITED UNDER THIS PART BY ANY PERSON IS PROHIBITED UNLESS THAT PERSON IS REGISTERED UNDER PARTS 4750.0010 TO 4750.0700.

C. USE OF THE TERM "SPEECH-LANGUAGE" IN CONJUNCTION WITH ANY WORD OR WORDS, OR USE OF THE TERMS "SPEECH" OR "LANGUAGE" IN CONJUNCTION WITH THE TERM "PATHOLOGIST" AND ANY OTHER WORD OR WORDS BY A PERSON TO FORM AN OCCUPATIONAL TITLE IS PROHIBITED UNLESS THAT PERSON IS REGISTERED UNDER PARTS 4750.0010 TO 4750.0700.

These rules specify the titles or possible titles that will be protected by the registration system and state the prerequisites for use of the titles. The rules are necessary because one of the functions of the registration system is to protect a title or titles. Therefore, it is necessary that the proposed rules list the protected titles as well as the combination of words which are given protected status.

It is reasonable to protect the titles listed because they are commonly used by speech-language pathologists and audiologists in the private sector and commonly recognized by consumers. It is also reasonable to protect the combination of words described in item C for the following reasons. First,

because the term "speech-language pathologist" is protected by item A, the term "speech-language" may take on a special significance to the public. To reduce confusion about the protected titles, the Commissioner is of the view that protection of the term "speech-language" in conjunction with any word or words is necessary and reasonable. Second, the terms "speech" or "language" in conjunction with the term "pathologist" and any other word or words may also take on a special significance to the public. In a further effort to reduce confusion about the protected titles, the Commissioner is of the view that protection of the terms as described above is necessary and reasonable.

A variety of titles are currently used by people who are engaged in the practice of speech-language pathology. Health Department staff are aware of the following titles that are commonly used by individuals engaged in the practice of speech-language pathology:

| | |
|---------------------------|-----------------------------|
| speech pathologist | voice therapist |
| speech clinician | language therapist |
| speech-language clinician | speech therapist |
| speech correctionist | speech-language therapist |
| language pathologist | speech-language pathologist |
| communicologist | voice pathologist |
| logopedist | aphasiologist |

Individuals engaged in the practice of audiology may also use a variety of titles other than audiologist as a working title. Also, individuals may use descriptive terms with the word audiologist to create a working title. Health Department staff are aware of the following titles that are currently used by individuals engaged in the practice of audiology:

| | |
|----------------------|-------------------------|
| hearing clinician | educational audiologist |
| hearing therapist | clinical audiologist |
| hearing practitioner | |

The proposed rules protect many of the titles listed above including: speech pathologist, speech-language clinician, language pathologist, speech-

language therapist, educational audiologist and clinical audiologist. It should be noted that although the term "speech clinician" is not protected by the proposed rules, the term "speech-language clinician" is protected due to the use of the term "speech-language." Similarly, although the term "speech therapist" is not protected by the proposed rules, the term "speech-language therapist" is protected due to the use of the term "speech-language."

Restricting the use of titles by registered individuals to those listed in part 4750.0030, subpart 1, item A, and described in part 4750.0030, subpart 1, item C, is necessary because the Commissioner seeks to lessen or eliminate confusion by the public about qualifications of people who use the titles. In order to effectively accomplish the purpose it is necessary to give certain titles special meaning.

It is reasonable to restrict the use of these titles to those registered under the rules because it is an effective and practical way to designate for the public people who have met the minimum requirements to register as speech-language pathologists and audiologists set by parts 4750.0010 to 4750.0700. It is reasonable to limit the protected titles to the titles listed, the titles in combination with any other word or words, or use of any combination of the words in the titles for several reasons. First, the titles "speech-language pathologist" and "audiologist" are the titles used by ASHA in the text of its membership and certification handbook. Second, the following formal recommendation was made by the Executive Board of ASHA in October 1976:

LC 10-76 RESOLVED, That the American Speech-Language-Hearing Association endorses the official title speech-language pathologist (SLP) for those qualified individuals who diagnose, prognose, prescribe for and/or remediate speech and/or language disorders.

Third, giving special recognition to one title, or at least one group of words constituting a title, will simplify the task of educating the public about the

significance of the title. In her Determination, Attachment A at page 10, the Commissioner of Health refers to "the consumer information and education component" of the regulation scheme for speech-language pathologists, audiologists, and hearing instrument dispensers. The Department of Health and the advisory council for speech-language pathologists and audiologists will be responsible for providing information to consumers about the protected titles and the significance of the titles. The task of consumer education regarding the titles will be simplified if a limited number of titles are protected. To reasonably limit the number of titles that must be explained to consumers will streamline the task of consumer education. The Commissioner believes that giving special significance to the limited titles protected will enhance the consumer protection offered by the registration system.

It should be noted that, in a letter to the Department dated September 19, 1989, Attachment D, ASHA stated that "... the terms, 'speech therapist' and 'speech and language therapist' should be added to the list of restricted titles under Minnesota registration." The Commissioner has decided against protecting the additional named titles for several reasons. First, to protect more titles would make the registration system more restrictive than registration is meant to be according to the statutory intent of Minnesota Statutes, sections 214.001 and 214.13. Second, in the Commissioner's view, it is appropriate to have some generic titles available for members of the occupation to use without restriction. Third, if the titles 'speech therapist' and 'speech and language therapist' were protected the proposed rules would take away a title, namely 'speech therapist' that, according to information Department staff has received, is commonly used by school personnel who work with children who are speech handicapped. As explained in

the first reason above, the statutory intent of Minnesota Statutes, sections 214.001 and 214.13 is not to make registration a restrictive or mandatory regulation. While the Commissioner welcomes all potential registrants under these proposed rule regardless of their work setting, she is also of the view that personnel who are regulated by the Minnesota Board of Teaching should not be coerced by these proposed rules to cease using a title that is commonly used in their work setting. For all of these reasons, the Commissioner asserts that the titles protected by these proposed rules are reasonable to protect.

Item B authorizes registered speech-language pathologists and audiologists to use the term "Minnesota registered" in conjunction with their protected title. This section is necessary because the term, "Minnesota registered," when used with protected titles, will help inform the consumer about persons who have met the state's minimum requirements and registered with the Commissioner. The section is reasonable because it uses words that are factual -- that is, if a person is registered with the Commissioner, he or she is "Minnesota registered."

Subp. 2. RESTRICTIONS ON USE OF PROTECTED TITLES.
NOTWITHSTANDING SUBPART 1, ITEMS A TO C, NO PERSON IS PREVENTED OR RESTRICTED FROM USING THEIR OFFICIAL EMPLOYMENT TITLE IF EMPLOYED BY THE FEDERAL GOVERNMENT; HOWEVER, USE OF THE OFFICIAL TITLE UNDER THOSE CIRCUMSTANCES, IS ALLOWED ONLY IN CONNECTION WITH PERFORMANCE OF OFFICIAL DUTIES FOR THE FEDERAL GOVERNMENT.

It is necessary to exempt employees of the federal government who are performing official duties from restrictions on use of certain titles created by these rules because the state has no jurisdiction over federal worksites in Minnesota, therefore these rules cannot control the practices of federal employees in their official duties. This provision is reasonable because it exempts federal employees from the requirements of the rules only while they

are working in their official capacity.

4750.0040 GENERAL REGISTRATION REQUIREMENTS; PROCEDURES AND QUALIFICATIONS.

Subpart 1. GENERAL REGISTRATION PROCEDURES. AN APPLICANT FOR REGISTRATION MUST:

**A. SUBMIT AN APPLICATION AS REQUIRED IN PART 4750.0200, SUBPART 1;
AND**

This item is necessary in order to provide the Commissioner with information needed to determine the applicant's eligibility for registration. It is reasonable to require an applicant to complete and submit an application as a tool to gather and process information about applicants for registration because applications are a common and efficient tool used in many types of regulation including occupational regulation.

B. SUBMIT ALL FEES REQUIRED UNDER PART 4750.0500;

These fee requirements are necessary because the authorizing statute requires that the registration system be entirely fee supported. See, Minnesota Statutes, sections 214.06, 214.13 and 16A.128. The fees are necessary because they will support the cost of administering the registration system, including the Commissioner's direct expenditures for adoption of the registration rules. Minnesota Statutes, section 214.06 requires that fees charged to members of an occupation registered after July 1, 1984 by the commissioner of health under the provisions of section 214.13 must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules. It is reasonable to require the fees because they relate to specific, necessary administrative costs and are required by statute. Failure to cover these costs would violate Minnesota Statutes, sections 214.06, 214.13 and 16A.128.

Subp. 2. GENERAL REGISTRATION QUALIFICATIONS. AN APPLICANT FOR REGISTRATION MUST POSSESS THE QUALIFICATIONS REQUIRED IN ONE OF THE FOLLOWING ITEMS:

A. A PERSON WHO APPLIES FOR REGISTRATION BEFORE JANUARY 1, 1993, MUST MEET THE REQUIREMENTS IN PART 4750.0050.

B. A PERSON WHO APPLIES FOR REGISTRATION ON OR AFTER JANUARY 1, 1993, MUST MEET THE REQUIREMENTS IN PART 4750.0060.

C. A PERSON WHO APPLIES FOR REGISTRATION AND WHO HAS A CURRENT CERTIFICATE OF CLINICAL COMPETENCE ISSUED BY THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION MUST MEET THE REQUIREMENTS OF PART 4750.0070.

D. A PERSON WHO APPLIES FOR REGISTRATION BY RECIPROCITY MUST MEET THE REQUIREMENTS IN PART 4750.0080.

It is necessary to include subpart 2 in the rules as a means of summarizing the variety of methods in which registration can be obtained. Subpart 2 is reasonable because it states the four methods to obtain registered status included in the proposed registration rules and clearly refers to the parts under the proposed rules where full information may be obtained.

4750.0050 QUALIFICATIONS FOR REGISTRATION BEFORE JANUARY 1, 1993.

Subpart 1. APPLICABILITY. EXCEPT AS PROVIDED UNDER PARTS 4750.0070, 4750.0080, AND 4750.0600 AN APPLICANT WHO APPLIES FOR REGISTRATION BEFORE JANUARY 1, 1993, MUST MEET THE REQUIREMENTS IN THIS PART.

Subp. 2. MASTER'S DEGREE OR EQUIVALENT REQUIRED. AN APPLICANT MUST POSSESS A MASTER'S DEGREE OR ITS EQUIVALENT, AS APPROVED BY THE COMMISSIONER, IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY FROM AN ACCREDITED EDUCATIONAL INSTITUTION OFFERING SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY TRAINING.

A. UNTIL JANUARY 1, 1993, AN APPLICANT MAY QUALIFY AS HOLDING AN EQUIVALENT TO A MASTER'S DEGREE IF THE APPLICANT HOLDS A BACHELOR'S DEGREE FROM A REGIONALLY ACCREDITED EDUCATIONAL INSTITUTION AND PROVIDES EVIDENCE OF AT LEAST 42 POST-BACCALAUREATE SEMESTER CREDITS OR 63 QUARTER CREDITS OR THEIR EQUIVALENT IN COURSES THAT ARE ACCEPTABLE TOWARD A GRADUATE DEGREE BY THE EDUCATIONAL INSTITUTION IN WHICH THEY ARE TAKEN. THIRTY SEMESTER CREDITS OR 45 QUARTER CREDITS OR THEIR EQUIVALENT MUST BE IN THE AREAS OF SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY, OR SPEECH-LANGUAGE AND HEARING SCIENCE. AT LEAST 21 OF THE 42 SEMESTER CREDITS OR 31 OF THE 63 QUARTER CREDITS OR THEIR EQUIVALENT MUST BE OBTAINED FROM A SINGLE EDUCATIONAL INSTITUTION. NONE OF THE

APPLICABLE CREDITS MAY HAVE BEEN COMPLETED EARLIER THAN 10 YEARS PRIOR TO THE DATE OF APPLICATION. NO MORE THAN SIX SEMESTER CREDITS OR NINE QUARTER CREDITS OR THEIR EQUIVALENT MAY BE CREDIT RECEIVED FOR CLINICAL TRAINING. AN APPLICANT SEEKING TO OBTAIN REGISTRATION BY ESTABLISHING AN EQUIVALENT TO A MASTER'S DEGREE MUST SUBMIT AN APPLICATION TO THE COMMISSIONER BEFORE JANUARY 1, 1993.

B. THE MASTER'S DEGREE TRAINING MUST MEET THE FOLLOWING CRITERIA:

(1) A MINIMUM OF 90 QUARTER CREDITS OR 60 SEMESTER CREDITS OR THEIR EQUIVALENT MUST DEAL WITH NORMAL ASPECTS OF HUMAN COMMUNICATION, DEVELOPMENT AND DISORDERS OF COMMUNICATION AND CLINICAL TECHNIQUES FOR EVALUATION AND MANAGEMENT OF SUCH DISORDERS.

(2) EIGHTEEN OF THE 90 QUARTER CREDITS OR 12 OF THE 60 SEMESTER CREDITS OR THEIR EQUIVALENT MUST BE OBTAINED IN COURSES THAT PERTAIN TO NORMAL DEVELOPMENT AND USE OF SPEECH, LANGUAGE AND HEARING. THE APPLICANT MUST SHOW EVIDENCE OF OBTAINING AT LEAST THREE QUARTER CREDITS OR TWO SEMESTER CREDITS IN EACH OF THE FOLLOWING AREAS:

(a) THE ANATOMIC/PHYSIOLOGIC BASES FOR NORMAL DEVELOPMENT AND USE OF SPEECH, LANGUAGE AND HEARING;

(b) PHYSICAL BASES AND PROCESSES OF THE PRODUCTION AND PERCEPTION OF SPEECH, LANGUAGE AND HEARING; AND

(c) LINGUISTIC AND PSYCHOLINGUISTIC VARIABLES RELATED TO NORMAL DEVELOPMENT AND USE OF SPEECH, LANGUAGE AND HEARING.

(3) FORTY-FIVE OF THE 90 QUARTER CREDITS OR 30 OF THE 60 SEMESTER CREDITS OR THEIR EQUIVALENT MUST BE IN COURSES THAT PROVIDE INFORMATION RELATIVE TO COMMUNICATION DISORDERS AND INFORMATION ABOUT AND TRAINING IN EVALUATION AND MANAGEMENT OF SPEECH, LANGUAGE AND HEARING DISORDERS. A MINIMUM OF 45 OF THE 90 QUARTER CREDITS OR 30 OF THE 60 SEMESTER CREDITS OR THEIR EQUIVALENT MUST BE AT THE GRADUATE LEVEL. THIRTY ONE AND ONE-HALF OF THE 45 QUARTER CREDITS OR 21 OF THE 30 SEMESTER CREDITS OR THEIR EQUIVALENT TAKEN AT THE GRADUATE LEVEL MUST BE WITHIN THE 36 QUARTER CREDITS OR THE 24 SEMESTER CREDITS OR THEIR EQUIVALENT REQUIRED IN THE AREA FOR WHICH REGISTRATION IS SOUGHT AS DESCRIBED IN PARAGRAPHS (a) and (b) BELOW.

(a) APPLICANTS SEEKING REGISTRATION AS SPEECH-LANGUAGE PATHOLOGISTS MUST COMPLETE 36 QUARTER CREDITS OR 24 SEMESTER CREDITS OR THEIR EQUIVALENT IN COURSES PERTAINING TO SPEECH AND LANGUAGE DISORDERS AND NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN COURSES IN THE AREA OF AUDIOLOGY.

(i) THE 36 QUARTER CREDITS OR 24 SEMESTER CREDITS OR THEIR EQUIVALENT IN SPEECH AND LANGUAGE DISORDERS MUST INCLUDE AT LEAST NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN SPEECH DISORDERS AND NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN LANGUAGE DISORDERS.

(ii) THE NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN THE AREA OF AUDIOLOGY MUST INCLUDE AT LEAST 4.5 QUARTER CREDITS OR THREE SEMESTER CREDITS OR THEIR EQUIVALENT IN AUDITORY PATHOLOGY AND 4.5 QUARTER CREDITS OR THREE SEMESTER CREDITS OR THEIR EQUIVALENT IN HABILITATION AND REHABILITATION.

(iii) NO MORE THAN NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT MAY BE IN COURSES THAT PROVIDE CREDIT FOR CLINICAL TRAINING OBTAINED DURING ACADEMIC TRAINING.

(b) APPLICANTS SEEKING REGISTRATION AS AUDIOLOGISTS MUST COMPLETE 36 QUARTER CREDITS OR 24 SEMESTER CREDITS OR THEIR EQUIVALENT OF COURSE-WORK IN AUDIOLOGY AND NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN THE AREA OF SPEECH-LANGUAGE PATHOLOGY.

(i) THE 36 QUARTER CREDITS OR 24 SEMESTER CREDITS OR THEIR EQUIVALENT IN AUDIOLOGY MUST INCLUDE AT LEAST NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN AUDITORY PATHOLOGY AND 9 QUARTER CREDITS OR 6 SEMESTER CREDITS OR THEIR EQUIVALENT IN HABILITATION AND REHABILITATION.

(ii) THE 9 QUARTER CREDITS OR 6 SEMESTER CREDITS OR THEIR EQUIVALENT IN SPEECH-LANGUAGE PATHOLOGY MUST INCLUDE AT LEAST 4.5 QUARTER CREDITS OR 3 SEMESTER CREDITS OR THEIR EQUIVALENT IN SPEECH DISORDERS AND AT LEAST 4.5 QUARTER CREDITS OR 3 SEMESTER CREDITS OR THEIR EQUIVALENT IN LANGUAGE DISORDERS.

(iii) NO MORE THAN NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT MAY BE IN COURSES THAT PROVIDE CREDIT FOR CLINICAL TRAINING OBTAINED DURING ACADEMIC TRAINING.

(c) APPLICANTS SEEKING REGISTRATION AS BOTH A SPEECH-LANGUAGE PATHOLOGIST AND AN AUDIOLOGIST MUST COMPLETE A MINIMUM OF 22.5 QUARTER CREDITS OR 15 SEMESTER CREDITS OR THEIR EQUIVALENT AT THE GRADUATE LEVEL IN EACH AREA OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY.

Subp. 3. SUPERVISED CLINICAL TRAINING REQUIRED. AN APPLICANT MUST COMPLETE NO FEWER THAN 300 HOURS OF SUPERVISED CLINICAL TRAINING AS A STUDENT IN AN ACCREDITED EDUCATIONAL INSTITUTION IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY, ACCORDING TO ITEMS A TO C.

A. SUPERVISION IN THE STUDENT'S CLINICAL TRAINING MUST INCLUDE EVALUATION AND MANAGEMENT OF PERSONS WITH DISORDERS OF HEARING, LANGUAGE, AND SPEECH. AT LEAST HALF OF THE HOURS MUST BE OBTAINED DURING GRADUATE STUDY. ALL OF THE HOURS MUST BE OBTAINED WITHIN THE ACCREDITED EDUCATIONAL INSTITUTION OR IN ONE OF ITS COOPERATING PROGRAMS. A MINIMUM OF 50 HOURS MUST BE SPENT IN AT LEAST TWO SEPARATE CLINICAL SETTINGS. THE FIRST 25 HOURS OF THE CLINICAL TRAINING MUST BE SUPERVISED BY THE EDUCATIONAL INSTITUTION'S PROFESSIONAL STAFF. A MINIMUM OF ONE-HALF OF EACH EVALUATION SESSION MUST BE SUPERVISED. THE APPLICANT'S TRAINING MUST INCLUDE WORK WITH INDIVIDUALS, GROUPS, CHILDREN, AND ADULTS.

B. AN APPLICANT FOR REGISTRATION AS A SPEECH-LANGUAGE PATHOLOGIST SHALL COMPLETE:

- FOLLOWS:
PROBLEMS;
- (1) A MINIMUM OF 200 HOURS IN SPEECH-LANGUAGE PATHOLOGY AS
 - (a) 50 HOURS IN EVALUATION OF SPEECH AND LANGUAGE
 - (b) 75 HOURS IN TREATMENT OF LANGUAGE DISORDERS;
 - (c) 25 HOURS IN TREATMENT OF VOICE DISORDERS;
 - (d) 25 HOURS IN TREATMENT OF ARTICULATION; AND
 - (e) 25 HOURS IN TREATMENT OF FLUENCY DISORDERS; AND

- (2) A MINIMUM OF 35 HOURS IN AUDIOLOGY AS FOLLOWS:
 - (a) 15 HOURS IN ASSESSMENT OR TREATMENT OF SPEECH OR LANGUAGE PROBLEMS ASSOCIATED WITH HEARING IMPAIRMENT. ADDITIONAL HOURS MAY BE COUNTED TOWARD MINIMUM HOURS WITH LANGUAGE AND SPEECH DISORDERS;
 - (b) 15 HOURS IN ASSESSMENT OF AUDITORY DISORDERS; AND
 - (c) FIVE HOURS IN AUDIOLOGY WITHIN THE APPLICANT'S DISCRETION.

C. AN APPLICANT FOR REGISTRATION AS AN AUDIOLOGIST SHALL COMPLETE:

- (1) A MINIMUM OF 200 HOURS IN AUDIOLOGY AS FOLLOWS:
 - (a) 50 HOURS IN IDENTIFICATION AND EVALUATION OF HEARING IMPAIRMENT;
 - (b) 50 HOURS IN HABILITATION OR REHABILITATION OF THE HEARING IMPAIRED; AND
 - (c) 100 HOURS IN AUDIOLOGY WITHIN THE APPLICANT'S DISCRETION; AND

- (2) A MINIMUM OF 35 HOURS IN SPEECH-LANGUAGE PATHOLOGY IN EVALUATION AND TREATMENT OF SPEECH AND LANGUAGE PROBLEMS NOT RELATED TO HEARING IMPAIRMENT.

Subp. 4. SUPERVISED POSTGRADUATE CLINICAL EXPERIENCE REQUIRED. AN APPLICANT MUST COMPLETE NO LESS THAN NINE MONTHS OR ITS EQUIVALENT OF FULL-TIME SUPERVISED POSTGRADUATE CLINICAL EXPERIENCE ACCORDING TO THIS PART.

A. SUPERVISION IN THE POSTGRADUATE CLINICAL EXPERIENCE INCLUDES BOTH ON-SITE OBSERVATION AND OTHER MONITORING ACTIVITIES. ON-SITE OBSERVATION MUST INVOLVE THE SUPERVISOR, THE SUPERVISEE, AND THE CLIENT RECEIVING SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY SERVICES. ON-SITE OBSERVATION MUST INCLUDE DIRECT OBSERVATION BY THE SUPERVISOR OF TREATMENT GIVEN BY THE SUPERVISEE. OTHER MONITORING ACTIVITIES MAY BE EXECUTED BY CORRESPONDENCE AND INCLUDE, BUT ARE NOT LIMITED TO, CONFERENCES WITH THE SUPERVISEE, EVALUATION OF WRITTEN REPORTS, AND EVALUATION BY PROFESSIONAL COLLEAGUES. OTHER MONITORING ACTIVITIES DO NOT INCLUDE THE CLIENT RECEIVING SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY SERVICES BUT MUST INVOLVE DIRECT OR INDIRECT EVALUATIVE CONTACT BY THE SUPERVISOR OF THE SUPERVISEE.

B. THE APPLICANT MUST, AS PART OF THE POSTGRADUATE CLINICAL EXPERIENCE, BE SUPERVISED BY AN INDIVIDUAL WHO MEETS THE DEFINITION OF PART 4750.0020, SUBPART 20.

(1) WHEN REGISTRATION AS A SPEECH-LANGUAGE PATHOLOGIST IS SOUGHT, THE SUPERVISOR MUST BE A REGISTERED SPEECH-LANGUAGE PATHOLOGIST OR HOLD A CURRENT CERTIFICATE OF CLINICAL COMPETENCE IN SPEECH-LANGUAGE PATHOLOGY FROM THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION.

(2) WHEN REGISTRATION AS AN AUDIOLOGIST IS SOUGHT, THE SUPERVISOR MUST BE A REGISTERED AUDIOLOGIST OR HOLD A CURRENT CERTIFICATE OF CLINICAL COMPETENCE IN AUDIOLOGY FROM THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION.

C. THE APPLICANT MAY NOT BEGIN THE POSTGRADUATE CLINICAL EXPERIENCE UNTIL THE APPLICANT HAS COMPLETED THE ACADEMIC COURSEWORK AND CLINICAL TRAINING EXPERIENCE IN SUBPARTS 2 AND 3.

D. TO BE CONSIDERED FULL-TIME, AT LEAST 30 HOURS PER WEEK MUST BE SPENT OVER A NINE-MONTH PERIOD IN CLINICAL WORK. EQUIVALENT TIME PERIODS MAY INCLUDE PART-TIME PROFESSIONAL EMPLOYMENT AS FOLLOWS:

- (1) TWELVE MONTHS OF AT LEAST 25 HOURS PER WEEK;
- (2) FIFTEEN MONTHS OF AT LEAST 20 HOURS PER WEEK; OR
- (3) EIGHTEEN MONTHS OF AT LEAST 15 HOURS PER WEEK.

E. THE APPLICANT'S POSTGRADUATE CLINICAL EXPERIENCE MUST INCLUDE DIRECT CLINICAL EXPERIENCE WITH PATIENTS, CONSULTATIONS, REPORT WRITING, RECORD KEEPING OR OTHER DUTIES RELEVANT TO CLINICAL WORK. A MINIMUM OF 80 PERCENT OF THE CLINICAL EXPERIENCE MUST BE IN DIRECT CONTACT WITH PERSONS WHO HAVE COMMUNICATION HANDICAPS. IF THE APPLICANT USES PART-TIME EMPLOYMENT TO FULFILL THE POSTGRADUATE CLINICAL EXPERIENCE REQUIREMENT, ALL OF THE MINIMUM REQUIRED HOURS OF THE PART-TIME WORK WEEK REQUIREMENT MUST BE SPENT IN DIRECT PROFESSIONAL EXPERIENCE.

F. THE APPLICANT MUST COMPLETE THE POSTGRADUATE CLINICAL EXPERIENCE WITHIN A MAXIMUM PERIOD OF 36 CONSECUTIVE MONTHS AND MUST BE SUPERVISED IN NO LESS THAN 36 ACTIVITIES, INCLUDING 18 ONE-HOUR ON-SITE OBSERVATIONS. A MAXIMUM OF SIX HOURS CAN BE ACCRUED IN ONE DAY. A MINIMUM OF SIX ONE-HOUR ON-SITE OBSERVATIONS MUST BE ACCRUED DURING EACH ONE-THIRD OF THE EXPERIENCE.

G. THE APPLICANT MUST COMPLETE 18 OTHER MONITORED ACTIVITIES AND COMPLETE AT LEAST ONE MONITORED ACTIVITY EACH MONTH OF THE POSTGRADUATE CLINICAL EXPERIENCE. ALTERNATIVES TO ON-SITE OBSERVATION AND MONITORING ACTIVITIES INCLUDE ACTIVITIES SUPERVISED BY CORRESPONDENCE, EVALUATION OF WRITTEN REPORTS, AND EVALUATION BY PROFESSIONAL COLLEAGUES.

Subp. 5. QUALIFYING EXAMINATION SCORE REQUIRED. AN APPLICANT MUST ACHIEVE A QUALIFYING SCORE ON THE NATIONAL EXAMINATION IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY (NESPA), ADMINISTERED BY NTE PROGRAMS, EDUCATIONAL TESTING SERVICE.

A. THE COMMISSIONER SHALL DETERMINE THE QUALIFYING SCORES FOR BOTH

THE SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY EXAMINATIONS BASED ON GUIDELINES PROVIDED BY THE ADVISORY COUNCIL OR THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION.

B. THE APPLICANT IS RESPONSIBLE FOR:

(1) MAKING ARRANGEMENTS TO TAKE THE EXAMINATION DESCRIBED IN THIS ITEM;

(2) BEARING ALL EXPENSES ASSOCIATED WITH TAKING THE EXAMINATION;

(3) HAVING THE EXAMINATION SCORES SENT DIRECTLY TO THE COMMISSIONER FROM THE EDUCATIONAL TESTING SERVICE; AND

(4) INCLUDING A COPY OF THE SCORES ALONG WITH THE ORIGINAL REGISTRATION APPLICATION.

C. THE APPLICANT MUST RECEIVE A QUALIFYING SCORE ON THE EXAMINATION WITHIN THREE YEARS AFTER THE APPLICANT APPLIES FOR REGISTRATION. IF THE APPLICANT DOES NOT RECEIVE A QUALIFYING SCORE ON THE EXAMINATION WITHIN THREE YEARS AFTER THE APPLICANT APPLIES FOR REGISTRATION, THE APPLICANT MAY APPLY TO THE COMMISSIONER IN WRITING FOR CONSIDERATION TO SUBMIT A NEW APPLICATION FOR REGISTRATION UNDER PART 4750.0200.

Part 4750.0050, subparts 2 through 5 set out the education, training and testing requirements for individuals seeking to be registered as speech-language pathologists and audiologists. Because this part of the rules is detailed and lengthy, it may be helpful to summarize the content and purpose of each of the rules before setting out the need for and reasonableness of the rules. Part 4750.0050 is applicable to an applicant who applies for registration before January 1, 1993 unless parts 4750.0070, 4750.0080 or 4750.0100 apply.

1. Summary of Content and Purpose of Educational, Training and Testing Requirements.

a. Master's degree in speech-language pathology or audiology.

Part 4750.0050, subpart 2, sets out the educational requirements for applicants who apply for registration before January 1, 1993 unless parts 4750.0070, 4750,0080, or 4750.0100 apply. The subpart provides that the

educational requirement may be met by completing a master's degree or the equivalent of a master's degree. Minimum requirements for completion of that type of degree are specifically set out. The subpart also addresses the individual credit requirements for applicants seeking registration as speech-language pathologists or registration as audiologists.

b. Supervised clinical training.

Part 4750.0050, subpart 3, sets out the supervised clinical training requirements for applicants who apply for registration before January 1, 1993 unless parts 4750.0070, 4750.0080, or 4750.0100 apply. The supervised clinical training must take place when the applicant is a student in speech-language pathology or audiology in an accredited educational institution. This subpart also addresses the individual hour requirements of the clinical training for applicants seeking registration as speech-language pathologists and for those seeking registration as audiologists.

c. Supervised postgraduate clinical experience.

Part 4750.0050, subpart 4, sets out the supervised postgraduate clinical experience requirements for applicants who apply for registration before January 1, 1993 unless parts 4750.0070, 4750.0080, or 4750.0100 apply. The subpart specifies that the minimum time period for the supervised postgraduate clinical experience is nine months or the full-time equivalent of nine months. The subpart sets out the acceptable equivalent time periods. Part 4750.0050, subpart 4, requires that the supervised postgraduate clinical experience must be completed after the completion of the master's degree and supervised clinical training set out in part 4750.0050, subparts 2 and 3. Part 4750.0050, subpart 4, gives guidelines for the content and supervision

requirements of the postgraduate clinical experience.

d. Examination.

Part 4750.0050, subpart 5, sets out the examination requirement for applicants who apply for registration before January 1, 1993 unless parts 4750.0070, 4750.0080, or 4750.0100 apply. The examination required is the National Examination in Speech-Language Pathology or Audiology (NESPA) administered by NTE programs, Educational Testing Service. This subpart states the applicant's responsibility regarding time lines for achieving a qualifying score on the examination, fee payment and transmission of the examination scores to the Department of Health for the purpose of registration.

2. Necessity of Minimum Entry Requirements.

Minnesota Statutes, section 214.13, subdivision 3 states in part that, "Rules promulgated by the commissioner pursuant to subdivision 1 may include procedures and standards relating to the registration requirement" Since the proposed rules require that certain educational and other standards be met as a prerequisite of registration, it is necessary that the education and training standards be clearly stated to put applicants on notice and to reduce or eliminate confusion that may exist regarding the educational and training requirements for registration.

It is also necessary to require that applicants provide evidence of completing all of the education, training and testing requirements as described in these rules to fully assure the public that individuals who have been registered are minimally competent to perform the functions of their

occupation. The accepted level of training for audiologists in all settings is the master's degree. A baccalaureate degree in audiology is not available. Practitioners in speech-language pathology are trained at the baccalaureate and master's degree levels. The master's degree is the training that employers view as the entry degree across the range of employment options in Minnesota, with the exception of the public school system. The requirements set by the Minnesota Board of Teaching for individuals working in the area of communication disorders will be discussed below.

3. Reasonableness of the Minimum Entry Requirements.

The facts and considerations showing the reasonableness of the minimum entry requirements set by these rules can be grouped into five main topics which include:

- a. Current Minnesota regulation of speech-language pathologists in the school system.
- b. Other state's regulation;
- c. The recommendations of department heads from Minnesota training institutions and other recommendations;
- d. The recommendations of state and national private professional associations; and
- e. Third-party payor requirements for reimbursement.

These topics are discussed in turn below.

a. Current Minnesota regulation of speech-language pathologists in the school system.

Several considerations apply when explaining the reasonableness of the minimum requirements of the proposed rules, especially when comparing the requirements to those set by the Minnesota Board of Teaching (Board of Teaching). Before discussing the considerations some background information is

helpful. The Board of Teaching is the credentialing authority for individuals who work in the area of communication disorders in the Minnesota school system. The requirements of the Board of Teaching are found in Minnesota Rules, part 8700.5405 SPEECH CORRECTION: LICENSURE REQUIREMENTS which state:

Completion of the following requirements will qualify an applicant for a license: graduation from a four-year college or university course with a major in speech pathology.

Part 8700.5405 is repealed effective July 1, 1990, and will be superseded by Minnesota Rules, part 8700.5505 SPECIAL EDUCATION: COMMUNICATION DISORDERS. In the rule to be effective July 1, 1990, the basic educational requirement for licensure of individuals working in the area of communication disorders will remain a baccalaureate degree. However, Minnesota Rules, part 8700.5505 describes program requirements for licensure in communication disorders in much greater detail than Minnesota Rules, part 8700.5405.

As further background information, it may also be helpful to review some estimates and statistics that are available from MSHA and the Minnesota Department of Education regarding 1) the number of speech-language pathologists and audiologists in Minnesota, and 2) the personnel involved in speech correction in the Minnesota public school system.

In August 1989, MSHA provided Health Department staff with the following estimates for Minnesota:

| | |
|--|-------|
| Total number of speech-language pathologists | 1,358 |
| Speech-language pathologists with baccalaureate degree | 518 |
| Speech-language pathologists with master's degree | 840 |
| Total number of audiologists | 173 |

In January 1989, the Minnesota Department of Education provided the following information to Health Department staff:

| | |
|---|--------|
| Total number of speech correctionist positions licensed and assigned in 1987 - 1988 school year: | 995.87 |
|---|--------|

| | |
|--|---------------|
| Training level used in the positions that were licensed and assigned in 1987 - 1988 school year: | |
| Baccalaureate or less | 493.98 |
| Five years of education | 2 |
| Master's degree | 492.90 |
| Specialist degree | 5.99 |
| Ph.D. | 1 |
| TOTAL "Full-time equivalent positions" | <u>995.87</u> |

The term "full-time equivalent position" is not used to indicate an individual, rather it is used to indicate a position filled. Numbers less than one can be used because many of the speech correctionist positions are less than full time. The full-time equivalent position number is lower than the actual number of people who may be working because some people may be combined together in counting one position and some individuals will not be counted.

As can be seen, the positions are filled about 50% by those with master's degree training or above and about 50% by those with baccalaureate or five year degree training.

Numbers available from the Department of Education for the 1988 - 1989 school year are as follows:

| | |
|--|----------|
| Full-time equivalent positions | 1,048.77 |
| Number of teachers, who as part of their job work in speech correction. There could be some duplication if one person is doing the same job in more than one district. | 1,322 |

The Department of Education does not have a definite number for employed individuals involved in speech correction. However, the number is more than 1,049 and less than 1,322. The Commissioner considered the following when discussing the reasonableness of the minimum requirements of these rules when compared to the requirements of the Board of Teaching: First, separate state

regulation of speech-language pathologists working outside of the school system and those working in the school system is not unusual in the regulation of the occupation across the country. A review of some methods of state regulation is set out below under "b. Review of other state regulation." Second, the Board of Teaching is responsible for setting the minimum requirements of all the personnel it licenses. Third, individuals licensed by the Board of Teaching are subject to the continuing education requirements and disciplinary options set by the Board of Teaching. Therefore, a state agency is currently responsible for the regulation of individuals involved in the practice of speech-language pathology in the school system. Fourth, the registration system is a voluntary method of regulation. Registration will not prohibit the practice of speech-language pathology by anyone, regardless of registered status. If people licensed by the Board of Teaching qualify for registration by the Department of Health, they may choose to register with the Department. However, no one will be required to register. Therefore, even though no one is exempted from the title protection of the proposed registration system, the system will not create employment restrictions for people who do not meet the minimum requirements of the proposed rules. Fifth, MSHA in its application for licensure presented to the Human Service Occupations Advisory Council on June 17, 1986, sought licensure "... for those practitioners currently not regulated by or employed in institutions that credential personnel under existing Minnesota statutory authority." See, Licensure Application for Speech-Language Pathologists and Audiologists, at page 45. [Due to the size of the Licensure Application, it is not included in this Statement as an Attachment. However, the document is available for review upon request at the Department of Health, Health Systems Development

Division, Occupational Analysis Unit.] Members of MSHA recognized that standards set for individuals licensed by the Board of Teaching were not the same as the minimum standards it was requesting for licensure, yet still requested that the individuals involved in the school system be exempted from the licensure requirements they requested.

The difference between the minimum requirements set by the proposed rules for speech-language pathologists and those set by existing Minnesota Rules for special education teachers working in speech correction created a concern regarding federal law. In March of 1989, Department staff requested that the United States Department of Education provide information about the requirements regarding personnel standards that were added to Part B of The Education of the Handicapped Act (EHA-B) by Pub. L. 99-457, the Education of the Handicapped Act Amendments of 1986 (1986 Amendments). A copy of the Health Department's letter to former assistant Secretary Madeleine Will dated March 21, 1989, and the United States Department of Education's response dated October 6, 1989, are attached as Attachments E and C. As can be seen by the response of the United States Department of Education at page 2 of Attachment C,

[I]t is permissible under EHA-B for Minnesota to establish different entry level professional requirements standards for the professions or disciplines of "speech-language pathologist" and "speech correctionist" for personnel who provide speech services to children with handicaps, provided there is a difference in the required scope of responsibility or degree of supervision for individuals in these specific occupational categories.

Several members of the public have contacted Health Department staff regarding the possible effect EHA-B might have on personnel standards currently set by the Board of Teaching if the proposed registration rules for speech-language pathologists require a master's degree as part of the minimum

entry requirement. The main concern of those contacting Health Department staff was that EHA-B would require the Minnesota Department of Education to employ individuals who meet the highest requirement set by a state agency. Such a requirement could force the Minnesota Department of Education to only employ individuals meeting the requirements set by the registration rules of the Department of Health. The October 6, 1989 letter of the United States Department of Education (Attachment C) appears to eliminate that concern.

b. Review of other state regulation.

In 1969 Florida became the first state in the nation to regulate speech-language pathologists. Florida's regulation of speech-language pathologists is by licensure and the prerequisites to licensure in Florida are comparable to requirements set out in these proposed rules for registration.

The push for licensure by speech-language pathologists across the nation has always included a dispute among those in the occupation as well those who employ and/or credential speech-language pathologists about the need for master's degree training. The issue regarding the level of training has been in existence for about 20 years.

The dispute about the level of training needed by speech-language pathologists is partly due to the fact that a number of states credential speech-language pathologists at the baccalaureate level to work in their school systems in the area of communication disorders. Some states that license speech-language pathologists at a master's degree level to work in settings outside of the school system exempt the speech-language pathologists who work in their school system from meeting the master's degree training. In other words, some states that require a master's degree as a prerequisite for

licensure do not require master's degree training for the speech-language pathologists employed in their school systems.

As of September 1989, 37 states license speech-language pathologists and audiologists. One state, Alaska, licenses audiologists but not speech-language pathologists. According to a compilation of state regulation of speech-language pathologists updated by ASHA in July 1989, the states can be divided into the following five categories of regulation.

(1) Licensure at the master's degree level required in all settings. (The regulation of speech-language pathologists working in the school system is not separate from regulation of other speech-language pathologists in the state.)

| | | |
|-------------|---------------|---------|
| Connecticut | Hawaii | Montana |
| Delaware | Massachusetts | |

(2) Licensure at the master's degree level required in all settings other than the school system; certification at the master's degree level required by the certifying entity for the school system.

| | | | | |
|----------|-------------|------------|----------------|----------|
| Florida | Iowa | Missouri | New Mexico | Oklahoma |
| Illinois | Maryland | Nebraska | North Carolina | |
| Indiana | Mississippi | New Jersey | Ohio | |

(3) Licensure at the master's degree required in all settings other than the school system; certification at the baccalaureate level required by the certifying entity for the school system. (However, three of the states listed will require certification at the master's degree level for the school system by 1994. The states are: Arkansas, Kentucky, and Louisiana.)

| | | | |
|------------|--------------|----------------|----------|
| Alabama | Louisiana | Oregon | Texas |
| Arkansas | Maine | Pennsylvania | Utah |
| California | Nevada | Rhode Island | Virginia |
| Georgia | New York | South Carolina | Wyoming |
| Kentucky | North Dakota | Tennessee | |

(4) Licensure not required in settings other than the school system; certification at the master's degree level required by the certifying entity for the school system.

| | | |
|----------------------|---------------|---------------|
| Alaska | Kansas | Washington |
| Colorado | Michigan | West Virginia |
| District of Columbia | New Hampshire | Wisconsin |
| Idaho | Vermont | |

(5) Licensure not required in settings other than the school system;

certification at the baccalaureate level required by the certifying entity for the school system.

Arizona

Minnesota

South Dakota

As stated above, licensure laws for speech-language pathologists and audiologists have been enacted in 37 states. Methods of dealing with the regulation vary from state to state. However, the minimum education required to obtain a license in all 37 states, with the exception of the school setting, is a master's degree. In addition to an education requirement similar to part 4750.0050, subpart 2, the experience and testing requirements of part 4750.0050, subparts 3,4 and 5, are common requirements in at least 27 of the 37 states that license speech-language pathologists and audiologists. Those 27 states have licensure requirements that are compatible with ASHA's requirements for certification. When state licensure requirements differ from those of ASHA, the difference most often is due to requirements for academic clinical experience and/or post-graduate clinical experience. For example, some states do not require either the clinical or post-graduate experience or having a variation on the requirements (from what is required by ASHA), if included as a prerequisite of state licensure. "Characteristics of State Licensure Laws," by Connie Lynch, "ASHA," Vol. 28, No. 6, 1986, pp. 37 - 42. Since the compilation of state licensure characteristics was made in 1986, Illinois enacted a licensure law for speech-language pathologists and audiologists and Alaska enacted a licensure law for audiologists. The requirements for licensure in Illinois closely resemble the requirements of ASHA for certification.

c. Recommendations of department heads of Minnesota training institutions.

There are five post-secondary educational institutions in Minnesota that offer speech-language pathology and audiology training programs. These institutions are: the University of Minnesota, Minneapolis; the University of Minnesota, Duluth; Moorhead State University; St. Cloud State University; and Mankato State University. The University of Minnesota, Minneapolis is the only institution of the five listed that offers a master's degree program in audiology. Health Department staff contacted department heads in the five Minnesota universities offering speech-language pathology and audiology training to request their recommendation for minimum entry requirements for the registration system. Each of the department heads responded and their letters are attached as Attachments to this Statement. Attachments F through N. Each of the department heads advocate minimum entry requirements that meet or exceed the minimum entry requirements set out by these rules and that meet or exceed the requirements set by the ASHA to obtain the Certificate of Clinical Competence.

The Department also received a letter from Arnold E. Aronson, Ph.D., Head, Section of Speech Pathology, Department of Neurology, Mayo Medical School regarding the minimum requirements of the proposed rules. Attachment O. Dr. Aronson recommended that the requirements for registration be the same as those established by ASHA for receiving the CCC.

d. Recommendations of state and national private professional associations.

Department staff have been in contact with representatives of MSHA during the development of the proposed registration rules for speech-language

pathologists and audiologists. Two letters from MSHA to staff at the Department of Health regarding the development of the registration system are attached as Attachments P and Q. The final recommendation of MSHA regarding minimum entry requirements for speech-language pathologists and audiologists is that the requirements include a master's degree, a clinical practicum, the National Examination in Speech-Language Pathology and Audiology and a Clinical Fellowship Year. Department staff have been informed by representatives from MSHA that the requirements set out by part 4750.0050, subparts 2 through 5 meet with MSHA's recommendations for minimum entry requirements for registration.

As stated above, ASHA is the national private certifying organization for speech-language pathologists and audiologists. The requirements to obtain a Certificate of Clinical Competence in speech-language pathology or audiology include:

- (1) A master's degree or its equivalent.
- (2) An academic clinical practicum of 300 hours.
- (3) A Clinical Fellowship Year (CFY).
- (4) A passing score on the National Teacher Examination in Speech-Language Pathology or Audiology.

The education, training and testing requirements set out in part 4750.0050, subparts 2 through 5, of these proposed rules do not use words that are identical to words used by ASHA to define their prerequisites for the Certificate of Clinical Competence (CCC). However, the substance of the education, training and testing requirements set out in these rules mirrors the prerequisites of ASHA for the CCC. The Commissioner's view is that ASHA minimum requirements for entry into the profession are excellent guidelines for Minnesota to follow in setting reasonable minimum entry requirements for the registration system.

e. Third-party payors requirements for reimbursement.

Department staff contacted various third-party payors in Minnesota to determine what standards each required for reimbursement of service providers of speech-language pathology and audiology services. The following third-party payors were contacted: Physicians Health Plan, Blue Cross/Blue Shield, Group Health, Med Centers Health Plan and Share. Rules and regulations for medical assistance payments for speech-language pathology and audiology services were also reviewed by Department staff.

Physicians Health Plan categorizes speech-language pathologists and audiologists as "non-participants" or non-contract service providers. In the case of non-participants, Physicians Health Plan usually requires the provider to meet the state requirements. Because there are no state credentialing requirements for speech-language pathologists or audiologists in Minnesota outside of the school system, Physicians Health Plan may depend on the requirements set by the school system or create their own credentialing process.

A Blue Cross/Blue Shield representative stated that ASHA or MSHA is contacted to determine if the provider of speech-language pathology or audiology services has a current CCC. The CCC is a prerequisite for reimbursement for such services.

Group Health requires speech-language pathology and audiology providers to have a current CCC as a prerequisite for reimbursement. If a provider does not have their CCC yet, but is working on completing their Clinical Fellowship Year, they will be reimbursed only if they are supervised by a person who has a current CCC.

Med Centers Health Plan does not contract with individuals for speech-language pathology and audiology services. It contracts with hospitals and clinics that employ speech-language pathologists and audiologists for provision of those services. According to the representative of Med Centers Health Plan, it is their expectation that the speech-language pathologist or audiologist providing services be licensed or working under the supervision of a licensed speech-language pathologist or audiologist.

The Provider Agreement of Share indicates that a provider is to be "duly licensed" in order to be reimbursed. However, as explained above, speech-language pathologists and audiologists are not licensed in Minnesota outside of the school system.

The current rules for reimbursement of speech-language pathology and audiology services through medical assistance require that the services be "... prescribed by a physician and provided by a qualified speech pathologist or a qualified audiologist" Minnesota Rules, part 9500.1070, subpart 13, C. The same rule states that:

A qualified speech pathologist or audiologist is an individual with a certificate of clinical competence from the American Speech and Hearing Association (sic) or an individual who has completed the equivalent educational requirements and work experience necessary for obtaining such a certificate, or, who has completed the academic program and is in the process of accumulating the necessary supervised work experience required to qualify for such a certificate.

The Minnesota Department of Human Services Medical Assistance/General Assistance Medical Care Provider Manual (MA/GAMC Provider Manual) which was revised in the spring of 1989, states that "Providers eligible for reimbursement for speech pathology services are limited to qualified speech pathologists in independent practice." MA/GAMC Provider Manual 5101.2. The same document defines a "qualified speech pathologist in independent practice"

as one who has received a certificate of clinical competence from the American Speech and Hearing Association (sic) (ASHA) or has submitted to the medical assistance program an equivalency statement from ASHA indicating that ASHA certification standards have been met. See, MA/GAMC Provider Manual 5101.1. The same document states that "Providers eligible for the reimbursement of audiology services are those qualified audiologists in independent practice who have a current certificate of clinical competence from American Speech, Language and Hearing Association (sic) or who have submitted to the MA program an equivalency statement of ASHA indicating that ASHA certification standards have been met." MA/GAMC Provider Manual 1901.2.

The Code of Federal Regulations lists services which are included in the term "medical assistance" and provides definitions of service providers. The definitions of the service providers include minimum requirements that must be met by providers in order to be eligible for reimbursement. According to 42 CFR 440.110, reimbursable services include:

(c) Services for individuals with speech, hearing and language disorders. (1) "Services for individual with speech, hearing and language disorders" means diagnostic, screening, preventative, or corrective services provided by or under the direction of a speech pathologist or audiologist, for which a patient is referred by a physician. It includes any necessary supplies and equipment.

(2) A "speech pathologist or audiologist" is an individual who
(i) Has a certificate of clinical competence from the American Speech and Hearing Association (sic);
(ii) Has completed the equivalent educational requirements and work experience necessary for the certificate; or
(iii) Has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

The Commissioner asserts that due to all of the above facts and law the minimum entry requirements set by the proposed rules are both necessary and reasonable.

4750.0060 QUALIFICATIONS FOR REGISTRATION ON OR AFTER JANUARY 1, 1993.

Subpart 1. APPLICABILITY. EXCEPT AS PROVIDED IN PARTS 4750.0070, 4750.0080, AND 4750.0100, AN APPLICANT WHO APPLIES FOR REGISTRATION ON OR AFTER JANUARY 1, 1993, MUST MEET THE REQUIREMENTS IN THIS PART.

Subp. 2. MASTER'S OR DOCTORAL DEGREE REQUIRED. AN APPLICANT MUST POSSESS A MASTER'S OR DOCTORAL DEGREE THAT MEETS THE REQUIREMENTS OF THIS PART.

A. IF AN APPLICANT'S REGISTRATION APPLICATION IS POSTMARKED ON OR AFTER JANUARY 1, 1994, ALL OF THE APPLICANT'S GRADUATE COURSEWORK AND CLINICAL PRACTICUM REQUIRED IN THE PROFESSIONAL AREA FOR WHICH REGISTRATION IS SOUGHT MUST HAVE BEEN INITIATED AND COMPLETED AT AN INSTITUTION WHOSE PROGRAM WAS ACCREDITED BY THE EDUCATIONAL STANDARDS BOARD OF THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION IN THE AREA FOR WHICH REGISTRATION IS SOUGHT.

B. THE MASTER'S DEGREE TRAINING MUST INCLUDE A MINIMUM OF 112.5 QUARTER CREDITS OR 75 SEMESTER CREDITS OR THEIR EQUIVALENT OF ACADEMIC COURSEWORK THAT INCLUDES BASIC SCIENCE COURSEWORK AND PROFESSIONAL COURSEWORK.

C. APPLICANTS FOR REGISTRATION IN EITHER SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY MUST COMPLETE 40.5 QUARTER CREDITS OF THE 112.5 QUARTER CREDITS OR 27 OF THE 75 SEMESTER CREDITS OR THEIR EQUIVALENT IN BASIC SCIENCE COURSEWORK, DISTRIBUTED AS FOLLOWS:

(1) NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT MUST BE IN BIOLOGICAL OR PHYSICAL SCIENCES AND MATHEMATICS;

(2) NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT MUST BE IN BEHAVIORAL OR SOCIAL SCIENCES, INCLUDING NORMAL ASPECTS OF HUMAN BEHAVIOR AND COMMUNICATION;

(3) 22.5 QUARTER CREDITS OR 15 SEMESTER CREDITS OR THEIR EQUIVALENT MUST BE IN BASIC HUMAN COMMUNICATION PROCESSES AND MUST INCLUDE COURSEWORK IN EACH OF THE FOLLOWING THREE AREAS OF SPEECH, LANGUAGE, AND HEARING:

- (a) THE ANATOMIC AND PHYSIOLOGIC BASES;**
- (b) THE PHYSICAL AND PSYCHOPHYSICAL BASES; AND**
- (c) THE LINGUISTIC AND PSYCHOLINGUISTIC ASPECTS.**

D. ALL APPLICANTS FOR REGISTRATION MUST COMPLETE 54 QUARTER CREDITS OF THE 112.5 QUARTER CREDITS OR 36 SEMESTER CREDITS OF THE 75 SEMESTER CREDITS OR THEIR EQUIVALENT IN PROFESSIONAL COURSEWORK. THE COURSEWORK MUST INCLUDE THE NATURE, PREVENTION, EVALUATION, AND TREATMENT OF SPEECH, LANGUAGE, AND HEARING DISORDERS. THE COURSEWORK MUST ENCOMPASS COURSES IN SPEECH, LANGUAGE, AND HEARING THAT CONCERN DISORDERS PRIMARILY AFFECTING CHILDREN AS WELL AS DISORDERS PRIMARILY AFFECTING ADULTS. A MINIMUM OF 45 OF THE 54 QUARTER CREDITS OR 30 OF THE 36 SEMESTER CREDITS OR THEIR EQUIVALENT MUST BE COURSES FOR WHICH GRADUATE CREDIT WAS RECEIVED. A MINIMUM OF 31.5 OF THE 45 QUARTER CREDITS OR 21 OF THE 30 SEMESTER CREDITS MUST BE IN THE PROFESSIONAL AREA FOR

WHICH REGISTRATION IS SOUGHT.

E. APPLICANTS SEEKING REGISTRATION AS SPEECH-LANGUAGE PATHOLOGISTS MUST COMPLETE THE FOLLOWING PROFESSIONAL COURSEWORK:

(1) 45 QUARTER CREDITS OF THE 54 QUARTER CREDITS OF THE PROFESSIONAL COURSEWORK OR 30 SEMESTER CREDITS OF THE 36 SEMESTER CREDITS OF THE PROFESSIONAL COURSEWORK OR THEIR EQUIVALENT MUST BE IN COURSES PERTAINING TO SPEECH-LANGUAGE PATHOLOGY AND NINE QUARTER CREDITS OF THE 54 QUARTER CREDITS OR SIX SEMESTER CREDITS OF THE 36 SEMESTER CREDITS OR THEIR EQUIVALENT IN COURSES IN THE AREA OF AUDIOLOGY.

(2) THE 45 QUARTER CREDITS OR 30 SEMESTER CREDITS OR THEIR EQUIVALENT PERTAINING TO SPEECH-LANGUAGE PATHOLOGY MUST INCLUDE AT LEAST NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN SPEECH DISORDERS AND NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN LANGUAGE DISORDERS. THE NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT IN THE AREA OF AUDIOLOGY MUST INCLUDE AT LEAST 4.5 QUARTER CREDITS OR THREE SEMESTER CREDITS OR THEIR EQUIVALENT IN HEARING DISORDERS AND HEARING EVALUATION AND 4.5 QUARTER CREDITS OR THREE SEMESTER CREDITS OR THEIR EQUIVALENT IN HABILITATIVE AND REHABILITATIVE PROCEDURES.

F. APPLICANTS SEEKING REGISTRATION AS AN AUDIOLOGIST MUST COMPLETE PROFESSIONAL COURSEWORK AS FOLLOWS:

(1) 45 QUARTER CREDITS OF THE 54 QUARTER CREDITS OR 30 SEMESTER CREDITS OF THE 36 SEMESTER CREDITS OR THEIR EQUIVALENT OF COURSEWORK MUST BE IN AUDIOLOGY. AT LEAST NINE QUARTER CREDITS OF THE 45 QUARTER CREDITS OR SIX SEMESTER CREDITS OF THE 30 SEMESTER CREDITS IN AUDIOLOGY MUST BE IN HEARING DISORDERS AND HEARING EVALUATION AND AT LEAST NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT MUST BE IN HABILITATIVE OR REHABILITATIVE PROCEDURES WITH INDIVIDUALS WHO HAVE HEARING IMPAIRMENT; AND

(2) NINE QUARTER CREDITS OF THE 54 QUARTER CREDITS OR SIX SEMESTER CREDITS OF THE 36 SEMESTER CREDITS OR THEIR EQUIVALENT IN THE AREA OF SPEECH-LANGUAGE PATHOLOGY. AT LEAST 4.5 QUARTER CREDITS OF THE NINE QUARTER CREDITS OR THREE SEMESTER CREDITS OF THE SIX SEMESTER CREDITS MUST BE IN SPEECH DISORDERS AND AT LEAST 4.5 QUARTER CREDITS OF THE NINE QUARTER CREDITS OR THREE SEMESTER CREDITS OF THE SIX SEMESTER CREDITS MUST BE IN LANGUAGE DISORDERS. THIS COURSEWORK IN SPEECH-LANGUAGE PATHOLOGY MUST CONCERN THE NATURE, PREVENTION, EVALUATION, AND TREATMENT OF SPEECH AND LANGUAGE DISORDERS NOT ASSOCIATED WITH HEARING IMPAIRMENT.

G. OF THE PROFESSIONAL COURSEWORK REQUIRED IN ITEMS E AND F, NO MORE THAN NINE QUARTER CREDITS OR SIX SEMESTER CREDITS OR THEIR EQUIVALENT ASSOCIATED WITH CLINICAL TRAINING MAY BE COUNTED TOWARD THE MINIMUM OF 54 QUARTER CREDITS OR 36 SEMESTER CREDITS OR THEIR EQUIVALENT OF PROFESSIONAL COURSEWORK. HOWEVER, THOSE HOURS MAY NOT BE USED TO SATISFY THE MINIMUM OF NINE QUARTER CREDITS OR SIX SEMESTER CREDIT HOURS IN HEARING DISORDERS OR EVALUATION, NINE QUARTER CREDITS OR SIX SEMESTER CREDITS IN HABILITATIVE OR REHABILITATIVE PROCEDURES, OR NINE QUARTER CREDITS OR SIX SEMESTER CREDITS IN SPEECH-LANGUAGE PATHOLOGY.

Subp. 3. SUPERVISED CLINICAL TRAINING REQUIRED. AN APPLICANT MUST COMPLETE AT LEAST 375 HOURS OF SUPERVISED CLINICAL TRAINING AS A STUDENT THAT MEETS THE REQUIREMENTS OF THIS PART.

A. THE SUPERVISED CLINICAL TRAINING MUST BE PROVIDED BY THE EDUCATIONAL INSTITUTION OR BY ONE OF ITS COOPERATING PROGRAMS.

B. THE FIRST 25 HOURS OF THE SUPERVISED CLINICAL TRAINING MUST BE SPENT IN CLINICAL OBSERVATION. THOSE 25 HOURS MUST CONCERN THE EVALUATION AND TREATMENT OF CHILDREN AND ADULTS WITH DISORDERS OF SPEECH, LANGUAGE, OR HEARING.

C. ALL APPLICANTS MUST COMPLETE AT LEAST 350 HOURS OF SUPERVISED CLINICAL TRAINING THAT CONCERN THE EVALUATION AND TREATMENT OF CHILDREN AND ADULTS WITH DISORDERS OF SPEECH, LANGUAGE, AND HEARING. AT LEAST 250 OF THE 350 HOURS MUST BE AT THE GRADUATE LEVEL IN THE AREA IN WHICH REGISTRATION IS SOUGHT. AT LEAST 50 HOURS MUST BE SPENT IN EACH OF THREE TYPES OF CLINICAL SETTINGS INCLUDING, BUT NOT LIMITED TO, UNIVERSITY CLINICS, HOSPITALS, PRIVATE CLINICS, AND SCHOOLS, INCLUDING SECONDARY AND ELEMENTARY.

D. AN APPLICANT SEEKING REGISTRATION AS A SPEECH-LANGUAGE PATHOLOGIST MUST COMPLETE CLINICAL TRAINING AS REQUIRED IN THIS ITEM.

(1) THE APPLICANT MUST OBTAIN 250 OF THE 350 SUPERVISED HOURS IN SPEECH-LANGUAGE PATHOLOGY.

(2) THE APPLICANT MUST COMPLETE A MINIMUM OF 20 HOURS OF THE 250 HOURS IN EACH OF THE FOLLOWING EIGHT CATEGORIES:

- (a) EVALUATION: SPEECH DISORDERS IN CHILDREN;**
- (b) EVALUATION: SPEECH DISORDERS IN ADULTS;**
- (c) EVALUATION: LANGUAGE DISORDERS IN CHILDREN;**
- (d) EVALUATION: LANGUAGE DISORDERS IN ADULTS;**
- (e) TREATMENT: SPEECH DISORDERS IN CHILDREN;**
- (f) TREATMENT: SPEECH DISORDERS IN ADULTS;**
- (g) TREATMENT: LANGUAGE DISORDERS IN CHILDREN; AND**
- (h) TREATMENT: LANGUAGE DISORDERS IN ADULTS.**

(3) THE APPLICANT MUST COMPLETE A MINIMUM OF 35 HOURS IN AUDIOLOGY INCLUDING:

(a) 15 HOURS IN THE EVALUATION OR SCREENING OF INDIVIDUALS WITH HEARING DISORDERS; AND

(b) 15 HOURS IN HABILITATION OR REHABILITATION OF INDIVIDUALS WITH HEARING IMPAIRMENT.

(4) THE APPLICANT MUST OBTAIN NO MORE THAN 20 HOURS IN THE MAJOR PROFESSIONAL AREA THAT ARE IN RELATED DISORDERS.

E. AN APPLICANT SEEKING REGISTRATION AS AN AUDIOLOGIST MUST COMPLETE CLINICAL TRAINING AS REQUIRED IN THIS ITEM.

(1) THE APPLICANT MUST OBTAIN 250 OF THE 350 HOURS IN AUDIOLOGY.

(2) THE APPLICANT MUST COMPLETE A MINIMUM OF 40 HOURS IN EACH OF THE FOLLOWING FOUR CATEGORIES:

(a) EVALUATION: HEARING IN CHILDREN;

(b) EVALUATION: HEARING IN ADULTS;

(c) SELECTION AND USE: AMPLIFICATION AND ASSISTIVE DEVICES FOR CHILDREN; AND

(d) SELECTION AND USE: AMPLIFICATION AND ASSISTIVE DEVICES FOR ADULTS.

(3) THE APPLICANT MUST COMPLETE A MINIMUM OF 20 HOURS IN THE CATEGORY OF THE TREATMENT OF HEARING DISORDERS IN CHILDREN AND ADULTS.

(4) THE APPLICANT MUST COMPLETE A MINIMUM OF 35 HOURS OF THE 350 HOURS IN SPEECH-LANGUAGE PATHOLOGY UNRELATED TO HEARING IMPAIRMENT AS FOLLOWS:

(a) 15 HOURS IN EVALUATION OR SCREENING; AND

(b) 15 HOURS IN TREATMENT.

(5) THE APPLICANT MUST OBTAIN NO MORE THAN 20 HOURS IN THE MAJOR PROFESSIONAL AREA THAT ARE IN RELATED DISORDERS.

Subp. 4. SUPERVISED POSTGRADUATE CLINICAL EXPERIENCE REQUIRED. AN APPLICANT MUST COMPLETE AT LEAST NINE MONTHS OR ITS EQUIVALENT OF FULL-TIME SUPERVISED POSTGRADUATE CLINICAL EXPERIENCE THAT MEETS THE REQUIREMENTS IN PART 4750.0050, SUBPART 4.

Subp. 5. QUALIFYING EXAMINATION SCORE REQUIRED. AN APPLICANT MUST ACHIEVE A QUALIFYING SCORE ON THE NATIONAL EXAMINATION IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY (NESPA), ADMINISTERED BY NTE PROGRAMS, EDUCATIONAL TESTING SERVICE AS REQUIRED IN PART 4750.0050, SUBPART 5.

Part 4750.0060 is necessary to inform applicants of the registration requirements which apply to all first-time registrants who apply for registration on or after January 1, 1993. It is necessary to make the change

in the registration requirements from those in part 4750.0050 to those in part 4750.0060 because the American Speech-Language-Hearing Association (ASHA) will make a nearly identical change to the requirements for obtaining the Certificate of Clinical Competence (CCC) for all applications postmarked January 1, 1993 or thereafter.

The requirements of part 4750.0060 are reasonable for several reasons. First, the Commissioner has determined, as described under part 4750.0050 above, that the registration requirements of the proposed rules should be as nearly consistent with the requirements of ASHA as possible. If the current requirements of ASHA are reasonable then it may be reasonable that the requirements of ASHA which will be required for applications postmarked January 1, 1993 or thereafter should also be followed.

As described above under part 4750.0050, the consistency of the registration requirements in the proposed rules with the current ASHA requirements for the CCC is based on five main topics including:

- a. Current Minnesota regulation of speech-language pathologists in the school system;
- b. Other state regulation;
- c. The recommendation of department heads from Minnesota training institutions and other recommendations;
- d. The recommendations of state and national private professional associations; and
- e. Third-party payor requirements for reimbursement.

The second reason the Commissioner takes the view that the proposed registration requirements of part 4750.0060 are reasonable is based, in part, on three of the same considerations set out above. These topics are discussed in turn below.

a. The recommendations of department heads from Minnesota training institutions.

Each of the department heads from the five Minnesota training institutions that provide training for speech-language pathologists and audiologists has recommended that the minimum entry requirements of the proposed registration rules keep pace with the ASHA requirements for the CCC. Each of the department heads has given written recommendation to the Department in support of proposed registration rules which provide for minimum entry requirements for applications postmarked on or after January 1, 1993 that match ASHA requirements for obtaining the CCC after January 1, 1993. Letters from each of the department heads from the Minnesota training institutions are attached as Attachments R through V.

b. The recommendations of state and national private professional associations.

The Minnesota Speech-Language-Hearing Association (MSHA) and ASHA, the state and national private professional associations representing speech-language pathologists and audiologists, have each recommended that the proposed registration rules should provide for minimum entry requirements for applications postmarked on or after January 1, 1993 that will reflect ASHA requirements for obtaining the CCC which also apply to applications for certification postmarked on or after January 1, 1993. Letters from MSHA and ASHA are attached as Attachments W and X.

c. Third-party payor requirements for reimbursement.

As described above in this Statement at pages 66 to 69, third-party payors have various requirements regarding reimbursement of persons providing

speech-language pathology or audiology services. Not all of the third-party payors contract directly with speech-language pathologists and audiologists. Instead, some third-party payors may contract directly with the hospital or clinic that employs the speech-language pathologist or audiologist. Despite the difference in contractual arrangements among third-party payors, the underlying requirement for reimbursement for speech-language pathology or audiology services is that the provider of the services meet state credentialing requirements. For example, Physicians Health Plan, Med Centers Health Plan, and Share require the "state licensure requirement" even though Minnesota has no licensure requirements for speech-language pathologists or audiologists. The provider must hold a current CCC in order to obtain reimbursement from Blue Cross/Blue Shield for speech-language pathology or audiology services. Group Health states as a prerequisite of reimbursement that the speech-language pathologist or audiologist have a current CCC or, if the speech-language pathologist or audiologist is working on completing the requirements to obtain a CCC, the person must be supervised by a person who has a current CCC.

In order to obtain medical assistance payments for speech-language pathology or audiology services, Minnesota law and federal law require that the provider of the services has a current CCC, has completed the equivalent educational work requirements and work requirements to obtain a CCC, or has completed the required educational requirements for obtaining a CCC and is in the process of completing the required supervised work experience to obtain a CCC. Pages 68 through 69 of this Statement contain more detailed discussion of requirements for medical assistance payments.

The third-party payor standards that require a current CCC or some

variation of a current CCC for reimbursement purposes strongly suggest that when the ASHA's revised standards to obtain the CCC are required the third-party payors will also require the revised standards. Department staff contacted legal staff from the Minnesota Department of Human Services (DHS) to obtain the DHS interpretation of the rule for medical assistance payment which requires as a prerequisite of reimbursement for speech-language pathology or audiology services that the provider of the services hold a "current CCC." DHS legal staff is of the opinion that if the rules require a "current CCC," when the ASHA requirements for the CCC change all first-time applicants for the CCC will be required to meet the revised requirements in order to qualify under the medical assistance rules. Therefore, DHS rules regarding medical assistance will require the ASHA revised standards.

The Commissioner's position is that the DHS interpretation is reasonable and that other third-party payors who follow ASHA current standards for the CCC will follow ASHA's revised standards as well. Based upon the DHS interpretation and the fact that the interpretation is reasonable and probably applies to other third-party payors, the Commissioner asserts that it is reasonable to include the revised standards in these proposed rules.

A third reason for increasing the minimum entry requirements is that the ASHA requirements to obtain the CCC which apply to applications postmarked on or after January 1, 1993 are based on studied consideration by the Council on Professional Standards of ASHA in addition to comments from many ASHA members and people who hold a CCC. The Council on Professional Standards for ASHA has considered the revised standards since at least February of 1988. A preliminary version of the revised standards was disseminated to more than 900 ASHA members who were also CCC holders in April 1988 and published in the

June/July 1988 issue of Asha for review and comment by ASHA members and CCC holders. Many suggestions received from members and CCC holders were incorporated in the final version of the revised standards. The final version of the revised standards was adopted by the Council on Professional Standards in October, 1988. The revised standards are effective for applications for certification postmarked on or after January 1, 1993, and thereafter.

"Report, Council on Professional Standards," "Asha," Vol. 31, No. 3, 1989, p. 69. The Department has also been informed by ASHA staff that the revised standards are final. The final status of the revised standards are evidenced by a formal resolution known as a "Statement of Adoption."

Finally, the Commissioner also has information that standards for certification set by ASHA are not changed often. This fact evidences the stable character of ASHA standards and supports the reasonableness of including the revised standards in these proposed rules. MSHA has informed the Department that the last substantial change in ASHA certification standards occurred in 1976, or 17 years before the revised standards will become effective for applications for certification.

4750.0070 REGISTRATION BY EQUIVALENCY

THE COMMISSIONER MAY REGISTER AN APPLICANT WHO SHOWS EVIDENCE OF POSSESSING A CURRENT CERTIFICATE OF CLINICAL COMPETENCE ISSUED BY THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION, AND WHO OTHERWISE MEETS THE REQUIREMENTS OF PART 4750.0040.

This part allows the Commissioner to register an individual who shows evidence of possessing a current Certificate of Clinical Competence (CCC) from the ASHA as a speech-language pathologist or audiologist. The registration requirements set out in parts 4750.0050 and 4750.0060 are nearly identical to the prerequisites ASHA lists for candidates for the CCC currently and for

applications postmarked on or after January 1, 1993. An individual who has, in effect, already met the registration requirements set out in parts 4750.0050 or 4750.0060 by obtaining a CCC and can prove the same by producing a current CCC should not be required to again prove completion of all the elements listed in parts 4750.0050 and 4750.0060. This rule is necessary to eliminate duplicative efforts by applicants for registration.

It is necessary to use the term "may" when defining the Commissioner's action to register an individual by equivalency. If the term "may" were replaced by the word "shall" or "must," the rule would not give the Commissioner discretion to deny registration in a case where, for example, the individual has met the requirements for registration by equivalency but has past practice violations which would cause the Commissioner to deny registration. If the Commissioner is not provided this discretion, the consumer protection aspect of the registration system could be compromised. Therefore, it is necessary and reasonable that the word "may" be used in this subpart.

4750.0080 REGISTRATION BY RECIPROCITY.

Subpart 1. APPLICABILITY. AN APPLICANT MAY BE REGISTERED AS A SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST BY RECIPROCITY, ACCORDING TO SUBPARTS 2 AND 3.

Subp. 2. CURRENT CREDENTIALS REQUIRED. WHEN THE COMMISSIONER DETERMINES THAT AN APPLICANT HOLDS A CURRENT AND UNRESTRICTED CREDENTIAL FOR THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY IN ANOTHER JURISDICTION THAT HAS REQUIREMENTS EQUIVALENT TO OR HIGHER THAN THOSE IN EFFECT FOR DETERMINING WHETHER AN APPLICANT IN THIS STATE IS QUALIFIED TO BE REGISTERED AS A SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST, THE COMMISSIONER MAY REGISTER THE APPLICANT WITHOUT THE APPLICANT MEETING THE REQUIREMENTS OF PART 4750.0050 OR 4750.0060, IF THE APPLICANT OTHERWISE MEETS ALL OTHER REQUIREMENTS OF PARTS 4750.0010 TO 4750.0700.

It is necessary to make a reciprocity provision in these rules in order

to accommodate people coming to Minnesota from other jurisdictions. It is reasonable to limit this method of registering to those who hold a current credential for speech-language pathology or audiology in jurisdictions where requirements equivalent to or higher than those in effect in this state exist. It is reasonable to give reciprocity status to such people because doing so will eliminate testing those who have already met minimum competency standards in other jurisdictions. The reciprocity provision is reasonable because reviewing applications that set out all of the requirements listed in part 4750.0050 or 4750.0070 would be superfluous and cause unnecessary expenditures of resources. Also, this provision is reasonable because it limits reciprocity to people who have met minimum requirements for the practice of speech-language pathology and audiology that are equal to or higher than those set by these rules.

The reasoning set out in 4750.0070 regarding the necessity and reasonableness of the word "may" is also applicable here.

Subp. 3. VERIFICATION OF CREDENTIALS REQUIRED. AN APPLICANT FOR REGISTRATION BY RECIPROCITY UNDER SUBPART 2, MUST HAVE THE APPROPRIATE GOVERNMENT BODY IN EACH JURISDICTION IN WHICH THE APPLICANT HOLDS A CREDENTIAL SUBMIT LETTERS OF VERIFICATION TO THE COMMISSIONER. EACH LETTER MUST STATE THE APPLICANT'S NAME, DATE OF BIRTH, CREDENTIAL NUMBER, DATE OF ISSUANCE, A STATEMENT REGARDING DISCIPLINARY ACTIONS, IF ANY, TAKEN AGAINST THE APPLICANT, AND THE TERMS UNDER WHICH THE CREDENTIAL WAS ISSUED.

It is necessary that the procedures and duties involved with registration by reciprocity be set out to inform applicants what is expected of them. The applicant is responsible for requesting other jurisdictions to provide credentialing evidence to the Commissioner. This requirement reduces administrative costs for the Department of Health. The information required to be included in the letter of verification is necessary because it is the minimum information needed to identify the applicant and to judge eligibility

for reciprocity privileges.

It is reasonable that the applicant have the responsibility of providing credential information needed to qualify for reciprocity because it places the duty on the party who seeks to benefit from the reciprocity and who should have direct access to the necessary records from other jurisdictions. The information is likely to be more accessible to the applicant than to the Commissioner. This provision is not excessive or overly intrusive, considering that it is the minimum information necessary for the commissioner to judge eligibility for reciprocity.

5750.0090 REGISTRATION FOLLOWING LAPSE OF REGISTERED STATUS.

Subpart 1. LAPSE OF THREE YEARS OR LESS. FOR ANY APPLICANT WHOSE REGISTERED STATUS HAS LAPSED FOR THREE YEARS OR LESS, THE APPLICANT MUST:

A. APPLY FOR REGISTRATION RENEWAL ACCORDING TO PART 4750.0300, AND DOCUMENT COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENTS OF PART 4750.0400 SINCE THE APPLICANT'S REGISTRATION LAPSED, OR

B. FULFILL THE REQUIREMENTS OF PART 4750.0080.

This part allows people whose registration has lapsed for three years or less to regain registration status by applying for registration, documenting compliance with continuing education requirements for the period during which registration lapsed, and paying the current renewal fee. This subpart allows, as an alternative, renewal of registration by reciprocity. The subpart is necessary because it would not be clear that an applicant, as described in this subpart, would be exempt from the examination requirement without explicitly stating so in the rules. It is necessary to require the applicant to apply in order to put the Department on notice of the request for registration. It is necessary to require that continuing education requirements during the time of lapsed registration be met as a prerequisite

of registration because it provides tangible evidence of maintained of competency in the occupation that may not otherwise exist. The current renewal fee is necessary because the registration system is required to be entirely fee supported by Minnesota Statutes, sections 214.06, 214.13 and 16A.128. The period of three years or less is reasonable because it would be excessive to require that all the minimum requirements of registration be met prior to allowing renewal of registration when the lapse has been for a shorter period of time. Three years is reasonable as an amount of time to presume that registration can lapse without competence being lost. The requirement to fulfill continuing education requirements during the time of lapsed registration is reasonable because it provides the Commissioner with some method of knowing that the applicant has continued to keep abreast of developments in the occupation. The requirement to pay the current renewal fee is reasonable because an applicant in the situation described by this provision causes the Department to incur administrative costs as would any other registrant. The required fee is only in an amount necessary to cover costs for administering the registration system for the described registrant. Allowing renewal of registration by reciprocity after the lapse described is reasonable because there is no reason to distinguish the reciprocity privileges here from those of other renewal circumstances.

Subp. 2. LAPSE OF MORE THAN THREE YEARS. FOR AN APPLICANT WHOSE REGISTERED STATUS HAS LAPSED FOR MORE THAN THREE YEARS, THE APPLICANT MUST:

A. FULFILL THE REQUIREMENTS FOR REGISTRATION IN PART 4750.0050, SUBPARTS 4 AND 5, OR 4750.0060, SUBPARTS 4 AND 5, WHICHEVER IS APPLICABLE. A QUALIFYING SCORE ON THE EXAMINATION DESCRIBED IN PART 4750.0050, SUBPART 5, OR 4750.0060, SUBPART 5, WHICHEVER IS APPLICABLE, MUST BE OBTAINED WITHIN ONE YEAR OF THE APPLICATION DATE FOR REGISTRATION RENEWAL; OR

B. FULFILL THE REQUIREMENTS OF PART 4750.0080.

It is necessary to put applicants on notice that certain requirements

need to be met after registration has lapsed for more than three years. This subpart informs applicants that meeting the requirements set out in part 4750.0050, subparts 4 and 5, or part 4750.0060, subparts 4 and 5, does not entitle the applicant to registration thereafter when lapses in registered status of more than three years have occurred. The subpart allows the applicant to meet the minimum requirements for registration by fulfilling the postgraduate clinical experience set out in part 4750.0050, subpart 4, or part 4750.0060, subpart 4, and by taking the examination described in part 4750.0050, subpart 5, or part 4750.0060, subpart 5 or by providing evidence of reciprocity as described in part 4750.0080. Part 4750.0090, subpart 2, item A, specifies that if the examination is retaken a qualifying score must be obtained within one year of the application date for registration renewal. It is necessary to specify the time limit to put applicants on notice of the requirement. It is not sufficient for the applicant to produce passing scores of the examination from a time that is more than one year before the date of the application.

The notice portion of this subpart is reasonable because it clearly identifies the applicants affected. The balance of the subpart, apart from the notice portion, is reasonable because registration by meeting the requirements of reciprocity is an acceptable means of achieving registered status for new registrants and there is no basis in fact for treating the registrants described in this provision any differently for registration by reciprocity. However, there is a reason for treating applicants described in this provision in a special way if the alternative method is chosen to fulfill the registration requirement after lapse in registered status for three years or more. The alternate means of meeting the requirements for registration

after lapse in registered status is by fulfilling the postgraduate clinical experience described in part 4750.0050, subpart 4 or part 4750.0060, subpart 4, and by taking the examination described in part 4750.0050, subpart 5 or part 4750.0060, subpart 5. The applicant described in this provision has previously met the requirements described in part 4750.0050, subparts 2 through 5 or part 4750.0060, subparts 2 through 5. In other words, the applicant has previously completed a master's degree or its equivalent, completed required hours of clinical training as a student in an accredited educational institution in speech-language pathology or audiology, completed nine months or its equivalent of supervised postgraduate clinical experience, and passed the National Examination in Speech-Language Pathology or Audiology (NESPA). It would be unreasonable to require an applicant to complete all of the described requirements again after a lapse in registered status of three years or more. However, the requirement to fulfill the postgraduate clinical experience again is reasonable because it allows an applicant to become reacquainted with the occupation with some supervision, as described under part 4750.0050, subpart 4 or part 4750.0060, subpart 4. The requirement to take the NESPA is reasonable because the examination is a vehicle for providing evidence of occupational competency to the Commissioner. The requirement to take the examination within one year of the application date is reasonable because it provides the Commissioner with a recent indication of the occupational competency of the applicant. The requirement is not overly burdensome because the applicant for registration may be paid during the postgraduate clinical experience.

4750.0100 TEMPORARY REGISTRATION REQUIREMENTS

Subpart 1. TEMPORARY REGISTRATION REQUIREMENTS. AN APPLICANT FOR REGISTRATION NEED NOT COMPLY WITH THE REQUIREMENTS OF PART 4750.0050 OR 4750.0060 FOR TWO YEARS AFTER THE EFFECTIVE DATE OF PARTS 4750.0010 TO 4750.0700 IF, AT THE TIME OF APPLICATION, THE APPLICANT PROVIDES THE COMMISSIONER WITH EVIDENCE THAT THE APPLICANT HAS:

A. A MASTER'S DEGREE OR AN EQUIVALENT TO A MASTER'S DEGREE AS DESCRIBED IN PART 4750.0050, SUBPART 2, IN SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY, COMMUNICATION DISORDERS OR THEIR EQUIVALENT AS DETERMINED BY THE COMMISSIONER; OR

B. A CURRENT OR EXPIRED CERTIFICATE OF CLINICAL COMPETENCE ISSUED BY THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION; AND

C. ENGAGED IN THE ACTIVE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY IMMEDIATELY PRECEDING THE EFFECTIVE DATES OF PARTS 4750.0010 TO 4750.0700. ACTIVE PRACTICE INCLUDES THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY AS DEFINED IN PARTS 4750.0020, SUBPARTS 7 AND 17, FOR A MINIMUM OF 750 HOURS A YEAR FOR THREE OF THE LAST FIVE YEARS. ACTIVE PRACTICE MAY INCLUDE THE REQUIRED POSTGRADUATE CLINICAL EXPERIENCE DESCRIBED IN PART 4750.0050, SUBPART 4, OR PART 4750.0060, SUBPART 4, OR EXPERIENCE EQUIVALENT TO THE POSTGRADUATE CLINICAL EXPERIENCE DESCRIBED. HOWEVER, CLINICAL EXPERIENCE GAINED AS A STUDENT OR AS DESCRIBED IN PART 4750.0050, SUBPART 3, OR 4750.0060, SUBPART 3, SHALL NOT COUNT TOWARD ACTIVE PRACTICE.

This subpart explains that individuals who apply for registration within the first two years after the effective date of the proposed rules will be excused from meeting all of the requirements set out in parts 4750.0050 or 4750.0060 if, when they register, they can provide evidence of holding a master's degree as described above or that they hold a current or expired Certificate of Clinical Competence (CCC) and that they were engaged in active practice for 750 hours per year for three of the last five years prior to the date of their application.

This subpart is necessary to provide for applicants who have completed a master's degree or have a current or expired CCC and are currently engaged in active practice, but have not completed the other requirements of parts 4750.0050 or 4750.0060. It is necessary to provide some method for judging minimum competence of individuals who do not meet all of the requirements

described in parts 4750.0050 or 4750.0060. Using the master's degree or current or expired CCC and work experience as evidence of entry level competence is reasonable because individuals who have been involved in active practice of speech-language pathology or audiology are likely to be sufficiently competent due to the work experience and more likely to be competent than those who have no work experience.

An applicant who holds a current or expired CCC may have completed all of the elements necessary for permanent registration as described in part 4750.0050 or 4750.0060. The requirements for obtaining a CCC from ASHA have changed to some extent in the past 25 years. Therefore, an individual who holds a current or expired CCC may not have completed all of the elements necessary for permanent registration as described in part 4750.0050 or 4750.0060. However, the Commissioner is of the view that it is reasonable to use a master's degree or its equivalent or a current or expired CCC as evidence of competence, when combined with active practice experience for two reasons. First, the combination of the master's degree or the equivalent to a master's degree and the active practice experience may be comparable to the current ASHA prerequisites for a CCC. Although active practice experience may not be the same as the clinical training and postgraduate experience of the permanent requirements, the Commissioner is of the view that the active practice experience is a sufficient substitute for the clinical training and postgraduate experience requirements especially since the allowance of the substitute is for a limited period of time. Second, because ASHA is the recognized private credentialing entity for the occupations of speech-language pathology and audiology, the Commissioner is of the view that the combination of active practice experience and a current or expired CCC will provide a

sufficient substitute of evidence of minimum competency as described above.

The provision is also reasonable because it will provide a longer notice period to individuals in the occupations of speech-language pathology and audiology of the registration system and the effect it will have on individuals involved in the occupation. The registration system will be the first state-wide regulation of all speech-language pathologists and audiologists in Minnesota. Although registration is considered voluntary because it does not prohibit practice, it does prohibit use of protected titles by those who do not meet minimum requirements and register with the Commissioner. The titles protected by the registration system are considered, by some individuals, fundamental to the professional image conveyed to the public by individuals in the practice of speech-language pathology and audiology. Therefore, it is reasonable to inform individuals of the impact the registration system will have and to provide a period of time when some individuals may become registered without complying with all of the requirements set out in part 4750.0050 or 4750.0060.

Subpart 1 is a type of "grandfathering" clause. It is common knowledge that grandfathering provisions are often included in occupational regulation. Based on that fact and the information presented above the Commissioner is of the view that subpart 1 is reasonable.

Subp. 2. PERMANENT REGISTRATION REQUIREMENT. AFTER THE TIME FOR TEMPORARY REGISTRATION HAS EXPIRED, AN APPLICANTS FOR INITIAL REGISTRATION MUST MEET THE REQUIREMENTS OF PART 4750.0050, 4750.0060, 4750.0070 OR 4750.0080.

This subpart puts applicants and registrants on notice that the temporary registration requirement described in subpart 1 above is in fact temporary. Because it is a temporary requirement, all applicants for registration who have not registered within the first two years following the effective dates

of parts 4750.0010 to 4750.0700 will be required to meet the requirements of part 4750.0050, 4750.0060, 4750.0070 or 4750.0080 as a prerequisite of registration. It is necessary to give this notice so as not to mislead those who seek registration.

It is reasonable to limit the time that individuals who meet the qualifications of subpart 1 may become registered because subpart 1 is like a grandfathering clause and such clauses commonly are time-limited. The two year time period is a reasonable period of time to allow individuals who meet the requirements of subpart 1 to register because it allows individuals sufficient time to become aware of the registration system and complete applications.

The Commissioner is of the view that the temporary registration requirements provide evidence of minimum competency for the practice of speech-language pathology or audiology. However, the Commissioner is also of the view that the requirements are best suited for a temporary period of time and that the requirements provided under part 4750.0050, 4750.0060, 4750.0070, or 4750.0080 are better suited for providing evidence of minimum competency in the occupations on a permanent basis.

Subp. 3. NOTIFICATION OF APPLICANTS. THE COMMISSIONER SHALL NOTIFY APPLICANTS FOR REGISTRATION OF THE EFFECTIVE DATE OF PARTS 4750.0010 TO 4750.0700 AND THE DATE ON WHICH REGISTRATION BY MEETING THE REQUIREMENTS OF PART 4750.0050, 4750.0060, 4750.0070 OR 4750.0080 IS REQUIRED.

It is necessary to notify applicants of the effective date of the rules and the date when the temporary registration requirements expire. This notification is necessary to avoid confusion that may develop if the dates are not provided to applicants. It is reasonable to place this responsibility on the Commissioner rather than on the applicants in general because applicants may not be aware of the information or how to obtain the information.

4750.0200 REGISTRATION PROCEDURES.

Subpart 1. APPLICATIONS FOR REGISTRATION. AN APPLICANTS FOR REGISTRATION MUST:

A. SUBMIT A COMPLETED APPLICATION FOR REGISTRATION ON FORMS PROVIDED BY THE COMMISSIONER. THE APPLICATION MUST INCLUDE THE APPLICANT'S NAME, PERMIT NUMBER UNDER CHAPTER 4692, IF APPLICABLE, BUSINESS ADDRESS AND PHONE NUMBER, OR HOME ADDRESS AND PHONE NUMBER IF THE APPLICANT PRACTICES SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY OUT OF THE HOME, AND A DESCRIPTION OF THE APPLICANT'S EDUCATION, TRAINING, AND EXPERIENCE, INCLUDING PREVIOUS WORK HISTORY FOR THE FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION. THE COMMISSIONER MAY ASK THE APPLICANT TO PROVIDE ADDITIONAL INFORMATION NECESSARY TO CLARIFY INFORMATION SUBMITTED IN THE APPLICATION.

It is necessary to set out the requirements for the application forms because this information is necessary for an applicant to be considered by the Commissioner for registration eligibility. It is necessary and reasonable that only forms provided by the Commissioner used by the applicant because use of one type of application form establishes uniformity in the information requested from all of the applicants.

It is necessary to collect the information requested in order to adequately identify the applicant, provide means to contact the applicant regarding anything that may affect his or her registered status, and provide the Commissioner with some knowledge of the applicant's education and experience. It is necessary that the Commissioner have the permit number of an individual who sells hearing instruments in order to have complete information about the applicant. It is reasonable that the applicant include the permit number because a hearing instrument selling permit is a mandatory requirement for all sellers of hearing instruments in the state. See, Minnesota Statutes, chapter 153A. It is also reasonable that the Commissioner have the information about the applicant described above because such information will help fulfill one of the purposes of the registration system which is to provide a listing of individuals who have met the minimum

requirements set out by the proposed rules as a prerequisite of use of protected titles.

It is necessary to require the applicant to provide additional information necessary for clarification because an incomplete application form would not provide for a functional registration system. It is reasonable to require complete information to ensure uniformity in the information supplied by all applicants. If complete information were not required, applicants could provide the Commissioner with insufficient or different types of information. Information that is not uniform would create problems for effective and equal administration of the registration system, especially regarding registration eligibility and discipline. The Department of Health, consumers and registrants have an interest in the fair and equal administration of these rules.

B. SUBMIT A TRANSCRIPT SHOWING THE COMPLETION OF A MASTER'S DEGREE OR ITS EQUIVALENT MEETING THE REQUIREMENTS OF PART 4750.0050, SUBPART 2, OR PART 4750.0060, SUBPART 2.

C. SUBMIT DOCUMENTATION OF THE REQUIRED HOURS OF SUPERVISED CLINICAL TRAINING MEETING THE REQUIREMENTS OF PART 4750.0050, SUBPART 3, OR PART 4750.0060, SUBPART 3.

D. SUBMIT DOCUMENTATION OF THE POSTGRADUATE CLINICAL EXPERIENCE MEETING THE REQUIREMENTS OF PART 4750.0050, SUBPART 4, OR PART 4750.0060, SUBPART 4.

E. SUBMIT DOCUMENTATION OF RECEIVING A QUALIFYING SCORE ON AN EXAMINATION MEETING THE REQUIREMENTS OF PART 4750.0050, SUBPART 5, OR 4750.0060, SUBPART 5.

Subpart 1, items B through E are necessary because the documentation requested will provide evidence that the applicant has completed the requirements of part 4750.0050, subparts 2 through 5 or part 4750.0060, subparts 2 through 5. It is reasonable to require the applicant to provide the documentation described in subpart 1, items B through E, because the applicant is in the best position to have the documentation and providing the

documentation will directly benefit the applicant by facilitating the applicant's registration.

F. SIGN A STATEMENT THAT THE INFORMATION IN THE APPLICATION IS TRUE AND CORRECT TO THE BEST OF THE APPLICANT'S KNOWLEDGE AND BELIEF.

Subpart 1, item F is necessary because it forms the basis for the Commissioner's decision on whether or not to register the applicant. It is a reasonable requirement because with a sworn statement by the applicant, the Commissioner is justified in relying on the information supplied by the applicant in making a decision on whether or not to register the applicant.

G. SUBMIT WITH THE APPLICATION ALL FEES REQUIRED BY PART 4750.0500.

The fee provision is necessary because the authorizing statute requires that the registration system be entirely fee supported. See, Minnesota Statutes, sections 214.06, 214.13 and 16A.128. It is reasonable to require that the application fee be submitted with the application because the fee will be used to reimburse the state for costs of administering the registration system.

H. SIGN A WAIVER AUTHORIZING THE COMMISSIONER TO OBTAIN ACCESS TO THE APPLICANT'S RECORDS IN THIS OR ANY OTHER STATE IN WHICH THE APPLICANT HAS ENGAGED IN THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY.

This provision is necessary because the Commissioner has an interest in verifying the record of an applicant who has practice experience. If the Commissioner needs to investigate an applicant, the waiver will provide the Commissioner with access to records which will enable an investigation to be done. The waiver also provides the applicant with notice that the Commissioner may investigate his or her speech-language pathology or audiology practice background. This requirement is reasonable because the purpose of the registration system is to assure consumers that registered individuals meet a set of state qualifications. Without the means to thoroughly

investigate applicants when necessary, the Commissioner may not have assurance that a speech-language pathologist or audiologist is a person who is qualified under the registration system.

Subp. 2. ACTION ON APPLICATIONS FOR REGISTRATION. THE COMMISSIONER SHALL ACT ON AN APPLICATION FOR REGISTRATION ACCORDING TO ITEMS A TO C.

A. THE COMMISSIONER SHALL DETERMINE IF THE APPLICANT MEETS THE REQUIREMENTS FOR REGISTRATION. THE COMMISSIONER OR ADVISORY COUNCIL MAY INVESTIGATE INFORMATION PROVIDED BY AN APPLICANT TO DETERMINE WHETHER THE INFORMATION IS ACCURATE AND COMPLETE.

This provision is necessary to put applicants on notice that the Commissioner will determine whether they meet the requirements needed to register. It is reasonable to have the Commissioner responsible for the determination because the Commissioner can use the advisory council's expertise regarding the issue of whether applicants meet the requirements for registration.

This provision is also necessary to put applicants on notice that information supplied in an application for registration may be investigated by the Commissioner or advisory council. It is necessary that the Commissioner have the option of investigating information supplied on applications because it is only by such investigation that the record of an applicant's past practice and/or education and training can be verified. The Commissioner has the authority to delegate the administration of regulation activities. See, Minnesota Statutes, section 214.13, subdivisions 4 and 7. However, by delegating authority the Commissioner does not thereby give up any of her own authority. Delegation does not remove the Commissioner's authority to make final decisions regarding registration and regulation of an occupation. The authority of the advisory council is only advisory pursuant to Minnesota Statutes, section 214.13, subdivision 4. Therefore, this rule provides that

either the Commissioner or the advisory council may investigate. The definition of "Commissioner" as set out in part 4750.0020, subpart 8, also refers to the Commissioner's designee. Therefore, the investigation could be performed by a staff person as well as the advisory council.

This requirement is reasonable because one of the purposes of the registration system is to strengthen consumer protection. The exclusive use of the titles protected by the registration system should only be given to those who rightfully deserve the privilege. The privilege of using the protected title should not be available to those who do not meet the minimum standards set out in these rules. Investigation, provided by this rule, will help promote consumer protection.

B. THE COMMISSIONER SHALL NOTIFY AN APPLICANT OF ACTION TAKEN ON THE APPLICATION AND OF THE GROUNDS FOR DENYING REGISTRATION IF REGISTRATION IS DENIED.

This provision is necessary to give applicants notice that they will be notified of action taken on their application and of the grounds for denying registration if registration is denied. The provision gives applicants the ability to review reasons given for denial of registration.

This rule is reasonable because an applicant who seeks to be registered would have great difficulty appealing a denial without knowing the specific grounds for denial of their application for registration.

C. AN APPLICANT DENIED REGISTRATION MAY MAKE A WRITTEN REQUEST TO THE COMMISSIONER, WITHIN 30 DAYS OF THE COMMISSIONER'S DETERMINATION, TO APPEAR BEFORE THE ADVISORY COUNCIL AND FOR THE ADVISORY COUNCIL TO REVIEW THE COMMISSIONER'S DECISION TO DENY THE APPLICANT'S REGISTRATION. AFTER REVIEWING THE DENIAL, THE ADVISORY COUNCIL SHALL MAKE A RECOMMENDATION TO THE COMMISSIONER AS TO WHETHER THE DENIAL SHALL BE AFFIRMED. AN APPLICANT IS ALLOWED NO MORE THAN ONE REQUEST FOR A REVIEW OF DENIAL OF REGISTRATION IN ANY ONE REGISTRATION RENEWAL PERIOD.

It is necessary to put applicants on notice of their right to make a written request to appear before the advisory council and for review by the

advisory council when registration has been denied. Part 4750.0700, subpart 3, items A, and D define, as duties of the advisory council: (1) advising the Commissioner about speech-language pathologist and audiologist registration standards and (2) recommending applicants for registration or renewal. Therefore, it is necessary that the advisory council be responsible for the review defined by this rule.

It is also necessary to put applicants on notice that their right to make the request for review has a time limit of 30 days from the date of the Commissioner's decision to deny the applicant's request for registration. Applicants must know what time limit applies to the request to be fully aware of their rights under the registration system.

The rule is reasonable because denial of registration may be considered so consequential to some applicants as to warrant a request for a review before the advisory council. It is reasonable to have the advisory council responsible for the review because its members will, together, have the specialized knowledge to make a fair recommendation to the Commissioner. The time limit of 30 days from the date of the Commissioner's decision is reasonable because it allows ample time for the applicant to consider whether to make a request for a review and to prepare such a request.

It is necessary and reasonable to state in the rule that the advisory council is required to make a recommendation to the commissioner, as to whether a denial should be affirmed, after reviewing the denial because the rule provides applicants with information about the process and consequences of the review. The rule also clearly sets out that the advisory council must take action following the review in the form of a recommendation to the commissioner.

It is necessary to put applicants on notice that their right to request a review before the advisory council is limited to one review in any one registration renewal period. If such a limitation were not placed on the right to request and have a review, one applicant could unreasonably take up the time and attention of the advisory council to the disadvantage of other applicants and registrants who may require the advisory council's time on other issues. The limitation is reasonable because it allows an opportunity for review to any applicant, who has been denied registration, yet does not allow one applicant to monopolize the time of the advisory council.

4750.0300 REGISTRATION RENEWAL.

Subpart 1. RENEWAL REQUIREMENTS. TO RENEW REGISTRATION AN APPLICANT MUST:

A. ANNUALLY COMPLETE A RENEWAL APPLICATION ON A FORM PROVIDED BY THE COMMISSIONER AND SUBMIT THE ANNUAL RENEWAL FEE; AND

This provision is necessary to give applicants notice that registration must be renewed each year. It is necessary to use forms provided by the Commissioner to ensure uniformity of information received. It is necessary to require a renewal fee because the registration system is required by Minnesota Statutes sections 214.06, 214.13 and 16A.128, to be entirely fee supported. Administrative costs will be ongoing, therefore a fee is necessary to cover the costs of supporting the registration system.

An annual registration fee is necessary because although Health Department staff considered biennial registration renewal, which would result in a biennial registration fee for speech-language pathologists and audiologists, they concluded that such a system would be unworkable, at least initially. To begin with, as stated above, the registration system is

required to be entirely fee supported. There are two types of costs that are incurred in developing and administering a registration system that must be recovered through fees paid by the registrants. First, there are the costs of developing and adopting the rules to initially establish the registration system which must be recovered by having the registrants pay a surcharge fee over a five-year period. Minnesota Statutes, section 214.06, subdivision 1 states in part:

For members of an occupation registered after July 1, 1984 by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. [Emphasis added.]

Second, there are the costs of administering the registration system once it is in place, which must be recovered by having the registrants pay a registration fee. Minnesota Statutes, section 16A.128, subdivision 1a., states in part:

[F]ees must be set or fee adjustment must be made so the total fees nearly equal the sum of the appropriation for the accounts plus the agency's general support costs, statewide indirect costs, and attorney general costs attributable to the fee function.

Minnesota Statutes, section 214.06, subdivision 1, does not define the exact method for collecting the surcharge fee, other than to state that it must be recovered over a five-year period. While the surcharge fee must be collected "over a five-year period," it need not be collected on an annual basis. For example, the surcharge fee could be assessed at the initial registration and again at five years after the effective date of the rules. (If the surcharge fee were collected twice and the second collection was not in the fifth year, the surcharge fee would not be collected "over a five-year period.") During the same five-year period over which the surcharge fee would

be assessed twice, the biennial registration renewal would occur twice, at two and four years after the initial registration. This plan would require at least one of the surcharge fees to be collected at a separate time from the registration fee in order to meet the requirement of recovering the costs of rulemaking over a five-year period. Collecting the surcharge fees in the described way could be a means of meeting the requirements of Minnesota Statutes, section 214.06, subdivision 1, which requires the rulemaking costs to be recovered "over a five-year period." The characteristic of having to assess fees three times in a five-year period would lessen the advantages of a biennial renewal system.

Alternative means of fee collection could be developed for collecting the surcharge fee over a five-year period and maintaining biennial registration. However, any method devised which meets the requirement of Minnesota Statutes, section 214.06, subdivision 1, that it be "over a five-year period," would necessitate at least one fee to be collected separately from the other.

If the surcharge fee were to be collected only twice in a five-year period, the surcharge fee would have to be two and one-half times the proposed annual surcharge fee. The costs of rulemaking for the speech-language pathologist and audiologist registration system is an estimated but fixed number (\$64,420.00 [see the explanation of part 4750.0500, subpart 5 in this Statement]). The cost of rulemaking does not change if the surcharge fee to recover the costs is recovered in a method other than annually. The proposed annual surcharge fee, as set out in part 4750.0500, subpart 5 is \$21.00. If the surcharge fee is to be collected only twice over a five-year period and the number of registrants remains the same as the proposed budget anticipates,

the surcharge fee would be \$54.00 (\$53.68 rounded up to \$54.00) each time. To recover the costs of \$64,420.00 by using two surcharge fees over a period of five years with 600 registrants paying the surcharge fees the following formula would be used to determine the amount: $\$64,420.00/2 = \$32,210.00/600 = \$53.68$. \$53.68 would be rounded to \$54.00.

A surcharge fee in the amount of \$54.00 plus the proposed yearly registration fee of \$80.00, set out in part 4750.0500, subpart 2, equals \$134.00. The combined fees of \$134.00 may be a burden on some registrants. It should be noted that a biennial registration fee would also be higher than the annual registration fee. As explained below, many of the costs of administering the registration system will occur annually even if the actual registration and registration renewal takes place every two years. Therefore, the combined surcharge fee and biennial registration fee would likely be greater than \$134.00.

The proposed budget sets out expenses that will occur on an annual basis, regardless of the time periods of registration. Monthly meetings are expected for the advisory council for the first six months of the registration system and quarterly meetings are planned thereafter. Staff and attorney general costs are not planned on an hourly or part-time basis but on an annual schedule. Health department staff anticipate that the advice of the advisory council will be needed on a regular basis as the registration system gets underway. Also, it is expected that staff time will be needed to a greater extent at the start-up of the registration system than it will be several years after the registration system has been in place.

The proposed annual administration budget also includes costs for enforcement activities. Health department staff anticipate that a minimum of

annual communication with the registrant group will be required to fully inform registrants of their responsibilities and rights pursuant to the registration system. Due to all the annual costs described, a biennial registration fee would not be significantly smaller than an annual registration fee because the two fees must cover the necessary expenses for the administration of the registration system. Therefore, an annual registration fee seems to be a more logical way to initiate the registration system.

The registration system is a voluntary means of regulation. There is no way to foresee the exact number of registrants. Budgets have been developed incorporating estimates the Health Department staff believe to be conservative. However, the actual numbers of registrants will only be known once the system is underway. A yearly surcharge and registration fee will allow the flexibility needed to deal with fluctuation in numbers of registrants and changing needs of the registered group as a whole. A biennial registration system with fees collected twice over a five-year period would not allow the needed flexibility that an annual surcharge and registration fee will provide.

It is reasonable to require annual renewal for several reasons. First, one year is a practical period of time for the administration of applications. The authorizing statute for collection of the surcharge fee, Minnesota Statutes, section 214.06, subdivision 1, appears to anticipate an annual surcharge fee over a five-year period. Although other methods might be devised for the collection, as explained above, no method is as workable as an annual surcharge and registration fee. Second, if annual collection of the surcharge fee and registration fee is not implemented initially, other

collection methods may likely cause financial hardship to the registrants. Annual registration renewal provides for an annual update of information on the registrants and provides relatively close contact with the registrants. Finally, two of the four registration systems existing in Minnesota provide for annual renewal of registration. Physical therapists and physician assistants are occupational groups that require annual renewal of registration. Environmental health specialists/sanitaricians and emergency medical technicians and paramedics have biennial registration periods. Both of the biennially registered groups were registered before the July 1, 1984 date set out in Minnesota Statutes, section 214.06, subdivision 1, which requires the surcharge fee to be assessed over a five-year period to recover the costs of rulemaking. Most other regulated occupations in Minnesota have an annual renewal of their credential including physicians, chiropractors, dentists, marriage and family therapists, optometrists, pharmacists, and podiatrists. For all of the reasons stated above, this rule is reasonable.

B. MEET THE CONTINUING EDUCATION REQUIREMENTS OF PART 4750.0400 AND SUBMIT EVIDENCE OF ATTENDING CONTINUING EDUCATION COURSES, AS REQUIRED IN PART 4750.0400, SUBPART 6.

This part is necessary because the rules require registrants to fulfill continuing education requirements. It is reasonable to utilize the renewal process as a vehicle to verify that continuing education requirements have been met because it allows two functions of the registration system to be completed simultaneously.

C. SUBMIT ADDITIONAL INFORMATION IF REQUESTED BY THE COMMISSIONER TO CLARIFY INFORMATION PRESENTED IN THE RENEWAL APPLICATION. THE INFORMATION MUST BE SUBMITTED WITHIN 30 DAYS OF THE COMMISSIONER'S REQUEST.

The reasoning given under part 4750.0200, subpart 1, item A and part 4750.0600, subpart 3, item B is also applicable to renewal applications. It

is necessary to state that the applicant must submit the information requested within 30 days of the date of the Commissioner's request to be consistent with part 4750.0600, subpart 3, item B.

Subp. 2. LATE FEE. AN APPLICATION SUBMITTED AFTER THE RENEWAL DEADLINE DATE MUST BE ACCOMPANIED BY A LATE FEE AS PROVIDED IN PART 4750.0500, SUBPART 4.

It is necessary to require a late fee for renewal applications submitted after the renewal deadline date as an incentive to applicants to renew registration on a timely basis. It is reasonable to require a late fee as described in this provision because the registration system will run more efficiently and therefore more economically if the great majority of applications are submitted on a timely basis. Providing some incentive in the form of a late fee penalty helps to promote the smooth administration of the registration system.

Subp. 3. REGISTRATION RENEWAL NOTICE. REGISTRATION RENEWAL IS ON AN ANNUAL BASIS. AT LEAST 30 DAYS BEFORE THE REGISTRATION RENEWAL DATE SET BY SUBPART 4, THE COMMISSIONER SHALL SEND OUT A RENEWAL NOTICE TO THE REGISTRANT'S LAST KNOWN ADDRESS. THE NOTICE SHALL INCLUDE A RENEWAL APPLICATION AND NOTICE OF FEES REQUIRED FOR RENEWAL. IF THE REGISTRANT DOES NOT RECEIVE THE RENEWAL NOTICE, THE REGISTRANT IS STILL REQUIRED TO MEET THE DEADLINE FOR RENEWAL TO QUALIFY FOR CONTINUOUS REGISTERED STATUS.

This subpart provides that the registration period is one year long and is necessary in order to inform applicants and registrants of the effective dates of registration. This duration is reasonable because the Commissioner needs to have updated information on a regular basis about the registrants within her regulatory jurisdiction. Annual renewal will help ensure current information about registrants without creating an unreasonable burden on them. The Commissioner will give notice that registration is due for renewal, but the registrant has an obligation to renew registration according to the schedule without being reminded. This rule informs registrants that even

though the Commissioner will be providing notices that renewal is due, they are ultimately responsible for following the renewal schedule if they desire continuous registered status. This is necessary to put registrants on notice of their duties. It is reasonable because although the purpose of the notice mailing by the Commissioner is to encourage prompt renewal, the Commissioner cannot guarantee that each registrant will actually receive the notice that is mailed.

Subp. 4. RENEWAL DEADLINE. THE RENEWAL APPLICATION AND FEE MUST BE POSTMARKED ON OR BEFORE THE DATE REGISTRATION MUST BE RENEWED ACCORDING TO ITEMS A TO E. REGISTRATION MUST BE RENEWED ACCORDING TO THE FOLLOWING SCHEDULE:

A. FOR REGISTRANTS WHOSE LAST NAME BEGINS WITH THE LETTERS A TO E, FEBRUARY 1;

B. FOR REGISTRANTS WHOSE LAST NAME BEGINS WITH THE LETTERS F TO L, APRIL 1;

C. FOR REGISTRANTS WHOSE LAST NAME BEGINS WITH THE LETTERS M TO P, JUNE 1;

D. FOR REGISTRANTS WHOSE LAST NAME BEGINS WITH THE LETTERS Q TO U, AUGUST 1; AND

E. FOR REGISTRANTS WHOSE LAST NAME BEGINS WITH THE LETTERS V TO Z, OCTOBER 1.

This subpart sets out the renewal schedule for registrants. The schedule allows for a staggered receipt of applications. It is necessary to inform registrants of the renewal schedule so that they can anticipate when they will be required to renew registration. It is reasonable to stagger the schedule to prevent all of the renewal applications from being submitted at one time and causing delays in their review. This schedule provides the Commissioner with an adequate amount of time to review applications, investigate them, obtain further information if necessary, and issue registration within an appropriate amount of time and without undue delay.

4750.0400 CONTINUING EDUCATION REQUIREMENTS.

Subpart 1. NUMBER OF CONTACT HOURS REQUIRED. AN APPLICANT FOR REGISTRATION RENEWAL MUST MEET THE REQUIREMENTS FOR CONTINUING EDUCATION ACCORDING TO THIS SUBPART.

A. EXCEPT AS PROVIDED IN ITEM B, AN APPLICANT FOR REGISTRATION RENEWAL MUST PROVIDE EVIDENCE TO THE COMMISSIONER OF A MINIMUM OF 30 CONTACT HOURS OF CONTINUING EDUCATION OFFERED BY AN APPROVED CONTINUING EDUCATION SPONSOR WITHIN THE TWO YEARS IMMEDIATELY PRECEDING REGISTRATION RENEWAL. A MINIMUM OF 20 CONTACT HOURS OF CONTINUING EDUCATION MUST BE DIRECTLY RELATED TO THE REGISTRANT'S AREA OF REGISTRATION. TEN CONTACT HOURS OF CONTINUING EDUCATION MAY BE IN AREAS GENERALLY RELATED TO THE REGISTRANT'S AREA OF REGISTRATION.

It is necessary to require continuing education requirements to provide some tangible method of ensuring that registrants participate in activities designed to promote continuing competency in the practice of speech-language pathology and audiology. Continuing education requirements are reasonable because continuing education is a prevalent method used by many occupations to help promote continuing competency. In Minnesota, many occupations require continuing education as a prerequisite to credential renewal. Some of the occupations that have a continuing education requirement are: Medicine, Nursing, Dentistry, Optometry, Pharmacy, Environmental Health Specialists/Sanitarians, and Physician Assistants.

Thirty hours over a two-year period is a reasonable requirement based on examples of continuing education requirements from other states and the provisions of the ASHA. ASHA provides for continuing education but does not make continuing education a prerequisite for renewal of the Certificate of Clinical Competence. ASHA does provide an Award for Continuing Education (ACE) for individuals who have completed seven Continuing Education Units (CEU) over a three-year period. One CEU is equal to ten 60-minute units of time. In other words, the ACE is awarded to individuals who have completed 70 hours of ASHA-approved continuing education over a three-year period. The

average hour requirement each year according to the ASHA standard is 23.3 sixty-minute units of time.

According to ASHA, in September of 1989 19 of 38 states licensing speech-language pathologists and audiologists required continuing education for license renewal. Sixteen states that license speech-language pathologists or audiologists do not have a continuing education requirement. The statutes of three states, Arkansas, Louisiana, and Massachusetts, contain provisions specifying that continuing education may be a requirement for license renewal and/or that the licensing board is empowered to establish eligibility standards for the renewal of licenses. The requirements for "clock hours" of the states that license range from a low of six hours per year requirement in North Dakota to a high of 50 hours per two-year period in Maine. Several states allow the continuing education requirement to be met over a two-year period. ASHA continuing education credits (CEUs) are accepted by all states requiring continuing education for licensees.

It is necessary to provide that 20 contact hours of the required 30 contact hours of continuing education must be directly related to the registrant's area of registration to put registrants on notice of the requirement. It is also necessary to state that ten contact hours of the required 30 continuing education contact hours may be in areas generally related to the registrants area of registration for the same reason of putting the registrants on notice regarding the continuing education requirement.

It is reasonable to state the "directly related" and "generally related" provisions because the Department is of the view that continuing education should encompass subjects directly related to the registrant's area of registration as well as subjects that are generally related to the

registrant's area of registration. For example, a course dealing with self-esteem problems of children may not be directly related to a speech-language pathologist's practice. However, the Department is of the view that education obtained in such a course would be beneficial to a registrant and could be eligible for continuing education hours.

The decision to require 30 contact hours over a two-year period was also influenced by the realization that although the bulk of registered speech-language pathologists and audiologists will be located in the Twin City area, many registrants will be traveling from areas in Greater Minnesota to fulfill continuing education requirements. The Commissioner believes that 30 contact hours could be completed in five day-long sessions and still account for travel time of many registrants. For these reasons the provision is reasonable.

B. IF AN APPLICANT FOR REGISTRATION RENEWAL IS REGISTERED AS A SPEECH-LANGUAGE PATHOLOGIST AND AS AN AUDIOLOGIST, THE APPLICANT MUST ATTEST TO AND DOCUMENT COMPLETION OF A MINIMUM OF 36 CONTACT HOURS OF CONTINUING EDUCATION OFFERED BY AN APPROVED CONTINUING EDUCATION SPONSOR WITHIN THE TWO YEARS IMMEDIATELY PRECEDING REGISTRATION RENEWAL. A MINIMUM OF 15 CONTACT HOURS MUST BE RECEIVED IN THE AREA OF SPEECH-LANGUAGE PATHOLOGY AND A MINIMUM OF 15 CONTACT HOURS MUST BE RECEIVED IN THE AREA OF AUDIOLOGY. SIX CONTACT HOURS OF CONTINUING EDUCATION MAY BE IN AREAS GENERALLY RELATED TO THE REGISTRANT'S AREA OF REGISTRATION.

This provision is necessary to put registrants who are registered in both areas on notice of their special continuing education obligations. It is reasonable to allow dual registrants to renew their registration by completing 36 contact hours in two years as opposed to 60 contact hours because there may be some overlap in the content of the continuing education offered to speech-language pathologists and audiologists. It may also be overly burdensome to require 60 contact hours over a two year period of dual registrants.

It is further reasonable to require dual registrants to complete a minimum of 15 contact hours over a two-year period in each area of registration because the requirement gives some assurance that the registration in both areas is backed by recent information regarding both areas. The registrant is given discretion to direct the remaining six contact hours in any area of approved continuing education.

C. CONTACT HOURS CANNOT BE ACCUMULATED IN ADVANCE AND TRANSFERRED TO A FUTURE CONTINUING EDUCATION PERIOD.

It is necessary to state in the rules that registrants cannot accumulate extra contact hours of approved continuing education with the intent to fulfill future obligations in order to put registrants on notice. This provision is necessary and reasonable because, as stated above, one of the functions of continuing education is to keep registrants current on occupational changes. Allowing future obligations to be fulfilled in a current renewal year would frustrate that purpose.

Subp. 2. PREAPPROVED CONTINUING EDUCATION SPONSORS. THE COMMISSIONER WILL ACCEPT CONTINUING EDUCATION APPROVED OR SPONSORED BY THE MINNESOTA DEPARTMENT OF HEALTH, THE MINNESOTA SPEECH-LANGUAGE-HEARING ASSOCIATION, THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION, THE AMERICAN ACADEMY OF AUDIOLOGY, THE ACADEMY OF REHABILITATIVE AUDIOLOGISTS, THE ACOUSTICAL SOCIETY OF AMERICA, TWIN CITIES CLINICAL SPEECH-LANGUAGE PATHOLOGISTS, OR UNIVERSITIES ACCREDITED BY THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION.

This subpart lists organizations that may offer continuing education courses to speech-language pathologists and audiologists and states that continuing education offered by these organizations is preapproved. It is necessary to provide registrants with some choices for approved sponsors of continuing education to simplify the administration of the continuing education requirement. Under the wording of this rule, the Commissioner reserves some control over the preapproved sponsors by including subpart 3, item D. Subpart 3, item D allows the Commissioner to withdraw approval of any

sponsor for failure to comply with the provisions of this part. Except for the Minnesota Department of Health, the organizations listed currently provide continuing education or activities suitable for continuing education that is relevant to speech-language pathologists and/or audiologists. The Minnesota Department of Health may sponsor seminars to provide registrants with information about the registration system and other information relevant to speech-language pathologists and audiologists.

It is reasonable to name the listed organizations as sponsors of continuing education because the organizations are composed of speech-language pathologists and/or audiologists. All of the organizations named, with the exception of the Minnesota Department of Health, have offered continuing education courses or courses that would be suitable for continuing education. At the present time, ASHA makes continuing education courses available to speech-language pathologists and audiologists across the country. MSHA is a chapter of ASHA. As a chapter of ASHA, MSHA can act as a host for ASHA-sponsored continuing education courses.

Health Department staff have been informed by members of the occupational group as well as members of ASHA and MSHA that it would be reasonable to preapprove the named associations because each offers continuing education that is relevant and helpful to people who are engaged in the practice of speech-language pathology and audiology. As stated above, preapproval of continuing education sponsors will provide more continuing education opportunities to the registrants and lessen the administrative burden of the commissioner and the advisory council, by eliminating the need to go through the approval process for some continuing education sponsors.

Subp. 3. APPROVAL OF CONTINUING EDUCATION SPONSORS. CONTINUING EDUCATION SPONSORS, UNLESS PREAPPROVED UNDER SUBPART 2, MUST BE APPROVED BY

THE COMMISSIONER ACCORDING TO ITEMS A TO D.

A. APPLICATIONS FOR APPROVAL MUST BE SUBMITTED TO THE COMMISSIONER AT LEAST 60 DAYS BEFORE THE DATE OF THE FIRST CONTINUING EDUCATION ACTIVITY. APPLICATIONS MUST BE MADE IN WRITING BY THE PERSON OR OFFICER OF THE ORGANIZATION SPONSORING THE PROGRAM. UPON RECEIVING THE COMMISSIONER'S APPROVAL, CONTINUING EDUCATION ACTIVITIES OF THE SPONSOR RELATED TO SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY ARE APPROVED FOR TWO YEARS FOLLOWING THE DATE OF THE COMMISSIONER'S APPROVAL. TO OBTAIN APPROVAL, CONTINUING EDUCATION SPONSORS MUST SUBMIT THE INFORMATION DESCRIBED IN SUBITEMS (1) TO (5) ON AN APPLICATION PROVIDED BY THE COMMISSIONER.

This provision is necessary to ensure that continuing education sponsors are capable of offering quality continuing education activities before the sponsors are approved by the Commissioner. The provision is necessary to give sufficient time to complete the fact finding, verification and administrative tasks needed to complete the review and approval of the sponsor. It is also necessary to require that requests for approval be made by a responsible person from the entity sponsoring the activity to ensure that the application is given proper attention. It is necessary and reasonable that the information is given on forms available from the Commissioner to promote receiving uniform information from all applicants. It is reasonable that a method be established to approve continuing education sponsors so as to not limit potential sponsors. If, for example, the rules stated a finite number of approved sponsors, there would be no way of recognizing other potentially capable sponsors of continuing education for registrants.

It is necessary to provide that all continuing education activities of an approved sponsor related to speech-language pathology and audiology are approved for two years following the date of the commissioner's approval because the provision will lessen the administrative burden of the commissioner and advisory council. If such a provision were not made, the time of the commissioner and the advisory council could be spent unnecessarily

in the approval process of continuing education sponsors.

(1) THE CONTINUING EDUCATION SPONSOR MUST DESCRIBE THE CONTENT OF COURSES TO BE OFFERED. THE COURSE CONTENT MUST CONTRIBUTE DIRECTLY TO THE PROFESSIONAL COMPETENCY OF THE SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST, MUST BE BEYOND THE BASIC EDUCATIONAL PROGRAM LEADING TO A DEGREE IN SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY, AND MUST INCLUDE SUBJECT MATTER RELATED TO CURRENT DEVELOPMENTS IN SPEECH-LANGUAGE PATHOLOGY AN AUDIOLOGY.

It is necessary to require that course content of all courses to be offered by applicants for approval as continuing education sponsors be described so the Commissioner has facts on which to base a decision of approval or disapproval.

It is reasonable that the Commissioner review course content to help ensure that registrants attend continuing education courses that merit the Commissioner's approval and that courses are relevant to the occupation and worthy of the registrants' time and effort to attend. It is further necessary to require course content as described because it is important that the education offered is not a repeat of the education offered to earn the basic degree required to meet the minimum entry requirements of registration as set out in part 4750.0050, subpart 2 or part 4750.0060, subpart 2. The term "continuing education" implies that the education should be beyond the basic degree, therefore this provision is reasonable. It is also necessary that the continuing education include subject matter related to current developments in speech-language pathology and audiology because the fields are changing as more research is completed and information discovered. The requirement that continuing education include current developments is reasonable because the term "continuing education" also implies that current developments in the practice of speech-language pathology and audiology are involved in the education.

(2) THE CONTINUING EDUCATION SPONSOR MUST DESCRIBE THE METHOD OF

INSTRUCTION FOR EACH COURSE OFFERED. THE CONTINUING EDUCATION SPONSOR MUST DESCRIBE FOR EACH COURSE OFFERED THE TEACHING METHODS TO BE USED, SUCH AS, LECTURE, SEMINAR, AUDIOVISUAL OR SIMULATION.

(3) THE CONTINUING EDUCATION SPONSOR MUST OUTLINE SPECIFIC, WRITTEN OBJECTIVES WHICH DESCRIBE EXPECTED OUTCOMES FOR THE PARTICIPANTS.

(4) THE CONTINUING EDUCATION SPONSOR MUST STATE THE NUMBER OF CONTACT HOURS OF CONTINUING EDUCATION WHICH MAY BE OBTAINED BY COMPLETING A SPECIFIED COURSE, WHICH MUST BE A MINIMUM OF ONE HOUR.

It is necessary for the Commissioner to know the teaching method, educational objective and time plans of each continuing education sponsor so that her judgement of approval or disapproval is based on complete information. It is also necessary to require that courses offered be a minimum of one hour as a courtesy to registrants attending. Attending continuing education activities may necessitate traveling, changing work plans, and other potential inconveniences. Requiring the minimum continuing education activity to be at least one hour takes into consideration the potential conflicts of the speech-language pathologist and audiologist. It is reasonable to include the requirements because the request to supply the information is not overly burdensome. The information should be available to the sponsor and the request directly relates to the purpose of obtaining complete information.

(5) THE CONTINUING EDUCATION SPONSOR MUST PROVIDE A RESUME OF EACH INSTRUCTOR'S QUALIFICATIONS WITH THE APPLICATION FOR APPROVAL BY THE COMMISSIONER. INSTRUCTORS MUST BE QUALIFIED TO TEACH THE SPECIFIED COURSE CONTENT BASED ON THEIR PRIOR EDUCATION, TRAINING OR EXPERIENCE.

It is necessary to have qualified instructors teach continuing education courses if the courses are to be of value to participants. It is reasonable to require that evidence of qualification, included in a resume, be supplied to the Commissioner because it will help ensure that when the Commissioner approves a sponsor of continuing education, she does so on sound basis. It is

necessary and reasonable to include prior education, training or experience as factors indicating qualifications because expertise in the practice of speech-language pathology and audiology may be gained in all three ways.

B. THE CONTINUING EDUCATION SPONSOR MUST REPORT TO THE COMMISSIONER, ON A TIMELY BASIS, ANY CHANGE IN THE COURSE CONTENT OR INSTRUCTOR.

It is necessary to include this requirement in order to keep the Commissioner fully informed of course content and instructors. The provision is reasonable because this information, as much as the information provided in the original application, relates to the quality of the course. Furthermore, some changes in course content or instructors could be a basis for the Commissioner to suspend approval of continuing education sponsors.

C. CONTINUING EDUCATION SPONSORS MUST MAINTAIN, FOR A MINIMUM OF THREE YEARS, A RECORD OF ATTENDANCE FOR EACH COURSE OFFERED.

It is necessary that sponsors maintain records of attendance to provide a tool for the Commissioner to verify attendance of registrants when necessary. The requirement is reasonable because it is not overly burdensome. Sponsors may collect the information requested by using sign up sheets at the continuing education activity and keep the information for three years. Some states require that sponsors of continuing education activities, not the person attending, be ultimately responsible for maintaining records of attendance and reporting the same to the credentialing entity. However, such reporting duties could be overly burdensome to the sponsor, especially because many sponsors may be small businesses. It does not seem reasonable to require the sponsor to report attendance for each participant when the individual speech-language pathologist or audiologist has their own attendance information available and will benefit directly from meeting the obligation of reporting. See part 4750.0400, subpart 6.

D. THE COMMISSIONER MAY WITHDRAW THE APPROVAL OF ANY CONTINUING EDUCATION SPONSOR FOR FAILURE TO COMPLY WITH THIS PART.

This provision is necessary to notify approved sponsors of continuing education activities that, once approved, they must continue to provide quality courses to maintain approved status. The provision is reasonable because once a continuing education sponsor is preapproved or approved, a registrant will rely on the sponsor to produce continuing education activities that will satisfy the continuing education requirement. If the Commissioner did not provide this mechanism for removing approval of continuing education sponsors, she would not be providing adequate administration of the continuing education portion of the registration system.

This item uses the word "may" to describe the action the Commissioner may take in regard to an approved continuing education sponsor for failure to comply with the provisions of this part. It is necessary to use the term "may" as opposed to the word "shall" or "must" to allow the Commissioner to take the most appropriate action depending on the particular circumstances. It is reasonable to allow choices other than withdrawal of approved continuing education sponsor status because some instances of not following the provisions of this part may be corrected by letters of reminder to the continuing education sponsor. If the approved status were taken away in such a case, gaining renewed approval would cause unnecessary administrative burden to the continuing education sponsor and the Department and would take away a potential source of continuing education for the registrants.

Subp. 4. EARNING CONTINUING EDUCATION CONTACT HOURS THROUGH CONTACT HOUR EQUIVALENTS. A REGISTRANT WHO TEACHES CONTINUING EDUCATION COURSES MAY OBTAIN CONTACT HOUR EQUIVALENTS ACCORDING TO ITEMS A TO C.

A. THE SPONSOR OF THE COURSE MUST BE APPROVED BY THE COMMISSIONER.

It is necessary to include this provision to recognize that registrants

who teach continuing education courses must learn and prepare the information in order to present it and should gain something for their efforts. It is also necessary to require that the contact hour equivalents can be earned for teaching courses only if the sponsor has the Commissioner's approval. The requirement allows the Commissioner to maintain some control over the quality of courses taught for which contact hour equivalents are claimed. The provision is reasonable because preparing to teach is a recognized method of learning, and it can be capable of promoting continuing competency of the teacher in the practice of speech-language pathology or audiology.

B. A REGISTRANT MAY NOT OBTAIN MORE THAN SIX CONTACT HOURS IN ANY TWO-YEAR CONTINUING EDUCATION PERIOD BY TEACHING CONTINUING EDUCATION COURSES.

This provision is necessary because one of the basic reasons for continuing education is to require speech-language pathologists and audiologists to gather information and education from sources other than themselves. Therefore, it is essential to require that a registrant learn as a "student" of continuing education courses as well as through teaching continuing education courses. This provision is reasonable because it allows a balance between contact hours earned through teaching and through the standard means of being a student.

C. A REGISTRANT MAY OBTAIN TWO CONTACT HOURS FOR EACH HOUR SPENT TEACHING A COURSE IF THE COURSE IS SPONSORED BY AN APPROVED CONTINUING EDUCATION SPONSOR. CONTACT HOURS MAY BE CLAIMED ONLY ONCE FOR TEACHING THE SAME COURSE IN ANY TWO-YEAR CONTINUING EDUCATION PERIOD.

This rule is necessary to notify registrants of the guidelines for obtaining continuing education contact hours through contact hour equivalents. It is reasonable because the provision takes into consideration the fact that preparation of presentations is time-consuming and often takes at least double the amount of time than the presentation time. The provision further takes

into consideration the fact that learning occurs through teaching and the preparation involved in teaching. It is reasonable to include the restriction that contact hours may be claimed only once for teaching the same course in any two-year continuing education period because it is reasonable to assume that the highest learning value occurs in the initial preparation of a course for presentation and that after the initial presentation, less learning occurs while preparing for successive or subsequent teaching of the course.

Subp. 5. CONTINUING EDUCATION ACTIVITIES OFFERED BY A SPONSOR NOT APPROVED BY THE COMMISSIONER. A REGISTRANT MAY SEEK APPROVAL OF A CONTINUING EDUCATION ACTIVITY IF THE ACTIVITY IS OFFERED BY A SPONSOR NOT APPROVED BY THE COMMISSIONER. THE REGISTRANT MUST SEEK APPROVAL ACCORDING TO ITEMS A AND B.

A. THE REGISTRANT'S REQUEST FOR APPROVAL MUST BE MADE IN WRITING TO THE COMMISSIONER, ON FORMS AVAILABLE FROM THE COMMISSIONER. A REQUEST FOR APPROVAL BEFORE THE CONTINUING EDUCATION ACTIVITY IS ATTENDED MUST BE MADE A MINIMUM OF 45 DAYS PRIOR TO THE FIRST DAY OF THE CONTINUING EDUCATION ACTIVITY. A REQUEST FOR APPROVAL AFTER THE CONTINUING EDUCATION ACTIVITY IS ATTENDED MUST BE MADE WITHIN 30 DAYS OF THE LAST DAY OF THE CONTINUING EDUCATION ACTIVITY AND MUST INCLUDE VERIFICATION OF ATTENDANCE. A REGISTRANT NOT COMPLYING WITH THIS SUBPART WILL NOT RECEIVE APPROVAL FOR THE CONTINUING EDUCATION ACTIVITY.

This item allows registrants a method of obtaining approval before or after a continuing education activity if the activity is offered by a sponsor not approved by the commissioner. It is necessary to provide opportunities to registrants for approval of continuing education activities that have not otherwise been approved so that registrants will have ample opportunity to fulfill their continuing education obligation. It is also necessary to require that the requests for approval be made on forms provided by the commissioner to ensure the provision of uniform information about the activities for which approval is sought. It is necessary to specify the timelines applicable to the approval process to put registrants on notice of their obligations regarding the approval process. In order to put registrants on notice of the consequences of failure to comply with the requirements of

the rule, it is also necessary to state that registrants not complying with the requirements of the approval process will not receive approval of the continuing education activity.

It is reasonable to provide registrants the opportunity for approval of continuing education activities as stated in the rule because the described process allows maximum flexibility to the registrant for fulfilling the continuing education requirement yet provides safeguards, through the Commissioner's approval, that the continuing education activity is worthy of being approved. The procedure for approval is also reasonable because it provides sufficient time for the Commissioner to make a decision about the activity yet is not an amount of time that could be considered overly burdensome by the registrant.

B. A REGISTRANT DENIED APPROVAL OF A CONTINUING EDUCATION ACTIVITY MAY MAKE A WRITTEN REQUEST TO THE COMMISSIONER, WITHIN 30 DAYS OF THE COMMISSIONER'S DECISION, THAT THE ADVISORY COUNCIL REVIEW THE COMMISSIONER'S DECISION TO DENY THE REGISTRANT'S REQUEST FOR APPROVAL OF CONTINUING EDUCATION. AFTER REVIEWING A DENIAL, THE ADVISORY COUNCIL SHALL SUBMIT ITS RECOMMENDATION TO THE COMMISSIONER.

It is necessary to provide registrants a review process by the advisory council regarding the approval of continuing education activities to ensure that a professional peer group contributes to the decision regarding the approval or disapproval. It is also necessary to state the timeline and procedure for the review to put registrants on notice of their obligations.

The rule is reasonable because the recommendation of the advisory council is appropriate on matters such as continuing education. It is further reasonable because the requirements of a written request within 30 days are not overly burdensome to the registrant and promote an orderly process for the request for review.

Subp. 6. EVIDENCE OF ATTENDANCE. A REGISTRANT MUST MAINTAIN RECORDS OF

ATTENDING THE CONTINUING EDUCATION CONTACT HOURS REQUIRED FOR REGISTRATION RENEWAL. AN APPLICANT FOR REGISTRATION RENEWAL MUST SUBMIT THE FOLLOWING INFORMATION ON A FORM PROVIDED BY THE COMMISSIONER: THE SPONSORING ORGANIZATION, THE DATES OF THE COURSE, THE COURSE NAME, THE NUMBER OF CONTACT HOURS COMPLETED, AND THE NAME AND SIGNATURE OF THE REGISTRANT. THE FORM MUST BE SUBMITTED WITH THE RENEWAL APPLICATION UNDER PART 4750.0300, SUBPART 1.

This rule is necessary to put registrants on notice that they are personally responsible for keeping track of continuing education contact hours earned. It is necessary to require registrant reporting of continuing education contact hours as a prerequisite of registration renewal to create added incentive for registrants to complete continuing education. Use of the Commissioner's form is necessary to promote receipt of uniform information. It is necessary that the Commissioner receive the information listed to enable accurate identification of the registrant and courses completed.

This subpart is reasonable because it is not overly burdensome and places responsibilities on the registrant that are commensurate with the benefits received. Placing the responsibility of providing evidence of attendance on the registrant is reasonable because the individual registrant is best able to keep track of this information. Since a variety of approved sponsors may provide one registrant's continuing education, it is most reasonable to have the constant factor in the situation, the registrant, report the attendance rather than each sponsor. It is reasonable to require written evidence of attendance as a prerequisite for renewal of registration because participation in continuing education is necessary for a continued meeting of the minimum qualifications set out by these rules. For administrative purposes, it is reasonable to require complete information on the Commissioner's form to promote uniform regulation of the registrants. The information required is reasonable to ensure that registrants are receiving continuing education contact hours from sponsors the Commissioner has

approved, or to ensure that registrants are earning contact hour equivalents in an approved manner. If the Commissioner were required to tabulate sponsor reports to determine each registrant's attendance of continuing education, administrative costs of staff and time would increase. Registrant reporting of earned contact hours will be an administratively efficient method of reporting.

Subp. 7. VERIFICATION OF CONTINUING EDUCATION REPORTS. THE COMMISSIONER MAY REQUEST A REGISTRANT TO VERIFY THE CONTINUING EDUCATION TO WHICH THE REGISTRANT ATTESTED. DOCUMENTATION MAY COME DIRECTLY FROM THE REGISTRANT OR FROM A NATIONAL ACCREDITING OR CERTIFYING ORGANIZATION WHICH MAINTAINS THE RECORDS.

It is necessary to provide for some verification method when self-reporting of attendance is required because verification methods will encourage accurate reporting of continuing education contact hours by registrants. This rule notifies registrants that their reporting of continuing education courses may be checked. This rule is also necessary to notify the registrant that he or she may supply verifying information or that the Commissioner may request verifying information from organizations that maintain such records.

It is reasonable to allow verification of reports of continuing education to reduce cheating and promote honesty. As explained above, the continuing education requirements serve a necessary and reasonable purpose and one that is worthy of safeguarding through verification methods.

4750.0500 FEES.

Subpart 1. FIRST TIME REGISTRANTS AND APPLICANTS FOR REGISTRATION RENEWAL. THE COMMISSIONER SHALL PRORATE THE REGISTRATION FEE FOR FIRST TIME REGISTRANTS AND APPLICANTS FOR REGISTRATION RENEWAL ACCORDING TO THE NUMBER OF MONTHS THAT HAVE ELAPSED BETWEEN THE DATE REGISTRATION IS ISSUED AND THE DATE REGISTRATION MUST BE RENEWED UNDER PART 4750.0300, SUBPART 4.

This rule provides that for the initial application and renewal process, those whose renewal periods begin less than one year from the time they registered will pay only a proportionate amount of their first time registration fee. The formula is as follows: $X/12$ times the annual registration fee where X equals the number of months between the month of application for registration or renewal and the month the applicant for registration or renewal is scheduled for renewal. This requirement is necessary in order to allow for equal treatment of all applicants. This requirement is reasonable because those who have less than one year until their renewal should pay for only that portion of the year for which they were registered.

Subp. 2. ANNUAL REGISTRATION FEE. THE FEE FOR INITIAL REGISTRATION AND ANNUAL REGISTRATION RENEWAL IS \$80.00.

This subpart is necessary because Minnesota Statutes, section 214.13, requires the registration system to be entirely fee supported. Therefore, the Commissioner of Health, with the approval of the Commissioner of Finance, must assess fees in an amount that closely approximates the anticipated expenditures under the regulation system. The amount is reasonable because the registration fee of \$80.00 is derived from the estimated fiscal note and budget for the first year of registration. The estimated budget for fiscal year 1991 is \$47,825.00. The Commissioner estimates that the number of speech-language pathologists and audiologist registrants in the first year will be 600. \$47,825.00 divided by 600 equals \$79.70. This number was rounded up to \$80.00 to arrive at the registration fee. For further explanation see the attached Addendum and the part of this Statement under part 4750.0300, subpart 1, item A.

Subp. 3. ANNUAL REGISTRATION FEE FOR DUAL REGISTRATION AS A SPEECH-

LANGUAGE PATHOLOGIST AND AUDIOLOGIST. THE FEE FOR INITIAL REGISTRATION AND ANNUAL REGISTRATION RENEWAL IS \$80.

It is necessary to make the above provision to provide notice to applicants who desire dual registration. The reasoning stated above in subpart 2 is also applicable here. Even though more Department staff time may be involved in reviewing a dual registration application, it is reasonable that the dual registration fee is equal to the singular registration fee so as not to place a burden on dual registrants.

Subp. 4. PENALTY FEE FOR LATE RENEWALS. THE PENALTY FEE FOR LATE SUBMISSION OF A RENEWAL APPLICATION IS \$15.00.

A penalty fee is necessary for registration renewal made beyond the required deadline in order to create an incentive for submitting applications for registration in a timely manner. A penalty fee is also necessary because a registrant who fails to renew registration will cause the Commissioner to incur administrative costs because of the need to send letters of reminder to register and letters explaining the person's non-registered status. The Commissioner may also be required to incur legal expenses if the registrant continues to use the protected title without having current registration. The fee is reasonable because it is not set at such a level as to present a hardship to an applicant. In addition, the fee is reasonable because the primary purpose of the fee is not to generate revenue but to cover administrative and legal costs incurred due to late registration. Three of the four current registration systems in Minnesota have penalty fees. The penalty fees for Physician Assistants, Physical Therapists, and Environmental Health Specialists/Sanitarians are: \$5.00, \$10.00 and \$10.00 respectively. See, Minnesota Rules, part 5600.2655, subpart 3, Minnesota Rules, part 5600.2500, O., and Minnesota Rules, part 4695.2900, C. The fourth registration

system in Minnesota registers Emergency Medical Technicians and Paramedics and is funded by state and federal funds. Therefore, the system has no registration fee or penalty fee. Examples of penalty fees for late renewal of license in some licensed health occupations include:

Psychologists - \$150.00, Minnesota Rules, part 7200.6100;
Physicians - \$60.00, Minnesota Rules, part 5600.2500, K.;
Registered Nurses - \$15.00, Minnesota Rules, part 6310.2800, subpart 5;
Practical Nurses - \$20.00, Minnesota Rules, part 6310.3600, subpart 1, B;
and
Optometrists - "... not to exceed \$25.00 ..." Minnesota Rules,
part 6500.2000, subpart 4.

Subp. 5. SURCHARGE. IN ADDITION TO THE OTHER APPLICABLE FEES, AN APPLICANT MUST PAY A SURCHARGE FEE OF \$21.00. THE SURCHARGE FEE APPLIES TO ALL REGISTRANTS DURING THE FIRST FIVE YEARS FOLLOWING THE EFFECTIVE DATE OF PARTS 4750.0010 TO 4750.0700.

This subpart is necessary because Minnesota Statutes, section 214.06, subdivision 1 states in part:

For members of an occupation registered after July 1, 1984 by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation.

As stated above, the surcharge fee must be recovered over a five-year period. This amount is reasonable because the surcharge fee of \$21.00 was derived from the following formula: the combined estimated expenditures for fiscal years 1989 and 1990 are \$64,420.00. This figure must be divided by the number of years (five) the surcharge fee will be in effect. The resulting figure is then divided by the number of estimated registrants, or 600. The end result is \$21.47. This number was rounded down to \$21.00.

Subp. 6. NONREFUNDABLE FEES. ALL FEES ARE NONREFUNDABLE.

It is necessary to inform applicants for registration that all fees described in the registration system are nonrefundable because it puts them on

notice. The nonrefundable fee requirement is reasonable because the administrative costs begin when the Commissioner sends the applications for examination or registration to applicants, and continue when the Commissioner receives the applications for review. If an applicant were denied registration and allowed a refund of the money, then the Commissioner would not be reimbursed for the costs of mailing the applications and reviewing them. The application fee also takes into account an estimate of costs that will be incurred if an applicant, who has been denied registration, seeks to have the advisory council and the commissioner review the decision to deny. Failure to cover all of the costs described above would not be in compliance with Minnesota Statutes, sections 214.06, 214.13 and 16A.128.

4750.0600 INVESTIGATION PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

Subpart 1. INVESTIGATION OF COMPLAINTS. THE COMMISSIONER OR ADVISORY COUNCIL MAY INITIATE AN INVESTIGATION UPON RECEIVING A COMPLAINT OR OTHER ORAL OR WRITTEN COMMUNICATION THAT ALLEGES OR IMPLIES THAT AN INDIVIDUAL HAS VIOLATED PARTS 4750.0010 TO 4750.0700. THE INVESTIGATION MAY PROCEED ON AN ORAL COMPLAINT BUT DISCIPLINARY ACTION MAY PROCEED ONLY ON A SIGNED COMPLAINT. ACCORDING TO MINNESOTA STATUTES, SECTION 214.13, SUBDIVISION 6, IN THE RECEIPT, INVESTIGATION, AND HEARING OF A COMPLAINT THAT ALLEGES OR IMPLIES AN INDIVIDUAL HAS VIOLATED PARTS 4750.0010 TO 4750.0700, THE COMMISSIONER SHALL FOLLOW THE PROCEDURES IN MINNESOTA STATUTES, SECTION 214.10.

This subpart sets out the procedure for investigating individuals when complaints have been received. It is necessary to notify individuals of these procedures in order to put them on notice in they become the subject of an investigation. It is reasonable that the Commissioner have authority to initiate investigations regarding violations of parts 4750.0010 to 4750.0700 by any individual because if the authority did not exist, the registration would not provide protection to the public. Also, it is reasonable that the Commissioner have authority over individuals due to her statutory authority as

described under part 4750.0020, subpart 12.

It is necessary that the advisory council have a role in investigations because of the expertise of the advisory council. It is reasonable that this expertise be made available to the Commissioner by means of an advisory council. Other options, which are likely more costly ways for the Commissioner to obtain expert advice, would be to hire a consultant or full time staff person. The number of investigations may not justify this approach; therefore, a volunteer advisory council is a reasonable mechanism.

The procedure set out in this subpart is also reasonable because Minnesota Statutes, section 214.13, subdivision 6 provides:

The provisions of section 214.10, shall apply to any complaint or other communication, whether oral or written, received by the commissioner of health which alleges or implies a violation of a statute or rule which the commissioner is empowered to enforce relating to a specific occupational group for which a registration requirement has been created pursuant to this section.

Therefore, the procedure set out in Minnesota Statutes, section 214.10 are reasonable and appropriate for the Commissioner to follow.

This provision is also reasonable because one of the primary purposes of the registration system is protection of the public through the establishment of minimum standards of competence. Only people meeting the standards can use the protected titles, and these rules must establish reasonable enforcement mechanisms to protect the public from incompetent and unqualified speech-language pathologists and audiologists. One of the purposes of the advisory council is to advise the Commissioner of specialized knowledge about the practice of speech-language pathology and audiology. It is reasonable therefore, to include the advisory council in the process of the investigation and provide the option to the Commissioner of utilizing its expertise.

It is very likely that an individual's occupational reputation will be

affected by discipline, therefore the prerequisite of a signed complaint prior to disciplinary action is necessary and reasonable. Requiring that a complaint be signed before disciplinary action will be sought against an individual is necessary to help ensure that the complaining party realizes that filing a complaint is a serious act. It is less likely that a complaining party will sign a frivolous or false complaint because most people are reluctant to sign a document unless they are certain that the document is accurate to the best of their belief. The prerequisite of a signed complaint prior to seeking disciplinary action is reasonable because, if a complaining party truthfully feels that the registrant's behavior warrants discipline, the complaining party should be willing to state so in writing by signing a complaint.

Subp. 2. RIGHTS OF APPLICANTS AND REGISTRANTS. THE RIGHTS OF AN APPLICANT DENIED REGISTRATION ARE STATED IN PART 4750.0200, SUBPART 2, ITEM C. A REGISTRANT SHALL NOT BE SUBJECTED TO DISCIPLINARY ACTION UNDER THIS PART WITHOUT FIRST HAVING AN OPPORTUNITY FOR A CONTESTED CASE HEARING UNDER MINNESOTA STATUTES, CHAPTER 14.

This subpart is necessary to notify applicants and registrants that they have rights as well as obligations under the registration system. It is also necessary to differentiate between the rights of applicants and the rights of registrants under the registration system. Registrants have a constitutional right to due process, and that process has been codified in the Administrative Procedure Act, found at Minnesota Statutes, chapter 14. The Department considers it necessary to put registrants on notice of their statutory right to a contested case hearing under Chapter 14 before disciplinary action can be taken against their registration status. It is reasonable to include this reference because it makes registrants aware of their rights under these proposed rules.

Subp. 3. GROUNDS FOR DISCIPLINARY ACTION BY COMMISSIONER. THE COMMISSIONER MAY TAKE ANY OF THE DISCIPLINARY ACTIONS LISTED IN SUBPART 4 ON PROOF THAT THE INDIVIDUAL HAS:

It is necessary that the Commissioner have the discretion to take the listed disciplinary actions because the Commissioner is charged with protecting the health, safety and welfare of the public. It is necessary and reasonable to provide discipline options varying in degree of severity because violations may vary in degree of severity. It is also necessary that the Commissioner have discretion, as indicated by the word "may," to decide which, if any, disciplinary action is appropriate in each case. The Commissioner, with the advice of the advisory council, is in the best position to determine whether discipline is needed and, if so, what discipline will best serve the public in each case. To require that the Commissioner always impose discipline, for example by replacing the word "may" with "shall," or to require that the Commissioner impose a specific discipline for a specific violation would likely weaken the consumer protection available through the registration system and would be contrary to the main purpose of the system, which is consumer protection. It is more likely than not that each violation of parts 4750.0010 to 4750.0700 will have distinctive characteristics that need to be considered on an individual basis. Therefore this subpart is necessary.

The Commissioner's authority to take disciplinary action against individuals arises out of several sections of Minnesota Statutes, chapter 214 as described in this Statement under part 4750.0020, subpart 12. Minnesota Statutes, section 214.13, subdivision 7 states:

The duties of the executive secretary or board members specified in section 214.10, subdivision 1 and 2, shall be performed with respect to occupations regulated pursuant to this section by the advisory council established under subdivision 4, or if no council

has been created, by the health-related licensing board which has been delegated the administration of regulation activities, or if no such delegation has been made, by a staff member appointed by the commissioner. For the purposes of subdivision 6 and this subdivision, the commissioner may exercise the powers granted to boards by section 214.10, subdivision 3, when carrying out the duties of this subdivision.

In this instance, no appropriate health-related licensing board existed for delegation of administration of regulation duties so the Commissioner will assume the responsibility of administering the registration system, including the disciplinary function, with the advice of an advisory council and a staff person. This subpart is reasonable because it sets out provisions according to the statutory authority provided in Minnesota Statutes, chapter 214.

A. INTENTIONALLY SUBMITTED FALSE OR MISLEADING INFORMATION TO THE COMMISSIONER OR THE ADVISORY COUNCIL;

This rule allows the Commissioner to discipline individuals who fail to provide information or purposely provide false or misleading information in order to become registered, to renew registration or for any other purpose. It is necessary because meaningful regulatory procedures cannot be enforced without truthful information. This provision is reasonable because individuals should expect to provide truthful information to the Commissioner and doing so should not be a burden to individuals.

B. FAILED, WITHIN 30 DAYS, TO PROVIDE INFORMATION IN RESPONSE TO A WRITTEN REQUEST BY THE COMMISSIONER OR ADVISORY COUNCIL;

This proposed rule allows for a 30-day period to submit information requested by the Commissioner or advisory council. It is necessary to inform individuals that they will have a certain amount of time to comply with requests for information once they are made. This 30-day period is reasonable because it allows an individual an adequate amount of time to gather information and submit it to the Commissioner or advisory council.

C. PERFORMED SERVICES OF A SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST IN AN INCOMPETENT OR NEGLIGENT MANNER;

It is necessary for the Commissioner to discipline registered speech-language pathologist and audiologists who perform services in an incompetent or negligent manner in order to protect the public. One of the reasons the registration system is proposed is to address incompetent or negligent practice by speech-language pathologists or audiologists. This rule is reasonable because the registration system requires minimum qualifications to be met and maintained, through continuing education, as a prerequisite for use of the protected titles. Incompetent or negligent performance of services is equivalent to failing to meet the minimum qualifications, therefore it is reasonable that registrants acting in the ways listed be subject to discipline.

D. VIOLATED PARTS 4750.0010 TO 4750.0700;

It is necessary to provide grounds for the Commissioner to discipline individuals who have violated these rules. The basic intent of the registration system is to protect the public. A violation of any of these rules by an individual could represent a risk of harm to the citizens of Minnesota, therefore it is necessary and reasonable to include this rule.

E. FAILED TO PERFORM SERVICES WITH REASONABLE JUDGMENT, SKILL OR SAFETY DUE TO THE USE OF ALCOHOL OR DRUGS, OR OTHER PHYSICAL OR MENTAL IMPAIRMENT;

To properly protect the public from harm, or potential harm that is not remote, it is necessary that the Commissioner have the ability to enforce proper discipline on grounds related to basic physical and mental impairment. Physical or mental impairment of a speech-language pathologist or audiologist may interfere in his or her ability to competently practice. It is reasonable that the Commissioner have the authority to deny use of a protected title because use of the title implies state recognition of the registrant's

competence and qualification.

F. BEEN CONVICTED WITHIN THE LAST FIVE YEARS OF VIOLATING ANY LAWS OF THE UNITED STATES, OR ANY STATE OR TERRITORY OF THE UNITED STATES, AND THE VIOLATION IS A FELONY OR MISDEMEANOR, AN ESSENTIAL ELEMENT OF WHICH IS DISHONESTY, OR WHICH RELATES TO THE PRACTICE OR SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY, EXCEPT AS PROVIDED IN MINNESOTA STATUTES, CHAPTER 364;

This rule makes it clear that the Commissioner may discipline speech-language pathologists or audiologists who have been convicted of violating any federal, state or territorial law which is a felony or misdemeanor if an essential element of the law is dishonesty or violation of the law is directly related to the practice of speech-language pathology or audiology. This rule is necessary to enable the Commissioner to fulfill her statutory obligation to protect the health, safety and well-being of the public which is set out in Minnesota Statutes, section 214.001. As part of that function, it is essential that the Commissioner discipline speech-language pathologists and audiologists when they violate the laws described above. It is reasonable to expect that a person involved in the practice of speech-language pathology or audiology who seeks the use of the titles under the registration system, or is already registered, has not or will not violate the laws described. The use of the titles is equivalent to state recognition of minimum competency for the practice of speech-language pathology or audiology. The title may represent to the public a "stamp of approval" by the state. It would not be reasonable that a person be given such recognition if the laws mentioned had been violated.

G. AIDED OR ABETTED ANOTHER PERSON IN VIOLATING ANY PROVISION OF PARTS 4750.0010 TO 4750.0700;

This provision allows the Commissioner to discipline an individual if he or she aided or abetted another person in violating provisions of these rules. It is necessary because assisting another person in violating these rules may

be as harmful to the public as personally violating the rules, and the Commissioner must have sanctions available to deter such activity. It is just as reasonable to expect an individual to personally refrain from violating laws directly related to honesty and the practice of speech-language pathology or audiology as it is to expect an individual to refrain from assisting another to violate similar laws.

H. BEEN OR IS BEING DISCIPLINED BY ANOTHER JURISDICTION, IF ANY OF THE GROUNDS FOR THE DISCIPLINE IS THE SAME OR SUBSTANTIALLY EQUIVALENT TO THOSE IN PARTS 4750.0010 TO 4750.0700;

This rule takes into account that a Minnesota speech-language pathologist or audiologist may be credentialed in another jurisdiction and could also be, or have been, subject to discipline by that jurisdiction. It is necessary in such circumstances to provide for discipline under these rules to promote the main function of the rules which is to protect the public. The Minnesota public would not be adequately protected if a speech-language pathologist or audiologist, while practicing in Minnesota, were not responsible for his or her conduct outside of Minnesota which directly relates to the qualifications of the speech-language pathologist or audiologist when he or she practices in Minnesota.

It is reasonable to expect speech-language pathologists and audiologists to abide by all rules or laws of other jurisdictions, especially since this rule limits the laws and rules which must be followed to those which are the same or substantially equivalent to those set forth herein.

I. NOT COOPERATED WITH THE COMMISSIONER OR ADVISORY COUNCIL IN AN INVESTIGATION CONDUCTED ACCORDING TO SUBPART 1.

This rule is necessary to inform individuals that they must cooperate with the Commissioner or advisory council during an investigation. The authority of the Commissioner to register occupations given in Minnesota

Statutes, section 214.13, subdivisions 1 and 3 allows the Commissioner to promulgate rules including procedures and standards relating to disciplinary matters. This language, among other things, can be interpreted to mean that the rules should protect the public from individuals who are not willing to cooperate with investigations. It is reasonable to include this rule because it is consistent with Minnesota Statutes, section 214.13, subdivisions 1 and 3. Also, it is reasonable to expect individuals to cooperate with investigations because, for example, an applicant seeking the use of a protected title or a registrant using the protected title should be willing to take the steps necessary to show why they should be registered or remain registered. If an applicant or a registrant believes that he or she should be registered or remain registered, cooperation with the investigation described in this item should not be burdensome. The rule does not suggest that an individual subject to these regulations sacrifice rights in order to evidence cooperation.

J. ADVERTISED IN A MANNER THAT IS FALSE OR MISLEADING;

K. ENGAGED IN CONDUCT LIKELY TO DECEIVE, DEFRAUD OR HARM THE PUBLIC; OR DEMONSTRATED A WILLFUL OR CARELESS DISREGARD FOR THE HEALTH, WELFARE, OR SAFETY OF A CLIENT;

L. FAILED TO DISCLOSE TO THE CONSUMER ANY FEE SPLITTING OR ANY PROMISE TO PAY A PORTION OF A FEE TO ANY OTHER PROFESSIONAL OTHER THAN A FEE FOR SERVICES RENDERED BY THE OTHER PROFESSIONAL TO THE CLIENT;

M. ENGAGED IN ABUSIVE OR FRAUDULENT BILLING PRACTICES, INCLUDING VIOLATIONS OF FEDERAL MEDICARE AND MEDICAID LAWS, FOOD AND DRUG ADMINISTRATION REGULATIONS, OR STATE MEDICAL ASSISTANCE LAWS;

N. OBTAINED MONEY, PROPERTY, OR SERVICES FROM A CONSUMER THROUGH THE USE OF UNDUE INFLUENCE, HIGH PRESSURE SALES TACTICS, HARASSMENT, DURESS, DECEPTION, OR FRAUD;

O. VIOLATED ANY STATE OR FEDERAL LAW, RULE OR REGULATION WHICH RELATES DIRECTLY OR INDIRECTLY TO THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY OR AUDIOLOGY;

It is necessary to include items J through O to put individuals on notice of specific behaviors which are viewed as harmful to the public and may be considered grounds for discipline under the registration system. Each of the grounds described in items J through O are reasonable to include as grounds for discipline because one of the goals of the registration system is to protect the public and each of the grounds listed in items J through O describe activity that would be harmful to the public.

P. PERFORMED SERVICES FOR A CLIENT WHO HAD NO POSSIBILITY OF BENEFITING FROM THE SERVICES;

This item is necessary to inform individuals that performing services for a client when the client had no possibility of benefiting from the services is a ground for discipline. This item is reasonable because one of the purposes of the proposed rules is to protect the public and the described behavior would be harmful to the public.

Q. FAILED TO REFER A CLIENT FOR MEDICAL EVALUATION OR TO OTHER HEALTH CARE PROFESSIONALS WHEN APPROPRIATE OR WHEN A CLIENT INDICATED SYMPTOMS ASSOCIATED WITH DISEASES THAT COULD BE MEDICALLY OR SURGICALLY TREATED; OR

It is necessary to put individuals on notice that they must be aware of the appropriate instances in which to refer a client for medical evaluation. This item is reasonable to include because individuals subject to these proposed rules are likely to know and should be expected to know, in many instances, when a client must be referred for medical evaluation. Failure to refer a client for medical evaluation, when circumstances indicate that such referral should be made, is therefore, a reasonable ground of discipline to include in these proposed rules.

R. IF THE INDIVIDUAL IS A SELLER OF HEARING INSTRUMENTS AS DEFINED BY MINNESOTA STATUTES, SECTION 153A.13, SUBDIVISION 5, HAD THE PERMIT REQUIRED BY MINNESOTA STATUTES, CHAPTER 153A, DENIED, SUSPENDED, OR REVOKED ACCORDING TO CHAPTER 4692.

This item is necessary because it is likely that an audiologist may also be a hearing instrument seller. It is necessary and reasonable to inform such a registrant that their conduct under the permit law and administrative rules may affect their registered status as an audiologist. Although it is less likely that a speech-language pathologist will also be a hearing instrument seller, the same reasoning also applies to a speech-language pathologist.

It is reasonable that the relationship between the hearing instrument seller permit laws and administrative rules and these proposed registration rules be explicit because the permit is a mandatory requirement and, if a permit is denied, suspended, or revoked, the individual's actions which result in disciplinary action should also be reviewed under these proposed rules.

Subp. 4. DISCIPLINARY ACTIONS. IF THE COMMISSIONER FINDS THAT AN INDIVIDUAL SHOULD BE DISCIPLINED ACCORDING TO SUBPART 3, THE COMMISSIONER MAY TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:

This section defines the disciplinary options available to the Commissioner if it is determined that disciplinary action is warranted. It is necessary that individuals know that action may be brought when conduct does not meet the parameters established by these rules in order to put them on notice. It is reasonable because a discipline mechanism in the registration system will strengthen it by creating penalties for those who do not meet the requirements of the registration rules. For example, an applicant who does not meet the entry requirements set by the rules will not be granted registration, or a registrant who originally met the entry requirements of the rules but acts in one of the ways described in the grounds for disciplinary action may have his or her registration affected by one of the ways described in part 4750.0600, subpart 4, items A through D.

A. REFUSE TO GRANT OR RENEW REGISTRATION;

- B. SUSPEND REGISTRATION FOR A PERIOD NOT EXCEEDING ONE YEAR;
- C. REVOKE REGISTRATION FOR A PERIOD NOT EXCEEDING THREE YEARS; OR
- D. TAKE ANY REASONABLE LESSER ACTION AGAINST AN INDIVIDUAL UPON PROOF THAT THE INDIVIDUAL HAS VIOLATED PARTS 4750.0010 TO 4750.0700.

It is necessary that the Commissioner have available a variety of disciplinary methods to sanction conduct that may occur because violations may vary in degree of severity. It is also necessary and reasonable to put individuals on notice that there are several options for discipline. The options set forth above are reasonable because they are standard disciplinary options available to licensing and registration systems. The physician assistant registration rules allow the Board of Medical Examiners several disciplinary options as set out in Minnesota Rules, part 5600.2660 subpart 2:

The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant

The registration rules for environmental health specialists/sanitaricians allows the Commissioner of Health several disciplinary options as set out in Minnesota Rules, part 4695.3000 subpart 2:

The commissioner may refuse to grant or renew registration, suspend or revoke registration, or use any reasonable lesser remedy against a registrant for the following reasons

It is reasonable that disciplinary options be listed because the listing will give the Commissioner guidelines to follow when disciplinary action decisions need to be made. It is reasonable that the disciplinary options be made known to individuals because all features of the registration system should be known to those who seek to participate in the system, to those who are registered, and to those who use one of the protected titles without being registered.

Subp. 5. CONSEQUENCES OF DISCIPLINARY ACTION. UPON THE SUSPENSION OR REVOCATION OF REGISTRATION, THE SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST SHALL CEASE TO USE TITLES PROTECTED BY PARTS 4750.0010 TO 4750.0700 AND SHALL

CEASE TO REPRESENT TO THE PUBLIC THAT THE SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST IS REGISTERED BY THE COMMISSIONER.

If it should become necessary to suspend or revoke registration, it is necessary to require the disciplined person to refrain from using the protected title or titles he or she has been using and to refrain from representing himself or herself to the public as a registered person. These procedures are necessary to ensure that there is no misunderstanding by the public, intentional or otherwise, about the disciplined person's registration status. It is a reasonable rule because it can be easily complied with and the disciplined person should not use the title, titles or documents of registration once the status of registration is removed.

Subp. 6. REINSTATEMENT REQUIREMENTS AFTER DISCIPLINARY ACTION. A SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST WHO HAS HAD REGISTRATION SUSPENDED OR REVOKED MAY APPLY FOR REINSTATEMENT OR REGISTRATION RENEWAL FOLLOWING THE PERIOD OF SUSPENSION OR REVOCATION SPECIFIED BY THE COMMISSIONER. THE REQUIREMENTS OF PART 4750.0300 FOR RENEWING REGISTRATION MUST BE MET BEFORE REGISTRATION MAY BE REINSTATED OR RENEWED.

A person who has had his or her registration revoked must wait the period of time specified by the Commissioner before applying for registration. This is a necessary requirement for several reasons. First, the provision allows the Commissioner to vary the amount of time in relation to the severity of discipline called for by specific circumstances. Second, the disciplinary actions are necessary to support the competency standards in the practice of speech-language pathology or audiology. Persons who have been found in violation of these standards must show they are able to meet these standards before registration is reinstated. Some period of time may be required to give the disciplined individual an opportunity to do coursework or training or otherwise demonstrate competency and good conduct during the period of suspension. Because removal from the registration roster does not preclude

practice, it is possible for a speech-language pathologist or audiologist to demonstrate the competence necessary to regain authorized use of the protected titles. It is also necessary that the requirements of part 4750.0300 for renewing registration be met before reinstatement or renewal to have assurances that all registrants are held to the same standard.

This subpart is reasonable because the Commissioner is responsible for upholding the standards associated with the titles protected by the registration system. This rule allows the Commissioner to maintain control over the discipline process and to have more control over the interpretation of the standards.

4750.0700 SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST ADVISORY COUNCIL.

Subpart 1. MEMBERSHIP. THE COMMISSIONER SHALL APPOINT SEVEN PERSONS TO A SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST ADVISORY COUNCIL.

A. THE SEVEN PERSONS MUST INCLUDE:

(1) TWO PUBLIC MEMBERS, AS DEFINED IN MINNESOTA STATUTES, SECTION 214.02. THE PUBLIC MEMBERS SHALL BE EITHER PERSONS RECEIVING SERVICES OF A SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST, OR FAMILY MEMBERS OF OR CAREGIVERS TO SUCH PERSONS.

Minnesota Statutes, section 214.13, subdivision 4, states:

The commissioner of health may establish an advisory council to advise the commissioner or the appropriate health-related board on matters relating to the registration and regulation of an occupation. A council shall have seven members appointed by the commissioner of which five are members of the registered occupation or related registered or licensed occupations, and two are public members. A council shall expire, and the terms, compensation and removal of members shall be as provided in section 15.059.

Minnesota Statutes, section 214.13, subdivision 4, gives the Commissioner the option of appointing an advisory council. An advisory council will be helpful to advise the Commissioner on technical matters related to the practice of

speech-language pathology and audiology. It is necessary that the Commissioner appoint seven persons to the advisory council to fulfill the requirements of Minnesota Statutes, section 214.13, subdivision 4.

It is reasonable to appoint a seven-person advisory council because the advisory council may be able to provide the Commissioner valuable assistance regarding registration and regulation issues that are likely to arise.

The specific provision for two public members is necessary to meet Minnesota Statutes, section 214.13, subdivision 4, which requires two public members. It is reasonable to require that each of the public members be either persons receiving services of a speech-language pathologist and/or audiologist or be advocates of such persons because such a person would be either a member of the protected class or likely to be familiar with the types of issues that may arise for consideration by the advisory council. Therefore, both public members will promote better understanding of issues to be considered by the advisory council.

(2) TWO SPEECH-LANGUAGE PATHOLOGISTS REGISTERED UNDER PARTS 4750.0010 TO 4750.0700, ONE OF WHOM IS CURRENTLY AND HAS BEEN FOR THE FIVE YEARS IMMEDIATELY PRECEDING THE APPOINTMENT, ENGAGED IN THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY IN MINNESOTA AND EACH OF WHOM IS EMPLOYED IN A DIFFERENT EMPLOYMENT SETTING INCLUDING, BUT NOT LIMITED TO, PRIVATE PRACTICE, HOSPITALS, REHABILITATION SETTINGS, EDUCATIONAL SETTINGS AND GOVERNMENT AGENCIES.

(3) ONE SPEECH-LANGUAGE PATHOLOGIST REGISTERED UNDER PARTS 4750.0010 TO 4750.0700, WHO IS CURRENTLY AND HAS BEEN, FOR THE FIVE YEARS IMMEDIATELY PRECEDING THE APPOINTMENT, EMPLOYED BY A MINNESOTA PUBLIC SCHOOL DISTRICT OR A MINNESOTA PUBLIC SCHOOL DISTRICT CONSORTIUM THAT IS AUTHORIZED BY MINNESOTA STATUTES AND WHO IS LICENSED IN COMMUNICATION DISORDERS BY THE MINNESOTA BOARD OF TEACHING.

(4) TWO AUDIOLOGISTS REGISTERED UNDER PARTS 4750.0010 TO 4750.0700, ONE WHOM IS CURRENTLY AND HAS BEEN, FOR THE FIVE YEARS IMMEDIATELY PRECEDING THE APPOINTMENT, ENGAGED IN THE PRACTICE OF AUDIOLOGY IN MINNESOTA AND EACH OF WHOM IS EMPLOYED IN DIFFERENT EMPLOYMENT SETTING INCLUDING, BUT NOT LIMITED TO, PRIVATE PRACTICE, HOSPITALS, REHABILITATION SETTINGS, EDUCATIONAL SETTINGS, INDUSTRY AND GOVERNMENT AGENCIES.

Minnesota Statutes, section 214.13, subdivision 4, requires advisory council membership to include "... five ... members of the registered occupation or related registered or licensed occupations" Therefore, the provisions of the rule setting out membership for registered speech-language pathologists and audiologists are necessary, in part to, fulfill the statutory requirements of the statute cited above.

The rule requires that one of the speech-language pathologist members of the advisory council must have been engaged in the practice of speech-language pathology in Minnesota for at least five years immediately preceding her or his appointment. The rule also requires that the current employment of the two speech-language pathologist members appointed under item A, subitem (2), be in different settings. It is necessary to have a speech-language pathologist who is an experienced practitioner in Minnesota because their experience will provide practical knowledge regarding the types of issues that are likely to arise. It is may also be necessary to include a speech-language pathologist on the advisory council who is not currently engaged in the practice of speech-language pathology but who acts, for example, as a consultant or supervisor or is in an educational setting, because it is reasonable to have the perspective of speech-language pathologists from different settings to give a broader base of knowledge and experience to the advisory council. Part 4750.0700, subpart 1, item A, subitem (4) in regard to the audiologist component of the advisory council is worded nearly identically to Part 4750.0700, subpart 1, item A, subitem (2). The same reasoning that applies to the necessity and reasonableness of the former applies to the latter.

It is necessary to include membership on the advisory council for one

registered speech-language pathologist who is currently and has been for the five years immediately preceding his or her appointment employed in the Minnesota school system and who is licensed in Communication Disorders by the Minnesota Board of Teaching because about two-thirds of the individuals in Minnesota engaged in the practice of speech-language pathology in Minnesota are employed in the school system. However, membership for only one speech-language pathologist employed in the school system is planned because the Commissioner believes that the registration system will be utilized by more individuals engaged in the practice of speech-language pathology outside of the school system than by those in the school system. Despite this assumption, the Commissioner believes it is essential that the perspective of a registered speech-language pathologist who is employed in the school system and licensed by the Board of Teaching in Communication Disorders be included on the advisory council.

It is reasonable to have the perspectives of public members, speech-language pathologists employed in settings outside of the Minnesota school system, a speech-language pathologist employed in the Minnesota school system, and audiologists employed in different settings on the advisory council to provide a more complete picture of issues to be considered. However, it is also reasonable that the largest block on the advisory council be allotted to speech-language pathologists because they represent the biggest block of the occupational group being regulated. For more information about the Department's estimates of population of the two occupations see this Statement at pages 9 through 11.

Subp. 2. ORGANIZATION. THE ADVISORY COUNCIL SHALL BE ORGANIZED AND ADMINISTERED IN ACCORDANCE WITH MINNESOTA STATUTES, SECTION 15.059.

Minnesota Statutes, section 15.059, as referred to in Minnesota Statutes,

section 214.13, subdivision 4, sets forth the terms, the compensation and the removal of members of the council. It is necessary to organize and administer the advisory council in accordance with Minnesota Statutes 15.059 in order to comply with state law. It is reasonable to set this rule out to provide guidance and instruction for those who will be organizing the advisory council.

It should be noted that Minnesota Statutes, section 15.059, subdivision 5 was amended. It formerly read as:

Expiration date. Unless a different date is specified by law, the existence of each advisory council and committee governed by this section shall terminate on June 30, 1989.

The statute now reads as:

EXPIRATION DATE. Unless a different date is specified by law, the existence of each advisory council and committee governed by this section shall terminate on June 30, 1993. Act of May 26, 1989, ch. 343, sec. 4, 1989 Minn. Sess. Law Serv. 2088 (West)."

Subp. 3. DUTIES. THE ADVISORY COUNCIL SHALL:

A. ADVISE THE COMMISSIONER REGARDING SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST REGISTRATION STANDARDS;

B. ADVISE THE COMMISSIONER ON ENFORCEMENT OF PARTS 4750.0010 TO 4750.0700;

It is necessary that the Commissioner have the option of calling upon the advisory council to advise her regarding registration standards and enforcement of these rules. Although the Commissioner may be familiar with the requirements of the rules regarding registration standards and enforcement of regulation, it is wise to have the option of consulting the advisory council on technical matters for additional understanding of issues that may arise. It is reasonable that the advisory council advise the Commissioner on registration standards and enforcement because the advisory council will be

composed of members of protected and regulated classes: speech-language pathologists, audiologists and people who either receive the services of a speech-language pathologist or audiologist or are family members or caregivers for such a person. The advisory council will be in a position to be familiar with the consumer concerns, registration standards and enforcement issues.

The Commissioner's authority for creating the advisory council states in part, "The commissioner of health may establish an advisory council to advise the commissioner ... on matters relating to the registration and regulation of an occupation." Minnesota Statutes, section 214.13, subdivision 4. It is reasonable that advice regarding the regulation of an occupation relates to advice regarding the enforcement of parts 4750.0010 to 4750.0700 because enforcement of the rules comprising the registration system for speech-language pathologists and audiologists directly relates to "regulation" of the occupation.

C. PROVIDE FOR DISTRIBUTION OF INFORMATION REGARDING SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST REGISTRATION STANDARDS;

It is necessary to provide that information regarding speech-language pathologist and audiologist registration standards be distributed to the public, applicants and registrants to promote a successful registration system. In order for the registration system to serve the purpose of protecting the public, the public will need to be informed of the significance of the protected titles. Applicants and registrants must also know the prerequisites for use of protected titles. It is reasonable to require that the advisory council provide this information because they will be working with the rules and will have the expertise and experience needed to handle the problems involving distribution of information. Also, it is reasonable for the advisory council to suggest how to best distribute this information

because their experience may provide knowledge of where the problem areas are and where information regarding registrants and these rules is most needed.

D. REVIEW APPLICATIONS AND MAKE RECOMMENDATIONS TO THE COMMISSIONER ON GRANTING OR DENYING REGISTRATION OR REGISTRATION RENEWAL;

It is necessary that the responsibility of reviewing applications and recommending applicants for registration or renewal of registration be placed with the advisory council because the members will have the specialized knowledge and experience required to make an accurate assessment of applications and to assure that the minimum qualifications are met. The rule is reasonable because the composition of the advisory council will provide a fair review mechanism of applications.

E. REVIEW REPORTS OF INVESTIGATIONS RELATING TO INDIVIDUALS AND MAKE RECOMMENDATIONS TO THE COMMISSIONER AS TO WHETHER REGISTRATION SHOULD BE DENIED OR DISCIPLINARY ACTION TAKEN AGAINST THE INDIVIDUAL;

This rule is necessary to clearly state that the function of the advisory council is advisory in the instance of reviewing reports of investigations and recommending action regarding applications or discipline. It is reasonable to keep the role of the advisory council in the matters of investigations, applications and discipline as purely advisory because the Commissioner has the ultimate responsibility to enforce the registration system and should therefore have the final say regarding applications and discipline.

F. ADVISE THE COMMISSIONER REGARDING APPROVAL OF CONTINUING EDUCATION SPONSORS USING THE CRITERIA IN PART 4750.0400, SUBPART 3; AND

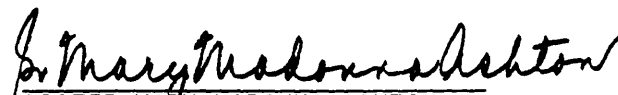
It is necessary and reasonable that the Commissioner have the option of using the advisory council's occupational expertise to make decisions about approving people or organizations as sponsors of continuing education because the availability of the advisory council's expertise regarding continuing education and sponsors of it will help ensure that continuing education

sponsors offer worthwhile activities that promote continuing competency in the practice of speech-language pathology and audiology.

G. PERFORM OTHER DUTIES AUTHORIZED FOR ADVISORY COUNCILS BY MINNESOTA STATUTES, CHAPTER 214, OR AS DIRECTED BY THE COMMISSIONER.

It is necessary to include this rule to cover additional situations, not known at this time, that may arise wherein the Commissioner is given the option of directing the advisory council to act. It is reasonable to include this rule because the practice of speech-language pathology and audiology is constantly developing, therefore it is likely that new problems may arise. It is also reasonable that the Commissioner be given the option of calling on the advisory council to perform additional tasks, because their expertise and experience with the rules will give them a valuable perspective on dealing with new issues and problems.

STATE OF MINNESOTA
DEPARTMENT OF HEALTH


SISTER MARY MADONNA ASHTON
Commissioner of Health

