MINNESOTA

Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.mn.gov/post/

BOARD MEETING AGENDA

October 24, 2024
10:00 a.m.

This meeting will be held at the MN POST Board, 1600 University Ave, Ste 200, St. Paul, MN 55104

1. Call to order
2. Introduction to meeting tablet and accessing Board materials via SFTP login (No more paper copies)
3. Approval of the agenda **ACTION**
4. Approval of the minutes from the July 25, 2024 Board meeting (attachment) **ACTION**
5. Introduction of new Board members:
    - Dr. Stephanie Burrage
    - Mayor Tad Farrell
6. Presentation/ acceptance of ALJ decision (attachment) **ACTION**
7. Resolution to sign order adopting rule (attachment) **ACTION**
8. Variance request – Kelly DeBerg (attachment) **ACTION**
9. Variance request – Andrew Sparber (attachment) **ACTION**
10. Variance request – Winston Martinez (attachment) **ACTION**
11. Variance request – Chad Swanson (attachment) **ACTION**
12. Variance request – Eren Erbay (attachment) **ACTION**
13. Variance request – Logan Adair (attachment) **ACTION**
14. Variance request – Breck Ehlers (attachment) **ACTION**
15. Variance request – Rodrigo de Castro Moreira (attachment) **ACTION**
16. Variance request – Jaaron Kamp (attachment) **ACTION**
17. Variance request – Kyla Jackson (attachment) **ACTION**
18. Variance request – Stephanie Roberts (attachment) **ACTION**
19. Executive Director report
20. Licensure matters (closed to the public) attachment(s) sent separately.
21. Licensure hearing – Wyfells
22. Deliberations - Wyfells (closed to the public)
23. Licensure hearing – Tinsley
24. Deliberations – Tinsley (closed to the public)
25. Adjournment

Board of Peace Officer Standards and Training
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AGENDA ITEM 4

BOARD MEETING MINUTES
July 25, 2024

Members Present
Stephanie Revering, Acting Chair for Chair Luke Hennen
Scott Mueller for Andrew Evans
Jennifer Foster
Jim Yang
Justin Terrell
Kelly Phillips
Nigel Perrote
Scott Kent
Shawn Williams
Tanya Gladney
Troy Wolbersen

Staff Present
Alicia Popowski
Angie Rohow
Erik Misselt
Jonathan Hoff
Michelle Haggberg
Mike Monsrud
Mike Cumiskey
Michael Sullivan
Rob Skoro
Schyler Beaty
Shari Bartness

Members Excused Absence
Chair Luke Hennen
Bobbi Holtberg
Jason Bennett
Shelly Schaefer

Counsel Present
David Cullen, A.G. Office
Christopher Kaisershot, A.G. Office

Others Present
Kevin Huber (Variance Request)
Beau Herzig (Variance Request)

1. **Call to Order:** Chair Revering called the meeting to order on July 25, 2024 at 10:00 a.m.

2. **Approval of the Agenda:** Chair Revering asked for a motion to approve the agenda.

   - **MOTION:** Mr. Yang made a motion to approve the agenda. Mr. Mueller seconded the motion. The motion was approved via unanimous voice vote.

3. **Approval of the Board Meeting Minutes on April 25, 2024:** Chair Revering asked for a motion to approve the minutes.

   - **MOTION:** Chief Kent made a motion to approve the minutes. Mr. Perrote seconded the motion. The motion was approved via unanimous voice vote.

4. **Welcome and Introduction of New Board Member and Board Term Renewals:** Chair Revering welcomed new Board member Kelly Phillips, an officer with the State Patrol.
   Executive Director Misselt made the following announcements:

   Board term renewals that expire in January 2028:
   - Tanya Gladney
   - Troy Wolbersen

   Board vacancies:
   - Public member, formerly Justin Page
   - Elected official, formerly Jay DeCoux

5. **Consideration of Revision and Final Approval of the Pre-service Learning Objectives:** Dr. Gladney referred the Board to the hand out of the final PPOE Learning Objectives. She spoke about the Training Committee had met with the MN Youth Justice Office to discuss 2.7.1 and 2.7.3 in regard to juvenile justice, youth brain development and diversion programs. The revision to 2.7.1 and addition to 2.7.3 are included for the Board's consideration.

    - **MOTION:** Dr. Gladney made a motion to adopt the finalized version of the PPOE Learning Objectives including the new addition based on the MN Youth Justice Office recommendations. Dr. Williams seconded. Motion was approved via unanimous voice vote.

6. **Consideration of Revisions to the Pursuit Policy:** Director Misselt provided a summary of the revisions to the pursuit policy as there was a misunderstanding with the some of the statutory language that has been redefined with clarifying language.

    - **MOTION:** Mr. Mueller made a motion to approve the revised pursuit policy. Dr. Gladney seconded. The motion was approved via unanimous voice vote.

7. **Variance Request – Mike Santo:** Ms. Popowski summarized Mr. Santo's variance request as he was unable to attend. Mr. Santo is a part-time license holder seeking a variance on the education requirement to take the full-time licensure exam.

    - **MOTION:** Dr. Gladney made a motion for the Board to grant the petitioner's request for a variance because the statutory criteria for a discretionary variance have been met and that the variance of Minnesota Rule 6700.0500, subp. 3, be granted with a chance to take the PPOE exam 3 times. Mr. Terrell seconded the motion. The motion was approved via unanimous voice vote.

8. **Variance Request – Erin Nelson:** Ms. Popowski summarized Erin Nelson's variance request as she was unable to attend. Ms. Nelson is a part-time license holder seeking a variance on the education requirement to take the full-time licensure exam.

    - **MOTION:** Ms. Foster made a motion for the Board to grant the petitioner's request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0500, subp. 3, be granted with a chance to take the PPOE exam 3 times. Sheriff Wolberson seconded the motion. The motion was approved via unanimous voice vote.

9. **Variance Request – John Linder:** Ms. Popowski summarized Mr. Linder's variance request as he was unable to attend. Mr. Linder is a part-time license holder seeking a variance on the education requirement to take the full-time licensure exam.

    - **MOTION:** Dr. Gladney made a motion for the Board to grant the petitioner's request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0500, subp. 3, be granted with a chance to take the PPOE exam 3 times. Mr. Mueller seconded the motion. The motion was approved via unanimous voice vote.

10. **Variance Request – Christopher Norton:** Ms. Popowski summarized Mr. Norton's variance request as he was unable to attend. Mr. Norton does not qualify to take the reciprocity exam because the rule does not acknowledge his time spent working with the Red Lake and Turtle Mountain Tribal Police Department's as "law enforcement officer" experience.

    - **MOTION:** Ms. Foster made a motion for the Board to approve the petitioner's request for a variance because application of the Minnesota Rule 6700.0501, supb. 3, as applied to the circumstances of the petitioner, would not serve any of the purposes of the rule and that the variance be granted with a chance to take the reciprocity PPOE exam 3 times. Dr. Gladney seconded the motion. Motion passed via unanimous voice vote.

11. **Variance Request – Kevin Huber:** Ms. Popowski summarized Mr. Huber's request for a variance. Mr. Huber was present for the meeting. Mr. Huber is a part-time license holder seeking a variance on the education requirement to take the full-time licensure exam.

    - **MOTION:** Ms. Foster made a motion for the Board to grant the petitioner's request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0500, subp. 3, be granted with a chance to take the PPOE exam 3 times. Dr. Gladney seconded the motion. The motion was approved via unanimous voice vote.

12. **Variance Request – Beau Herzig**: Ms. Popowski summarized Mr. Hezig's request for a variance. Mr. Herzig was present for the meeting. Mr. Herzig would like to take the licensing exam and for the Board to waive the need for his PPOE coordinator to sign off.

    - **MOTION:** Mr. Tyrell made a motion for the Board to deny the petitioner's request for a variance of Minnesota Rule 6700.0500, supb. 3, because the statutory criteria for a discretionary variance has not been met. Mr. Yang seconded the motion. Ms. Bartness took a roll call vote with 6 yes votes to deny the variance and 5 no votes. Motion passed to deny the variance.

13. **Variance Request – Nathaniel Matheson:** Ms. Popowski summarized Mr. Matheson's request for a variance. Mr. Matheson was not present for the meeting. Mr. Matheson would like to take the reciprocity exam but is short of the 5-year service requirement with no official degree.

    - **MOTION:** Chief Kent made a motion for the Board to deny the petitioner's request for a variance of Minnesota Rule 6700.0500, supb. 3, because the statutory criteria for a discretionary variance has not been met. Dr. Williams seconded the motion. Motion passed via unanimous voice vote.

14. **Executive Director Report:** Executive Director Misselt spoke about the following topics:

    - New continuing education portal that will put all CE forms online through the portal and will provide a 2-way communication between POST and the vendor for any corrections. Slalom has been working on this project that should take 4-5 months to complete.

    - (SRO) School Resource Officer workgroup is currently working on a model policy that was mandated last session. The plan is for the model policy to be submitted at the next Board meeting in October 2024.

- Ms. Popowski and the Advisory Rules Committee are currently working on pre-service rules.
- Gathering estimates for Salesforce to be enhanced.
- Staffing update: Sarah Zastrow has been promoted to Continuing Education Coordinator. The Continuing Education Credit Coordinator position is vacant. Two Standards Coordinators have been onboarded: Jonathan Hoff and Michael Sullivan.
- Biennial report deadline is October 1, 2024.

15. **Licensure Matters (Closed to the Public):**

16. **Licensure Hearing:** Mr. Kaisershot presented arguments and a closing statement during the open portion of the meeting.

17. **Deliberations (Closed to the Public):**

18. **Adjournment:** Meeting adjourned at 1:34 p.m.

MINNESOTA
OFFICE OF
ADMINISTRATIVE
HEARINGS

PO Box 64620
Saint Paul, MN 55164-0620
mn.gov/oah

PH (651) 361-7900

AGENDA ITEM 6

July 23, 2024

VIA EFILING ONLY
Alicia Popowski
Rules Coordinator
Minnesota Board of Peace Officer
Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

Re: ***In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600***
OAH 24-9007-39670; Revisor R- 4850

Dear Ms. Popowski:

Enclosed herewith and served upon you is the **REPORT OF THE ADMINISTRATIVE LAW JUDGE** in the above-entitled matter. The Administrative Law Judge has determined there are no negative findings in these rules.

The Office of Administrative Hearings has closed this file and is returning the rule record so that the Minnesota Board of Peace Officer Standards and Training can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. Please ensure that the agency's signed order adopting the rules is filed with our office. The Office of Administrative Hearings will request copies of the finalized rules from the Revisor's office following receipt of that order. Our office will then file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the agency for its rulemaking record. The Board will then receive from the Revisor's office three copies of the Notice of Adoption of the rules.

The Board's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the State Register for publication. A permanent rule does not become effective until five working days after a Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.18.

If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

NICHOLE SLETTEN
Legal Assistant

Enclosure
cc: David Cullen
Legislative Coordinating Commission
Revisor of Statutes

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600	OAH Docket No. 24-9007-39670 Revisor 4850

On July 23, 2024, a true and correct copy of the **REPORT OF THE ADMINISTRATIVE LAW JUDGE** was served by electronic mail, unless otherwise indicated below, addressed to the following:

VIA EFILING ONLY
Alicia Popowski
Rules Coordinator
Minnesota Board of Peace Officer Standards and Training
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Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
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OAH 24-9007-39670
Revisor 4850

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600

REPORT OF THE ADMINISTRATIVE LAW JUDGE

This matter came on before Assistant Chief Administrative Law Judge Kristien R. E. Butler for a public rulemaking hearing on May 22, 2024. The public hearing was held virtually by way of the WebEx videoconferencing platform.

IT IS HEREBY DETERMINED:

1. Board has the statutory authority to adopt the rule.

2. Except as noted in Findings of Fact 9, 13, 14, 15, and 16 below, Board has fulfilled all procedural requirements of Minn. Stat. § 14.14 (2022) and all other procedural requirements of law and rule.

3. The rulemaking record demonstrates the rule is needed and reasonable.

Based upon all the testimony, exhibits, and submitted comments, and for the reasons explained in the accompanying Memorandum, the Judge now hereby issues the following:

ORDER

1. The proposed rule part is **APPROVED**.

The Board of Peace Officer Standards and Training (Board) proposes to amend its rules relating to the standard of conduct of Minnesota peace officers. Specifically, Board seeks to reimplement the rule requiring peace officers to comply with any Order of Board.[1] This rule, previously known as Minnesota Rule 6700.1600, item H, had been in effect in Minnesota since at least 1997.[2] In 2020, Board carried out a comprehensive review of its governing rules under Minnesota Rules, chapter 6700.[3] This review related to peace officer background investigations, psychological screenings, minimum selection

[1] Exhibit (Ex.) F.
[2] *Id*.; Ex. D at 5.
[3] Ex. D at 5.

standards, and standards of conduct.[4] When this comprehensive rules review was finalized in 2023, Board discovered it had inadvertently omitted Minnesota Rule 6700.1600, item H.[5] Without this rule in place, Board currently lacks the legal authority to effectively enforce its Orders.[6]

The hearing and this Report are part of a larger rulemaking process under the Minnesota Administrative Procedure Act.[7] The Minnesota Legislature has designated this process to ensure all State agencies meet all of the legal requirements specified for adopting rules.

The hearing was conducted to permit Board representatives and the Judge to hear public comment regarding the reimplementation of the mistakenly omitted rule, along with any changes to it that might be appropriate. Furthermore, the hearing process provides the general public with the opportunity to review, discuss, and critique proposed agency rules.

Board must establish that the proposed rule is: (1) within its statutory authority; (2) necessary and reasonable; (3) follows compliance with the required procedures; and (4) that any modifications Board made after the proposed rules were initially published in the State Register are within the scope of the matter that was originally announced.[8]

The Board panel at the hearing included Erik Misselt, Executive Director; Michael Monsrud, Assistant Executive Director; Angie Rohow, Standards Coordinator Supervisor; Alicia Popowski, Rules and Legislative Coordinator; and Luke Hennen, Chair.[9]

Approximately 15 people attended the public hearing.[10] The proceeding continued until all interested persons who were present were provided the opportunity to be heard. Three members of the public offered public comments.[11]

After the close of the hearing, the Judge kept the rulemaking record open for an additional ten days to permit the submission of further written comments. The record was then kept open an additional five days to permit any rebuttal comments to be submitted. The record closed on June 13, 2024. The issuance deadline for this Report was extended by the Chief Administrative Law Judge to July 23, 2024.[12]

Based upon the rulemaking record, the Judge now hereby issues the following:

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[4] *Id*.
[5] *Id*.
[6] *Id*.
[7] *See* Minn. Stat. §§ 14.131-.20 (2022).
[8] Minn. Stat. §§ 14.05, 14.25, and 14.50 (2022).
[9] *See* Public Hearing Digital Recording (May 22, 2024).
[10] *Id*.
[11] *Id*.
[12] Order Granting Extension (July 10, 2024); Order Granting Second Extension (July 22, 2024).

FINDINGS OF FACTS

I. Regulatory Background to the Proposed Rules

1. Police academy training certification began in 1967 when the legislature created the Minnesota Peace Office Training Board (MPOTB).[13] The purpose of the MPOTB was to standardize police training across the state.[14]

2. In 1977, the legislature abolished the MPOTB and replaced it with the Minnesota Board of Peace Officer Standards and Training (Board).[15] Board established licensing and training requirements and set standards for law enforcement agencies and officers.[16]

3. Board continues to develop and enforce standards for the education, licensing, training and conduct of peace officers and law enforcement officers[17] in Minnesota.[18]

II. Rulemaking Authority

4. Board cites Minn. Stat. § 626.843 (2022) as its source of statutory authority for the proposed rules. This statute grants Board, in relevant part, authority to:

> adopt rules with respect to . . . (6) minimum standards of conduct which would affect the individual's performance of duties as a peace officer. These standards shall be established and published. The board shall review the minimum standards of conduct described in this clause for possible modification in 1998 and every three years after that time.[19]

5. The Judge concludes that Board has the statutory authority to adopt rules governing the training and licensing of peace officers.

III. Procedural Requirements of Chapter 14

A. Publications

6. On December 18, 2023, Board published in the *State Register* a Request for Comments seeking comments on its plan to amend Minnesota Rules, part 6700.1600,

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[13] Ex. D at 5.
[14] *Id*.
[15] *Id*.
[16] *Id*.
[17] "Law enforcement officers" includes peace officers, state troopers who are part of the Minnesota State Patrol, conservation officers with the Department of Natural Resources, county sheriffs and sheriff's deputies, and police officers; Ex. D at 5.
[18] Ex. D at 5.
[19] Minn. Stat. § 626.843, subd. 1.

to add that failure to comply with any Order issued by Board would constitute a standard of conduct violation.[20]

7. On December 6, 2023, Board requested approval of its Additional Notice Plan.[21]

8. By way of an Order dated December 8, 2023, Administrative Law Judge Ann O'Reilly approved Board's Additional Notice Plan.[22]

9. Board did not submit its Dual Notice and other required filings for review by the Office of Administrative Hearings before publishing it in the State Register as required by Minn. R. 1400.2080, subp. 5 (2023).[23] The public was able to meaningfully participate in the hearing and was provided the information in the Dual Notice when it was published in the State Register on March 18, 2024.[24] Accordingly, the Judge finds Board's failure in this instance to be harmless error.

10. On or about March 13, 2024, Board mailed and emailed a copy of the Dual Notice to all persons and entities who had registered their names with Board for the purpose of receiving such notice and to all persons and associations identified in the additional notice plan.[25]

11. On March 18, 2024, Board emailed a copy of the related Statement of Need and Reasonableness (SONAR) to the Legislative Reference Library to meet the requirement set forth in Minn. Stat. §§ 14.131 and 14.23 (2022).[26]

12. The Dual Notice identified the date and time of the remote hearing and provided information on how public members could access it to participate.[27]

13. The Dual Notice did not provide the process for submitting written comments after the public hearing as is required by Minn. R. 1400.2080, subp. 4(D) (2023).[28]

14. Given the process for submitting written comments after the hearing was appropriately presented during the public hearing on May 22, 2024, the Judge finds Board's failure to include the above information in its Dual Notice to be harmless error.[29] The information was made available to the public during Board's oral presentation, as

[20] Ex. A.
[21] Letter to Chief Judge Jenny Starr and Judge Ann O'Reilly (December 6, 2023).
[22] Order on Additional Notice Plan (December 8, 2023).
[23] Ex. F.
[24] *See* Public Hearing Digital Recording.
[25] Ex. G1; Ex. G2; Ex. G3.
[26] Ex. E.
[27] Ex. F.
[28] *Id*.
[29] *See* Public Hearing Digital Recording.

well as visually in the accompanying Power Point slide presentation.[30] The public was not deprived of the opportunity to submit written comments after the hearing.

15. The Dual Notice did not provide the contact information for the Judge and inform recipients that questions about the hearing procedure could be directed to the Judge as is required by Minn. R. 1400.2080, subp. 4(E) (2023).[31]

16. Given the process for asking questions after the hearing was appropriately presented during the public hearing on May 22, 2024, the Judge finds Board's failure to include the above information in its Dual Notice to be harmless error.[32] The information was made available to the public during Board's oral presentation, as well as visually in the accompanying Power Point slide presentation.[33] The public was not deprived of the opportunity to ask questions after the hearing.

17. At the hearing on May 22, 2024, Board filed copies of the following documents as required by Minn. R. 1400.2220 (2023):

(a) the Request for Comments as published in the *State Register* on December 18, 2023;[34]

(b) the Revisor's Rule Certificate and Rule Draft;[35]

(c) the SONAR;[36]

(d) the Certificate and Transmittal Letter verifying the SONAR was sent to the Legislative Reference Library;[37]

(e) the Dual Notice as published in the *State Register*;[38]

(f) the Certification of Emailing the Dual Notice;[39]

(g) the Certification of Mailing the Dual Notice;[40]

(h) the Certificate of Accuracy of the Rulemaking Mailing List;[41]

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[30] *Id*.
[31] Ex. F.
[32] *See* Public Hearing Digital Recording.
[33] *Id*.
[34] Ex. A.
[35] Ex. C.
[36] Ex. D.
[37] Ex. E.
[38] Ex. F.
[39] Ex. G1.
[40] Ex. G2.
[41] Ex. G3.

(i) the Certificate of Emailing the Request for Comments on the Additional Notice Plan;[42]

(j) the Certificate of Mailing the Request for Comments on the Additional Notice Plan;[43]

(k) the written comments received during the 30-day comment period;[44]

(l) the Board's response to the comments received during the 30-day comment period;[45]

(m) the Certificate and Letter of Sending the SONAR to legislators and the Legislative Coordinating Commission;[46]

(n) the Order on Review of the Additional Notice Plan;[47]

(o) Board's letter to Minnesota Management and Budget as required by Minn. Stat. § 14.131;[48]

(p) the response from Minnesota Management and Budget;[49] and

(q) the Certificate of Mailing a Notice of Hearing to Those Who Requested a Hearing.[50]

B. Additional Notice Requirements

18. Minn. Stat. §§ 14.131 and 14.23 require that an agency include in its SONAR a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule; or alternatively, the agency must detail why these notification efforts were not made.

19. On or about December 18, 2023, Board provided the Dual Notice in the following manner, according to the Additional Notice Plan approved by the Office of Administrative Hearings:

(a) Updated its website with the relevant information;

(b) Notified stakeholders of the rulemaking activity by way of email and mail;

[42] Ex. H1.
[43] Ex. H2.
[44] Ex. I1.
[45] Ex. I2.
[46] Ex. K1.
[47] Ex. K2.
[48] Ex. K3.
[49] Ex. K4.
[50] Ex. K5.

(c) Provided specific email notice to all Minnesota licensed law enforcement officers with valid email addresses on file with Board;

(d) Provided specific notice to law enforcement associations and labor representatives; community, professional and civic organizations and associations; and certain state agencies and other entities identified in the Additional Notice Plan section of the SONAR.[51]

C. Notice Practice

1. Notice to Stakeholders

20. On March 11 and 13, 2024, Board emailed and mailed a copy of the Dual Notice to its official rulemaking list (maintained under Minn. Stat. § 14.14), and to stakeholders identified in its Additional Notice Plan.[52]

21. The initial comment period on the proposed rules expired at 4:30 p.m. on April 19, 2024.[53]

22. There are 37 days between March 13, 2024, and April 19, 2024.

23. The Judge concludes that Board fulfilled its responsibilities under Minn. R. 1400.2080, subp. 6 (2023), to mail the Dual Notice "at least 33 days before the end of the comment period . . ."

2. Notice to Legislators

24. On March 18, 2024, Board sent a copy of the Dual Notice and the SONAR to legislators as required by Minn. Stat. § 14.116 (2022).[54]

25. Minn. Stat. § 14.116 requires the agency to send a copy of the Notice of Intent to Adopt and the SONAR to certain legislators on the same date that it mails its Notice of Intent to Adopt to persons on its rulemaking list and pursuant to its additional notice plan.[55]

26. The Judge concludes that Board fulfilled its responsibilities to mail the Dual Notice "at least 33 days before the end of the comment period . . ."[56]

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[51] Ex. D; Ex. H1; Ex. H2.
[52] Ex. G1; Ex. G2; Ex. G3.
[53] Ex. F.
[54] Ex. K1.
[55] Minn. Stat. § 14.116.
[56] *Id*.

3. Notice to the Legislative Reference Library

27. On March 18, 2023, Board emailed a copy of the SONAR to the Legislative Reference Library.[57]

28. Minn. Stat. §§ 14.131 and 14.23 require the agency to send a copy of the SONAR to the Legislative Reference Library when the Notice of Intent to Adopt is mailed.

29. The Judge concludes that Board fulfilled its responsibilities, to transmit the SONAR to the Legislative Reference Library.

D. Impact on Farming Operations

30. Minn. Stat. § 14.111 (2022) imposes additional notice requirements when the proposed rules affect farming operations. The statute requires that an agency provide a copy of any such changes to the Commissioner of Agriculture at least 30 days prior to publishing the proposed rules in the *State Register*.

31. The proposed rule does not impose restrictions or have an impact on farming operations. The Judge finds that Board was not required to notify the Commissioner of Agriculture.

E. Statutory Requirements for the SONAR

32. The Administrative Procedure Act obliges an agency adopting rules to address eight factors in its SONAR.[58] Those factors are:

> (1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
>
> (2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;
>
> (3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;
>
> (4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;
>
> (5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories

[57] Ex. E.
[58] Minn. Stat. § 14.131.

of affected parties, such as separate classes of governmental units, businesses, or individuals;

(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals;

(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference; and**,**

(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule and reasonableness of each difference.

1. The Board's Regulatory Analysis

(a) A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

33. Board identified licensed peace officers and applicants for licensure; chief law enforcement officers; sheriffs; and members of the public served by licensed peace officers as those most likely to be affected by the proposed rule changes.[59]

34. Board indicates it does not believe this rule amendment will generate any additional monetary costs to those affected by it.[60]

35. The stated class that will benefit from the proposed rule are members of the public seeking peace officer accountability in Minnesota.[61]

(b) The probable costs to the Agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

36. Board contends that any fiscal effects brought on by this rule change would be negligible on all involved, including Board.[62] Board states that it may accrue fiscal costs for a disciplinary matter that may be referred to the Office of Administrative Hearings

[59] Ex. D at 8.
[60] *Id.*
[61] *Id.*
[62] *Id.*

for a contested proceeding, however, Board also states that such cases are few and far between.[63]

37. Board does not anticipate any increased costs on other State agencies or individual license-holders.[64]

(c) The determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

38. The Board asserts that it has carefully considered the costs and burdens of the proposed rule change, including seeking input from interested parties, and found no less costly or less intrusive methods to achieve the purposes of the proposed rule.[65]

(d) A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

39. Board did not identify methods other than rulemaking to provide the recommended regulatory relief.[66]

(e) The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

40. Board states that any cost associated with compliance with the proposed rule change would be negligible on any related party.[67]

(f) The probable costs or consequences of not adopting the proposed rule, including those costs borne by individual categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

41. While Board did not identify any monetary costs that would be borne by any affected parties, Board states that without the inclusion of the proposed rule, its ability to carry out its statutory authority and enforce the Orders it issues would be greatly

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[63] *Id*.
[64] *Id*.
[65] *Id.*
[66] *Id.* at 9.
[67] *Id*.

diminished.[68] Board further states that the proposed rule amendment is necessary to its continued mandate of providing licensure oversight and accountability.[69]

(g) An assessment of any differences between the proposed rules and existing federal regulation and a specific analysis of the need for and reasonableness of each difference.

42. Board asserts that there are no federal regulations pertaining to Minnesota law enforcement officer standards of conduct. As a result, the proposed rule is not different from, or potentially inconsistent with, regulations under federal law.[70]

(h) An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

43. Board did not identify any cumulative effects of the rule with other federal and state regulations.[71] The proposed rule restores and complements Board's enforcement authority over the Orders it issues.

44. The Judge finds that Board has met its obligation to complete the eight assessments, set forth in Minn. Stat. § 14.131, in the text of its SONAR.

2. Consultation with the Commissioner of Minnesota Management and Budget (MMB)

45. As required by Minn. Stat. § 14.131, by letter dated February 20, 2024, Board requested the Commissioner of MMB to evaluate the fiscal impact and fiscal benefits of the proposed rules on local units of government.[72] Board received a response from MMB on April 22, 2024, indicating that MMB did not find the rule amendment would impose a cost on local units of government.[73]

3. Performance-Based Regulation

46. The Administrative Procedure Act requires an agency to describe how it has considered and implemented the legislative policy supporting performance-based regulatory systems. A performance-based rule is one that emphasizes superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the Board in meeting those goals.[74]

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[68] *Id*.
[69] *Id*. at 9.
[70] *Id*. at 9.
[71] *Id*.
[72] Ex. D at 12; Ex. K3.
[73] Ex. K4.
[74] Minn. Stat. §§ 14.002 and 14.131 (2022).

47. Board asserts the proposed rule is performance based because it would permit Board to carry out its statutory responsibility by ensuring licensees are complying with Board Orders and required standards of conduct.[75]

4. Summary

48. The Judge finds that Board has met the requirements set forth in Minn. Stat. § 14.131 for assessing the impact of the proposed rule, including consideration and implementation of the legislative policy supporting performance-based regulatory systems, and the fiscal impact on units of local government.

F. Cost to Small Businesses and Cities under Minn. Stat. § 14.127 (2022)

49. Minn. Stat. § 14.127, requires the agency to "determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed $25,000 for: (1) any one business that has less than 50 full-time employees; or (2) any one statutory or home rule charter city that has less than ten full-time employees." The agency must make this determination before the close of the hearing record, and the Judge must review the determination and approve or disapprove it.[76]

50. Board determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed $25,000 for any applicable business.[77] While many small cities have police departments that may be impacted by the proposed rule, Board determined the cost of compliance will not exceed $25,000.[78]

51. The Judge finds that Board has made the determinations required by Minn. Stat. § 14.127 and approves said determinations.

G. Adoption or Amendment of Local Ordinances

52. Pursuant to Minn. Stat. § 14.128 (2022), the agency must determine if a local government will be required to adopt or amend an ordinance or other regulation to comply with a proposed agency rule. The agency must make this determination before the close of the hearing record, and the Judge must review the determination and approve or disapprove it.[79]

53. Board determined that given the rule change would pertain to license-holders, there would be no need for any local government to amend or adopt any new ordinance or regulation in response to its implementation.[80]

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[75] Ex. D at 9-10.
[76] Minn. Stat. § 14.127, subds. 1 and 2.
[77] Ex. D at 12-13.
[78] *Id*.
[79] Minn. Stat. § 14.128, subd. 1. Moreover, a determination that the proposed rule requires adoption or amendment of an ordinance may modify the effective date of the rule, subject to some exceptions. Minn. Stat. § 14.128, subds. 2 and 3.
[80] Ex. D at 12.

54. The Judge finds that Board has made the determination required by Minn. Stat. § 14.128 and approves said determination.

IV. Rulemaking Legal Standards

55. The Judge must make the following inquiries: whether the agency has statutory authority to adopt the rule; whether the rule is unconstitutional or otherwise illegal; whether the agency has complied with the rule adoption procedures; whether the proposed rule grants undue discretion to government officials; whether the rule constitutes an undue delegation of authority to another entity; and whether the proposed language meets the definition of a rule.[81]

56. Pursuant to Minn. Stat. § 14.14, subd. 2 (2022), and Minn. R. 1400.2100, the agency must establish the need for, and reasonableness of, a proposed rule by an affirmative presentation of facts. In support of a rule, the agency may rely upon materials developed for the hearing record,[82] "legislative facts" (namely, general and well-established principles, that are not related to the specifics of a particular case, but which guide the development of law and policy),[83] and the agency's interpretation of related statutes.[84]

57. A proposed rule is reasonable if the agency can "explain on what evidence it is relying and how the evidence connects rationally with the agency's choice of action to be taken."[85] By contrast, a proposed rule will be deemed arbitrary and capricious where the agency's choice is based upon whim, devoid of articulated reasons or "represents its will and not its judgment."[86]

58. An important corollary to these standards is that when proposing new rules, an agency is entitled to make choices between different possible regulatory approaches, so long as the alternative selected by the agency is a rational one.[87] Thus, while reasonable minds might differ as to whether one or another particular approach represents "the best alternative," the agency's selection will be approved if it is one that a rational person could have made.[88]

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[81] *See* Minn. R. 1400.2100 (2023).
[82] *See Manufactured Housing Institute v. Pettersen*, 347 N.W.2d 238, 240 (Minn. 1984); *Minnesota Chamber of Commerce v. Minnesota Pollution Control Agency*, 469 N.W.2d 100, 103 (Minn. Ct. App. 1991).
[83] *Compare generally, United States* v. *Gould,* 536 F.2d 216, 220 (8th Cir. 1976).
[84] *See Mammenga v. Agency of Human Services*, 442 N.W.2d 786, 789-92 (Minn. 1989); *Manufactured Hous. Inst.*, 347 N.W.2d at 244.
[85] *Manufactured Hous. Inst.*, 347 N.W.2d at 244.
[86] *See Mammenga*, 442 N.W.2d at 789; *St. Paul Area Chamber of Commerce v. Minn. Pub. Serv. Comm'n,* 251 N.W.2d 350, 357-58 (Minn. 1977).
[87] *Peterson v. Minn. Dep't of Labor & Indus*., 591 N.W.2d 76, 78 (Minn. Ct. App. 1999).
[88] *Minnesota Chamber of Commerce*, 469 N.W.2d at 103.

V. Rule by Rule Analysis

A. Minn. R. 6700.1600, subp. 1(F) – Standards of Conduct

59. Board proposes to revise its rules to re-include the standard of conduct relating to noncompliance with a Board Order. The proposed rule would read in relevant part as:

> It is a violation of standards of conduct to:
>
> F. fail to:
>
> …
>
> (3) cooperate with a board investigation; ~~or~~
>
> (4) comply with any order of the board; or
>
> ~~(4)~~ (5) comply with any other requirement in this chapter or Minnesota statutes for peace officers[.]

60. In sum, supporters of the amendment maintain that it is a legal necessity so that Board can continue to fulfill its statutory obligations.[89] They also contend the amendment is the only way Board can ensure compliance with the standards of conduct and that peace officer accountability remains intact.[90] Additionally, the supporters point out that said amendment was previously incorporated into the peace officer standards of conduct for at least 27 years without issue.[91] Finally, the supporters note that other Minnesota license discipline statutes do not carry the requirement of a "lawful" order being followed.[92]

61. However, in sum, opponents of the proposed amendment state they would have no issue with Board's proposed language being incorporated as long as the word "lawful" is inserted before the word "order."[93]

62. The opponents state the current landscape between Board and Minnesota law enforcement officers is strained, in part, due to Board's recent rulemaking in 2023 in that ". . . the POST Board has granted itself unprecedented power and control over the professional lives of approximately 12,000 licensed peace officers and even more so for the approximately 420 CLEO's [chief law enforcement officers] who hold a peace officer license."[94]

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[89] *See* Public Hearing Digital Recording; Ex. I2.
[90] *Id*.
[91] *Id*.
[92] *Id*.
[93] Ex. I1.
[94] *Id*.; *Id*. at Richard Hodsdon Written Comments (March 18, 2024).

63. The proper method for dealing with any potential unlawful Orders of Board would be the legality review process through the Office of Administrative Hearings established by the Legislature pursuant to the Minnesota Administrative Procedure Act.

Based upon these Findings of Fact and the rulemaking record, the Judge now hereby issues the following:

CONCLUSIONS

1. Based on the totality of the record, Board provided notice to interested persons in this matter.

2. Board has fulfilled all procedural requirements of Minn. Stat. § 14.14 (2022) and all other procedural requirements of law and rule.

3. The Judge concludes Board has fulfilled its additional notice requirements.

4. Board has demonstrated its statutory authority to adopt the proposed rule and has fulfilled all other substantive requirements of law and rule pursuant to Minn. Stat. §§ 14.05, sub. 1; and 14.50.

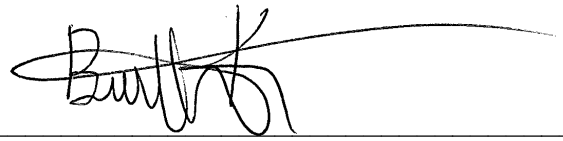
5. Other than as noted in Findings 9, 13, 14, 15, and 16, the proposed rule and SONAR complied with Minn. R. 1400.2080, subp. 5.

6. As it relates to Findings 9, 13, 14, 15, and 16, and for the reasons explained therein, the noted defects are deemed to constitute harmless error pursuant to Minn. Stat. § 14.15, subd. 5 (2022). The defects did not deprive any person or entity of an opportunity to meaningfully participate in the rulemaking process as reflected by public participation at the hearing.

7. Board has demonstrated the need for and the reasonableness of the proposed rule by way of an affirmative presentation of the facts in the record pursuant to Minn. Stat. §§ 14.14 and 14.50.

8. During the public comment process, a number of interested persons encouraged Board to modify the proposed rule language to indicate that only noncompliance with a “lawful” Order would constitute a violation of the standards of conduct. Board provided its rationale in declining to adopt said language, and this rationale is reasonable and well-grounded in the rulemaking record.

Dated: July 23, 2024



KRISTIEN R. E. BUTLER
Assistant Chief Administrative Law Judge

NOTICE

This Report must be made available for review to all affected individuals upon request for at least five working days before the agency takes any further action on the rules. The Agency may then adopt the final rules or modify or withdraw its proposed rules. If the Agency makes any changes within the rules, it must submit the rules to the Chief Administrative Law Judge for a review of the changes prior to final adoption. Upon adoption of final rules, the Agency must submit a copy of the Order Adopting Rules to the Chief Administrative Law Judge. After the rules' adoption, the OAH will file certified copies of the rules with the Secretary of State. At that time, the Agency must give notice to all persons who requested to be informed when the rules are adopted and filed with the Secretary of State.

MEMORANDUM

When under review by the Office of Administrative Hearings pursuant to Minn. Stat. § 14.26 (2022), a proposed rule must be disapproved if: (1) it was not adopted in compliance with procedural requirements, unless the judge finds that the error was harmless in nature and should be disregarded; (2) it is not rationally related to the agency's objectives or the agency has not demonstrated the need for and reasonableness of the rule; (3) it is substantially different than the rule as originally proposed and the agency did not comply with required procedures; (4) it grants undue discretion to the agency; (5) it is unconstitutional[95] or illegal; (6) it improperly delegates the agency's powers to another entity; or (7) the proposal does not fall within the statutory definition of a "rule."[96]

In the present rulemaking, the Judge has identified three defects, all of which are deemed to be harmless procedural error.

Procedural Defect under Minn. R. 1400.2100, Item A

Minn. R. 1400.2080, subp. 5, requires agencies to obtain an administrative law judge's approval of any notice of hearing or dual notice prior to mailing it or publishing it in the State Register. Had Board adhered to this procedural requirement, the related defects of failing to include the process for submitting written comments after the hearing[97] and failing to provide the contact information for the Judge[98] would have been avoided.

A procedural defect can be considered a harmless error pursuant to Minn. Stat. § 14.26, subd. 3(d), if: "(1) the failure did not deprive any person or entity of an opportunity

[95] In order to be constitutional, a rule must be sufficiently specific to provide fair warning of the type of conduct to which the rule applies. See, Cullen v. Kentucky, 407 U.S. 104, 110 (1972); Thompson v. City of Minneapolis, 300 N. W.2d 763, 768 (Minn. 1980).
[96] Minn. R. 1400.2100.
[97] Minn. R. 1400.2080, subp. 4(D).
[98] Minn. R. 1400.2080, subp. 4(E).

to participate meaningfully in the rulemaking process; or (2) the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process."

Here, the public was provided the necessary information at the hearing and the procedural defects, fortunately, did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

Based upon this record, the Judge concludes the noted failures did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process. Therefore, the defects are harmless error.

K. R. E. B.

MINNESOTA
OFFICE OF
ADMINISTRATIVE
HEARINGS

PO Box 64620
Saint Paul, MN 55164-0620
mn.gov/oah
PH (651) 361-7900

July 22, 2024

VIA EMAIL ONLY
Alicia Popowski
Minnesota Board of Peace Officer
Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
David Cullen
Minnesota Attorney General's Office
445 Minnesota St Ste 1400
Saint Paul, MN 55101
david.cullen@ag.state.mn.us
diane.mcmahon@ag.state.mn.us

Re: ***In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600***
OAH 24-9007-39670; R-4850

Dear Parties:

Enclosed and served upon you please find the **ORDER GRANTING SECOND EXTENSION** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7857, nichole.sletten@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,

Nichole Sletten

NICHOLE SLETTEN
Legal Assistant

Enclosure

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600	OAH Docket No.: 24-9007-39670 R-4850

On July 22, 2024, a true and correct copy of the **ORDER GRANTING SECOND EXTENSION** was served by United States mail, unless otherwise indicated below, addressed to the following:

VIA EMAIL ONLY
Alicia Popowski
Minnesota Board of Peace Officer Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
David Cullen
Minnesota Attorney General's Office
445 Minnesota St Ste 1400
Saint Paul, MN 55101
david.cullen@ag.state.mn.us
diane.mcmahon@ag.state.mn.us

OAH 24-9007-39670
Revisor R-4850

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600	**ORDER GRANTING SECOND EXTENSION**

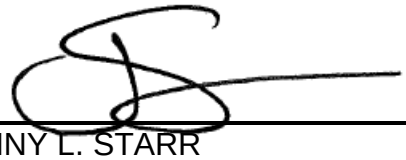
This matter came before Chief Administrative Law Judge Jenny L. Starr upon the request of the Administrative Law Judge pursuant to Minn. Stat. § 14.15, subd. 2 (2022) and Minn. R. 1400.2240, subp. 1 (2023).

Based upon a review of the rulemaking record, and due to unforeseen worldwide technical issues,

IT IS HEREBY ORDERED THAT:

The deadline for completion of the Report in this matter is hereby extended by two (2) business days until July 23, 2024.

Dated: July 22, 2024



JENNY L. STARR
Chief Administrative Law Judge

MINNESOTA
OFFICE OF
ADMINISTRATIVE
HEARINGS

PO Box 64620
Saint Paul, MN 55164-0620
mn.gov/oah
PH (651) 361-7900

July 10, 2024

VIA EMAIL ONLY
Alicia Popowski
Minnesota Board of Peace Officer
Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
David Cullen
Minnesota Attorney General's Office
445 Minnesota St Ste 1400
Saint Paul, MN 55101
david.cullen@ag.state.mn.us
diane.mcmahon@ag.state.mn.us

Re: ***In the Matter of Minnesota Rules, Chapter 6700 Peace Officer Training and Licensing***
OAH 24-9007-39670; R-4850

Dear Parties:

Enclosed and served upon you please find the **ORDER GRANTING EXTENSION** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7857, nichole.helmueller@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,

NICHOLE HELMUELLER
Legal Assistant

Enclosure

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of Minnesota Rules, Chapter 6700 Peace Officer Training and Licensing	OAH Docket No.: 24-9007-39670 R-4850

On July 10, 2024, a true and correct copy of the **ORDER GRANTING EXTENSION** was served by United States mail, unless otherwise indicated below, addressed to the following:

VIA EMAIL ONLY
Alicia Popowski
Minnesota Board of Peace Officer Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
David Cullen
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Saint Paul, MN 55101
david.cullen@ag.state.mn.us
diane.mcmahon@ag.state.mn.us

OAH 24-9007-39670
Revisor 4850

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600

ORDER
GRANTING EXTENSION

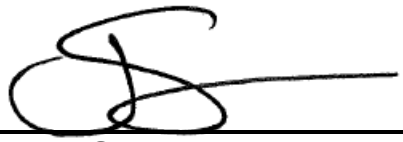
This matter came before Chief Administrative Law Judge Jenny L. Starr upon the request of the Administrative Law Judge pursuant to Minn. Stat. § 14.15, subd. 2 (2022) and Minn. R. 1400.2240, subp. 1 (2023).

Based upon a review of the rulemaking record,

IT IS HEREBY ORDERED THAT:

The deadline for completion of the Report in this matter is hereby extended by five (5) business days until July 19, 2024.

Dated: July 10, 2024



JENNY L. STARR
Chief Administrative Law Judge

[207411/1]

39670 Minnesota Board of Peace Officer Standards and Training Rebuttal Comment Period

Closed Jun 13, 2024 · Discussion · 1 Participants · 1 Topics · 1 Answers · 0 Replies · 0 Votes

1	1	1	0	0
PARTICIPANTS	TOPICS	ANSWERS	REPLIES	VOTES

SUMMARY OF TOPICS

SUBMIT A COMMENT

1 Answers · 0 Replies

Important: All comments will be made available to the public. Please only submit information that you wish to make available publicly. The Office of Administrative Hearings does not edit or delete submissions that include personal information. We reserve the right to remove any comments we deem offensive, intimidating, belligerent, harassing, or bullying, or that contain any other inappropriate or aggressive behavior without prior notification.

Alicia Popowski · Citizen · (Postal Code: unknown) · Jun 13, 2024 1:57 pm

0 Votes

Please, see the attached document with the Board's written rebuttal to comments made during the hearing and post hearing comment period. Thank you.

RECEIVED
By: OAH on 6/13/2024

MINNESOTA
Board of Peace Officer Standards and Training
1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.mn.gov/post/

June 13, 2024

The Honorable Kristien R.E. Butler
Administrative Law Judge
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
Saint Paul, Minnesota 55164-0620

Re: In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training on Peace Officer Standards of Conduct; Revisor's ID Number 4850; OAH Docket No. 24-9007-39670

Dear Judge Butler,

Enclosed for your review is the Board of Peace Officer Standards and Training's (POST Board's) response to the comments received during the May 22, 2024, contested case hearing and the post hearing comment period that followed.

ORAL HEARING COMMENTS

Rick Hodsdon

During his oral comment, Rick Hodsdon, who represents the Minnesota Sheriff's Association (MSA), stated his clients objected to Rule 6700.1600, subpart 1, item F, subitem (4) as proposed and that the MSA would like the rule to read "comply with any *lawful* order of the board." Mr. Hodsdon stated that the MSA's request is an issue of trust which, ultimately, needs to be re-built between the POST Board and peace officer licensees. Mr. Hodsdon argues that this is in part because the POST Board now has "unprecedented" authority over licensees. Mr. Hodsdon went on to state that sheriffs are elected officials, so their reputations are more at risk with respect to potential Board action for alleged misconduct, therefore, the MSA wants the term "lawful" added into the rule to provide sheriffs a possible defense. Specifically, Mr. Hodsdon referred to the MSA's request as "comfort orders" that could protect licensees and allow them to argue that a sheriff did not follow an order of the Board because it was unlawful.

Board Response

The POST Board was given the statutory authority to adopt rules related to the education, training, and licensing of peace officers by the legislature through Minnesota Statues sections 626.843 and 626.845. The Board shares the MSA's sentiment of wanting to build trust between licensees and the Board, other than being dissatisfied with the rules promulgated in 2023 and the recent laws passed by the legislature, Mr. Hodsdon could not and did not offer any evidence as to how the POST Board has violated the trust of licensees. The POST Board follows all applicable due process rules and statutes when considering disciplinary action against a licensee. Because the POST Board follows all applicable rules and statutes, the constitutional and due process rights of

licensees are protected. While the Board would agree that some of the expectations of the Board have changed, the authority of the Board in statute itself has not fundamentally changed and is in line with the authority of other licensing boards within the state.

With regard to Mr. Hodsdon's statement that sheriffs are at an increased risk because they are elected officials and are therefore in need of a possible defense for not following a Board order, the fact is that sheriffs are licensees who are required to follow applicable rules, statutes, and Board orders like all other licensed peace officers in the State of Minnesota. As licensees, sheriffs are granted the same due process protections as other licensed officers in the state. Any challenge to a Board order, by a sheriff or any other licensed peace officer, should be made during a contested case hearing or on appellate review as prescribed in the Administrative Procedures Act. In short, the comfort sought by the MSA is found in the due process provided by the rules and statutes applicable to all licensed peace officers. Additionally, a majority of the Board is comprised of current or former peace officers including two sheriffs, pursuant to Minnesota Statutes section 626.841. The Board shares the MSA's desire to maintain and further develop trust between the Board and licensed peace officers. Participation on the Board, including by MSA member sheriffs, is a helpful and productive way to do so.

Rich Graves

Rich Graves offered testimony in support of the POST Board's rule as proposed.

Board Response

The POST Board does not have a response to the comments offered by Mr. Graves.

Mark Empting

Sheriff Mark Empting made an oral comment in support of the MSA's request to have the word "lawful" added to the proposed rule language. Sheriff Empting stated he felt the request was simple and easy and that there are many statutes that use the word "lawful." Sheriff Empting also stated he felt the word would make things smoother for peace officers and the POST Board alike.

Board Response

The Board believes the addition of this one word would make things more complicated rather than simple. To be more specific, the addition of the word "lawful" could open the door for licensees to take the position that they can unilaterally decide a Board order, which has been issued according to the procedures prescribed in the APA, is unlawful. As such, the addition of the word "lawful" would make official Board processes less clear and potentially misleading for licensees.

Although the word "lawful" does appear in some statues, as the Board presented in its initial response to comments (exhibit I2), the proposed rule language offered by the Board is consistent with other licensing boards when referring to official orders and the discipline that may result for violating a board order.

WRITTEN POST HEARING COMMENTS

Board of Peace Officer Standards and Training
1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.mn.gov/post/

Board's Response to Rick Hodsdon

The POST Board and its staff followed all internal and statutory rulemaking procedures for R4850. POST Board staff did not unilaterally make rulemaking decisions or reject comments or suggestions from stakeholders. Comments and suggestions provided by stakeholders during both the Request for Comments and Dual Notice periods were presented to the full Board for their review and consideration. The Board voted not to adopt the proposed langue by the MSA during its January 25, 2024, meeting and then upheld its decision at the Board meeting that took place on April 25, 2024.

The statutory authority of the POST Board has encompassed the development and maintenance of peace officer standards of conduct since 1978. In Minnesota Statutes section 626.843, subdivisions 1 (E) (1978), the legislature mandated that the Board "shall adopt rules with respect to the minimum standards of conduct which would affect the performance of the individual in his duties as a peace officer." These standards were to be established and published by the POST Board on or before July 1, 1979. Therefore, the goals and responsibilities of the POST Board have included peace officer standards of conduct for nearly forty-five years. Nearly 20 years later, in 1998, the legislature added to what is now known as Minnesota Statutes section 626.843, subdivision 1 (6) (1998) that the Board must review the minimum standards of conduct at least once every three years beginning in 1998. This indicates that the legislature was aware of the importance of the peace officer standards of conduct and that societal expectations could change over time, which they have. As such, it is within the Board's purview to review and regulate peace officer standards of conduct and revise them as needed and reasonable.

In his statement, Mr. Hodsdon acknowledges there is a contested case hearing process licensees, including sheriffs, may utilize during disciplinary processes with the Board. It is important to note the difference between a licensee's employment and their licensure. The Board has statutory authority to seek discipline against a peace officer's license for a violation of the Board's standards of conduct- the employer does not. The proposed rule is needed and reasonable to provide clear notice to all licensees as a matter of due process that they are required to comply with Board orders.

The POST Board has shown that the rule as proposed is needed and reasonable and has addressed the concerns raised during the comment period. The Board respectfully submits that the Administrative Law Judge should recommend adoption of this rule.

Respectfully submitted,

Alicia Popowski
Rules and Legislative Coordinator

39670 Minnesota Board of Peace Officer Standards and Training Post-Hearing Comment Period

Closed Jun 06, 2024 · Discussion · 1 Participants · 1 Topics · 1 Answers · 0 Replies · 0 Votes

1	1	1	0	0
PARTICIPANTS	TOPICS	ANSWERS	REPLIES	VOTES

SUMMARY OF TOPICS

SUBMIT A COMMENT

1 Answers · 0 Replies

Important: All comments will be made available to the public. Please only submit information that you wish to make available publicly. The Office of Administrative Hearings does not edit or delete submissions that include personal information. We reserve the right to remove any comments we deem offensive, intimidating, belligerent, harassing, or bullying, or that contain any other inappropriate or aggressive behavior without prior notification.

Richard Hodsdon · Citizen · (Postal Code: unknown) · May 28, 2024 7:54 am

0 Votes

Please see the attached.

RICHARD HODSDON
ATTORNEY AT LAW

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Stillwater, MN 55082

651-491-5900
rick_hodsdon@yahoo.com

May 27, 2024

Minnesota Board of Peace Officer Standards and Training
Suite 200
1600 University Avenue
St. Paul, MN 55104

The Honorable Kristien Butler
Administrative Law Judge
P.O. Box 64620
600 North Robert Street
St. Paul, MN 66164

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

This letter is written to supplement the oral presentation provided by me on behalf of the Minnesota Sheriffs Association (MSA) on May 22, 2024. You will recall that the governing board of the MSA unanimously voted to object to the proposed rule change under consideration and also voted that it would withdraw that objection if the POST Board simply saw fit to add the one word "lawful" before the word "order" in the proposed rule amendment to Minnesota Rule 6700.1600, subpart 1(F)(4) as published in the December 4, 2023, State Register. For my client the vigor with which the staff of POST rejected that idea in presentation of testimony is both disappointing and it further compounded the concerns as to why my client believes it reasonable and necessary to include the requested word in the proposed rule amendment.

I have already made a part of the record in prior correspondence my client's concerns and will forego repeating them here. I also made my concerns clear on the record, although I understand that the Court had difficulty hearing some of the presentation due to communication and technology issues and for that I apologize. For that reason I will recap my position in this submission.

I recognize that the clause sought to be included back into POST rules that it is grounds to take adverse licensing action for failure to comply with any order of the POST Board had been in rule for at least 26 years, and actually if my memory is correct some version of it may have been around even longer as it was at least discussed in 1978-1979 when I

served as the first attorney for POST as a member of the Attorney General's Office. That fact might cause you to ask yourself the question-what has changed that gives licensees concerns now they did not have before? The answer is- a very great deal.

When the POST Board was first created it was put into place with the primary goal of enhancing peace officer education, training and professional development. As to those goals it has been extremely successful over the past approximately 45 years. The level of education and sophistication of peace officers in this state readily exceeds that of any other state in the country and I can confidentially make that statement since last time I checked I have trained peace officers from at least 48 states and territories through my work with the School of Police Staff and Command, The National Sheriffs Association, the National Institute of Corrections and several other bodies. When POST was first established the policy makers of the legislature and state and local governments never envisioned that POST would have the additional role it has taken on today. The role that I write of is the fact that licensees, especially CLEO's, view POST as becoming the tool by which the State of Minnesota through this unelected body significantly influenced by forces that have an anti-law enforcement outlook and agenda has usurped much of the local control of local law enforcement agencies that its critics in 1978 and 1979 feared and predicted it would become.

Effective June 2023 the POST Board has granted itself unprecedented power and control over the professional lives of approximately 12,000 licensed peace officers and even more so for the approximately 420 CLEO's who hold a peace officer license. It did that by a massive expansion of its power to take adverse action against a peace officer license even when the agency that employes the peace officer ha conducted a thorough internal investigation and determined there was no misconduct or the alleged misconduct is in fact not misconduct at all, but is protected communication under the First Amendment. See, Minn. Rule 6700.1600, subparts 1(H) and (I). It is also possible that the agency could discipline an employee who uses a grievance process of collective bargaining, civil service, veteran preference or similar means and has legally binding discipline imposed upon the officer that is then contradicted by more severe consequences imposed by POST. This situation would place the CLEO, such as the elected county sheriff, in the impossible position of either committing a violation of a POST order or violating a collective bargaining, civil service or veteran preference proceeding.

In the past and before June 2023 sheriffs and perhaps other CLEO's (I do not speak for nor represent the Chiefs of Police in this matter) had little reason to be concerned about being placed in this dilemma because as a practical matter discipline for misconduct was very largely handled by local government in the form of employment discipline and POST authority was limited to that most egregious behavior for which our society generally agreed could and should result in loss of the license needed to be a peace officer. That was the entire premise behind limiting the authority of the POST Board and clear historical evidence exists in the POST Board records to support that view. For example, when first proposed the POST Board proposed to have the ability to take adverse licensing action against a licensee found to have committed a felony even without a felony charge or conviction. After extensive state-wide hearings attended by

hundreds of people in her Findings and Recommendations Administrative Law Judge Natalie Gaul found such a rule to exceed the authority of POST and urged that standard of conduct be rejected in the adopted rules. In the modern era the POST Board clearly believes it has and should exercise its discretion to not only second guess but overrule investigations and findings of local officials. If, or more likely when, it does that, CLEO's should be able to defend their own license before the POST Board by stating the order POST issued was unlawful or at least in direct conflict with other legal requirements such as a court order or collective bargaining agreement.

Contrary to the statement of the Executive Director in testimony, the insertion of the word "lawful" is not intended to set a CLEO up with a basis to overrule an order of the POST Board. It is intended to in a hopefully rare circumstance of a POST Board order being issued that contradicts another requirement of law, such as a court order, to give the CLEO a defense to be raised before the POST Board Complaint Committee. It is recognized that a CLEO could raise this defense in a contested case proceeding without regard to the final language of the rule, but in many ways as elected officials much of the damage to the reputation of the Sheriff will already have been done by that point given the public data status of such proceedings under Minn. Stat. 13.41.

It is a sad situation to see where the level of distrust between the POST Board and its licensees has fallen. It would seem the POST Board distrusts its CLEO licensees when the Executive Director argues the word "lawful" should be omitted because inserting it may allow the CLEO's to think they can refuse to follow POST Board orders. There is absolutely nothing in the record that would justify that dark view of the motives of the sheriffs who are concerned with this rule proposal. That such a view would be articulated does nothing to allay concerns that the POST Board, or of even more concern a future POST Board that has become the tool of those in society who seek to use it to further extend their ant-law enforcement agenda, will be used against a CLEO caught between competing legal requirements. The POST Board could take a significant step to reduce concerns and start to re-build lost trust with licensees, especially those that are CLEO's, but simply inserting one word in the proposed rule. It seems a small price to pay to take this step toward restoring faith in this regulatory body that much of its constituency has lost.

s/Richard Hodsdon
MSA General Counsel

MINNESOTA
Board of Peace Officer Standards and Training
1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.mn.gov/post/

May 1, 2024

Judge Kristien R. E. Butler
Administrative Law Judge
600 North Robert Street
P.O Box 64620
St. Paul, MN 55101

Re: In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600; Revisor's ID Number 4850; OAH Docket Number 24-9007-39670

Dear Judge Butler,

In accordance with Minnesota Rule, part 1400.2220, the Board of Peace Officer Standards and Training (POST Board) submits to you its exhibits for the rulemaking project under Revisor Number 4850. To reduce the number of separate documents submitted through the E-filing dashboard, the exhibits have been combined into one PDF in which each exhibit is bookmarked. Included in the exhibits is the Board's initial response to the comments received during the 30-day comment period.

Please contact me if you have any questions or concerns.

Thank you for your time and consideration,

Alicia Popowski
Rules and Legislative Coordinator
Ph: 651-201-7782
alicia.popowski@state.mn.us

Exhibit A

Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)

Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules; Executive Orders; Appointments; Commissioners' Orders; Revenue Notices; Official Notices; State Grants & Loans; State Contracts; Non-State Public Bids, Contracts and Grants

Monday 18 December 2023

Volume 48, Number 25

Pages 555 - 594

Official Notices

Department of Labor and Industry (DLI)
Notice of Certification of Truck Rental Rates

The Commissioner of DLI certified the minimum truck rental rates for state-funded highway projects effective December 18, 2023. This certification follows the publication of the Notice of Determination of Truck Rental Rates in the *State Register* on November 27, 2023, and the informal conference held pursuant to Minnesota Rules, part 5200.1105 on December 11, 2023.

The minimum truck rental rate for these four types of trucks in the state's ten highway and heavy construction areas will be effective for all MnDOT highway construction work financed in whole or part with state funds advertised for bid on or after the day the notice of certification is published in the *State Register.*

Nicole Blissenbach,
Commissioner

Department of Labor and Industry (DLI)
Notice of Correction to Highway/Heavy Prevailing Wage Rates

The Commissioner of the Department of Labor & Industry (DLI) certified prevailing wage rates for Highway and Heavy construction projects in all 10 regions on Monday, November 20, 2023. These rates were identified by an annual survey of highway and heavy construction projects in Minnesota collected by DLI.

This notice regards a correction to the rates for Region 2 (Job Code Group 306), Region 3 (Job Code Group 304), and Region 7 (Job Code Group 304). This correction is for all public works highway and heavy contracts advertised for bid on or after this date.

The revised wage rate determinations and all other wage rate determinations are available online at:
http://www.dli.mn.gov/business/employment-practices/prevailing-wage-highway-and-heavy-rates

Questions regarding determinations may be directed to the following:

Division of Labor Standards
443 Lafayette Road N
St. Paul, MN 55155

Phone: 651-284-5192
Email: ***pwsurvey.dli@state.mn.us***

Minnesota Board of Peace Officer Standards and Training
REQUEST FOR COMMENTS for Amendment to Rules Governing Peace Officer Standards and Training, *Minnesota Rules*, part 6700.1600; Revisor's ID Number 4850

Subject of Rules. The Minnesota Board of Peace Officer Standards and Training requests comments on its possible amendment to *Minnesota Rules*, part 6700.1600 regarding peace officer standards of conduct. Specifically, the board plans to add "failure to comply with any order issued by the board" as a standard of conduct violation under *Minnesota Rules*, part 6700.1600, item F. This requirement has been in *Minnesota Rules*, part 6700.1600 previously. The POST Board is seeking comments regarding this addition to the rules administered by the Board.

Persons Affected. The amendment to the rules would likely affect:

- Licensed peace officers

- Members of the public served by licensed peace officers

Statutory Authority. Minnesota Statutes, section 626.843 authorizes the Minnesota Board of Peace Officer Standards and Training to adopt rules with respect to matters consistent with the Board's regulatory authority identified in Minnesota Statutes, sections 626.84 to 626.863.

Public Comment. Interested persons or organizations may submit comments or suggestions regarding the proposed rule change in writing until 4:30 p.m. on February 16, 2024. Comments should be submitted to the agency contact person listed in this notice. The POST Board will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments.

Rules Drafts. The POST Board has drafted the possible rules amendment and a copy of the draft can be found on the POST Board's website under "Current Rulemaking Activity" at ***https://mn.gov/post/boardscommittees/rules/currentrulemakingactivity/***. Copies of the draft can also be obtained by contacting the agency's contact person listed in this notice.

Agency Contact Person. Written comments, questions, requests to receive a draft of the rule, and requests for more information on the proposed rule should be directed to: Alicia Popowski, Minnesota Board of Peace Officer Standards and Training, 1600 University Avenue, Suite 200, St. Paul, MN 55104, 651-201-7782, or ***alicia.popowski@state.mn.us***. If you would like to receive updates regarding the rules process, please visit the POST Board's website and subscribe to the POST Board's news bulletin using a valid email address.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are officially proposed. If you submitted comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

December 18, 2023

Executive Director Erik Misselt
MN POST Board

Minnesota Pollution Control Agency (MPCA)

Resource Management and Assistance Division

REQUEST FOR COMMENTS for Planned New Rules Governing Currently Unavoidable Use Determinations about Products Containing Per-and polyfluoroalkyl substances (PFAS), Revisor's ID Number R-4837

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is requesting comments on planned new rules for the MPCA's determination of Currently Unavoidable Uses of PFAS in products. This rulemaking is referred to as the **PFAS in Products Currently Unavoidable Use Rule**. The main purpose of this rulemaking is to establish criteria and processes through which the MPCA will make decisions on what if any uses of intentionally added PFAS will qualify as currently unavoidable uses in products sold, offered for sale, or distributed in Minnesota. Any such determinations must be published by rule by the MPCA by January 1, 2032, as required by ***Minnesota Statutes 116.943, subdivision 5(c)***.

Comments are requested from affected or interested parties. Comments should be submitted in writing as described in the **Comments** section below.

Exhibit C

Office of the Revisor of Statutes
Administrative Rules

TITLE: Proposed Permanent Rules Relating to Peace Officer Standards

AGENCY: Board of Peace Officer Standards and Training

REVISOR ID: R-4850

MINNESOTA RULES: Chapter 6700

The attached rules are approved for
publication in the State Register

Karen L. Lenertz

Karen L. Lenertz
Deputy Revisor

Board of Peace Officer Standards and Training

Proposed Permanent Rules Relating to Peace Officer Standards

6700.1600 STANDARDS OF CONDUCT.

Subpart 1. **Standards.** The board may impose disciplinary action as described in part 6700.1710 or Minnesota Statutes, section 626.8432, subdivision 1, paragraph (a), based on a violation of one or more of the standards of conduct. It is a violation of standards of conduct to:

[For text of items A to E, see Minnesota Rules]

F. fail to:

[For text of subitems (1) and (2), see Minnesota Rules]

(3) cooperate with a board investigation; ~~or~~

(4) comply with any order of the board; or

~~(4)~~ (5) comply with any other requirement in this chapter or Minnesota statutes for peace officers;

[For text of items G to K, see Minnesota Rules]

[For text of subparts 2 and 3, see Minnesota Rules]

Exhibit D

MINNESOTA
Board of Peace Officer Standards and Training

STATEMENT OF NEED AND REASONABLENESS

In the Matter of Proposed Amendments to Minnesota Rule 6700.1600; Peace Officer Standards of Conduct

Revisor Number 4850

February 20, 2024

MINNESOTA

Board of Peace Officer Standards and Training

General Information

1) The State Register notice, this Statement of Need and Reasonableness (SONAR), and the proposed rule will be available during the public comment period on the Board's website: https://mn.gov/post/boardscommittees/rules/currentrulemakingactivity/

2) View older rulemaking records at https://www.revisor.mn.gov/rules/status/

3) Board contact information and supporting documents are available on the Board's website. https://mn.gov/post/

4) Upon request, the Statement of Need and Reasonableness (SONAR) can be made available in an alternative formats, such as large print, braille, or audio. To make an alternative format request, contact the agency staff member below.

Alicia Popowski
POST Board
1600 University Avenue West, Suite 200
St. Paul, MN 55104
651-201-7782
alicia.popowski@state.mn.us

Contents

ACRONYMS

APA	Administrative Procedures Act
ALJ	Administrate Law Judge
MMB	Minnesota Management and Budget
MN	Minnesota
MPOTB	Minnesota Peace Officer Training Board
MORS	MN Office of the Revisor of Statutes
OAH	Office of Administrative Hearings
POST Board	Minnesota Board of Peace Officer Standards and Training
RFC	Request for Comments
SONAR	Statement of Need and Reasonableness

INTRODUCTION

In 1967, the Minnesota Peace Officer Training Board (MPOTB) was created by the legislature to regulate law enforcement training and practices. In 1968, MPOTB was tasked with regulating and standardizing the certification of law enforcement officers, agencies, and training programs. In 1977, the legislature abolished the MPOTB and replaced it with the Minnesota Board of Peace Officer Standards and Training (POST Board). The POST Board went on to create the first law enforcement occupational licensing system in the United States under Minnesota Rules, chapter 6700, Training and Licensing. The POST Board now regulates more than 11,000 (active and inactive) peace officers and over 400 law enforcement agencies across the state.

In 2020, the POST Board began a comprehensive review of Minnesota Rules, chapter 6700. These rules, which were first promulgated in the late 1970s, outline the education, training, and licensing requirements for peace officers within the State of Minnesota. Prior to 2020, the most recent comprehensive review of the rules took place more than two decades ago. The 2020-2023 review focused on rules related to peace officer background investigations, psychological screenings, minimum selection standards, and standards of conduct. When the 2020-2023 rules promulgated under Revisor Number 4641 (R4641) were finalized, a longstanding and important standard of conduct was inadvertently omitted from the rules package.

Since at least 1997, "violating any order of the board" has been a standard of conduct violation for peace officers subject to the Board's authority. This rule was previously known as Rule 6700.1600, item H. The inadvertent omission of this rule negatively impacts the Board's ability to enforce its orders by pursuing disciplinary action if a licensee, or peace officer, violates a Board order. The type of orders that may be issued by the Board include, but are not limited to, revocations, suspensions, license limitations/conditions, letters of censure, and cease and desist orders. The purpose of this rulemaking effort is to simply reinstate "failure to comply with any board order" as a standard of conduct violation as it is a necessary rule that allows the Board to exercise its regulatory authority and enforce its orders.

STATUTORY AUTHORITY

Minnesota Statues, sections 626.843 and 626.845, authorize the POST Board to adopt rules related to the education, training, and licensing of peace officers. Under these statutes, the POST Board has the required statutory authority to adopt the proposed rule.

GENERAL STATEMENT OF NEED

Per Minnesota Statute, section 626.843, subdivision 1(6) the POST Board shall create and adopt into rule a list of minimum standards outlining conduct that may negatively affect an individual's ability to perform their duties as a police officer. These standards of conduct are outlined in Minnesota Rule 6700.1600. Pursuant to this rule, peace officers, or licensees, are prohibited from committing certain acts such as sexual harassment, theft, prostitution, assault, intentionally mishandling evidence, engaging in unreasonable or excessive uses of force, failing to cooperate with a board investigation, and failing to comply with any other requirement within Minnesota Statute or Rule. When a licensee violates a standard of conduct listed in Rule

6700.1600, they may be subject to discipline by the Board. The Board may issue an order of revocation, suspension, censure, or implement license limitations as part of a disciplinary process pursuant to Rule 6700.1710. As the rules currently stand, as a result of the inadvertent omission noted above, the Board is not able to pursue additional disciplinary action against a licensee for failure to comply with any order issued by the Board. The proposed rule amendment restores a rule that had been in effect since at least the 90s before its inadvertent omission. Additionally, the proposed rule allows the Board to enforce its orders through additional disciplinary action against a licensee for violating a Board order.

Without restoration of this rule, the Board's options of recourse are limited against a licensee who fails to comply with any order issued by the Board. When the Board is unable to enforce its regulatory oversight over those subject to its authority, the Board's regulatory powers are greatly diminished. Limited or diminished regulatory powers then limit the Board's ability to actualize its statutory duty of overseeing peace officer licensees. For this reason, the rule is both needed and reasonable to allow the Board to carry out its regulatory functions and protect the safety of the public. The general need and reasonableness of the proposed amendment is also demonstrated in the fact that other licensing boards have statutes providing that violation of a board order is grounds for discipline. Specifically, among others, the Board of Medical Practice under Minnesota Statutes section 147.091, subdivision 1(f), the Board of Nursing under Minnesota Statutes section 148.261, subdivision 1(22), and the Board of Occupational Therapy Practice under Minnesota Statutes section 148.6448, subdivision 1(22) have authority to take disciplinary action against a licensee for violating a board order.

PUBLIC PARTICIPATION AND STAKEHOLDER INVOLVEMENT

Request for Comments

The POST Board published a Request for Comments (RFC) in the December 18, 2023, edition of the State Register. The RFC announced the POST Board's intent to make an amendment to Minnesota Rules, chapter 6700 regarding peace officer standards of conduct. Specifically, the RFC announced the Board's intent to restore "failure to comply with any order issued by the board" as a standard of conduct violation under Rule 6700.1600, subpart 1, item F. In addition to being published in the State Register, a notice about the RFC was published on the POST Board's website and emailed to licensees with an email address on file. Furthermore, per the Additional Notice Plan, the POST Board distributed ntices of the RFC to individuals and organizations who may be impacted by the rules change as well as those on the Board's rulemaking notification list.

The Board received 13 comments during the open RFC period. One of the comments was from the Sheriff's Association's attorney and the rest were from sheriffs who submitted identical comments. In all the comments, commentors requested that the Board change the proposed rule to read "failure to comply with any *lawful* order issued by the Board." Commentors expressed their concerns over being punished for not following an order of the Board that may be found unlawful later in the process. This concern was brought up to the Board. The Board decided to keep the proposed language for the following reasons; (1) there are procedural processes in place with OAH to ensure the Board has the authority to discipline a peace officer, (2) if the

peace officer finds the Board's discipline to be unjustified, there is an appeal process licensees can participate in, (3) inserting the word *lawful* seems to imply the Board regularly issues orders that are unlawful, and (4) the Board's proposed language is more congruent with language used by other licensing boards which identify violation of a board order as grounds for discipline without referring to a "lawful" board order.

Advisory Committee

An advisory committee was not utilized in this process for the following reasons:

1. Prior to 2023, the proposed clause existed in rule as a standard of conduct for nearly 26 years. It was not the Board's intention to eliminate the clause from rule during the rulemaking process under R4641.
2. The scope of the rules process was limited to adding the clause that was inadvertently omitted from rule during the 2020-2023 rulemaking process under R4641.
3. The clause is necessary for the Board to exercise its regulatory authority and enforce its orders.

Listening Sessions

Listening sessions were not held during this rules process for the following reasons:

1. The Board did not believe this rulemaking process was controversial.
2. Prior to 2023, the clause existed in rule as a standard of conduct for nearly 26 years.
3. There were few if any known objections to the clause during the time it existed prior to s inadvertent omission in the previous rulemaking process under R4641.

Board and Board Committees

On November 30, 2023, at a properly noticed meeting, the POST Board passed a rulemaking resolution and directed staff to publish a Request for Comments (RFC) in the State Register. After passing the rulemaking resolution, the Board discussed different draft iterations of the possible rule amendment. The Board decided to add the proposed amendment to Rule 6700.1600, item F as subitem number (4) – moving the current subitem (4) to number (5). A copy of the rules draft was posted on the Board's website when the RFC was published on December 18, 2023.

On January 25, 2023, the Board passed a resolution authorizing staff to publish a Notice of Intent to Adopt without a Hearing in the State Register pursuant to Minnesota Statutes, section 14.22, subdivision 1. The notice was to be posted in the State Register after the 60-day RFC period ended. A rules draft was published with the notice in the State Register and remained on the POST Board's website for easy review. The Board chose to proceed without a public hearing because there were minimal comments received during the RFC period.

The POST Board meetings mentioned above were open to the public and recorded. The

recordings were subsequently posted on the POST Board's website for public review with electronic copies of the Board's meeting materials.

REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, state the SONAR must provide a regulatory analysis of the proposed rule. In the analysis, the SONAR must address the eight topic areas listed in this section.

"(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule."

Classes most likely to be affected by the proposed rule changes:

- Licensed peace officers and applicants for licensure
- Chief law enforcement officers/Sheriffs
- Members of the public served by licensed peace officers

Classes that will bear the costs of the proposed rules:

- The Board does not believe this rule will generate any additional monetary costs to those affected by the rule.

Classes that will benefit from the proposed rule:

- Community members seeking peace officer accountability

"(2) the probable cost to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues."

The fiscal effects of the proposed rule on individuals, businesses, units of government, or the agency itself are negligible. In rare instances, the Board may accrue fiscal costs if a disciplinary hearing goes to the Office of Administrative Hearings where a court reporter is needed and the hearing lasts over the span of several days. However, cases like these do not come up often and are not the norm. This rule existed prior to 2023 for approximately 26 years and has to do with the Board's administrative process and disciplinary proceedings for failure to comply a Board order. This rule should not add additional monetary burdens on outside agencies or individual licensees.

"(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule."

The Board carefully considered the cost and burden the proposed rules may have on licensees and sought input from stake holders to see what, if any, concerns there were regarding the proposed rules. After their analysis, the Board concluded a less costly or intrusive method of achieving the Board's purpose did not exist. The expected cost of implementing the proposed rule is already negligible and the amendment itself is not intrusive to the entities under the Board's authority.

"(4) a description of any alternative methods for achieving the purpose of the proposed rule that would seriously be considered by the agency and the reasons why they were rejected in favor of the proposed rule."

Other than placement within the text of part 6700.1600, there is not an alternative method for achieving the purpose of the proposed rule. To make the act of violating any order of the Board a standard of conduct violation, it must be placed in Rule 6700.1600. Given the current language of the rules, it inherently makes sense to place "failure to comply with any order issued by the Board" under item F. Item F states it is a standards of conduct violation to "fail to" comply with certain requirements prescribed by the Board. The requirements on that list are listed as subitems 1 through 4. The prosed rule will be subitem (4) on that list- moving the current subitem (4) to subitem (5). Other rule placement locations within part 6700.1600 were rejected because they made less logical and grammatical sense.

"(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses or individuals."

The cost of complying with the proposed rule is negligible to all parties affected.

"(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories or affected parties, such as separate classes of government units, businesses, individuals."

The monetary cost of not adopting the rule is negligible. However, the consequence of not adopting the rule is severe. Without this rule, the Board's ability to enforce its orders will be diminished because the Board will not be able to pursue further disciplinary action against licensees for failing to obey a Board order. The inability to pursue further disciplinary action after a licensee violates a Board order will ultimately reduce licensee accountability and Board oversight of those under its authority. In turn, the consequences of not adopting this rule could negatively impact public safety.

"(7) an assessment of any differences between the proposed rule and existing federal regulation and a specific analysis of the need for and reasonableness of each difference."

There are no known differences between the proposed rule and any existing federal regulations.

"(8) an assessment of the cumulative effect of the rule with other federal and state regulation related to the specific purpose of the role."

This rule will reinforce and restore the Board's authority to seek disciplinary action against a licensee who violates a Board order pursuant to Minnesota Statues, section 626.8432 and Minnesota Rules, chapter 6700.1710. With that being said, the proposed rules change does not have a cumulative effect with any other federal or state regulations.

PERFORMANCE-BASED RULES

According to Minnesota Statues, sections 14.002 and 14.131, the SONAR must describe how the agency, in developing the rules, considered, and implemented performance-based standards that emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

One of the Board's regulatory objectives is to ensure licensees are adhering to the standards of conduct set forth in Rule 6700.1600. When a licensee violates a standard of conduct, it is within the Board's purview to take disciplinary action against the licensee via a Board order. The proposed rule allows the Board to enforce its orders and actualize the above-described regulatory objective while increasing flexibility. The increased flexibility lies in the fact that the proposed rule provides the Board additional options of recourse if a licensee violates an order issued by the Board.

Peace officers should not be allotted the flexibility to violate an order issued by the Board as it undermines the Board's regulatory authority and public safety. The proposed rules do not increase licensee flexibility, but it does not necessarily reduce peace officer flexibility either. As previously mentioned, this rule existed as a standard of conduct for 26 years prior to its inadvertent omission in R4641. It also makes logical sense that licensees should obey orders issued by the regulatory authority overseeing them. Licensees will maintain flexibility under Minnesota Statute, sections 14.57 and 14.62, in that they will still be able to request a hearing on matters of discipline prior to an order being issued.

NOTICE PLAN AND ADDITIONAL NOTICE PLAN

The Board's Additional Notice Plan was reviewed by the Office of Administrative Hearings (OAH) and approved by the Honorable Judge Ann C. O'Reilly on December 8, 2023. Per the Additional Notice Plan, the POST Board's website was updated, and stakeholders were notified of the Board's plans to take part in rulemaking activity via email/mail. These notices were sent out within days of or on the same day the Request for Comments was published in the State Register. Additional notices regarding the Request for Comments were sent to the following individuals/organizations:

- licensed law enforcement officers with a valid email address on file with the Board;
- individuals and originations on the Board's rulemaking notification list;
- law enforcement associations and labor organizations including the Minnesota Chiefs of Police Association; Minnesota Sheriff's Association; St. Paul Police Federation; Law Enforcement and Labor Services (LELS); Minnesota Police and Peace Officers Association (MPPOA); Minnesota State Patrol Troopers Association; National Latino Police Officers Association- Minnesota Chapter; Police Officers Federation of Minneapolis; the Minnesota Association of Women Police, Minnesota Fraternal Order of Police, Minnesota Asian Police Officers Association, National Black Police Association (MN), and Association of Training Officers of Minnesota;
- community, professional, and civic organizations/associations including the NAACP Chapters- MPLS, St. Paul, Duluth, St. Cloud, Rochester, and Statewide Minnesota; League of Minnesota Cities; Association of Minnesota Counties; Minnesota Association

of County Attorneys; Black Lives Matter Twin Cities Metro; Council of American-Islamic Relations Minnesota; Families Supporting Families Against Police Violence; Minnesota Justice Coalition; Minnesota Justice Research Center; National Association of Mental Illness Minnesota; Minnesota Indian Women's Resource Center; Twin Cities Coalition for Justice for Jamar; Minnesota Transgender Alliance; Confederation of Somali Community; Minneapolis American Indian Center; Violence Free Minnesota; Voices for Racial Justice; Citizens League, Brooklyn Center Multicultural Advisory Committee and Community Police Partnership; Racial Justice Network; Black Lives Matter Minnesota; and Communities United Against Police Brutality;

- State Agencies and Tribal Governments including the Minnesota Board of Psychology; Bureau of Criminal Apprehension; Minnesota Department of Natural Resources; Minnesota Board of Public Defense; Minnesota Indian Affairs Council; Minnesota Council of Asian-Pacific Minnesotans; Council of Minnesotans of African Heritage; Minnesota Council on Latin Affairs; Bois Forte Band of Chippewa; Fond du Lac Band of Lake Superior Chippewa; Leech Lake Band of Ojibwe; Lower Sioux Indian Community; Mille Lacs Band of Ojibwe; Prairie Island Indian Community; Red Lake Nation; Shakopee Mdewakanton Sioux Community; Upper Sioux Community; Gichi-Onigaming/Grand Portage band of Lake Superior Chippewa; and White Earth Nation.

In the Order on Review of Additional Notice Plan, Judge O'Reilly made several recommendations. The recommendations were as follows:

1. include a hyperlink to the POST Board's website page for rulemaking activity in the Request for Comments and email service letter
2. include a copy of the Request for Comments with the email service; and
3. include a copy of the Request for Comments on the POST Board's website.

For recommendation number one, a link to the POST Board's website was added to the request for comments. As for the email service letter, the word "webpage" was hyperlinked and set up to bring readers to the POST Board's rulemaking website. This hyperlink may not have translated when the form was converted to PDF and submitted to the ALJ's for review. The email service letter also had a hyperlink to the State Register where readers could access the register publications by date and volume- satisfying recommendation number two. This hyperlink may also not have translated when altering the email service into PDF form for the ALJ's review. For recommendation number three, the Board's website will include a hyperlink option to take readers to the State Register's website so they can access the request for comments. The RFC itself was not added to the website to keep the content simple and non-duplicative.

When the email notices were sent out, some of the hyperlinks were not active- the reason for this is unknown. Therefore, when stakeholders reached out for clarification on the weblinks, new links were sent to them in a separate email to help them find what they were looking for.

In accordance with the Additional Notice Plan, the Board will take the follow steps during the rulemaking process:

- The Board will email/mail information regarding the Notice of Intent to Adopt Without a Hearing, along with webpage information as to where electronic copies of the notice,

proposed rules amendments, and SONAR can be viewed. This information will be sent to those mentioned above.

- The Board will post a notice of the Notice of Intent to Adopt Rules on the Board's website with links to the rules draft and SONAR before the notice is published in the *State Register*.

The Commissioner of Agriculture is not included in the Additional Notice Plan because the rules do not affect farming operations per Minnesota Statues, section 14.111. As required by Minnesota Statues, section 14.116, a copy of the Notice of Intent to Adopt and a copy of the SONAR will be mailed to the Legislative Reference Library. Additionally, notice of the Notice of Intent to Adopt with a hyperlink to the webpage where electronic copies of the notice, proposed rules amendments, and SONAR can be viewed, will also be emailed/mailed to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules.

CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Board will consult with Minnesota Management and Budget (MMB) to determine the fiscal impacts of the proposed rules on local governments. Before the Notice of Intent to Adopt Rules without a Public Hearing was published, MMB was sent the following documents to review:

- the Governor's Office Proposed Rule and SONAR form;
- the proposed rules; and
- the SONAR.

The Board will submit copies of the correspondence and any responses received from MMB to the Office of Administrative Hearings for their review.

DETERMINATION ABOUT RULE REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the POST Board has considered whether the proposed rule will require a local government to adopt or amend any ordinances or other regulations to comply with the rules. The Board has determined that because the rules pertain to licensees, there will not be a need for local governments to amend or adopt any new ordinances or regulations.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Minnesota Statues, section 14.127 requires the POST Board to consider whether the cost of complying with the proposed rules will exceed $25,000 for small businesses or cities within the first year of adoption. It was determined the cost of complying with the proposed rule in the first year after it takes effect will not exceed $25,000 for any small business or city because the rules do not affect businesses or municipal governments. While many small cities have police

officers that may be impacted by the proposed rules, compliance is not expected to increase operational costs.

LIST OF WITNESSES

If a public hearing is required, the following individuals will be available to testify in support of the rules and answer any questions regarding their reasonableness:

- Luke Hennen (Sheriff), Board Chair
- Justin Terrell, Board Rules Committee Chair
- Erik Misselt, Executive Director
- Angie Rohow, Standards Coordinator Supervisor
- Alicia Popowski, Rules and Legislative Coordinator

RULE-BY-RULE ANALYSIS

This section discusses the proposed changes to Minnesota Rules, part 6700.1600, subpart 1, item F.

6700.1600 STANDARDS OF CONDCUT
Subpart 1. **Standards.**

F (3). The word "or" is removed from the end of subitem 3 as subitem 4 is no longer the last of the series. This is needed and reasonable because conjunctions are used before the last item on a list to indicate the conclusion of the series.

F (4). The previous text is moved to subitem five for formatting purposes. Licensees are not autonomous, they are subject to the Board's authority, thus, it is reasonable that a licensee should be expected to obey an order issued by the Board. When a licensee fails to comply with an order issued by its regulatory authority, it is also reasonable that said licensee may face additional consequences because of their actions or lack thereof. This rule is needed to allow the board to take further disciplinary action, if needed or warranted, against licensees who do not comply with orders issued by their regulatory authority. Without this rule, the Board will have limited options of recourse to enforce its orders.

F (5). Text moved here from subitem four. Being the rule is the last in a series, its punctuation is amended to end in a period. This is needed and reasonable because the change makes the rule grammatically correct.

EXHIBITS

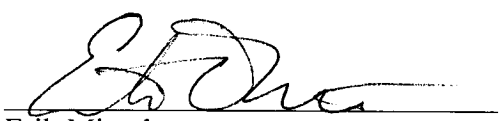
The following exhibits were submitted to OAH for review:

1. Request for Comments published in the State Register;

2. The certificate of mailing notice of the RFC to those on the agency's rulemaking notification list;
3. The certificate of mailing notice of the RFC to those on the additional notice plan and accompanying letters;
4. Certificate of accuracy for the agency's rulemaking notification list;
5. The proposed rule and Revisor's certificate to form;
6. The SONAR;
7. A certificate of mailing verifying that the agency sent a copy of the SONAR to the Legislative Reference Library;
8. The Notice of Intent to Adopt Without a Hearing published in the State Register;
9. Certificate of mailing the Notice of Intent to Adopt Without a Hearing to those on the Additional Notice Plan and the agency's rulemaking notification list with the accompanying letters;
10. Any written comments on the proposed rule received by the agency during the 30-day comment period;

CONCLUSION

Since at least 1997, "violating any order of the board" has been a standard of conduct violation for peace officers subject to the Board's authority. The proposed amendment, previously known as Rule 6700.1600, item H, was inadvertently omitted during the rulemaking project under R4641. The Board initiated this rules process to reinstate the above clause because the rule allows the Board to enforce its regulatory authority more fully. In this SONAR, the Board has established the need and reasonableness of the proposed amendments to Minnesota Rules, part 6700.1600, item F. The Board has provided appropriate notice to stakeholders about the proposed rule and has documented its compliance with all the applicable administrative rulemaking requirements prescribed in Minnesota Statue and Rules. Based on the reasons and information described herein, the proposed amendments are both needed and reasonable.



Erik Misselt
Executive Director
Minnesota POST Board

2/15/24
Date

Exhibit E

Minnesota Board of Peace Officer Standards and Training

CERTIFICATE OF MAILING THE STATEMENT OF NEED AND REASONABLENESS TO THE LEGISLATIVE REFERENCE LIBRARY

Proposed Rules Governing Peace Officer Standards of Conduct, Minnesota Rules 6700.1600; Revisor's ID Number 4850

I certify that on March 18, 2024, when Dual Notice was published in the State Register, I submitted an electronic copy of the Statement of Need and Reasonableness to the Legislative Reference Library via email to sonars@lrl.leg.mn. I emailed this copy to comply with Minnesota Statutes, sections 14.131 and 14.23.

Alicia Popowski
Rules and Legislative Coordinator

MINNESOTA

March 18, 2024

Legislative Reference Library
645 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Rules of the Board of Peace Officer Standards and Training; Rule 6700.1600; Standards of Conduct; Revisor's ID Number 4850

Dear Librarian:

The Minnesota Board of Peace Officer Standards and Training intends to adopt a standard of conduct provision that was inadvertently omitted from rule during the R4641 project. The Board plans to publish a Dual Notice in March 18, 2024 edition of the State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Dual Notice.

If you have questions, please contact me at 651-201-7782 or alicia.popowski@state.mn.us.

Yours very truly,

Alicia Popowski
Rules and Legislative Coordinator

Enclosure: Statement of Need and Reasonableness

Exhibit F

MINNESOTA STATE REGISTER

MONDAY, MARCH 18, 2024
VOLUME 48, NUMBER 38
PAGES 871 - 900

Proposed Rules

Comments on Planned Rules or Rule Amendments. An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing. After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing. Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register.* If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.1414.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register.*

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Board of Peace Officer Standards and Training

Proposed Permanent Rules Relating to Peace Officer Standards; DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for a Hearing Are Received; Revisor's ID Number 4850; OAH Docket 24-9007-39670

Introduction. The Board of Peace Officer Standards and Training (POST Board) intends to adopt rules without a public hearing following the procedures prescribed by the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. The proposed amendment will restore the prior rule and make violating any order issued by the Board a standards of conduct violation under Rule 6700.1600, item F. This provision existed in rule prior to the R4641 rulemaking process and was inadvertently omitted during the prior rulemaking process.

Subject of Rules and Statutory Authority. The proposed rule restores the prior rule that violating an order issued by the Board is a standards of conduct violation for licensed peace officers. This rule amendment is vital to the Board's oversight of peace officers working in the state. Reinstating this rule will, once again, make clear that the Board has authority to take disciplinary action if a licensee violates a Board order. As can be seen in the draft attached to this notice, the proposed clause will be added to Rule 6700.1600, item F, as subitem (4)- moving the previous subitem (4) to subitem

(5). Minnesota Statutes, section 626.843 authorizes the POST Board to adopt rules with respect to matters consistent with the board's regulatory authority identified in Minnesota Statutes, sections 626.84 to 626.863.

Agency Contact Person. Comments, questions, and written requests for a public hearing should be submitted to the agency contact person. The agency contact person is Alicia Popowski, Minnesota Board of Peace Officer Standards and Training (POST Board), 1600 University Avenue, Suite 200, St. Paul, MN 55104, 651-201-7782, or ***alicia.popowski@state.mn.us*.**

Comments. Written comments on the proposed rule are due by 4:30 p.m. on April 19, 2024. Written comments may be in support of or in opposition to the proposed rules and any part or subpart of the rule. Comments must be in writing and the agency contact person must receive it by the due date. Comments should identify the portion of the proposed rules you are commenting on and the reason for the comment. You are encouraged to propose any change desired. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Board hold a hearing on the rule. Your request must be in writing and be submitted to the agency contact person by 4:30 p.m. on April 19, 2024. Written request for a public hearing must include the writer's name and address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Board will hold a public hearing unless a sufficient number of individuals withdraw their requests in writing. If enough requests for a hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Hearing Date. If 25 or more hearing requests are received by the deadline mentioned above, an Administrative Law Judge will conduct a hearing starting at 9:30am on May 22, 2024, via WebEx until the hearing is complete. You may participate in the hearing, if one is held, via an internet connection with a computer, smart phone, or other internet capable device. You may also participate via phone with an audio connection only. The hearing details are as follows:

To join via internet, go to: ***https://minnesota.webex.com/minnesota/j.php?MTID=m2d2a710ea660c1a4575a1c200395f7b2***
Meeting number: 2495 103 7878
Meeting Password: w77aP9fpu5w

Join by video system
Dial ***24951037878@minnesota.webex.com***
You can also dial 173.243.2.68 and enter your meeting number.

Join by phone
+1-415-655-0003 United States Toll
1-855-282-6330 United States Toll Free
Access code: 249 510 37878

To find out whether the Board will adopt the rules without a hearing or if it will hold the hearing, you should contact the agency contact person after April 19, 2024, and before May 22, 2024.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The Board may modify the proposed rules because of public comment. The modifications must be supported by comments and information submitted to the agency. Additionally, the adopted rules may not be substantially different than the proposed rules, unless the agency follows the procedure under *Minnesota Rules*, Rule 1400.2110.

Statement of Need and Reasonableness. The Statement of Need and Reasonableness (SONAR) contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The SONAR has been posted to the Board's website under "current rulemaking activity" at ***https://mn.gov/post/boardscommittees/rules/currentrulemakingactivity/***. The SONAR is also available upon request. You may obtain paper copies of the SOANR for the cost of reproduction by contacting the agency contact person.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rule after the end of the comment period. The agency will then submit the rule and supporting documents to the Office of Administrative Hearings for review of legality. You may ask to be notified when the agency submits the rule to the Office of Administrative Hearings for review. If you want to be so notified or want to receive a copy of the adopted rules or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above or subscribe to the agency newsletter on the Board's website.

March 18, 2024

Executive Director, Erik Misselt
MN POST Board

6700.1600 STANDARDS OF CONDUCT.

Subpart 1. **Standards.** The board may impose disciplinary action as described in part 6700.1710 or Minnesota Statutes, section 626.8432, subdivision 1, paragraph (a), based on a violation of one or more of the standards of conduct. It is a violation of standards of conduct to:

[For text of items A to E, see Minnesota Rules]

F. fail to:

[For text of subitems (1) and (2), see Minnesota Rules]

(3) cooperate with a board investigation; ~~or~~

(4) comply with any order of the board; or

~~(4)~~ (5) comply with any other requirement in this chapter or Minnesota statutes for peace officers;

[For text of items G to K, see Minnesota Rules]

[For text of subparts 2 and 3, see Minnesota Rules]

Exhibit G1

Minnesota Board of Peace Officer Standards and Training

Certificate of Emailing the Dual Notice of Intent to Adopt Without a Hearing, Unless 25 or More Hearing Requests are Received, Giving Notice Under the Additional Notice Plan in Compliance with Minnesota Statute, section 14.14

RE: Proposed Rules Governing Peace Officer Standards and Training, Minnesota Rules, Chapter 6700; Revisor's Number 4850

I certify that the following steps were taken to comply with the Additional Notice Plan regarding the Dual Notice:

- on March 11, 2024, a notice was emailed to all licensed law enforcement officers who have a valid email address on file with the Board;
- on March 13, 2024, a notice was emailed to individuals on the Board's rulemaking notification list established by Minnesota Statutes, section 14.14, subdivision 1a;
- on March 13, 2024, a notice was emailed to Law enforcement associations and labor organizations; Community, professional, and civic organizations, and associations; State Agencies and Tribal Governments; and Chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules as outlined in the Additional Notice Plan proposal.

The Emailed notice directed readers to the Minnesota Register and the POST Board's website for additional information. A copy of the notice and a portion of the Emailing list are attached to this Certificate.

Alicia Popowski
Rules and Legislative Coordinator
Minnesota POST Board

Email List of Subscribers and Additional Notice Plan Individuals/Organizations

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** List does not include licensees or online subscribers to the POST Board's new bulletin. List is a combination of rulemaking subscribers and those noted on the Additional Notice Plan.

Re: Amendment to Rules Governing Peace Officer Standards and Training, Minnesota Rule 6700.1600; Peace Officer Standards of Conduct; Revisor's ID Number R4850

You are receiving this email because you have or have been registered to receive electronic rulemaking notices pertaining to the Minnesota POST Board, or because we believe you may be interested in possible rule changes on this topic.

The Board of Peace Officer Standards and Training (POST Board) intends to adopt rules without a public hearing, unless 25 or more hearing requests are received, following the procedures prescribed by the Office of Administrative Hearings, Minnesota Rules, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. The official Dual Notice will be posted in the State Register on March 18, 2024. The proposed amendment will make violating any order issued by the Board a standards of conduct violation under Rule 6700.1600, item F. This provision existed in rule for nearly 26 years prior to the R4641 rulemaking process, during which the rule was inadvertently omitted.

The POST Board is seeking comment on the proposed rules beginning on March 18, 2024. A draft of the rules and a copy of the Statement of Need and Reasonableness (SONAR) are posted on the Board's website under Current Rulemaking Activity. Comments are due on April 19, 2024, by 4:30 p.m. to the agency contact person below. In addition to comments, respondents my submit a hearing request. Hearing requests must include the respondent's name and address to count toward the 25 required for a hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules. See the notice in the State Register or the POST Board's website for additional information.

Questions?

Contact Alicia Popowski, Rules and Legislative Coordinator, at alicia.popowski@state.mn.us or 651-201-7782.

Exhibit G2

Minnesota Board of Peace Officer Standards and Training

Certificate of Mailing the Dual Notice of Intent to Adopt Without a Hearing, Unless 25 or More Hearing Requests are Received, Giving Notice Under the Additional Notice Plan in Compliance with Minnesota Statute, section 14.14

RE: Proposed Rules Governing Peace Officer Standards and Training, Minnesota Rules, Chapter 6700; Revisor's Number 4850

I certify that on March 13, 2023, I took the following steps to comply with the Additional Notice Plan regarding the Dual Notice of Intent to Adopt Without a Hearing, Unless 25 or More Hearing Requests are Received:

- mailed a notice of the Dual Notice to persons on the Board's rulemaking notification list established by Minnesota Statutes, section 14.14, subdivision 1a that did not have a listed email address on file;
- mailed a notice of the Dual Notice to individuals on the Additional Notice Plan that did not have a listed email address;
- accomplished this by mailing the notice via the United States Postal Service;
- attached copies of both the mailed notice and the mailing list to this certificate.

The mailed notice directed readers to the Minnesota Register and the POST Board's website for additional information.

Alicia Popowski
Rules and Legislative Coordinator
Minnesota POST Board

Organizations Mailed Copies of the RFC with Addresses

Peace Officers Federation of Minneapolis
PO Box 18187
Minneapolis, MN 55418

Minnesota Indian Women's Resource Center
2300 15th Ave S
Minneapolis, MN 55404

Leech Lake Band of Ojibwe
190 Sailstar Drive NW
Cass Lake, MN 56633

League of Minnesota Cities
145 University Ave W
St. Paul, MN 55103

Minnesota Fraternal Order of Police
PO Box 270026
Golden Valley, MN 55427

Minnesota Asian Police Officers Association
PO Box 600188
Saint Paul, MN 55106

Board of Peace Officer Standards and Training
1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.post.state.mn.us

March 13, 2024

Re: Amendment to Rules Governing Peace Officer Standards and Training, Minnesota Rule 6700.1600; Peace Officer Standards of Conduct; Revisor's ID Number R4850

Greetings,

You are receiving this letter because you are registered to receive rulemaking notices pertaining to the Minnesota POST Board, or because we believe you may be interested in possible rule changes on this topic.

The Minnesota Board of Peace Officer Standards and Training intends to adopt a rule without a public hearing, unless 25 or more hearing requests are received, following the procedures prescribed by the Office of Administrative Hearings, Minnesota Rules 1400.2300 to 1400.2310, and the Administrative Procedure Act, Minnesota Statutes sections 14.22 to 14.28. The proposed rule amendment will make violating any order issued by the Board a standards of conduct violation under Rule 6700.1600, item F. The provision existed in rule for nearly 26 years prior to the R4641 rulemaking process, during which the rule was inadvertently omitted.

The proposed rule makes violating an order issued by the Board a standards of conduct violation for licensed peace officers. This rule amendment is vital to the Board's oversight of peace officers working in the state. Reinstating this rule will, once again, make it clear that the Board has authority to take disciplinary action if a licensee violates a Board order. The proposed clause will be added to Rule 6700.1600, item F, as subitem 4- moving the previous subitem 4 to subitem 5. Minnesota Statute, section 626.843, authorizes the POST Board to adopt rules with respect to matters consistent with the Board's regulatory authority identified in Minnesota Statutes, sections 626.84 to 626.863.

The official Dual Notice of Intent to Adopt will be published in the State Register on March 18, 2024. A copy of the posting can be viewed on the State Register's website at https://mn.gov/admin/bookstore/register.jsp. The Board has posted a draft of the rules and the Statement of Need and Reasonableness (SONAR) on its website under "Currently Rulemaking Activity" at https://mn.gov/post/boardscommittees/rules/currentrulemakingactivity/.

The Board is seeking comment on the proposed rules. In addition to comments, you may request the Board hold a hearing on the rules. Hearing requests and comments may be submitted starting on March 18, 2024, and are due by 4:30 pm on April 19, 2024. Comments and hearing requests can be sent to the agency contact person listed at the bottom of this notice. Hearing requests must include the writer's name and address to be counted as an official request. If 25 or more persons submit a valid written request for a hearing, the Board will hold a public hearing unless enough individuals withdraw their request in writing. If enough hearing requests are received by the end of the comment period, a hearing will be held on May 22, 2024, at 9:30 am via WebEx. If held, attendees can join the hearing by following the directions in this notice.

Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.post.state.mn.us

Wednesday, May 22, 2024, at 9:30am | Central Time (US & Canada)
Link:https://minnesota.webex.com/minnesota/j.php?MTID=m2d2a710ea660c1a4575a1c200395f7b2
Meeting number: 2495 103 7878
Password: w77aP9fpu5w

Join by video system
Dial 24951037878@minnesota.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

Join by phone
+1-415-655-0003 United States Toll
1-855-282-6330 United States Toll Free

Access code: 249 510 37878

Please, contact me if you have any questions.

Alicia Popowski
Rules and Legislative Coordinator
651-201-7782
alicia.popowski@state.mn.us

Exhibit G3

Minnesota Board of Peace Officer Standards and Training

CERTIFICATE OF ACCURACY OF THE MAILING LIST

Proposed Rules Governing Peace Officer Standards and Training, Minnesota Rules, Chapter 6700; Revisor's ID Number 4850

To the best of my knowledge, I certify that the list of persons and associations who have requested that their names be placed on the Board of Peace Officer Standards and Training rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a, is accurate, complete, and current, last being updated on December 4, 2023.

Alicia Popowski
Rules and Legislative Coordinator

Exhibit H1

Minnesota Board of Peace Officer Standards and Training

Certificate of Mailing the Request for Comments Giving Additional Notice Under the Additional Notice Plan in Compliance with Minnesota Statute, section 14.14

RE: Proposed Rules Governing Peace Officer Standards and Training, Minnesota Rules, Chapter 6700; Revisor's Number 4850

On December 18, 2023, I certify that I took the following steps to comply with the Additional Notice Plan regarding Request for Comments:

- Emailed a notice to all licensed law enforcement officers who have a valid email address on file with the Board
- Emailed the request for Comments to persons on the Department's rulemaking mailing list established by Minnesota Statutes, section 14.14, subdivision 1a.
- Emailed the notice to Law enforcement associations and labor organizations; Community, professional, and civic organizations, and associations; State Agencies and Tribal Governments; and Chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules as outlined in the Additional Notice Plan proposal

The Emailed notice directed readers to the Minnesota Register and the POST Board's website for additional information. A copy of the notice and a portion of the Emailing list are attached to this Certificate.

Alicia Popowski
Rules and Legislative Coordinator
Minnesota POST Board

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steven.kovacic@minnesotanorth.edu
kyle.larson@ridgewater.edu
rich.watkins@riverland.edu
vincent.scheckel@rctc.edu
bc.franson@smsu.edu
tklosky@smumn.edu
seyfried@umn.edu
hrvanzee@unwsp.edu
tgladney@stthomas.edu
skeasling@winona.edu
tom.draper@hennepintech.edu
rep.kelly.moller@house.mn.gov
rep.paul.novotny@house.mn.gov

** List does not include licensees or online subscribers to the POST Board's new bulletin. List is a combination of rulemaking subscribers and those noted on the Additional Notice Plan.

Possible Amendment to Peace Officer Standards and Training, Minnesota Rules, chapter 6700; Standards of Conduct

You are receiving this email because you have or have been registered to receive electronic rulemaking notices pertaining to the Minnesota POST Board, or because we believe you may be interested in possible rule changes on this topic.

The Minnesota Board of Peace Officer Standards and Training is seeking comments and suggestions on the Board's plan to add "violating any order issued by the board" as a standards of conduct violation under Rule 6700.1600, item F. This provision previously existed in rule for approximately 26 years prior to the Board's 2020-2023 rulemaking project. A draft of the possible rules change is available on the POST Board's website.

The following document(s) related to this rulemaking will be published in the December 18, 2023, edition of the State Register:

- Request for Comments on addition to rules governing peace officer standards of conduct.

The deadline to submit comments on the proposed rule change is 4:30 p.m. on February 16, 2024. Comments can be sent to the staff person listed below. To learn more about how to make rule comments or how to be kept up to date on rulemaking activity, please read the Request for Comments on the Minnesota State Register's website and review the Current Rulemaking Activity page on the Post Board's website.

Questions?

Contact Alicia Popowski, Rules and Legislative Coordinator, at alicia.popowski@state.mn.us or 651-201-7782.

Exhibit H2

Minnesota Board of Peace Officer Standards and Training

Certificate of Mailing the Request for Comments Giving Additional Notice Under the Additional Notice Plan in Compliance with Minnesota Statute, section 14.14

RE: Proposed Rules Governing Peace Officer Standards and Training, Minnesota Rules, Chapter 6700; Revisor's Number 4850

I certify that on December 18, 2023, I took the following steps to comply with the Additional Notice Plan regarding the Request for Comments:

- mailed a notice of the Request for Comments to persons on the Department's rulemaking mailing list without an email established by Minnesota Statutes, section 14.14, subdivision 1a;
- mailed a notice of the Request for Comments to individuals on the Additional Notice Plan that did not have a listed email address;
- accomplished this mailing by mailing the notice via the United States Postal Service;
- attached copies of both the mailed notice and the mailing list to this certificate.

The mailed notice directed readers to the Minnesota Register and the POST Board's website for additional information.

Alicia Popowski
Rules and Legislative Coordinator
Minnesota POST Board

Organizations Mailed Copies of the RFC with Addresses

Peace Officers Federation of Minneapolis
PO Box 18187
Minneapolis, MN 55418

Minnesota Indian Women's Resource Center
2300 15th Ave S
Minneapolis, MN 55404

Leech Lake Band of Ojibwe
190 Sailstar Drive NW
Cass Lake, MN 56633

League of Minnesota Cities
145 University Ave W
St. Paul, MN 55103

Sen. Ron Latz
Judiciary and Public Safety Committee
3105 MN Senate Bldg.
St. Paul, MN 55155

Sen. Warren Limmer
Judiciary and Public Safety Committee
3221 MN Senate Bldg.
St. Paul, MN 55155

Minnesota Fraternal Order of Police
PO Box 270026
Golden Valley, MN 55427

Minnesota Asian Police Officers Association
PO Box 600188
Saint Paul, MN 55106

Minnesota Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200
St. Paul, MN 55104-3825
(651) 643-3060 • Fax (651) 643-3072
www.post.state.mn.us

Re: Possible Amendments to Rules Governing Peace Officer Standards and Training, Minnesota Rule 6700.1600; Peace Officer Standards of Conduct; Revisor's ID Number R4850

December 18, 2023

Greetings,

You are receiving this letter because you are registered to receive rulemaking notices pertaining to the Minnesota POST Board, or because we believe you may be interested in possible rule changes on this topic.

The Minnesota Board of Peace Officer Standards and Training is seeking comments and suggestions on changes to Minnesota Rules, part 6700.1600. Specifically, the Board plans to add "violating any order issued by the board" as a standards of conduct violation under Rule 6700.1600, subpart 1, item F. Written comments, questions, and requests for more information on the rules should be directed to: Alicia Popowski, Minnesota Board of Peace Officer Standards and Training (POST Board), 1600 University Avenue, Suite 200, St. Paul, MN 55104, 651-201-7782, or alicia.popowski@state.mn.us. A draft of the proposed rules is available on the POST Board's website.

As directed by Minnesota Statue, chapter 14, section 14.101, the official Request for Comments was published in the Minnesota State Register on December 18, 2023 and can be viewed on the Minnesota State Register's website via the following link: https://mn.gov/admin/bookstore/register.jsp.

The deadline to submit comments on the proposed rule change is 4:30 p.m. on February 16, 2024. To learn more about how to make comments or how to be kept up to date on rule activity, please read the Request for Comments on the Minnesota State Register's website and/or review the Current Rulemaking Activity page on the Minnesota POST Board's website at https://mn.gov/post/boardscommittees/rules/currentrulemakingactivity/.

Please feel free to contact me with any questions.

Alicia Popowski
POST Rules and Legislative Coordinator
651-201-7782
alicia.popowski@state.mn.us

Exhibit I1

RICHARD HODSDON
ATTORNEY AT LAW

March 18, 2024

Minnesota Board of Peace Officer Standards and Training
Suite 200
1600 University Avenue
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the Minnesota Peace Officers Standards and Training Board:

This letter is in response to the proposed rule amendment to Minnesota Rule 6700.1600, subpart 1(F)(4) as published in the March 18, 2024, State Register. I write this letter as general counsel to the Minnesota Sheriffs Association (MSA) and pursuant to the unanimous vote of the MSA Board of Directors on March 15, 2024. The purpose of this letter is to object on behalf of the MSA to the rule amendment as currently proposed.

The MSA recognizes that the stated purpose of the amendment is to correct what has been presented as essentially a simple omission that resulted from the massive rule changes that went into effect in June of 2023. It seeks to add as a grounds to take disciplinary action against a licensee failure to "comply with any order of the board." Because the MSA believes a critical word is missing from this proposed amendment, it objects to the proposed rule as written and demands a contested rule making proceeding. The word that is missing is "lawful" immediately before the word "order".

As the POST Board should be aware, the Sheriffs of Minnesota, acting through the MSA, had many grave reservations and objections to several aspects of the rules the POST Board adopted in 2023. While some of those concerns were heard, many were either ignored or overruled. Especially concerning and of relevance to the proposed rule amendment, is that POST has given itself the authority to impose licensing mandates under penalty of discipline for which it may lack authority under any enabling legislation. The MSA is concerned that the proposed amendment could result in disciplinary action based upon an alleged violation of a POST Board order that is later determined to be adverse action based on an unlawful rule or order. MSA does not believe a licensee should face additional risk of sanctions for failure to obey an order that is later judicially determined to be unlawful. The proposed amendment would appear to make that a real risk. Many of the new rules, especially if used against a Chief Law Enforcement Officer (CLEO) who holds a license, are likely to result in litigation challenging the legality of the rule. If additional rules are later adopted under further expansion of POST authority without enabling legislation, this situation becomes even more exacerbated.

Since many of these new rules, especially several that might be used against a licensed CLEO for matters not within the CLEO's control, may be subject to legal challenge if used against the license of a CLEO, the MSA does not believe POST has or should have

2435 White Pine Way, Stillwater, MN 55082 Telephone/text 651-491-5900 rick_hodsdon@yahoo.com

the authority to sanction a licensee for the failure to follow an order when that order is based upon an order of the POST Board that is later determined by a court to be invalid and therefore unlawful. For that reason, the MSA believes that if the purpose and intent of the rule change is only to clarify a prior omission in rule-making, the POST Board should be willing to amend the proposed rule to simply read: "comply with any lawful order of the board." Absent such an inclusion, MSA is concerned a licensee could be sanctioned on a separate basis for failure to comply with an order that may ultimately found to be an invalid, illegal order. Inclusion of the proposed one-word change would eliminate this risk.

MSA recognizes that the POST Board and the SONAR contend that this amendment is simply to repair a mistake made in the rule-making process and restore a clause previously in existence. That statement does not justify the adoption of the rule without insertion of the word "lawful." Prior to June 2023, licensees simply may not have been concerned that POST would ever issue an order to a licensee of dubious legality. Many licensees, especially those that may face licensing sanctions for matters not within their control or authority but simply by virtue of being a CLEO, are no longer so sanguine about that risk. For example under the new POST rules, a licensee who is a CLEO faces license risks if a complaint is made that disputes a judgment call made by the CLEO in the hiring of a peace officer when the complainant objects to that judgment call asserting that a CLEO hired someone that should not have been hired because in the opinion the complainant the person should not have been hired because of Rule 6700.0670. If the POST Board should agree with that second guessing and issue an order that the CLEO take adverse action against that hired person there is a risk such an order could force the CLEO to choose between obeying the POST order and violating a provision of law, such as Veteran's Protection, civil service or a collective bargaining agreement or facing license sanctions for failure to obey that order. The CLEO in such a case should have the defense in a licensing proceeding that the POST issued order was unlawful. That is all that the MSA is asking to be recognized in this proposed rule amendment.

The apparent refusal of the POST Board or its staff, whoever made the decision to reject the prior MSA suggestion, simply adds to the suspicion that this rule change is yet another way to take unjustified action against a licensee and is part of the anti-law enforcement agenda that some have made the POST Board into a tool to use to further those anti-public safety aims. Insertion of the word "lawful" causes no harm to the lawful authority of the POST Board. Its apparent refusal to agree to such a simple solution is disappointing. At a time when it is nearly universally agreed that there is a need for creative thinking and removal of barriers to deal with the shortage of licensed peace officers, the lack of this one word is one more small but significant example of the negative impact of POST Rules on peace officer recruitment and retention. For that reason the Rule amendment as proposed is neither necessary nor reasonable. The MSA urges the Administrative Law Judge to so find and either recommend rejection of the Rule amendment as proposed or to recommend insertion of the simple word "lawful" as noted above.

2435 White Pine Way, Stillwater, MN 55082 Telephone/text 651-491-5900 rick_hodsdon@yahoo.com

Should you need further information or desire further communications, please do not hesitate to contact me.

s/Richard Hodsdon
MSA General Counsel

2435 White Pine Way, Stillwater, MN 55082 Telephone/text 651-491-5900 rick_hodsdon@yahoo.com

Lac qui Parle County Sheriff's Office
Allen R. Anderson, Sheriff
600 6th Street
Madison, MN 56256

Lac qui Parle County Sheriff's Office

Telephone: 320-598-3720
Fax: 320-598-7555
Allen.Anderson@lqpco.com

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Lac qui Parle County.
This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.
While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Allen Anderson
Lac qui Parle County Sheriff

Sheriff Kyle A. Burton
Chief Deputy Aaron Evenson

Mille Lacs County

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104
March 21, 2024
RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Mille Lacs County.

This letter is my objection to the proposed amendment to Minnesota Rule 5700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Kyle A. Burton

Mille Lacs County
Mille Lacs County Sheriff's Office
640 3rd St SE, Milaca, MN 56353
Phone: (320) 983-8250
Fax: (320) 983-8343
https://www.millelacs.mn.gov/2395/Sheriffs-Office
Follow us on Facebook

Mille Lacs County Jail & Dispatch
640 3rd St SE, Milaca, MN 56353
Phone-Jail: (320) 983-8244
Phone-Dispatch: (320) 983-8257
Fax-Jail: (320) 983-8419
Fax-Dispatch: (320) 983-8270

WADENA COUNTY
SHERIFF
Michael D. Carr

415 Jefferson St. South
Wadena, MN 56482
Telephone 218.631.7600
Fax 218.631.7699

Working For You, Working With You.

March 21, 2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Wadena County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Michael D. Carr

Sheriff

GRANT COUNTY SHERIFF'S OFFICE

Sheriff Jon F. Combs
10 2nd St. NE, Elbow Lake, MN 56531
Phone: 218-685-8280 • Fax: 218-685-5319

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Grant County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F) (4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F) (4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Jon Combs

Grant County Sheriff's Office

Wright County Sheriff's Office

Sheriff Sean Deringer

Matt Treichler
Chief Deputy
Ryan Ferguson
Captain - Operations
Todd Sandin
Captain - Patrol
Eric Kunkel
Captain - Investigations
Shawna Athman
Office Administrator
Pat O'Malley
Jail Captain

3800 Braddock Ave NE
Buffalo, MN 55313

1-800-362-3667
Fax: 763-682-7610

Administration	763-682-7622
Dispatch	763-682-7600
Records	763-682-7630
Civil	763-682-7646
Warrants	763-682-7688
Investigations	763-682-7433
Jail Administration	763-684-2381
Victim Assistance	763-684-4537

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Wright County.
This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.
While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Sean A. Deringer
Wright County Sheriff's Office

COOK COUNTY SHERIFF

Sheriff Pat Eliasen
143 Gunflint Trail
Grand Marais, MN 55604
218-387-3030 or 218-387-3032 fax
pat.eliasen@co.cook.mn.us www.co.cook.mn.us

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Cook County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Pat Eliasen

SHERIFF'S OFFICE

911 11TH STREET NORTH · MOORHEAD, MN 56560
(218) 299-5151 Fax: (218) 299-5228

CLAY COUNTY

SHERIFF
MARK EMPTING

March 25, 2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer in the State of Minnesota, and I am the Sheriff of Clay County. This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary, and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision not to comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Mark Empting

Mark Empting -Sheriff
Clay County Sheriff's Office

(218) 634-1143 - Phone
(218) 634-1144 - Fax

LAKE OF THE WOODS COUNTY

OFFICE OF THE COUNTY SHERIFF
GARY FISH

206 8TH AVE. S.E.
SUITE 300
BAUDETTE, MN 56623

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Lake of the Woods County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Gary Fish

OTTER TAIL COUNTY SHERIFF
Barry J. Fitzgibbons

417 South Court Street
Fergus Falls, MN 56537
Phone: 218-998-8555
Fax: 218-998-8557
ORI: MN0560000

email: sheriff@co.otter-tail.mn.us

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Otter Tail County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Barry Fitzgibbons

Sheriff Barry Fitzgibbons

BECKER COUNTY SHERIFF'S OFFICE

Todd Glander • Sheriff

OFFICE: 925 Lake Avenue
Detroit Lakes, MN 56501
Phone 218-847-2661 • Fax 218-847-1604

JAIL: 1428 Stony Road
Detroit Lakes, MN 56501
Phone 218-847-2939 • Fax 218-846-2580

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota, and I am the Sheriff of Becker County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary, and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision not to comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Todd Glander

Becker County Sheriff's Office

Sheriff Scott D. Hable
RENVILLE COUNTY SHERIFF'S OFFICE
105 S. 5th Street, Suite 210 Olivia, MN 56277
(320) 523-1161 - Dispatch (320) 523-3787 - Fax

March 21, 2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer in the State of Minnesota and I am the Sheriff of Renville County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Scott Hable

SHERIFF'S OFFICE

CLEARWATER COUNTY, MINNESOTA

SHERIFF DARIN HALVERSON

213 Main Avenue North
Bagley, MN 56621
(218) 694-6226

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Clearwater County.

This letter is my objection to the proposed amendment to Minnesota Rule 5700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Darin Halverson
Clearwater County Sheriff

KOOCHICHING COUNTY SHERIFF'S OFFICE

Perryn Hedlund
Sheriff

Law Enforcement Center
715 4th Street
International Falls, MN 56649
Phone: (218) 283-4416
Fax: (218) 283-7004
Email: perryn.hedlund@co.koochiching.mn.us

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Koochiching County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Perryn Hedlund

REDWOOD COUNTY SHERIFF'S OFFICE

JASON JACOBSON - SHERIFF

Chief Deputy Sheriff
Katelyn Torgerson

Jail Administrator
Matt Luitjens

Phone: 507-637-4036
Fax: 507-637-1348
Email: sheriff@co.redwood.mn.us

303 E Third Street
PO Box 47
Redwood Falls, MN 56283-0047

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Redwood County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Jason Jacobson

Marty Kelly
Goodhue County Sheriff

430 West 6th Street
Red Wing, MN 55066
Office (651) 267.2600
Dispatch (651) 385.3155

March 22, 2024

Via email(alicia.popowski@state.mn.us)

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Goodhue County. This letter is my objection to the proposed amendment to Minnesota Rule 5700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law.

The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

In service,

Marty Kelly
Goodhue County Sheriff

CROW WING COUNTY SHERIFF'S OFFICE
Office of **Eric Klang**, Sheriff

304 Laurel St
Brainerd, MN 56401
P: 218-829-4749
Fax: 218-829-9459
crowwing.us

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Crow Wing County.

This letter is my objection to the proposed amendment to Minnesota Rule 5700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Eric Klang

Nobles County Sheriff's Office
1530 Airport Rd, Suite 100
Worthington MN 56187
(507) 295-5400
(507) 372-5977 FAX

Ryan Kruger, Sheriff
Melissa Einck, Chief Deputy
Dan Bosman Jail Administrator

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Nobles County. This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a lawful order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Ryan Kruger

Murray County Sheriff's Office

2558 29th St PO Box 57
Slayton MN 56172
(507) 836-6168
(507) 836-1116 FAX

Heath Landsman, Sheriff
Bryan Bose, Chief Deputy

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Murray County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Heath Landsman

Sheriff Scott D. Hable
RENVILLE COUNTY SHERIFF'S OFFICE
105 S. 5th Street, Suite 210 Olivia, MN 56277
(320) 523-1161 - Dispatch (320) 523-3787 - Fax

March 21, 2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer in the State of Minnesota and I am the Chief Deputy of the Renville County Sheriff's Office.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Chief Deputy Jason Mathwig

Pine County Sheriff's Office

Jeff Nelson, Sheriff

Scott Grice, Chief Deputy
Rod Williamson, Jail Administrator

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Pine County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Jeff Nelson

Pine County Sheriff's Office
635 Northridge Dr. NW, Ste.100
Pine City, MN 55063
320-629-8380

Office of the Sheriff

Jason J. Purrington
Cottonwood County Sheriff
902 5th Avenue
Phone: (507) 831-1375 Windom, MN 56101 Fax: (507) 831-1957
jason.purrington@co.cottonwood.mn.us

March 27, 2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Cottonwood County.

This letter is my objection to the proposed amendment to Minnesota Rule 5700.1600, Subpart 1 (F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Jason J. Purrington

Saint Louis County

Sheriff's Office • 100 N. Fifth Ave. West, Room 103 • Duluth, MN 55802
Phone: (218) 726-2340 • Fax: (218) 726-2171

Gordon Ramsay

March 25, 2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

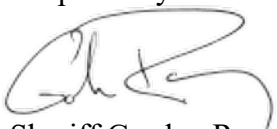
To the POST Board:

I am a licensed peace officer of the State of Minnesota, and I am the Sheriff of St. Louis County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a lawful order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,



Sheriff Gordon Ramsay

Reply to:

☐ **Public Safety Building**
2030 N Arlington Ave
Duluth, MN 55811
Phone: (218) 336-4379
Fax: (218) 336-4370

☐ **County Jail**
4334 Haines Rd.
Duluth, MN 55811
Phone: (218) 726-2345
Fax: (218) 725-6134

☐ **Emergency Management**
5735 Old Miller Trunk Hwy.
Duluth, MN 55811
Phone: (218) 625-3960
Fax: (218) 625-3965

☐ **Sheriff's Office**
300 S. 5th Ave.
Virginia, MN 55792
Phone: (218) 749-7134
Fax: (218) 749-7192

☐ **Sheriff's Office**
1810 12th Ave. E.
Hibbing, MN 55746
Phone: (218) 262-0132
Fax: (218) 262-6334

Mower County Sheriff

201 First Street NE, Suite 3 • Austin, Minnesota 55912
(507) 437-9400 • Fax (507) 437-9546

Sheriff Steven C. Sandvik

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota, and I am the Sheriff of Mower County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives can appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary, and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Steven C. Sandvik

Sheriff Wayne Seiberlich | **Chief Deputy John Gillquist**

Dedicated To Serve All The People

3/21/2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Isanti County.

This letter is my objection to the proposed amendment to Minnesota Rule 5700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a lawful order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Wayne Seiberlich

Isanti County Sheriff's Office
2440 Main Street S • Cambridge, MN 55008
Phone: (763) 689-2141
Fax-Records/Civil Process: (763) 691-1319
Fax-Deputies/Patrol: (763) 691-1612

Isanti County Dispatch & Jail
509 – 18th Avenue SW • Cambridge, MN 55008
Phone: (763) 689-2141
Fax-Dispatch: (763) 689-3691
Fax-Jail: (763) 691-689-5381

www.co.isanti.mn.us
facebook.com/Isanti-County-Sheriff's-Office
Equal Opportunity Employer

FREEBORN COUNTY SHERIFF'S OFFICE

Ryan Shea, Sheriff

411 Broadway Av S, PO Box 170, Albert Lea, MN 56007-0170

507.377.5205 ryan.shea@co.freeborn.mn.us

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Freeborn County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Ryan Shea

POLK COUNTY SHERIFF'S OFFICE

Sheriff James Tadman **Chief Deputy Mike Norland**

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Polk County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Thank you,

James Tadman

Sheriff James Tadman
Polk County Sheriff's Office

600 Bruce Street • P.O. Box 416 • Crookston, MN 56716
218.281.0431 • Fax 218.281.0401
james.tadman@co.polk.mn.us
www.co.polk.mn.us

SHERIFF JESSE J THOMAS
RICE COUNTY SHERIFF'S OFFICE
118 Third Street NW • Faribault, MN 55021
(507) 332-6010 • Fax (507) 334-0268

March 22, 2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Rice County. This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Jesse J Thomas
Rice County Sheriff

KANDIYOHI COUNTY SHERIFF'S OFFICE
2201 23rd Street NE, Ste 101 • Willmar, MN 56201 • www.kcmn.us

Sheriff Eric Tollefson
Chief Deputy Kent Bauman

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Kandiyohi County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F) (4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F) (4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Eric Tollefson

Kandiyohi County Sheriff

KEVIN TORGERSON
Olmsted County Sheriff

101 4th Street SE, Rochester, MN 55904-3718
Law Enforcement Center: 507-328-6750
Adult Detention Center: 507-328-6790
Emergency Operations Center: 507-328-6100
911 Communications Center: 507-328-6800

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

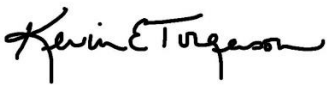
To the POST Board:

I am a licensed peace officer of the State of Minnesota, and I am the Sheriff of Olmsted County.

This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives can appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a ***lawful*** order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary, and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Sincerely,



Kevin E. Torgerson
Sheriff, Olmsted County Sheriff's Office
1014th St. SE Rochester, Minnesota 55904
507.328.6745
kevin.torgerson@olmstedcounty.gov

PENNINGTON COUNTY
LAW ENFORCEMENT CENTER
THIEF RIVER FALLS, MINNESOTA 56701
SETH VETTLESON, SHERIFF
P.O. BOX 484; PHONE (218) 681-6161

March 25, 2024

Minnesota Board of Peace Officer Standards and Training
Suite 200
1600 University Avenue
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Pennington County.

This letter is my objection to the proposed amendment to Rule 6700.1600, subpart 1(F)(4) as published in the State Register on December 4, 2023. If the POST Board seeks to pursue the amendment as published I demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before the Administrative Law Judge to more fully present basis for the objection.

I believe that to sanction a licensee for failure to comply with a POST Board order should be limited to failure to comply with a lawful order issued by the Board. The language as written has no such requirement and places my license and that of all current and future peace officers in peril and we would be faced with the cost and expenses of defending a decision to not comply with what is later determined to have been an unlawful order. If such a rule is to be adopted it should read the failure is to: “comply with any lawful order of the board.”

Unless the POST Board amends its proposal to so state, I reserve the right to appear and object as noted above.

Sheriff Seth Vettleson
Pennington County

LYON COUNTY SHERIFF'S OFFICE

Eric D. Wallen, Sheriff

Lyon County Law Enforcement Center • 611 West Main • Box 28 • Marshall, MN 56258
Office: (507) 537-7666 • Fax: (507) 537-7428

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Lyon County. This letter is my objection to the proposed amendment to Minnesota Rule 6700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a lawful order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

E Wall

Sheriff Eric Wallen
Lyon County

Blue Earth County Sheriff's Office

Jeff Wersal
Sheriff

Jeremy Brennan
Chief Deputy

March 21, 2024

Minnesota Board of Peace Officer Standards and Training
ATTN: Alicia Popowski
1600 University Avenue, Suite 200
St. Paul, MN 55104

RE: Proposed Rule Amendment to Rule 6700.1600

To the POST Board:

I am a licensed peace officer of the State of Minnesota and I am the Sheriff of Blue Earth County.

This letter is my objection to the proposed amendment to Minnesota Rule 5700.1600, Subpart 1(F)(4) as published in the State Register on March 18, 2024. I object to the proposed rule modification and demand a contested rulemaking proceeding be conducted so that I and/or my representatives have the opportunity to appear before an Administrative Law Judge to present the basis for the objection.

While I would not object to the proposed rule if it clearly stated that a licensee could be sanctioned for failure to comply with a *lawful* order issued by the POST Board, it is my position that the refusal to insert the word "lawful" before the word "order" in the proposed rule exceeds the statutory authority of the POST Board. It is, therefore, unnecessary and unreasonable, as defined in law. The rule, as proposed, has no requirement for an order of the board to be legal and places my license, and those of all current and future peace officers, in peril. As such, we could be faced with the costs and expenses of defending a decision to not comply with what could later be determined to have been an unlawful order. If such an amended rule is to be adopted, it should state as a grounds for sanctions under 6700.1600, Subpart 1 (F)(4): "fail to comply with any lawful order issued by the board."

Respectfully submitted,

Sheriff Jeff Wersal
Blue Earth County Sheriff's Office

401 Carver Road, P.O. Box 228, Mankato, MN 56002-0228, (507) 304-4800, FAX (507) 304-4818
www.co.blue-earth.mn.us

Exhibit I2

Board of Peace Officer Standards and Training
1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.mn.gov/post/

May 1, 2024

The Honorable Kristien R.E. Butler
Administrative Law Judge
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
Saint Paul, Minnesota 55164-0620

Re: In the Matter of the Proposed Rules of the Board of Peace Officer Standards and Training on Peace Officer Standards of Conduct; Revisor's ID Number 4850; OAH Docket No. 24-9007-39670

Dear Judge Butler,

Enclosed for your review is a summary of the comments the Peace Officer Standards and Training Board (POST Board) has received during the 30-day comment period and the Board's response to those comments. In accordance with Minnesota Statutes section 14.14, subdivision 2, the POST Board has offered its affirmative presentation of facts establishing the need for and reasonableness of the proposed rule in the Statement of Need and Reasonableness (SONAR). The SONAR and offered exhibits support the Board's position that the proposed rule clearly meets the rational basis standard and compels readers to conclude that the proposed rule is both needed and reasonable.

Despite the Board's affirmative presentation of the need for and reasonableness of the proposed rule, those who submitted comments to the Board stated they believed the rule, as proposed, to be unneeded and unreasonable. The summary of comments received and the Board's response to those comments are detailed below.

Part 6700.1600, subpart 1, item F, subitem (4). "Comply with any order of the board."

COMMENT SUMMARY

Members of the Minnesota Sheriff's Association (MSA) and the association's attorney submitted comments to the Board regarding the proposed rule. Those who commented on the proposed rule stated they objected to Rule 6700.1600, subpart 1, item F, subitem (4) as proposed. Commenters stated they would like the proposed subitem to read "comply with any lawful order of the board" as opposed to "comply with any order of the board." Commenters stated they felt the Board would be acting beyond the scope of its statutory authority if it failed to implement the proposed amendment. Because commenters believe the proposed rule language is beyond the scope of the Board's authority, commenters argued the rule was unneeded and unreasonable. The last point commenters made was that they felt the proposed rule would place their peace officer licenses in "peril" as they felt they were not allotted any protection from Board orders that may later be found or determined to be unlawful.

BOARD RESPONSE

The Board already addressed many of the concerns mentioned by the MSA and its members in its affirmative presentation of the SONAR. To clarify any confusion or misunderstandings about the proposed rule, the Board offers the following response and rebuttal to the above summarized comments received during the 30-day comment period.

The proposed rule existed in Minnesota Rule 6700.1600 as it is currently proposed and without the term "lawful" for nearly two decades prior to the Board's 2020-2023 rulemaking process under Revisor number R4641. During the time in which it previously existed, there were no known objections made regarding the rule by any individual peace officer, labor organization, or membership association. Out of all the peace officer labor organizations and membership associations, the MSA is the only one who commented on the proposed rule requesting an amendment and the addition of the word "lawful." Additionally, of the 10,000 plus peace officers the Board regulates, only 32 of them wrote in requesting the above-mentioned amendment. For this reason, the Board does not believe the rule is controversial or in need of the proposed amendment by the MSA and its members. Although the Board believes the issues raised by the MSA and its members were already covered in the SONAR, the Board would like to specifically address several points made in the comments here, starting with the Board's authority to propose this rule.

Minnesota Statutes sections 626.743 and 626.845 authorize the POST Board to adopt rules related to the education, training, and licensing of peace officers. Under these statutes, the POST Board has the statutory authority to adopt the proposed rules. More specifically, Minnesota Statute, sections 626.843, subdivision 1 (6), states that the POST Board shall create and adopt into rule a list of minimum standards outlining conduct that may negatively affect an individual's ability to perform their duties as a peace officer. Board orders are one way the POST Board enforces the minimum standards of conduct described in rule and mandated by the legislature. If the Board were unable to enforce its orders or peace officer standards of conduct, its statutory authority would be undermined and unfulfilled. Therefore, the proposed rule does not exceed the Board's statutory authority, instead, the proposed rule helps the Board fulfill its statutory duty mandated by the legislature. In addition to the Boards statutory authority to propose the rule, the Board believes it necessary to address the comments made by the MSA and its members in which they claim the proposed rule endangers their peace officer licenses.

The proposed rule does not place peace officer licenses in "peril" as claimed by commenters. Licensees are entitled to due process during disciplinary hearings and procedures per the Administrative Procedures Act (APA) under Minnesota Statutes, chapter 14. This protection applies to peace officers when the Board considers violations within chapter 6700 and other applicable Minnesota Statutes. Additionally, the types of orders and license sanctions that may be imposed upon a licensee via a Board order are established by Minnesota Statutes and Rules. For instance, Minnesota Statutes section 626.8431 states that an individual's peace officer license will be automatically revoked if the officer is convicted of a felony. In turn, provisions for peace officer license revocations, suspensions, and denials are set forth in Minnesota Statutes section 626.8432.

This statute states that the Board may act against a licensee for the following reasons: (1) fraud or misrepresentation in obtaining a license; (2) failure to meet licensure requirements; (3) a violation of section 626.8436 subdivision 1; or (4) a violation of the standards of conduct set forth in Minnesota Rules, chapter 6700. Minnesota Rule 6700.1710 further describes the types of orders, circumstances, and steps that may be taken by the Board to enforce the statutes and rules applicable to licensees. Specifically, subparts 2 and 3 set forth the grounds and possible actions that may be taken via a settlement agreement or an administrative civil court process, also known as a contested case hearing. Clearly, there are procedural regulations and processes in place to guide the Board's actions during disciplinary proceedings and to ensure due process for licensees. When making their argument, the MSA failed to bring forth any evidence that would indicate or show that the Board has never violated the provisions set forth in the APA or that it has a practice of issuing, or has issued, an order that was later found to be unlawful. Additionally, the MSA does not offer a valid argument as to why the language proposed by the Board should deviate or differ from that used by other regulatory boards. Moreover, as noted above, the proposed rule was in place for decades until it was inadvertently omitted during the Board's prior rulemaking process. The Board's position is that the language used in chapter 6700 should be consistent with and similar to that used by other regulatory boards.

Just as other regulatory boards follow Minnesota Statues and Rules when considering and conducting disciplinary action, there are several examples in which various statues and rules refer to and utilize the language of "board order" without first referring to the order as "lawful." The following boards utilize similar language as proposed by the POST Board when referring to compliance with board orders:

- Board of Nursing
    - Minnesota Statutes section 148.261, subdivision 1(18) "Violating a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of advanced practice. . ." is grounds for discipline.
- Board of Medical Practice
    - Minnesota Statutes section 147.091, subdivision 1(f) states, "Violating a rule promulgated by the board or an order of the board, a state or federal law which relates to the practice of medicine. . ." is grounds for discipline.
- Board of Dentistry
    - Minnesota Statutes section 150A.08, subdivision 1(13) states, "violation of, or failure to comply with any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board. . ." is grounds for discipline.
- Board of Optometry
    - Minnesota Statutes section 148.603, subdivision 1(6) states, "violating a rule adopted by the board or an order of the board, a state or federal law, which relates to the practice of optometry. . ." is grounds for discipline.
- Board of Psychology

  - Minnesota Statutes section 148.941, subdivision 2(1) states, "has violated a statute, rule, or order that the board issued or is empowered to enforce."
- Board of Pharmacy
  - Minnesota Statutes section 151.071, subdivision 2(7) states, "violation of any order of the board. . ." is grounds for discipline.
- Board of Physical Therapists
  - Minnesota Statutes section 148.75(a)(1) states that it is grounds for discipline if a licensee "has violated a statute, rule, order, or agreement. . ." of the board.
- Board of Cosmetology
  - Minnesota Statutes section 155A.33, subdivision 1 states that it is grounds for discipline if "a person has engaged in or is about to engage in a violation of a statute, rule, or order that the board has adopted or issued. . . ."

Because other licensing boards utilize similar language as proposed by the POST Board when referring to board orders, it is unneeded and unreasonable to include the word "lawful" as it would make the POST Board's language inconsistent with other similar statues and rules. Furthermore, the term lawful is defined by the Mirriam-Webster dictionary as "being in harmony with the law" and "constituted, authorized, or established by law." Board orders and the way by which they are issued is consistent with the definition of lawful, therefore, there is no reason to clarify that point. The proposed rule will simply reinstate the prior rule that was in existence without any known controversy or challenges for nearly two decades before it was inadvertently removed during the prior rulemaking process.

In summary, the utilization of the word "lawful" in rule when referring to a Board order as proposed by the MSA is unneeded and unnecessary because (1) there are procedural safeguards in place to ensure licensees are afforded due process and to make sure the Board has the authority to discipline a licensee, (2) there are other licensing boards who use the same or similar language proposed by the POST Board, and (3) due to the statutes and rules in place, Board orders are by their nature, lawful.

The POST Board has shown that the rule as proposed is needed and reasonable and has addressed the concerns raised during the comment period. The Board respectfully submits that the Administrative Law Judge should recommend adoption of this rule.

Respectfully submitted,

Alicia Popowski
Rules and Legislative Coordinator

Exhibit K1

Minnesota Peace Officer Standards and Training Board

CERTIFICATE OF SENDING THE NOTICE AND THE STATEMENT OF NEED AND REASONABLENESS TO LEGISLATORS AND THE LEGISLATIVE COORDINATING COMMISSION

Proposed Rules Governing Peace Officer Standards and Training, Minnesota Rule 6700.1600; Peace Officer Standards of Conduct; Revisor's ID Number 4850

I certify that on March 18, 2024, under Minnesota Statutes, section 14.14 or 14.22, I sent a copy of the Dual Notice and the Statement of Need and Reasonableness to certain Legislators and the Legislative Coordinating Commission via email. I mailed these documents to comply with Minnesota Statutes, section 14.116. A copy of the cover letter is attached to this Certificate.

Alicia Popowski
Rules and Legislative Coordinator

MINNESOTA

March 18, 2024

Senator Ron Latz, Chair
Senator Warren Limmer, Ranking
Senate Judiciary and Public Safety Committee

Representative Kelly Moller, Chair
Representative Paul Novotny, Ranking
House Public Safety Finance and Policy Committee

Legislative Coordinating Commission
72 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155
lcc@lcc.leg.mn

Re: In The Matter of the Proposed Rules of the Board of Peace Officer Standards and Training; Minnesota Rule 6700.1600, Peace Officer Standards of Conduct; Revisor's ID Number 4850

Dear Legislators:

Executive Summary: The Board of Peace Officer Standards and Training (POST Board) intends to adopt a rule amendment that will reinstate "failure to comply with any order issued by the Board" as a standard of conduct violation under rule 6700.1600. This provision was previously in rule for approximately 26 years prior to the R4641 rulemaking process during which the rule was inadvertently omitted.

Minnesota Statutes, section 14.116, states:

> **"14.116 NOTICE TO LEGISLATURE.**
>
> When an agency mails notice of intent to adopt rules under section 14.14 or 14.22, the agency must send a copy of the same notice and a copy of the statement of need and reasonableness to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules and to the Legislative Coordinating Commission.
>
> In addition, if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency shall make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house and senate authors of the bill granting the rulemaking authority. If the bill was amended to include this rulemaking authority, the agency shall make reasonable efforts to send the notice and the statement to the chief house and senate authors of the amendment granting rulemaking authority, rather than to the chief authors of the bill."

The Dual Notice of Intent to Adopt Rules was published in the March 18, 2024, edition of the State Register and we are now mailing the Notice under section 14.14 or 14.22.

As required by section 14.116, the Department is sending you a copy of the notice and the Statement of Need and Reasonableness. For your information, we are also enclosing a copy of the proposed rules.

If you have any questions about these rules, please contact me at [phone].

Yours very truly,

Alicia Popowski
Rules and Legislative Coordinator

Enclosures: Dual Notice of Intent to Adopt Rules
Statement of Need and Reasonableness
Proposed Rules

CC: Legislative Coordinating Commission

MINNESOTA
OFFICE OF
ADMINISTRATIVE
HEARINGS

Exhibit K2

PO Box 64620
Saint Paul, MN 55164-0620
mn.gov/oah

PH (651) 361-7900

December 8, 2023

VIA EMAIL ONLY
Alicia Popowski
Rules Coordinator
Minnesota Board of Peace Officer Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
David Cullen
Assistant Attorney General
Minnesota Attorney General's Office
445 Minnesota St Ste 1400
Saint Paul, MN 55101
david.cullen@ag.state.mn.us;
diane.mcmahon@ag.state.mn.us

Re: ***In the Matter of Minnesota Rules, Chapter 6700 Peace Officer Training and Licensing***
OAH 65-9007-39670; Revisor R-4850

Dear Alicia Popowski and David Cullen:

Enclosed herewith and served upon you please find the **ORDER ON REVIEW OF ADDITIONAL NOTICE PLAN** in the above-entitled matter.

If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

Michelle Severson

MICHELLE SEVERSON
Legal Assistant

Enclosure

OAH 65-9007-39670
Revisor R-4850

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Request for Comments of the Board of Peace Officer Standards and Training, Minnesota Rules Chapter 6700	**ORDER ON REVIEW OF ADDITIONAL NOTICE PLAN**

This matter came before Administrative Law Judge Ann C. O'Reilly upon the request of the Minnesota Board of Peace Officer Standards and Training (POST or Board) for review and approval of its Additional Notice Plan for its Request for Comments. The Office seeks a legal review of its materials under Minn. R. 1400.2060, subp. 2A (2023).

The Board submitted its request on December 6, 2023. The filing detailed the Board's Additional Notice Plan. The Additional Notice Plan includes notice to: (1) all licensed law enforcement officers with valid email addresses on file with the Board; (2) individuals and organizations on the Board's rulemaking notification list; (3) law enforcement organizations; (4) community, professional, and civil organizations; (5) state agencies and tribal governments; and (6) chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules. The Board also included its proposed notice for Request for Comments, a form letter to be sent to members of the rulemaking list, and a form email to be sent with the email notices.

Based upon a review of the written submissions by the Board,

IT IS HEREBY ORDERED:

1. The Additional Notice Plan is **APPROVED**, with a recommendation to include the following additional law enforcement groups in the notice: Minnesota Fraternal Order of Police; Minnesota Asian Police Officers Association; National Black Police Association – Minnesota Chapter; and Association of Training Officers of Minnesota (ATOM).

2. The Request for Comments is **APPROVED**, with a recommendation to include a hyperlink to the POST Board's website page for rulemaking activity (*see* "Rules Draft" paragraph).

3. The Judge further recommends that: (a) the email service letter be revised to include a hyperlink to the Board's rulemaking webpage; (b) email service include a copy of the Request for Comments as an attachment; and (c) the Board's rulemaking webpage include a copy of the Request for Comments for easy review and access by the public.

4. If, after drafting the proposed rules, the Board finds that other groups or persons may be affected by the rules, the Board may request review of the Additional Notice Plan before issuing its Notice of Intent to Adopt Rules, Notice of Hearing, or Dual Notice.

Dated: December 8, 2023

ANN C. O'REILLY
Administrative Law Judge

Exhibit K3

Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.post.state.mn.us

February 20, 2024

Mark Besonen
Executive Budget Officer
Minnesota Management and Budget
658 Cedar St., Suite 400
St. Paul, MN 55155
mark.besonen@state.mn.us

Re: In The Matter of the Proposed Rules by the Minnesota POST Board Governing Peace Officer Standards of Conduct; Minnesota Rules, part 6700.1600; Revisor's ID Number 4750

Dear Mr. Besonen,

Minnesota Statutes, section 14.131, requires agencies engaged in rulemaking to consult with the Commissioner of Minnesota Management and Budget, "to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government."

Enclosed for your review are copies of the following documents for the proposed rules on peace officer standards of conduct under Rule 6700.1600.

1. The Governor's Office Proposed Rule and SONAR form signed by Executive Director Erik Misselt.
2. The February 13, 2024 Revisor's draft of the proposed rule.
3. The February 20, 2024 draft of the SONAR.

I am also sending copies of these documents to the Governor's Office today.

If you or any other representative of the Commissioner of Minnesota Management & Budget has questions about the proposed rule, please call me at 651-201-7782. Please send any correspondence about this matter to me at the following address: Alicia Popowski, Minnesota Board of Peace Officer Standards and Training, 1600 University Ave, Suite 200, St. Paul, MN 55104 or alicia.popowski@state.mn.us.

Respectfully,

Alicia Popowski
Rules and Legislative Coordinator
MN POST Board

Exhibit K4

Office Memorandum

Date: 04/22/2024

To: Alicia Popowski
Rules and Legislative Coordinator
Board of Peace Officer Standards and Training

From: Mark Besonen
Executive Budget Officer
Minnesota Management and Budget

Subject: M.S. 14.131 Review of Board of Peace Officer Standards and Training Proposed Permanent Rules Governing Disciplinary Action; Minnesota Rules, Chapter 6700, Revisor's ID Number 4850

Background

The Board of Peace Officer Standards and Training ("Board") is proposing a permanent rule change related to standards governing disciplinary action for licensees who fail to comply with any order of the Board in Minnesota Rules, Chapter 6700.1600. Pursuant to Minnesota Statutes 14.131, the Board has requested that Minnesota Management and Budget consult and help evaluate the proposed rule for fiscal impact and benefits for units of local government.

Evaluation

On behalf of the Commissioner of Minnesota Management and Budget, I have reviewed the proposed change and the draft of the SONAR to explore the potential fiscal impact this change may have on local units of government.

The purpose of the proposed rule is to reinstate the portion of administrative rules giving the Board the authority to impose disciplinary action on a licensee who fails to comply with any order of the Board. This rule change is intended to correct an accidental omission from Minnesota Administrative Rules 6700.1600 – Standards of Conduct.

The Board's process for taking disciplinary action against a licensee who fails to comply with a Board order and contests the resulting disciplinary action would involve taking a case to the Office of Administrative Hearings (OAH). Failure to comply with Board orders are rare.

In instances where a case is brought before OAH, the legal fees of officers would be covered by the officer or their union, including the cost of an attorney should the officer wish to hire one. Officers that

are not union members would have to pay for an attorney themselves, while all other fees would be covered by the Board.

If this rule were to be approved, instances where a disciplinary hearing before OAH would be required would likely be uncommon. In such instances, however, the cost would not be paid by a local or county department.

Based upon this information and consultation with agency staff, I believe the rule amendment proposed will not have a cost to local units of government.

Sincerely,

Mark Besonen
Executive Budget Officer

cc: Josh Riesen, Director of Budget Policy and Analysis, Minnesota Management and Budget

Exhibit K5

Board of Peace Officer Standards and Training
1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.post.state.mn.us

CERTIFICATE OF MAILING A NOTICE OF HEARING TO THOSE WHO REQUESTED A HEARING

RE: Proposed Amendment to Minnesota Rule 6700.1600, Peace Officer Standards of Conduct; Revisor Number 4850

I certify that on April 19, 2024, I sent a Notice of Hearing by email to all persons who requested a hearing. The Notice is given under Minnesota Statutes, section 14.25, subdivision 1 as the Board received 25 or more hearing requests. The notice directed readers to the Board's Dual Notice Publication in the State Register and the Board's website for details regarding the hearing. Copies of both the Notice and of the mailing list are attached to this Certificate.

Alicia Popowski
Rules and Legislative Coordinator

Email List of Those Who Requested a Hearing

Name	Email
Rick Hodsdon	rick_hodsdon@yahoo.com
Kyle Burton	Kyle.Burton@millelacs.mn.gov
Jeff Wersal	Jeff.wersal@blueearthcountymn.gov
Darin Halverson	darin.halverson@clearwatercountymn.gov
Scott Hable	Scott.Hable@renvillecountymn.gov
Jeffrey Nelson	Jeffrey.Nelson@co.pine.mn.us
Jason Mathwig	jason.mathwig@renvillecountymn.gov
Eric Klang	eric.klang@crowwing.gov
Pat Eliasen	Pat.Eliasen@co.cook.mn.us
Jesse Thomas	jesse.thomas@ricecountymn.gov
Gary Fish	gary_f@co.lotw.mn.us
Perryn Hedlund	perryn.hedlund@co.koochiching.mn.us
Sean Deringer	Sean.Deringer@co.wright.mn.us
Marty Kelly	marty.kelly@co.goodhue.mn.us
Mark Empting	mark.empting@claycountymn.gov
Jon Combs	jon.combs@co.grant.mn.us
Jacobson, Jason	jason_j@co.redwood.mn.us
Wayne Seiberlich	wayne.seiberlich@co.isanti.mn.us
Steven Sandvik	steves@co.mower.mn.us
Heath Landsman	hlandsman@murraycountysheriff.org
Kevin Torgerson	kevin.torgerson@olmstedcounty.gov
Eric Wallen	EricWallen@co.lyon.mn.us

Email List of Those Who Requested a Hearing

Gordon Ramsay	slcsheriff@stlouiscountymn.gov
Todd Glander	todd.glander@co.becker.mn.us
Seth Vettleson	svettleson@penningtonsheriff.org.
Eric Tollefson	eric.tollefson@kcmn.us
Ryan Kruger	rkruger@co.nobles.mn.us
James Tadman	james.tadman@co.polk.mn.us
Ryan Shea	ryan.shea@co.freeborn.mn.us
Jason Purrington	jason.purrington@co.cottonwood.mn.us
Michael Carr	mike.carr@wcmn.us
Allen Anderson	allen.anderson@lqpco.com
Barry Fitzgibbons	bfitzgibbons@ottertailcounty.gov

Board of Peace Officer Standards and Training
1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.post.state.mn.us

April 19, 2024

NOTICE OF HEARING TO THOSE WHO REQUESTED A HEARING

Re: In the Matter of the Proposed Rules by the Board of Peace Officer Standards and Training; Minnesota Rule 6700.1600, Peace Officer Standards of Conduct; Revisor's ID Number 4850; OAH Docket 24-9007-39670

To whomever it may concern,

On March 18, 2024, the Board of Peace Officer Standards and Training (POST Board) published a Dual Notice of Intent to Adopt Rules for rule project R4850 in the State Register (volume 48, number 38, pages 875-877). The Notice stated that the Board would hold a hearing on the proposed rule if 25 or more people submitted a written hearing request to the agency contact person by April 19, 2024. The Board has received a sufficient number of requests for a hearing, therefore, the hearing scheduled for May 22, 2024, at 9:30 am, will be held virtually via WebEx as scheduled. In accordance with Minnesota Statutes, section 14.25, subdivision 1, the Board is sending this letter to all persons who requested a hearing during the 30-day comment period.

Hearing Details. As previously stated, the hearing will be held on May 22, 2024, beginning at 9:30 am via WebEx and will continue until completed. The hearing will be virtual. Participants may attend the hearing via an internet connection with a computer, smart phone, or other internet capable device. Participants may also join the hearing via telephone by following the instructions listed below. The Board asks that hearing participants register for the hearing before May 22, 2024. During registration, participants will be asked whether they would like to testify. This information will allow for better communication between the Administrative Law Judge and Board staff. The Board wants to ensure that those who wish to testify have the opportunity to do so, and pre-registration will help Board staff make sure those who wish to speak do.

POST Board Rules Hearing R4850
Hosted by Alicia Popowski
Wednesday, May 22, 2024, 9:30 AM - Central Time (US & Canada)

Registration Link:
https://minnesota.webex.com/weblink/register/r838b2c1f65077cb783c8e201868aff6c

Meeting Internet Link:
https://minnesota.webex.com/minnesota/j.php?MTID=m2d2a710ea660c1a4575a1c200395f7b2
Meeting number: 2495 103 7878
Password: w77aP9fpu5w

Join by video system
Dial 24951037878@minnesota.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

Join by phone
+1-415-655-0003 United States Toll
1-855-282-6330 United States Toll Free

Access code: 249 510 37878

Administrative Law Judge. Administrative Law Judge Kristien R. E. Butler will conduct the hearing. The judge can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, by telephone by calling Legal Assistant Michelle Severson at **(**651) 361-7874, or by email to michelle.severson@state.mn.us. You should direct questions concerning hearing procedures to the administrative law judge.

Any other questions regarding hearing links, the rules, or the rulemaking process can be directed to the agency contact, Alicia Popowski, via mail at 1600 University Ave, Suite 200 St. Paul, MN 55104, phone (651) 201-7782, or email alicia.popowski@state.mn.us. A copy of the Dual Notice of Intent to Adopt Rules, as published in the State Register on March 18, 2024, can be found online at https://mn.gov/admin/bookstore/register.jsp. The Dual Notice is also available upon request from the agency contact person. Exhibits for the hearing will be posted to the Board's website under Current Rulemaking Activity prior to the hearing. The webpage can be accessed here https://mn.gov/post/boardscommittees/rules/currentrulemakingactivity/. The exhibits will include the Statement of Need and Reasonableness, a draft of the proposed rules, and the comments received by the Board during the 30-day comment period.

Thank you,

Alicia Popowski
Rules and Legislative Coordinator

MINNESOTA
OFFICE OF
ADMINISTRATIVE
HEARINGS

PO Box 64620
Saint Paul, MN 55164-0620
mn.gov/oah

PH (651) 361-7900

January 17, 2024

VIA EMAIL ONLY
Alicia Popowski
Rules Coordinator
Minnesota Board of Peace Officer Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
David Cullen
Assistant Attorney General
Minnesota Attorney General's Office
445 Minnesota St Ste 1400
Saint Paul, MN 55101
david.cullen@ag.state.mn.us;
diane.mcmahon@ag.state.mn.us

Re: ***In the Matter of Minnesota Rules, Chapter 6700 Peace Officer Training and Licensing***
OAH 24-9007-39670; Revisor R-4850

Dear Alicia Popowski and David Cullen:

Please be advised that the above-entitled matter has been reassigned to Assistant Chief Administrative Law Judge Kristien R. E. Butler. As a result, the docket number has changed slightly.

The hearing in this matter continues to be scheduled for **Tuesday, April 16, 2024**, at **9:30 a.m.** via **WebEx**.

Very truly yours,

JENNY L. STARR
Chief Administrative Law Judge

JLS:ms

cc: Docket Coordinator

MINNESOTA
OFFICE OF
ADMINISTRATIVE
HEARINGS

PO Box 64620
Saint Paul, MN 55164-0620
mn.gov/oah

PH (651) 361-7900

December 8, 2023

VIA EMAIL ONLY
Alicia Popowski
Rules Coordinator
Minnesota Board of Peace Officer Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
David Cullen
Assistant Attorney General
Minnesota Attorney General's Office
445 Minnesota St Ste 1400
Saint Paul, MN 55101
david.cullen@ag.state.mn.us;
diane.mcmahon@ag.state.mn.us

Re: ***In the Matter of Minnesota Rules, Chapter 6700 Peace Officer Training and Licensing***
OAH 65-9007-39670; Revisor R-4850

Dear Alicia Popowski and David Cullen:

Enclosed herewith and served upon you please find the **ORDER ON REVIEW OF ADDITIONAL NOTICE PLAN** in the above-entitled matter.

If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

Michelle Severson

MICHELLE SEVERSON
Legal Assistant

Enclosure

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of Minnesota Rules, Chapter 6700 Peace Officer Training and Licensing	OAH Docket No. 65-9007-39670 R-4850

On December 8, 2023, a true and correct copy of the **ORDER ON REVIEW OF ADDITIONAL NOTICE PLAN** was served by electronic mail, unless otherwise indicated below, addressed to the following:

VIA EMAIL ONLY
Alicia Popowski
Rules Coordinator
Minnesota Board of Peace Officer Standards and Training
1600 University Ave Ste 200
Saint Paul, MN 55104
alicia.popowski@state.mn.us

VIA EMAIL ONLY
David Cullen
Assistant Attorney General
Minnesota Attorney General's Office
445 Minnesota St Ste 1400
Saint Paul, MN 55101
david.cullen@ag.state.mn.us;
diane.mcmahon@ag.state.mn.us

OAH 65-9007-39670
Revisor R-4850

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Request for Comments of the Board of Peace Officer Standards and Training, Minnesota Rules Chapter 6700	**ORDER ON REVIEW OF ADDITIONAL NOTICE PLAN**

This matter came before Administrative Law Judge Ann C. O'Reilly upon the request of the Minnesota Board of Peace Officer Standards and Training (POST or Board) for review and approval of its Additional Notice Plan for its Request for Comments. The Office seeks a legal review of its materials under Minn. R. 1400.2060, subp. 2A (2023).

The Board submitted its request on December 6, 2023. The filing detailed the Board's Additional Notice Plan. The Additional Notice Plan includes notice to: (1) all licensed law enforcement officers with valid email addresses on file with the Board; (2) individuals and organizations on the Board's rulemaking notification list; (3) law enforcement organizations; (4) community, professional, and civil organizations; (5) state agencies and tribal governments; and (6) chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules. The Board also included its proposed notice for Request for Comments, a form letter to be sent to members of the rulemaking list, and a form email to be sent with the email notices.

Based upon a review of the written submissions by the Board,

IT IS HEREBY ORDERED:

1. The Additional Notice Plan is **APPROVED**, with a recommendation to include the following additional law enforcement groups in the notice: Minnesota Fraternal Order of Police; Minnesota Asian Police Officers Association; National Black Police Association – Minnesota Chapter; and Association of Training Officers of Minnesota (ATOM).

2. The Request for Comments is **APPROVED**, with a recommendation to include a hyperlink to the POST Board's website page for rulemaking activity (*see* "Rules Draft" paragraph).

3. The Judge further recommends that: (a) the email service letter be revised to include a hyperlink to the Board's rulemaking webpage; (b) email service include a copy of the Request for Comments as an attachment; and (c) the Board's rulemaking webpage include a copy of the Request for Comments for easy review and access by the public.

4. If, after drafting the proposed rules, the Board finds that other groups or persons may be affected by the rules, the Board may request review of the Additional Notice Plan before issuing its Notice of Intent to Adopt Rules, Notice of Hearing, or Dual Notice.

Dated: December 8, 2023

ANN C. O'REILLY
Administrative Law Judge

RECEIVED
By: OAH on 12/06/2023 9:18AM

MINNESOTA

December 6, 2023

The Honorable Jenny Starr
Chief Administrative Law Judge
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
Saint Paul, Minnesota 55164-0620

Judge Ann O'Reilly
Administrative Law Judge
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
St. Paul, Minnesota 55164-0620

Re: In the Matter of the Request for Comments of the Board of Peace Officer Standards and Training, Minnesota Rules, Chapter 6700; Request for Review and Approval of Additional Notice Plan; Revisor's ID Number 4850; OAH Docket Number 65-9007-39670

Dear Chief Judge Starr and Judge Ann O'Reilly,

The Board of Peace Officer Standards and Training (POST) requests that you please review and approve our Additional Notice Plan for our Request for Comments under Minnesota Statutes, section 14.101. The Request for Comments seeks input on Rule 6700.1600 regarding peace officer standards of conduct. Specifically, the POST Board will be requesting comments on adding "failure to comply with any order issued by the board" as a standard of conduct violation under Rule 6700.1600 item F. Prior to the POST Board's 2020-2023 rulemaking project, this provision existed in Rule 6700.1600 for approximately 26 years as a standard of conduct violation (item H). During the Board's previous rulemaking project (R4641), the rule was inadvertently omitted and needs to be reinstated.

Enclosed for your review is the POST Board's proposed Request for Comments as required by Minnesota Rule 1400.2060, subpart 2, item A. Rule 1400.2060, subpart 2, item A, also requires that the Board describe its proposed Additional Notice Plan and explain why the Board believes its Additional Notice Plan complies with Minnesota Statutes section 14.101, i.e., why the Additional Notice Plan constitutes good faith efforts to seek information by other methods designed to reach persons or classes of persons who might be significantly affected by the proposal.

Proposal Description. The POST Board's Additional Notice Plan consists of mailing and emailing information regarding the Board's current rulemaking activity to individuals and organizations who are registered to receive rulemaking notices pertaining to the POST Board.

Per the Additional Notice Plan, the Board will also be sending notices to those who may be interested or have a stake in rules promulgated by the POST Board under Minnesota Rules, Chapter 6700. Both notices state that the POST Board is interested in amending the rule on standards of conduct to include "failure to comply with any order of the board" as a misconduct violation. The notices state the Board's plan is to add this clause to Rule 6700.1600, subpart 1, item F. Both notices summarize the Request for Comments and direct readers to read the full Request for Comments on the Minnesota State Register's website and/or to review the Current Rulemaking Activity page on the POST Board's webpage. Both notices include the due date for comments and the name and email address of the staff member to whom respondents can submit their comments and questions. The notices also state a draft of the proposed rules will be available on the Board's website. Notices will be sent out on or near the same day the Request for Comments is published in the State Register.

The following individuals and organizations are included in the Additional Notice Plan mailing list:

- Licensed law enforcement officers who have a valid email address on file with the Board;

- Individuals and organizations on the Board's rulemaking notification list;

- Law enforcement associations and labor organizations including the Minnesota Chiefs of Police Association; Minnesota Sheriff's Association; St. Paul Police Federation; Law Enforcement and Labor Services (LELS); Minnesota Police and Peace Officers Association (MPPOA); Minnesota State Patrol Troopers Association; National Latino Police Officers Association- Minnesota Chapter; Police Officers Federation of Minneapolis; and the Minnesota Association of Women Police;

- Community, professional, and civic organizations, and associations including the NAACP Chapters- MPLS, St. Paul, Duluth, St. Cloud, Rochester, and Statewide Minnesota; League of Minnesota Cities; Association of Minnesota Counties; Minnesota Association of County Attorneys; Black Lives Matter Twin Cities Metro; Council of American-Islamic Relations Minnesota; Families Supporting Families Against Police Violence; Minnesota Justice Coalition; Minnesota Justice Research Center; National Association of Mental Illness Minnesota; Minnesota Indian Women's Resource Center; Twin Cities Coalition for Justice for Jamar; Minnesota Transgender Alliance; Confederation of Somali Community; Minneapolis American Indian Center; Violence Free Minnesota; Voices for Racial Justice; the Citizens League, Brooklyn Center Multicultural Advisory Committee and Community Police Partnership; Racial Justice Network; and Communities United Against Police Brutality;

- State Agencies and Tribal Governments including the Minnesota Board of Psychology; Bureau of Criminal Apprehension; Minnesota Department of Natural Resources; Minnesota Board of Public Defense; Minnesota Indian Affairs Council; Minnesota Council of Asian-Pacific Minnesotans; Council of Minnesotans of African Heritage; Minnesota Council on Latin Affairs; Bois Forte Band of Chippewa; Fond du Lac Band of Lake Superior Chippewa; Leech Lake Band of Ojibwe; Lower Sioux Indian Community; Mille Lacs Band of Ojibwe; Prairie Island Indian Community; Red Lake Nation;

Shakopee Mdewakanton Sioux Community; Upper Sioux Community; Gichi-Onigaming/Grand Portage band of Lake Superior Chippewa; and White Earth Nation;

- Chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules.

The Commissioner of Agriculture is not included in the Additional Notice Plan because the proposed rules will not affect farming operations under Minnesota Statutes, section 14.111. The notices encourage the individuals and organizations listed above to subscribe to the POST Board's news bulletin using a valid email address- which will add them to the Board's electronic rulemaking notification list. Copies of both the proposed mailing letter and proposed email text are attached to this document along with a copy of the Request for Comments to be published in the State Register. Dates on the attached documents are blank as they are subject to your approval of the Additional Notice Plan and the Board's filing for publication in the State Register. The individuals mentioned here will also be notified once a draft of the rules is ready and the Notice and Intent to Adopt is published in the State Register.

Rationale. Given that the rules in chapter 6700 regulate law enforcement standards and training, the number of individuals and groups who may be affected by or have an interest in the possible rules is broad, making it impossible to include every possible stakeholder. As such, we have carefully considered those who may be significantly impacted by the proposed rule and how best to reach those persons or classes of people. The stakeholders selected for the Additional Notice Plan includes law enforcement officers, law enforcement associations and labor organizations; community, professional and civic organizations/associations; and State Agencies and Tribal Governments. The inclusion of these different stakeholders demonstrates the POST Board is trying to reach a broad spectrum of individuals and organizations who may wish to comment on this process. In conclusion, The Board believes its Additional Notice Plan complies with Minnesota Statue, section 14.101 because it constitutes a reasonable effort to notify individuals and groups of people who may be significantly impacted by or interested in this rulemaking process.

Please contact me if you have any questions.

Yours very truly,

Alicia Popowski
Rules and Legislative Coordinator
Ph: (651) 201-7782
alicia.popowski@state.mn.us

Minnesota Board of Peace Officer Standards and Training

REQUEST FOR COMMENTS

Amendment to Rules Governing Peace Officer Standards and Training, *Minnesota Rules*, part 6700.1600; Revisor's ID Number 4850

Subject of Rules. The Minnesota Board of Peace Officer Standards and Training requests comments on its possible amendment to *Minnesota Rules*, part 6700.1600 regarding peace officer standards of conduct. Specifically, the board plans to add "failure to comply with any order issued by the board" as a standard of conduct violation under *Minnesota Rules*, part 6700.1600, item F. This requirement has been in *Minnesota Rules*, part 6700.1600 previously. The POST Board is seeking comments regarding this addition to the rules administered by the Board.

Persons Affected. The amendment to the rules would likely affect:

- Licensed peace officers
- Members of the public served by licensed peace officers

Statutory Authority. Minnesota Statutes, section 626.843 authorizes the Minnesota Board of Peace Officer Standards and Training to adopt rules with respect to matters consistent with the Board's regulatory authority identified in Minnesota Statutes, sections 626.84 to 626.863.

Public Comment. Interested persons or organizations may submit comments or suggestions regarding the proposed rule change in writing until 4:30 p.m. on Date. Comments should be submitted to the agency contact person listed in this notice. The POST Board will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments.

Rules Drafts. The POST Board has drafted the possible rules amendment and a copy of the draft can be found on the POST Board's website under "Current Rulemaking Activity." Copies of the draft can also be obtained by contacting the agency's contact person listed in this notice.

Agency Contact Person. Written comments, questions, requests to receive a draft of the rule, and requests for more information on the proposed rule should be directed to: Alicia Popowski, Minnesota Board of Peace Officer Standards and Training, 1600 University Avenue, Suite 200, St. Paul, MN 55104, 651-201-7782, or alicia.popowski@state.mn.us. If you would like to receive updates regarding the rules process, please visit the POST Board's website and subscribe to the POST Board's news bulletin using a valid email address.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are officially proposed. If you submitted

comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

[Date]

Executive Director Erik Misselt
MN POST Board

Minnesota Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200
St. Paul, MN 55104-3825
(651) 643-3060 • Fax (651) 643-3072
www.post.state.mn.us

Re: Possible Amendments to Rules Governing Peace Officer Standards and Training, Minnesota Rules, part 6700.1600; Peace Officer Standards of Conduct; Revisor's ID Number R4850

Date

Greetings,

You are receiving this letter because you are registered to receive rulemaking notices pertaining to the Minnesota POST Board, or because we believe you may be interested in possible rule changes on this topic.

The Minnesota Board of Peace Officer Standards and Training is seeking comments and suggestions for changes to Minnesota Rules, part 6700.1600. Specifically, the Board plans to add "violating any order issued by the board" as a standards of conduct violation under Rule 6700.1600, subpart 1, item F. Written comments, questions, and requests for more information on the rules should be directed to: Alicia Popowski, Minnesota Board of Peace Officer Standards and Training (POST Board), 1600 University Avenue, Suite 200, St. Paul, MN 55104, 651-201-7782, or alicia.popowski@state.mn.us. A draft of the proposed rules is available on the POST Board's website.

As directed by Minnesota Statue, chapter 14, section 14.101, the official Request for Comments was published in the Minnesota State Register on DATE and can be viewed on the Minnesota State Register's website via the following link: https://mn.gov/admin/bookstore/register.jsp.

The deadline to submit comments on the proposed rule change is 4:30 p.m. on DATE. To learn more about how to make comments or how to be kept up to date on rule activity, please read the Request for Comments on the Minnesota State Register's website and/or review the Current Rulemaking Activity page on the Minnesota POST Board's website at https://mn.gov/post/boardscommittees/rules/currentrulemakingactivity/.

Please feel free to contact me with any questions.

Alicia Popowski
POST Rules and Legislative Coordinator
651-201-7782
alicia.popowski@state.mn.us

Email text for RFC – Subject: Possible Rule Changes to Rule 6700.1600, subpart 1, item F

Possible Amendment to Peace Officer Standards and Training, Minnesota Rules, chapter 6700

You are receiving this email because you have or have been registered to receive electronic rulemaking notices pertaining to the Minnesota POST Board, or because we believe you may be interested in possible rule changes on this topic.

The Minnesota Board of Peace Officer Standards and Training is seeking comments and suggestions on the Board's plan to add "violating any order issued by the board" as a standards of conduct violation under Rule 6700.1600, item F. This provision previously existed in rule for approximately 26 years prior to the Board's 2020-2023 rulemaking project. A draft of the possible rules change is available on the POST Board's website.

The following document(s) related to this rulemaking will be published in the Date, edition of the *State Register*:

- Request for Comments on addition to rules governing peace officer standards of conduct.

The deadline to submit comments on the proposed rule change is 4:30 p.m. on Date. Comments can be sent to the staff person listed below. To learn more about how to make rule comments or how to be kept up to date on rulemaking activity, please read the Request for Comments on the Minnesota State Register's website and review the Current Rulemaking Activity page on the Post Board's website.

Questions?

Contact Alicia Popowski, Rules and Legislative Coordinator, at alicia.popowski@state.mn.us or 651-201-7782.

MINNESOTA
OFFICE OF
ADMINISTRATIVE
HEARINGS

OAH Docket Number: _____

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

NOTICE OF APPEARANCE

Minnesota Rules, chapter 6700 Peace Officer Training and Licensing

PLEASE TAKE NOTICE that:

1. The agency named below will appear at all proceedings in the above-entitled matter.

2. By providing its email address below, the Agency acknowledges that it has read and agrees to the terms of the Office of Administrative Hearings' e-Filing policy and chooses to opt into receiving electronic notice from the Office of Administrative Hearings in this matter.

3. The Agency agrees to use best efforts to provide the Office of Administrative Hearings with the email address(es) for opposing parties and their legal counsel.

Agency's Name: Board of Peace Officer Standards and Training

Agency's Attorney: David Cullen
Email: david.cullen@ag.state.mn.us Telephone: (651) 757-1221
Mailing Address: 75 Rev Dr Martin Luther King Jr Blvd, St. Paul, MN 55155

Rules Coordinator/eFiler Name: Alicia Popowski
Email: alicia.popowski@state.mn.us Telephone: (651) 201-7782
Mailing Address: 1600 University Ave Suite 200, St. Paul, MN 55104

Dated: 11/30/23

_____
Executive Director, Erik Misselt

Board of Peace Officer Standards and Training
1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.mn.gov/post/

AGENDA ITEM 7

CERTIFICATE OF THE BOARD OF PEACE OFFICER STANDARDS AND TRAINING; RESOLUTION ADOPTING RULES

Adopted Rule Amendment to Rules Governing Peace Officer Standards and Training, Minnesota Rules, part 6700.1600; Standards of Conduct; Revisor's ID Number 4850

I, Luke Hennen, certify that I am a member and the Chair of the Board of Peace Officer Standards and Training, a board authorized under the laws of the State of Minnesota; that the following is a true, complete, and correct copy of a resolution that the POST Board adopted at a properly convened meeting on October 24, 2024; that a quorum was present; and that a majority of those present voted for the resolution, which has not been rescinded or modified.

> "RESOLVED, the Board of Peace Officer Standards and Training approved and adopted rules related to peace officer standards of conduct. These rules were adopted under the Board's authority granted by Minnesota Statutes, section 626.843. The Executive Director of the POST Board is authorized to do the following: sign the Order Adopting Rules, to modify the rules as needed to obtain the Revisor of Statutes or the Administrative Law Judge's approval of the rules, and to perform other necessary acts to give the rules the force and effect of law."

October 24, 2024

_____

Luke Hennen, Chair
Board of Peace Officer Standards and Training