

STATE OF MINNESOTA

BEFORE THE

COUNTY OF RAMSEY

MINNESOTA BOARD OF NURSING

In the Matter of the Proposed  
Adoption of Rules of the State  
Board of Nursing Governing  
Registration Renewal fees.

STATEMENT OF NEED AND  
REASONABLENESS

#### Introduction

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

#### Statutory Authority

The authority for the Board to establish rules and assess a renewal fee is found in Minn. Stat., sections 148.191 subd. 2, 148.231 subd. 1 and 214.06 subd. 2.

#### Small Business Considerations

Minnesota Statutes, section 14.115 requires administrative agencies, when proposing a rule or an amendment to an existing rule, to consider various methods for reducing the impact of the proposed rule or amendment on small businesses and to provide an opportunity for small businesses to participate in the rulemaking process.

It is the position of the Board that this provision does not apply to the rules it promulgates. Minnesota Statutes, section 14.115, subd. 7, clause (2) (1992) states that section 14.115 does not apply to "agency rules that do not affect small businesses directly." The Board's authority relates only to nurses, not to the businesses they operate. Furthermore, although the Board does not compile statistics on the issue, almost all nurses are simply employees of the agencies or facilities at which they work. In these cases, it is clear that a nurse should not be considered a small business.

The Board is also exempt from the provisions of section 14.115, pursuant to its subdivision 7, clause (3), which states that section 14.115 does not apply to "service businesses regulated by government bodies, for standards and costs, such as ... providers of medical care." Nurses provide nursing care and medical care and are regulated for standards and costs. The Board regulates nurses for standards and the Minnesota Department of Human Services regulates some nurses for costs.

However, should these proposed rules in some way be construed as being subject to Minnesota Statutes, section 14.115, the Board notes below how the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the rules on small businesses should be applied to the proposed rules. The five suggested methods enumerated in subdivision 2 are as follows:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses,
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses,
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses,
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule, and
- (e) the exemption of small businesses from any or all requirements of the rule.

The feasibility of implementing each of the five suggested methods and whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rulemaking are considered below.

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

Methods (a), (b), and (c) relate to lessening compliance or reporting requirements for small businesses either by establishing less stringent requirements, establishing less stringent schedules or deadlines for compliance with the requirements, or consolidating or simplifying the requirements. Since the Board is not proposing any compliance or reporting requirements for either small or large businesses, it follows that there are no such requirements for the Board to lessen with respect to small businesses. If, however, these proposed rules are viewed as compliance or reporting requirements for businesses, then the board finds that it would be unworkable to lessen the requirements for those few nurses who practice in a solo or group setting of fewer than 50 employees since the proposed rules have no effect on their businesses. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's rules do not propose design or operational standards for businesses, and therefore there is no reason to implement performance standards for small businesses as a replacement for design or operational standards that do not exist. Finally, method (e) suggests exempting small businesses from any or all requirements of the rules. The application of this provision would exempt a few licensees from the purview of the rules with the result that a small number of nurses would be totally unregulated, a clear conflict with existing nursing statutes.

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

Pursuant to Minnesota Statutes, section 148.171, et seq., the Board was created for the purpose of establishing requirements for licensure and adopting standards for disciplinary action to govern the practices or behavior of all licensees. Pursuant to Minnesota Statutes, section 148.191, subd. 2, the Board is specifically mandated to promulgate rules as may be necessary to carry out the Board's purposes. Given these statutory mandates, it is the Board's duty to establish licensure qualifications and disciplinary standards which apply and govern all applicants and licensees regardless of the nature of their practice. As it has been stated above, it is the Board's position that the proposed rules will not affect small businesses and certainly do not have the potential for imposing a greater impact on nurses in a solo or small practice than on those employed by agencies and organizations. It has also been explained above that the Board considers it unfeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent that the proposed rules may affect the business operation of a nurse or group of nurses and to the extent it may be feasible to implement any of the suggested methods for lessening the impact on small businesses, the Board believes it would be unwise and contrary to the purposes to be served by these rules for the Board to exempt one group of nurses from the requirements of these rules. Similarly, the Board believes it would be unwise and contrary to its statutory mandate for the Board to adopt one set of standards for those nurses (which may consist of a nonexistent class) who work as employees and adopt another, less stringent set of standards to be applied to those nurses who practice in a solo or small group practice. It is the Board's view that these rules must apply equally to all nurses if the public whom they serve is to be adequately protected.

#### Agricultural Land Impact

Promulgation of the proposed rules will not result in the expenditure of monies by local bodies nor have an impact on agricultural land. Therefore, no further information need be provided under Minnesota Statutes, section 14.11, subdivision 2. (1992).

#### Cost to Public Bodies

Promulgation of the proposed rule will not cause the expenditure of public money by any local public body. Therefore, no further information need be provided under Minnesota Statutes section 14.11, subdivision 1 (1992).

#### Rule Analysis

##### 6310.3600 Registration Fees

###### Subpart 1. Amount.

A. Registration renewal. The registration renewal fee will be increased from \$40 to \$50 per two year registration period. The increase is necessary to make up the deficit in Fiscal Year 1994 and meet anticipated expenses in Fiscal Year 1995. Increased costs during FY 95 include services from the Attorney General's office and the start-up of the Health Professionals Services Program, a joint venture of five of the 13 health-related licensing boards. The

appropriation was made to the Board of Medical Practice and each board is required to pay its share of the costs (Chapter 556, Laws of Minnesota 1994).

The amount of the increase is reasonable because it covers expenses and creates only a slight excess. The fee is the lowest of all the Minnesota health-related licensing boards.

In 1992, the last year that national data are available, about half of the boards of nursing around the country had renewal fees of \$35 or more. At that time the Minnesota fee was \$35. The current renewal fees for the surrounding states are:

- |                 |                                 |
|-----------------|---------------------------------|
| 1. Iowa         | \$63 for three years            |
| 2. North Dakota | RN \$60, LPN \$50 for two years |
| 3. South Dakota | \$55 for two years              |
| 4. Wisconsin    | \$40 for two years              |

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

Date:

July 21, 1994

Joyce M. Schowalter  
Joyce M. Schowalter  
Executive Director

# Office Memorandum

Department: of Finance

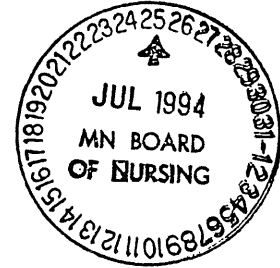
Date: July 21, 1994

To: Joyce M. Schowalter, Executive Director  
Nursing Board

From: Michelle Harper *MH*  
Budget Operations

Phone: 296-7838

Subject: Departmental Earnings Rate Change Response - R.N. & L.P.N Registration Renewal



Pursuant to provisions of Laws 1993, sec. 56, subd. 5 (M.S. 16A.1285), the Department of Finance has reviewed and approved the attached departmental earnings proposal submitted by the Nursing Board on 7/12/94. If you have any questions or concerns, please call me at the above number.

cc Bruce Reddemann  
Dwight Pederson



Department of Finance  
**Departmental Earnings: Reporting/Approval**

**Part A: Explanation**

<b>Earnings Title:</b> Registration Renewal ✓	<b>Statutory Authority:</b> M.S. 148.171-148.285 214.06	<b>Date:</b> 7/8/94
<b>Brief Description of Item:</b> The fee paid every two years by all R.N.'s and L.P.N.'s holding current registration.		
<b>Earnings Type (check one):</b> 1. <input type="checkbox"/> Service/User      2. <input type="checkbox"/> Business/Industry Regulating      3. <input checked="" type="checkbox"/> Occupational Licensure 4. <input type="checkbox"/> Special Tax/Assessment      5. <input type="checkbox"/> Other (specify):		
<b>Submission Purpose (check one):</b> 1. <input checked="" type="checkbox"/> Chap. 14 Review and Comment      2. <input type="checkbox"/> Approval of Allowable Inflationary Adjustment 3. <input type="checkbox"/> Reporting of Agency Initiated Change in Departmental Earnings Rate 4. <input type="checkbox"/> Other (specify):		
If reporting an agency initiated action (option 3 above), does agency have explicit authority to retain and spend receipts? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, cite pertinent statutes:		
<b>Impact of Proposed Change (change in unit rate, number of payees impacted, etc.):</b>  <p style="text-align: center;">See attached detail and proposed rule change.</p>		

MINNESOTA BOARD OF NURSING

ESTIMATED RECEIPTS DETAIL

<u>SUBJECT</u>	<u>CODE</u>	<u>FEE</u>	<u>NUMBER</u>	<u>FY 94 ESTIMATE</u>	<u>FY 95 WITHOUT INCREASE</u>	<u>FY 95 WITH INCREASE</u>
<u>RN</u>						
Discipline	05			4500	4500	4500
Nse P Init	06	50	120	6000		
Nse P Init	06	50	140		7000	7000
Nse P Renew	07	20	175	3500		
Nse P Renew	07	20	200		4000	4000
PHN Registr	08	25	500	12500	12500	12500
Nse Corp	09	25	10	250	250	250
Misc Fees	10			1800	1800	1800
Endorsement	11	55	820	45000		
Endorsement	11	55	910		50000	50000
Examination	12	75&80	1925	148000		
Examination	12	80	1700		136000	136000
Re-exam	13	50&40	650	29000		
Re-exam	13	40	750		30000	30000
Verification	14	20	2100	42000	42000	42000
Renewal	15	35&40	22000	845000		
Renewal	15	40	24000		960000	
Renewal	15	50	21000			1050000
Late Penalty	16	20	1950	39000		
Late Penalty	16	20	2000		40000	40000
Late Fil Fee	17	50	112	5600		
NSF Charge	18	15	43	650	650	650
Permit	40	50	400	20000		
Permit	40	50	440		22000	22000
Total RN Receipts				1202800	1310700	1400700
<u>LPN</u>						
Misc Fees	20			650	600	600
Endorsement	21	55	164	9000	9000	9000
Examination	22	50&80	900	65000		
Examination	22	80	1000		80000	80000
Re-exam	23	40	125	5000	5000	5000
Verification	24	20	450	9000	9000	9000
Renewal	25	35&40	10000	360000		
Renewal	25	40	12000		480000	
Renewal	25	50	12000			600000
Late Penalty	26	20	850	17000	17000	17000
Late Filing	27	50	67	3350		
NSF Charge	28	15	30	450	450	450
Permit	30	50	20	1000	1000	1000
Discipline	50			5500	4000	4000
Total LPN Receipts				475950	606050	726050

7/11/94



SUMMARY

	<u>FY 94 ESTIMATE</u>	<u>FY 95 WITHOUT INCREASE</u>	<u>FY 95 WITH INCREASE</u>
RN Receipts	1202800	1310700	1400700
LPN Receipts	475950	606050	726050
Total	<u>1678750</u>	<u>1916750</u>	<u>2126750</u>

<u>EXPENDITURES</u>	<u>FY 94 ESTIMATE</u>	<u>FY 95 BIENNIAL BUDGET</u>	<u>FY 95 CURRENT ESTIMATE</u>
DIRECT	1506	1504	1515
INDIRECT	340	258	571
ATTY. GEN.	274	180	375
INF. CONT.	34	61	61
ST. INDIR.	32	17	36
CHAP.556 (HPSP)	--	--	99
SUB-TOTAL	<u>1846</u>	<u>1762</u>	<u>2086</u>

JMS 7/94

7/11/94

1 Board of Nursing

2

3 Proposed Permanent Rules Relating to Registration Renewal Fees

4

5 Rules as Proposed

6 6310.3600 REGISTRATION FEES.

7 Subpart 1. Amount. The amount of fees shall be as follows:

8 A. registration renewal, ~~\$40~~ \$50 per registration  
9 period;

10 B. late application, \$20;

11 C. replacement license, \$20;

12 D. replacement registration certificate, \$5;

13 E. verification of licensure status, \$20;

14 F. verification of examination scores, \$20;

15 G. a copy of licensure application materials, \$20;

16 and

17 H. service charge for a dishonored check, \$15.

18 Subp. 2. Nonrefundable. All fees are nonrefundable.