

# MINNESOTA CODE OF AGENCY RULES

## RULES OF THE MINNESOTA BOARD OF MEDICAL EXAMINERS

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## MINNESOTA BOARD OF MEDICAL EXAMINERS

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## CHAPTER ONE: ME 1-11

### SUBSTANTIVE RULES

**ME 1 Definitions.** As used in MSA, c 147, and MSA §§ 148.30-148.511, inclusive, and 148.65-148.78, inclusive, the terms herein defined shall have the following meanings:

(a) "Minor surgery", as used in MSA § 147.031, subd. 2, relating to the practice of osteopathy shall be construed to include all surgical procedures excepting: (a) those involved in incision for the opening of a natural body cavity, (b) open reduction of bone fractures, (c) the amputation of an extremity or an appendage, (d) the removal of any gland or organ or part thereof, or (e) any plastic surgery.

(b) "Anesthetics", as used in MSA, § 147.031, subd. 2, shall mean and include any agent used to produce topical, local, or general anesthesia. Such agents shall include, but shall not be limited to, the following: cyclopropane, ether, ethylene, chloroform, pentothal, barbiturates, nitrous oxide, cocaine, procaine, or any other agent intended to produce a like effect.

(c) "Drugs", as used in MSA § 147.021, subd. 1(1), shall have the meaning ascribed to that term in MSA c 152. "Narcotics", as used in MSA §§ 147.021, subd. 1(1) and 147.031, shall have the meaning ascribed to the term "narcotic drug" in MSA c 152. "Chemicals", as used in MSA § 147.021, subd. 1(1), shall have the meaning ascribed to the term "controlled substance" in MSA c 152, and in addition thereto shall include distilled spirits, wine, malt beverages and intoxicating liquors.

(d) "Antidote", as used in MSA, § 147.031, subd. 2, shall mean any agent used to counteract the effects of a poison.

(e) "Antiseptics", as used in MSA, § 147.031, subd. 2, shall mean any chemical or biological agent used to destroy or inhibit the growth and development in living tissue of microorganisms, and includes, but shall not be limited to antiseptic agents defined as such in the official United States Pharmacopoeia, or registered and regulated for distribution under 21 USCA, §§ 351-357, inclusive.

(f) "Medicine", as used in MSA § 147.10, shall mean and include any substance or agent which is:

(1) Intended for use or used in the diagnosis, treatment, prevention, mitigation or cure of any disease, bodily injury or infirmity; or

(2) Intended to affect or does affect the structure or function of any bodily organ or system, whether the intended or actual effect of such substance or agent is at or remote from the site of administration. Except as otherwise expressly authorized by law, any person who for a fee prescribes, directs or recommends for the use of any person any medicine, as herein defined, shall be deemed to be practicing medicine within the meaning of MSA, § 147.10.

(g) "Disease", as used in MSA, § 147.10, shall mean and include any disorder, impairment, or infirmity in mental or physical capacity or in the physical, structural, or functional organization or character of any bodily organ or system.

(h) The "Board", as used in these regulations, shall mean Minnesota State Board of Medical Examiners.

(i) The "Examining Committee", as used in these regulations, shall mean the State Examining Committee for Physical Therapists created by MSA, § 148.67.

## **ME 2 Application for Licensure To Practice Medicine and Surgery**

(a) An application for admission to a licensing examination as provided in MSA, § 147.02 shall be filed with the Board as hereinafter prescribed. If the Board finds that the application is complete and that all of the requirements of MSA, § 147.02, and of these regulations have been met, it shall advise the applicant of the date and place of the examination.

(b) Such application shall be submitted on forms prepared by the Board and shall include the following information:

(1) If the applicant is a graduate of a medical or osteopathic college approved by the Board, original or certified copy of diploma from such medical or osteopathic college, as the case may be, indicating that the applicant has satisfactorily completed a course of study acceptable to the Board and that he has received from such college the degree of Doctor of Medicine or Doctor of Osteopathy.

(2) If the applicant is currently enrolled in the final year of study at an approved medical or osteopathic college, a transcript of his credits, together with evidence, satisfactory to the Board, that the applicant has satisfactorily completed the course of study prior to such final year at an approved medical or osteopathic college. Prior to admission to the licensing examination, the applicant shall file with the Board the original or certified copy of a diploma from a medical or osteopathic college approved by the Board indicating that the applicant has satisfactorily completed a course of study acceptable to the Board and that he has received from such college the degree of Doctor of Medicine or Doctor of Osteopathy.

(3) Evidence satisfactory to the Board of the applicant's United States or Canadian citizenship. In the event applicant is not a citizen of the United States or Canada, he shall submit, with his application, evidence that he is a lawful permanent resident of the United States and has made a declaration of intent to become a citizen of the United States. In the event applicant is not legally authorized to make a declaration of intent to become a citizen of the United States, he shall submit, with his application, evidence that the Immigration and Naturalization Service of the United States Department of Justice has approved his petition for a preference visa and granted permission to him to remain in the United States until further notice, awaiting the issue to him of an immigrant visa, which would make him eligible for adjustment of his status to that of a lawful permanent resident.

(4) A certificate of good moral character signed by two persons licensed to practice medicine and surgery by any recognized and accredited licensing authority within the United States or Canada.

(5) An unmounted recent photograph of the applicant with an affidavit on the reverse side thereof made by the applicant that the photograph is that of the applicant.

(6) Such other information as the Board shall from time to time, deem necessary in order to evaluate the qualifications of the applicant.

(c) An applicant who has passed the examination prepared and graded by either the Federation of State Medical Boards or the National Board of Medical Examiners shall include in his application, in addition to the information required under ME 2(b), evidence satisfactory to the Board that within three years before or five years after being granted the degree of M.D. or D.O., the applicant satisfactorily passed an examination prepared and graded in accordance with the provisions of Minn. Stat., § 147.02.

(d) An applicant whose credentials are determined by the Board to indicate ineligibility for examination shall be notified of such determination and the grounds therefor and may be granted a hearing thereon in accordance with the provisions of ME, 63, by filing a statement of issues with the Board within twenty (20) days after receipt of such notice from the Board. After such hearing the Board shall notify the applicant in writing of its decision thereon.

(e) An applicant who has satisfactorily completed the licensing examination, and who has fulfilled all the requirements of MSA, Chapter 147, and of these Rules and Regulations, shall be considered by the Board for licensure to practice medicine and surgery upon submitting to the Board evidence satisfactory to the Board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the Board or other graduate training approved by the Board.

(f) All applications for examination must be fully completed and forwarded to the Secretary of the Board postmarked not later than thirty (30) days before the date of examination.

(g) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of a lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States, as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United

States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.

### **ME 3 Conduct of Examinations Administered by the Board**

(a) Licensing examinations administered by the Board shall be conducted in accordance with the following rules, and any candidate violating such rules may be dismissed and barred from taking the examination, or may be otherwise disciplined:

(1) During the written examination no applicant shall communicate with any other person in any way except with the express permission of the person or persons conducting the examination.

(2) An applicant shall not bring books or help of any kind into the examination room.

(b) A weighted average grade of 75 shall be the passing grade on all examinations prepared and graded by the Federation of State Medical Boards of the United States. If an applicant falls below a weighted average grade of 75, it shall constitute a failure. In order to be eligible for licensure, the applicant may repeat those parts of the examination on which he received a grade less than 75 or may repeat the entire examination. The latest grade received shall be the only one considered by the Board.

(c) Upon receipt of the results of the examination, the Board shall prepare a report thereon and shall consider the report at its next meeting. The Secretary of the Board shall notify the applicant of the action of the Board on his application and examination.

### **ME 4 License by Reciprocity To Practice Medicine and Surgery**

(a) An application for a license to practice medicine and surgery without written examination, in accordance with MSA, § 147.03, may be made by any physician duly licensed by an accredited state licensing board or agency.

(b) Such application shall be submitted on forms prepared by the Board and shall include the following information:

(1) An original or certified copy of the applicant's then current license originally obtained by examination, together with evidence at the time of submission that the same is in good standing. If the applicant is a graduate of a foreign medical school, he shall also submit the information required by ME 7(a)(4), ME 7(a)(5), and the original or a certified copy of birth certificate.

(2) Original or certified copy of diploma from a medical or osteopathic college, as the case may be, duly accredited by the Board, indicating that the applicant has satisfactorily completed a course of study acceptable to the Board, and that he has received from such college the degree of Doctor of Medicine, or Doctor of Osteopathy. If the applicant is a graduate of a foreign medical school, he shall submit in lieu thereof the information required by ME 7(a)(2).

(3) Evidence satisfactory to the Board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the Board, or other graduate training approved by the Board.

(4) If the applicant is a graduate of a foreign medical school, evidence satisfactory to the Board that the applicant has been awarded a Certificate by the Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education, his having passed the ECFMG English test and his having passed the ECFMG examination. Such evidence shall not be required, however, if the applicant: (a) was licensed by examination in a state which at the time of applicant's licensure therein did not require that he had been awarded a Certificate by The Education Council for Foreign Medical Graduates, or (b) is a diplomate of a medical specialty board approved by the American Medical Association.

(5) The information required by ME 2(b)(3), ME 2(b)(4), ME 2(b)(5), and ME 2(b)(6).

(c) A grade of 75 shall be the passing grade on all examinations graded by the Board. A minimum general average of 75 in all subjects shall constitute a grade satisfactory for licensure. An applicant may fall below 75 in one subject and still be licensed by the Board. If an applicant falls below 75 in more than two subjects, it shall constitute a failure and require that the applicant retake the entire examination with passing grades in order to be eligible for licensure. An applicant failing two subjects may retake the two subjects at the next examination and upon receiving a minimum grade of 75 in each may be eligible for licensure.

(d) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as authorized by the statutes of the United States, and if he fails, neglects or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon

thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.

#### **ME 5 License by Endorsement Without Examination To Practice Medicine and Surgery**

(a) An application for a license to practice medicine and surgery by endorsement without written examination, may be made by any applicant who is a diplomate of the National Board of Medical Examiners or of the National Board of Examiners for Osteopathic Physicians and Surgeons, or who has passed a licensing examination given by the appropriate board or agency of any state which the Board may from time to time determine to be acceptable, as provided in MSA, § 147.03; provided however, that the Board may require the applicant to be examined in such subjects which, in the opinion of the Board, have not been satisfactorily covered.

(b) Such application shall be submitted on forms prepared by the Board and shall include the following information:

(1) The information required by ME 2(b)(3), ME 2(b)(4), ME 2(b)(5), ME 2(b)(6) and ME 4(b)(2).

(2) Original or certified copy of the certificate or diploma from the appropriate national or state board or agency, as referred to in ME 5(a), evidencing satisfactory completion of the examination therein referred to.

(3) If the applicant is a graduate of a foreign medical school: (a) evidence satisfactory to the Board that the applicant has been awarded a Certificate by the Education Council for Foreign Medical Graduates, certifying to the applicant's formal education, his having passed the ECFMG English test and his having passed the ECFMG examination, (b) original or certified copy of birth certificate, and (c) the information required by ME 7(a)(4) and ME 7(a)(5). The evidence required in clause (a) hereof shall not be required, however, if the applicant is a diplomate of a medical specialty board approved by the American Medical Association.

(4) Evidence satisfactory to the Board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the Board, or other graduate training approved by the Board.

(c) An applicant whose credentials are determined by the Board to indicate ineligibility for licensure shall be notified of such determination and the grounds therefor and may be granted a hearing thereon in accordance with the provisions of ME 63, by filing a statement of issues with the Board within twenty (20) days after receipt of such notice from the Board. After such hearing the Board shall notify the applicant, in writing, of its decision thereon.

(d) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful per-



manent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States, and to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.

#### **ME 6 Temporary Permits To Practice Medicine and Temporary Certificates for Graduate Training**

(a) Applications for a temporary permit to practice medicine, pursuant to the provisions, of MSA, § 147.02, shall be submitted on forms prepared by the Board and shall include the information required in ME 4(b).

(b) An application for a temporary certificate for graduate training, pursuant to the provisions of MSA, § 147.16, may be issued only to a graduate of a foreign medical school. Such application shall be submitted on forms prepared by the Board, which shall include the following information:

(1) Original or certified copy of birth certificate.

(2) Evidence of good moral character satisfactory to the Board.

(3) Evidence satisfactory to the Board that the applicant is a graduate of a foreign medical school approved by the licensing authority of the jurisdiction or country in which such medical school is located and is the holder of an approved diploma or degree recognized by the Board as evidencing a level of training from said approved foreign medical school commensurate with medical training required by approved medical schools in the United States.

(4) If the applicant is licensed to practice medicine and surgery in a foreign country, the original or a certified copy of his then current license to practice medicine and surgery in such foreign country, issued by the school from which he graduated or by the appropriate licensing body of the

country in which he was originally licensed. If applicant is not so licensed, evidence satisfactory to the Board that applicant has passed an examination, or is eligible therefor, which is substantially equivalent to the examination given by the Board to applicants for a license to practice medicine in all of its branches in Minnesota.

(5) Evidence satisfactory to the Board that the applicant has been awarded a Certificate by The Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education, his having passed the ECFMG English test and his having passed the ECFMG examination.

(6) The name and location of the institution at which such graduate training will be taken, and evidence that the institution has accepted the applicant for training.

(7) In the case of an applicant for residency training, evidence satisfactory to the Board that said applicant has completed at least twelve (12) months of hospital training as an intern in a hospital acceptable to the Board.

(8) The information required by ME 2(b)(5) and ME 2(b)(6).

(c) Upon issuance of a temporary certificate for graduate training, the holder may take postgraduate training in a teaching institution within the State of Minnesota approved for resident training by the Board.

(d) The holder of such certificate may perform those services incident to the training prescribed by the approved institution while acting under the direction of a person licensed to practice medicine and surgery in this state; provided, however, that no fee or remuneration of any kind shall be collected by the holder of such certificates from any patients treated by him; and, provided, further, that said holder of the certificate shall confine his training and practice to the institution or group of institutions designated in his original or amended application.

(e) An applicant whose credentials are determined by the Board to indicate ineligibility for such temporary permit or certificate shall be notified of such determination and the grounds therefor and may be granted a hearing thereon in accordance with the provisions of ME 63, by filing a statement of issues with the Board within twenty (20) days after receipt of such notice from the Board. After such hearing, the Board shall notify the applicant in writing, of its decision thereon.

(f) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects, or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become

a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.

#### **ME 7 Licensure of Foreign Graduates in Medicine and Surgery**

(a) A graduate of a foreign medical school may apply for admission to a licensing examination in accordance with MSA, § 147.02, by filing with the Board an application on forms provided by the Board, which forms shall include the following information:

(1) The information required by ME 2(b)(3); ME 2(b)(5); and ME 2(b)(6).

(2) Evidence satisfactory to the Board that the applicant is a graduate of a foreign medical school and is the holder of an approved diploma or degree recognized by the Board as evidencing a level of training from said approved foreign medical school commensurate with the medical training required by approved medical schools in the United States.

(3) Original or certified copy of birth certificate.

(4) If the applicant is licensed to practice medicine and surgery in a foreign country, the original or a certified copy of his license to practice medicine and surgery in such foreign country, issued by the school from which he graduated or by the appropriate licensing body of the country in which he was originally licensed. If applicant is not so licensed, evidence satisfactory to the Board that applicant has passed an examination, or is eligible therefor, which is substantially equivalent to the examination given by the Board to applicants for a license to practice medicine in all of its branches in Minnesota.

(5) Evidence satisfactory to the Board that the applicant has been awarded a Certificate by The Educational Council for Foreign Medical Graduates, certifying to the applicant's formal education, his having passed the ECFMG English test and his having passed the ECFMG examination.

(6) The name and location of the institution at which such graduate training will be taken, and evidence that the institution has accepted the applicant for training.

(7) (a) Evidence satisfactory to the Board that the applicant has been awarded a Certificate by The Educational Council for Foreign Medical

Graduates, certifying to the applicant's formal education, his having passed the ECFMG English test, and his having passed the ECFMG examination, and (b) evidence satisfactory to the Board that the applicant has satisfactorily completed either one year of graduate training in an institution in the United States or Canada approved for internship or graduate training by the Board, or other graduate training approved by the Board. The evidence required in clause (a) hereof shall not be required, however, if the applicant is a diplomate of a medical specialty board, approved by the American Medical Association or if the applicant has successfully completed the licensure examination prepared and graded by the Federation of State Medical Boards of the United States.

(b) As used herein, the term "foreign medical school" shall mean a medical school located outside the United States and Canada.

(c) An applicant whose credentials are determined by the Board to indicate ineligibility for examination shall be notified of such determination and the grounds therefor and may be granted a hearing thereon in accordance with the provisions of ME 63, by filing a statement of issues with the Board within twenty (20) days after receipt of such notice from the Board. After such hearing the Board shall notify the applicant, in writing, of its decision thereon.

(d) All applications for examination must be fully completed and forwarded to the Secretary of the Board, postmarked not later than thirty (30) days before the date of the examination.

(e) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses, for reasons within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control

to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.

**ME 8 Licensure To Practice Medicine and Surgery by Persons Licensed to Practice Osteopathy**

(a) Any person licensed to practice osteopathy in this state under MSA, § 148.11 to 148.16, inclusive, may apply to this Board for admission to a licensing examination to practice medicine and surgery by filing with the Board an application as hereinafter prescribed.

(b) Such application shall be submitted on forms prepared by the Board and shall include the following information:

(1) Original or certified copy of diploma from an osteopathic college, duly accredited by the Board, indicating that the applicant has satisfactorily completed a course of study acceptable to the Board, and that he has received from such college the degree of Doctor of Osteopathy.

(2) Original or certified copy of applicant's then current license to practice osteopathy in this state.

(3) The information required by ME 2(b)(3); ME 2(b)(4); ME 2(b)(5); and ME 2(b)(6).

(4) Applicant's statement as to the locations at which he has practiced osteopathy from the date of his licensure, showing the beginning and ending dates for each such location.

(c) The applicant, prior to licensure to practice medicine and surgery, shall be required to satisfactorily pass an examination prepared and graded by the Federation of State Medical Boards of the United States.

(d) An applicant whose credentials are determined by the Board to indicate ineligibility for examination shall be notified of such determination and the grounds therefor and may be granted a hearing thereon in accordance with the provisions of ME 63, by filing a statement of issues with the Board within twenty (20) days after receipt of such notice from the Board. After such hearing the Board shall notify the applicant, in writing, of its decision thereon.

(e) All applications for examinations must be fully completed and forwarded to the Secretary of the Board, postmarked not later than thirty (30) days before the date of the examination.

(f) A license issued to an applicant whose petition for a preference visa has been approved is valid only so long as the licensee is a resident of the State of Minnesota, is not valid for the purpose of reciprocity with any other state, territory or country and is conditioned upon: (a) the approved petition remaining in full force and effect, (b) his obtaining the status of lawful permanent resident of the United States as soon as he is eligible therefor, (c) his making a declaration of intent to become a citizen of the United States as soon as practicable thereafter, and (d) his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States; and if he fails, neglects, or refuses, for reasons

within or beyond his control, to become a lawful permanent resident of the United States, to make a declaration of intent to become a citizen of the United States and to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. A license issued to an applicant who is a lawful permanent resident of the United States and who has made a declaration of intent to become a citizen of the United States is conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon a licensee described in the first sentence of this paragraph becoming a lawful permanent resident of the United States and making a declaration of intent to become a citizen of the United States, his license shall be valid irrespective of his status as a resident of the State of Minnesota, shall be valid for the purpose of reciprocity with any other state, territory or country and shall be conditioned upon his naturalization as a citizen of the United States as soon thereafter as is authorized by the statutes of the United States, and if he fails, neglects or refuses for reasons within or beyond his control to become a naturalized citizen of the United States as above set forth, the Board may revoke his license upon proof of the same. Upon any licensee described in this paragraph becoming a naturalized citizen of the United States, the restrictions contained in this paragraph shall be of no further force or effect.

## **ME 9 Physical Therapy**

(a) An application for admission to a registration examination to practice physical therapy shall be filed with the Board as hereinafter prescribed. If the Board finds that the application is complete and that all of the requirements of the statute and of these regulations have been met, it shall advise the applicant of the date and place of the examination.

(b) The application shall be submitted on forms prepared by the Board and shall include the following information:

(1) Original or certified copy of high school diploma or evidence of equivalent education.

(2) Original or certified copy of diploma, degree or certificate or evidence satisfactory to the Board, indicating that the applicant has satisfactorily completed an approved curriculum in physical therapy as provided in MSA, § 148.70(d), and has graduated from a school of physical therapy approved by the Board and having standards of education and training substantially equivalent to the standards and training of the University of Minnesota.

(3) Evidence, satisfactory to the Board, that the applicant is of good moral character.

(4) An unmounted recent photograph with the affidavit of the applicant on the reverse side thereof that the photograph is that of the applicant.

(5) The address or name of location or institution at which the applicant intends to regularly practice physical therapy.

(c) An applicant, prior to registration, shall be examined in the subject matter described in MSA, § 148.70(d), and a listing of the subjects to be

covered shall be made available by the Board to the applicant. Such examination may be oral, written or both and shall be conducted by the Board with the assistance of the State Examining Committee.

(d) An applicant whose credentials are determined by the Board to indicate ineligibility for examination shall be notified of such determination and the grounds therefor and may be granted a hearing thereon in accordance with the provisions of ME 63, by filing a statement of issues with the Board within twenty (20) days after receipt of such notice from the Board. After such hearing the Board shall notify the applicant, in writing, of its decision thereon.

(e) All applications for examination must be fully completed and forwarded to the Secretary of the Board, postmarked not later than thirty (30) days before the date of the examination.

(f) The Board may register as a physical therapist in this State without examination any person who presents evidence satisfactory to the Boards of having passed an examination in accordance with the provisions of MSA, § 148.72, subd. 2, administered by a duly accredited examining agency. An applicant for registration without examination shall submit on forms provided by the Board the following information:

(1) Original or certified copy of high school diploma, transcript of high school credits, or evidence of equivalent education.

(2) Original or certified copy of diploma, degree or certificate of completion of an approved course in physical therapy.

(3) Original or certified copy of current license or certificate to practice physical therapy, if any, issued by the duly accredited examining agency of the state or foreign country from which the applicant is seeking registration without examination.

(4) Unmounted recent photograph of applicant with an affidavit on the reverse side thereof made by the applicant that the photograph is that of the applicant.

(5) A recommendation of good moral character by one physician and one physical therapist, each duly registered to practice medicine and physical therapy in the United States or Canada.

(6) The address or name of location or institution at which the applicant intends to regularly practice physical therapy.

(g) An applicant whose credentials are determined by the Board to indicate ineligibility for registration shall be notified of such determination and the grounds therefor and may be granted a hearing thereon in accordance with the provisions of ME 63, by filing a statement of issues with the Board within twenty (20) days after receipt of such notice from the Board. After such hearing the Board shall notify the applicant in writing, of its decision thereon.

(h) In order to carry out the requirements of MSA, § 148.65, subd. 2, the terms herein defined shall have the following meanings:

(1) "Prescription", as used in MSA, § 148.65, subd. 2, shall mean a written order signed by a physician duly licensed to practice medicine and surgery in this state directing that the physical therapist administer to the

physician's patient a specified course of physical therapy, and containing such other orders, directions, and information, as the physician may deem necessary, to inform the physical therapist of the nature and extent of the treatment.

(2) "Direct supervision" within the meaning of MSA, § 148.65, subd. 2, shall mean a course of physical therapy under prescription, as defined in ME 9(h)(1), administered to a patient by a physical therapist under the direction, control and critical evaluation of a physician who from time to time during the course of prescribed physical therapy, makes such examination of the patient as the prescribing physician shall deem necessary to insure such change in the course of treatment as may be indicated.

(i) The course of physical therapy described in ME 9(h)(2), shall be conducted by the physical therapist in a place which is suitable to enable the prescribing physician to carry out the direct supervision referred to in ME 9(h)(2).

(j) A physical therapist shall not, without the express direction of the prescribing physician, initiate, change or terminate treatment, provided that in case of emergency the physical therapist may change or terminate treatment which the patient cannot tolerate, in which case the physical therapist shall notify the prescribing physician thereof immediately.

(k) The physical therapist shall render reports to the prescribing physician from time to time as determined by the prescribing physician, giving detailed information to the prescribing physician on the condition of the patient and in progress of the therapy.

(l) No prescription, as defined in ME 9(h)(1) hereof, shall be valid for a period longer than six weeks from and after the date on which it is signed, and no course of physical therapy being rendered pursuant to such prescription shall be continued thereafter unless the prescription is renewed.

(m) Every physical therapist shall retain all prescriptions received by him for at least two years after such receipt and shall maintain a file thereof available for the inspection of the Board.

(n) Every physical therapist who shall hereafter change the location of the place at which he regularly practices physical therapy shall promptly notify the Board in writing of the address of his new location or the name of the institution in which he is practicing physical therapy.

**ME 10 Annual Registration Fee.** The annual registration fee referred to Minn. Stat. § 146.13 is hereby fixed at the sum of \$20.00.

## **ME 11 Midwives**

(a) As used in MSA, § 148.30, the practice of midwifery includes the furthering or undertaking by any person to assist or attend a woman in normal pregnancy and childbirth, but shall not include the use of any instrument at a childbirth, except such instrument as is necessary in severing the umbilical cord, nor does it include the assisting of childbirth by an artificial, forcible, or mechanical means, nor the removal of adherent placenta, nor the administering, prescribing, advising, or employing, either before or after any childbirth, of any drug, other than a disinfectant or cathartic.

(b) An application for admission to a licensing examination to practice



midwifery in this state shall be filed with the Board as hereinafter prescribed. If the Board finds that the application is complete and that all of the requirements of the statute and of these regulations have been met, it shall advise the applicant of the date and place of the examination.

(c) The application shall require the applicant to submit the following information:

(1) Original or certified copy of high school diploma or evidence of equivalent education.

(2) Original or certified copy of diploma, degree or certificate, or evidence satisfactory to the Board, indicating that the applicant has satisfactorily completed an approved curriculum in midwifery in a school or maternity hospital approved by the Board.

(3) Evidence, satisfactory to the Board that the applicant is of good moral character.

(4) An unmounted recent photograph of the applicant with the affidavit of the applicant on the reverse side thereof that the photograph is that of the applicant.

(d) The examination shall include the following subjects: anatomy of the pelvis and female generative organs; physiology of menstruation; diagnosis and management of pregnancy, fetal presentation and position; mechanism and management of normal labor; management of the puerperium; injuries to the genital organ following labor; sepsis and asepsis in relation to labor; special care of the bed and lying-in room; hygiene of the mother and infant; asphyxiation, convulsions, malformation and infectious disease of the newborn; cause and effects of ophthalmia neonatorum; abnormal conditions requiring attendance of a physician.

(e) An applicant whose credentials are determined by the Board to indicate ineligibility for examination shall be notified of such determination and the grounds therefor and may be granted a hearing thereon in accordance with the provisions of ME 63, by filing a statement of issues with the Board within twenty (20) days after receipt of such notice from the Board. After such hearing the Board shall notify the applicant, in writing, of its decision thereon.

(f) All applications for examination must be fully completed and forwarded to the Secretary of the Board, postmarked not later than thirty (30) days before the date of the examination.

(g) The Board may revoke, suspend, condition, limit, qualify, or restrict the license of, or refuse to renew the license of any midwife for unprofessional or dishonorable conduct, which shall include but not be limited to the following:

(1) Conviction of the crime of criminal abortion or of a crime involving moral turpitude.

(2) Neglect or refusal to promptly make proper returns to a health officer or health department of births, of a puerperal, contagious or infectious disease.

(3) Failure promptly to secure the attendance of duly licensed physician in case of miscarriage, hemorrhage, abnormal presentation or position, re-

tained placenta, convulsions, prolapse of the cord, fever during parturient stage, inflammation or discharge from the eyes of the newborn infant, or whenever any abnormal or unhealthy symptoms appear either in the mother or infant during pregnancy, labor, or the puerperium.

**ME 12-30 Reserved for Future Use**

## RULES RELATING TO CONTINUING MEDICAL EDUCATION

### 7 MCAR § 4.012 Continuing Medical Education.

A. During three year cycles, each physician licensed to practice by this Board shall obtain 150 hours of continuing medical education credit as required by this rule.

1. For the purpose of administering this rule, the Board will establish three classes of licensees as follows:

a. Class I. Licensees in this class will be required to complete 50 hours of continuing education by December 31, 1978. These hours shall include at least 20 hours of Category 1 credit. However, no more than 15 hours of credit may be obtained in any one of the other categories. Thereafter, the licensees in this class shall report to the Board at three year intervals.

b. Class II. Licensees in this class will be required to complete 100 hours of continuing education by December 31, 1979. These hours shall include at least 40 hours of Category 1 credit. However, no more than 30 hours of credit may be obtained in any one of the other categories. Thereafter, the licensees in this class shall report to the Board at three year intervals.

c. Class III. Licensees in this class shall be required to complete 150 hours of continuing education by December 31, 1980. These hours shall be obtained in such a way as to fully comply with the requirements of 7 MCAR § 4.012 B. Thereafter, the licensees in this class shall continue to report to the Board at three year intervals.

2. The Board shall place licensees in these three classes so as to create classes that are approximately equal. No other standard shall be used in determining the class into which licensees shall be placed.

3. Each person initially licensed after the effective date of this rule shall commence his or her first three year cycle on January 1 following the date of initial licensure.

B. Continuing medical education credit may be obtained from the following activities:

1. Category 1. No less than 60 hours of credit shall be obtained in any cycle by attendance at educational activities approved by the Board pursuant to 7 MCAR § 4.012 D.

2. Category 2. No more than 45 hours of credit may be obtained in any cycle through educational activities sponsored by a hospital, clinic, or medical or osteopathic society and not meeting the standards contained in category 1.

3. Category 3. No more than 45 hours of credit may be obtained in any cycle through medical teaching of medical students, residents, practicing physicians and allied health professionals.

4. Category 4. No more than 40 hours of credit may be obtained in any cycle for papers, publications, books, lectures and exhibits.

a. Papers, publications and books. Ten hours of credit shall be granted for a scientific paper or book chapter published in a scholarly medical journal or book.

b. Lectures. An hour of credit shall be granted for each hour spent lecturing at a course which would qualify for approval under these rules.

c. Exhibits and non-published papers. Ten hours of credit shall be granted for a paper or exhibit presented before a professional medical or allied health audience. Credit may be claimed only once for each scientific material presented.

5. Category 5. No more than 45 hours of credit may be obtained by engaging in professional reading, peer patient care review activities, self assessment examinations sponsored by a professional organization recognized by the Board as maintaining a significant level of quality control, and preparation for certification or recertification examinations administered by a national specialty board.

#### Approval of courses for credit.

C. Persons or organizations intending to offer courses for continuing education credit not included under 7 MCAR § 4.012 D. 6. may apply to the Board in advance for approval. Any person or organization may submit a course for approval by the Board. The following information shall be provided to the Board, as well as any other information which the Board may reasonably require for the purpose of evaluating the course for which approval is sought.

1. The name and address of the organization sponsoring the course.

2. A detailed description of the course content including a time schedule for the course.

3. The name of each instructor or person making a presentation and his or her credentials.

4. The location—including the name and address of the facility at which the course will be conducted.

D. The Board shall grant Category 1 continuing education credit for any educational activity which meets the following standards:

1. The educational activities shall have significant intellectual or practical content dealing primarily with matter directly related to the practice of medicine or to the professional responsibility or ethical obligations of the participants.

2. Each person making a presentation shall be qualified by practical or academic experience to teach the subject he or she covers.

3. Participants shall attend educational activities in a classroom, laboratory, or setting suitable for the activity. Video, motion picture or sound tape presentations may be used.

4. Ordinarily, credit will not be given for speeches given at lunches or banquets.

5. One hour of credit shall be given for each 60 minutes actually spent on educational activities.

6. Any course planned, sponsored or co-sponsored by a medical or osteopathic medical school, state or national medical or osteopathic association, or a national medical specialty board shall be presumed to meet the above standards. This presumption may be withdrawn by the Board if it determines that a school, association or specialty board has sought credit for a course not meeting these standards.

E. The Board shall state in writing its reasons for denying any application for approval of a course for credit.

F. The Board may accept certification or recertification by an American specialty board in lieu of compliance with the continuing education requirements during the cycle in which certification or recertification is granted. The Board may also accept certification of other state or national medical groups whose continuing medical education requirements are the equivalent of or greater than those of this Board in lieu of compliance with these standards.

G. Upon application, the Board shall issue retroactive approval of any educational activity offered after January 1, 1977 which meets the standards for approval contained in this rule.

H. Licensees shall, at the relicensure period coinciding with the end of their cycle, provide a signed statement to the Board on a form provided by the Board indicating compliance with this rule. The Board may, in its discretion, require such additional evidence as is necessary to verify compliance with the rule.

A licensee failing to submit a statement or who submits a statement which, on its face, indicates non-compliance with this rule may be subject to the disciplinary provisions contained in 7 MCAR § 4.012 J.

I. Exemptions. The Board may grant an exemption from these continuing

education requirements to a licensee for full time participation in residency or fellowship training at a professionally accredited institution.

J. The Board may refuse to renew, suspend, condition, limit or qualify the license of any person whom the Board determines has failed to comply with the requirements of this rule.

If the Board refuses to renew a license, a hearing shall be held only if the licensee submits a written request for a hearing within thirty (30) days after receiving notice of the refusal to renew. Any such hearing shall be conducted pursuant to the provisions of the Minnesota Administrative Procedure Act.

## CHAPTER TWO: ME 31-60

### PROFESSIONAL CORPORATION RULES

**ME 31 Sworn Statement to Board.** At the time a professional corporation files with the Board the copy of its Articles of Incorporation as required by Minn. Stat. § 319A.08, and annually thereafter when such corporation files with the Board its annual report as required by Minn. Stat. § 319A.21, it shall file with the Board a statement under oath as to each and all of the following:

(a) The address of the registered office of the corporation and the name of its proposed registered agent, if any, for service and process.

(b) The name or names and respective office and residence addresses of the directors and officers of the corporation.

(c) In the case of a corporation organized under Minn. Stat. § 301, a statement of the aggregate number of issued shares, itemized by classes and the person or persons to who issued.

(d) In the case of a corporation organized under Minn. Stat. § 317, a statement of the names of the members of the corporation if no stock has been issued, or if stock has been issued, a statement of the aggregate number of issued shares, itemized by classes and the person or persons to who issued.

(e) A description of the nature of the professional services and ancillary services, if any, to be provided by the corporation.

(f) The location or locations of the premises at which the applicant corporation proposes to provide professional services.

(g) A statement listing the name or names of employees, other than members or shareholders of the corporation, who are licensed under Minn. Stat. § 147, to practice medicine and surgery within the State of Minnesota.

(h) A statement whether or not all shareholders, members, directors, officers, employees and agents rendering professional service in Minnesota on behalf of the corporation are licensed to practice medicine and surgery in Minnesota or are otherwise authorized to render the professional service being rendered by the corporation.

**ME 32 Suspension or Revocation of License of Shareholder, Member, Director, Officer, Employee or Agent.** If the license to practice medicine in Minnesota of any shareholder, member, director, officer, employee or agent rendering professional service in this state on behalf of the corporation is revoked or suspended by the Board, the corporation shall forthwith remove from office and terminate the employment of such shareholder, member, director, officer, employee or agent, and shall not reinstate in office or re-employ such shareholder, member, director, officer, employee or agent unless and until his license to practice medicine in Minnesota is restored by the Board.

**ME 33 Written Notice to Board.** Every professional corporation shall promptly notify the Board in writing upon the happening of any of the following events:

(a) The death of any shareholder, member, director, officer, employee or agent who is licensed to practice medicine in Minnesota.

(b) The revocation or suspension of the license to practice medicine in Minnesota of any shareholder, member, director, officer, employee or agent.

(c) The amendment of the Articles of Incorporation or By Laws of the corporation, in which case a copy of such amendment shall be furnished to the Board with such notice.

(d) A change in the registered office of the corporation.

(e) A change in the registered agent of the corporation.

(f) The admission, election or employment of a new shareholder, member, director, officer, employee or agent of the corporation.

(g) The termination, replacement or discharge of a shareholder, member, director, officer, employee or agent, in which case the professional corporation shall notify the Board of the date thereof and reason therefor.

(h) A change in the nature of the professional services and ancillary services, if any, provided by the corporation.

(i) A change in the location or locations of the premises at which the corporation provides or intends to provide professional services.

**ME 34-60 . Reserved for Future Use**



### CHAPTER THREE: ME 61-80

#### PROCEDURAL RULES

**ME 61 Definitions.** For the purposes of these rules, the terms defined in this section have the following meanings:

(a) "Board" means the Minnesota State Board of Medical Examiners or any member or members thereof authorized by law to adjudicate contested cases.

(b) "Contested Case" means a proceeding before the Board in which the legal rights, duties or privileges of specific parties under the provisions of any statute granting jurisdiction to the Board are required by law or constitutional right to be determined after a Board hearing.

(c) "Party" includes the Board, the respondent, and any person, other than a member of the Board in his official capacity, who has been permitted to appear in the proceeding.

(d) "Respondent" means any person or professional corporation against who an accusation or charge has been filed pursuant to any statute granting jurisdiction to the Board, or any person or professional corporation which is subject to a dispute concerning any legal rights, duties or privileges granted or conferred thereby.

**ME 62 Accusation.** A hearing to determine whether a right, license, certificate, registration or privilege should be revoked, suspended, qualified, restricted, limited or conditioned, shall be initiated by the issuance of an accusation by the Board. The accusation shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged and shall be in sufficient detail to enable the respondent to prepare his defense. It shall specify the statutes and rules which the respondent is alleged to have violated. The accusation may also include any additional information which the Board deems appropriate. The accusation shall be verified by a member of the Board. The verification may be on information and belief.

**ME 63 Statement of Issues.** A hearing to determine whether a right, license, certificate, registration or privilege should be granted, issued or renewed shall be initiated either by the Board or by the applicant by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the applicant must show compliance by producing proof at the hearing and in addition, any additional matters which have come to the attention of the initiating party and which would bear upon the issues presented. The statement of issues shall be verified by the initiating party. The verification may be on information and belief. If the Board is the initiating party, the statement of issues shall be served in the same manner as an accusation, and shall be accompanied by a Notice of Hearing substantially in the form set forth in ME 66. If the applicant is the initiating party, the statement of issues shall be served on the Board by registered or certified mail, addressed to the Board at its office in St. Paul, Minnesota, and such service shall be deemed a request for hearing. Within ten (10) days after such service, the Board shall deliver or mail to the applicant a Notice of Hearing, substantially in the form set forth

in ME 66. In either case, the hearing shall be held not less than twenty (20) days nor more than one hundred twenty (120) days after service of the statement of issues. Hearings shall be held in St. Paul, Minnesota, at a place designated by the Board, unless the parties, by agreement, select another place within the State of Minnesota.

**ME 64 Service of Accusation; Form, Manner and Proof**

(a) Upon the issuance of an accusation, the Board shall serve a copy thereof on the respondent as provided in ME 64(b) hereof.

(b) If the respondent is a resident of the State of Minnesota and can be found therein, the accusation and all accompanying information shall be served upon respondent personally in the manner provided by law for the service of a summons in a civil action. If the respondent is not a resident of the State of Minnesota, or if the respondent is a resident of the State of Minnesota but cannot be found therein, the accusation and all accompanying information shall be served upon respondent by registered or certified mail, addressed to the most recent address theretofore furnished by the respondent to the Board, and the same shall be deemed received by respondent five (5) days after having been deposited in the United States mail, postage prepaid, addressed to such address. The appearance of respondent in the proceeding shall constitute a waiver of any defect in such service. Service may be proved by the affidavit of the person making the same.

**ME 65 Time and Place of Hearing.** The Board shall determine the time and place of the hearing on the accusation which shall be held not less than twenty (20) days nor more than one hundred twenty (120) days after service of the accusation upon the respondent. The hearing shall be held in St. Paul, Minnesota, at a place designated by the Board, unless the parties, by agreement, select another place within the State of Minnesota.

**ME 66 Notice of Hearing.** A Notice of Hearing on the accusation shall be served by the Board upon respondent at the same time and in the same manner as the service of the accusation. The Notice of Hearing shall be substantially in the following form:

You are hereby notified that a hearing will be held before the Minnesota State Board of Medical Examiners at ..... on ....., 19.., at the hour of ...M., o'clock, upon the charges made in the accusation served upon you. You may be present at the hearing; may be, but need not be, represented by counsel of your own choosing; may present any relevant evidence on your own behalf and will be given full opportunity to cross-examine all witnesses who testify therein. If you fail to appear at the time and place above set forth, such failure will constitute a waiver of your right to a hearing and Minnesota State Board of Medical Examiners may proceed upon the accusation with or without a hearing.

**ME 67 Depositions.** On request of the respondent, or upon notice from the Board to the respondent, the Board may permit the testimony of any material witness, residing within or without the state, to be taken for use as evidence in the hearing, by deposition in the manner prescribed by law for such depositions in civil actions. The request or notice shall set forth the

nature of pending proceedings; the name and address of the witness whose testimony is desired; a showing of the materiality of his testimony; a showing that the witness will be unable to attend; and the Board shall, thereupon, forward a request to the witness to appear and testify before an officer named in the request.

#### **ME 68 Conduct of Hearing**

(a) Every hearing in a contested case shall be presided over by a member of the Board. A case may be heard by six (6) or more members of the Board.

(b) The attorney for the Board shall advise the member or members of the Board concerning the conduct of the hearing and rulings on the admission or exclusion of evidence and other matters of law.

(c) Any member of the Board shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any Board member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined by the other members of the Board. No Board member shall withdraw voluntarily or be subject to disqualification if his disqualification would prevent the existence of a quorum qualified to act in a particular case.

(d) All proceedings at the hearing shall be reported in writing, and the Board shall prepare an official record, which shall include testimony and exhibits in each contested case, but it shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review.

#### **ME 69 Evidence**

(a) All evidence shall be taken only on oath or affirmation.

(b) Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.

(c) The Board may admit and give probative effect to relevant evidence which possesses probative value and shall not be bound by the technical rules relating to evidence and witnesses; provided, however, that the Board shall give effect to the rules of privilege recognized by law. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. All evidence including records and documents (except tax returns and tax reports) in the possession of the Board of which it desires to avail itself shall be offered and made a part of the record in the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

#### **ME 70 Decision in Contested Case**

(a) No right, license or privilege shall be granted, issued, renewed, revoked, suspended, limited, qualified, restricted or conditioned except upon the affirmative vote of at least six (6) members of the Board.

(b) Whenever, in a contested case, a member of the Board who has not participated in the hearing votes in the decision of the case, a final decision, if adverse to the respondent, shall not be made until a proposed decision, including the statement of reasons therefor, has been served on the respondent, and opportunity has been afforded to file exceptions and present argument to all of the members of the Board who are to render the final decision.

(c) The respondent shall have the opportunity to present either oral or written argument and to present additional newly discovered evidence after the close of the record but prior to final decision.

(d) Informal disposition of a contested case may be made in the manner prescribed by law.

**ME 71 Form of Decision; Findings.** Every decision and order adverse to a party to the proceeding shall be in writing and, except when such decision or order is made pursuant to stipulation with or the consent of the respondent, shall contain a statement of findings or reasons, a determination of the issues presented and the penalty, if any, or decision of the Board. The findings shall consist of a statement of the conclusions upon each contested issue of fact necessary to the decision. Parties to the proceedings shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying statement of reasons together with proof of service shall be delivered or mailed, upon request, to the respondent or to his attorney of record.

**ME 72 Effective Date of Decision; Stay of Execution; Notification of Suspension or Revocation**

(a) The decision or order of the Board shall become effective immediately upon its service on respondent; provided, however, that the Board may, in its discretion, stay the enforcement of its decision pending appeal or reconsideration within thirty (30) days after said service.

(b) The Board may, upon its own motion or upon petition by respondent, reconsider or grant a rehearing of any decision rendered in a contested case or may condition any such decision upon just and reasonable grounds.

(c) The filing of a petition for review shall not automatically stay the enforcement of the Board decision.

**ME 73-80 Reserved for Future Use**