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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-SEVENTH SESSION

**H. F. No. 2555**

02/27/2012 Authored by Kiffmeyer, Nelson, Abeler, Banaian and Norton  
The bill was read for the first time and referred to the Committee on Health and Human Services Reform  
03/08/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Civil Law  
03/13/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Government Operations and Elections  
03/20/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on State Government Finance  
03/26/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Finance  
04/02/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act  
1.2 relating to state government; implementing changes to the sunset review;  
1.3 changing certain agency requirements; requiring posting of convictions of  
1.4 felonies or gross misdemeanors and malpractice settlements or judgments for a  
1.5 regulated practitioner; requiring certain information on regulated practitioners;  
1.6 requiring a study; prohibiting transfer of certain funds; requiring reports; setting  
1.7 fees; abolishing the Combative Sports Commission and transferring combative  
1.8 sports duties to the commissioner of labor and industry; establishing a Combative  
1.9 Sports Advisory Council; requiring a review of the Minnesota Board of Medical  
1.10 Practice; regulating alcohol and drug counselors; changing requirements for  
1.11 licensed professional clinical counselors; changing provisions for health-related  
1.12 licensing boards; changing provisions for the practice of dentistry; appropriating  
1.13 money; amending Minnesota Statutes 2010, sections 3.922, by adding a  
1.14 subdivision; 3.9223, subdivision 7; 3.9225, subdivision 7; 3.9226, subdivision 7;  
1.15 147.01, subdivision 4; 147.111, by adding a subdivision; 148.10, subdivision 7;  
1.16 148.102, by adding a subdivision; 148.261, subdivision 1; 148.263, by adding a  
1.17 subdivision; 148B.07, by adding a subdivision; 148B.5301, subdivisions 1, 4,  
1.18 by adding a subdivision; 148B.54, subdivisions 2, 3; 148C.095, by adding a  
1.19 subdivision; 148E.285, by adding a subdivision; 150A.06, subdivisions 1c, 3, 4,  
1.20 6; 150A.09, subdivision 3; 150A.105, subdivision 7; 150A.106, subdivision 1;  
1.21 150A.13, by adding a subdivision; 150A.14; 153.24, by adding a subdivision;  
1.22 214.06, subdivisions 1, 1a, by adding a subdivision; 214.09, by adding a  
1.23 subdivision; 214.103; 341.21, by adding a subdivision; 341.28, subdivision 1;  
1.24 341.37; Minnesota Statutes 2011 Supplement, sections 3D.04; 3D.06; 3D.21,  
1.25 subdivisions 1, 2; Laws 2010, chapter 349, section 1; proposing coding for new  
1.26 law in Minnesota Statutes, chapters 3D; 16B; 214; 341; proposing coding for new  
1.27 law as Minnesota Statutes, chapter 148F; repealing Minnesota Statutes 2010,  
1.28 sections 138A.01; 138A.02; 138A.03; 138A.04; 138A.05; 138A.06; 148C.01,  
1.29 subdivisions 1, 1a, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12,  
1.30 12a, 13, 14, 15, 16, 17, 18; 148C.015; 148C.03, subdivisions 1, 4; 148C.0351,  
1.31 subdivisions 1, 3, 4; 148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, 7;  
1.32 148C.044; 148C.045; 148C.05, subdivisions 1, 1a, 5, 6; 148C.055; 148C.07;  
1.33 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, 4; 148C.091; 148C.093;  
1.34 148C.095; 148C.099; 148C.10, subdivisions 1, 2, 3; 148C.11; 148C.12,  
1.35 subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15; 341.21, subdivisions  
1.36 3, 4a; 341.22; 341.23; 341.24; 341.26; Minnesota Rules, parts 4747.0010;  
1.37 4747.0020; 4747.0030, subparts 1, 2, 3, 4, 5, 7, 8, 9, 10, 15, 17, 18, 20, 21,  
1.38 22, 24, 29; 4747.0040; 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, 6;  
1.39 4747.0200; 4747.0400, subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100,

2.1 subparts 1, 4, 5, 6, 7, 8, 9; 4747.1400, subparts 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13;  
2.2 4747.1500; 6310.3100, subpart 2; 6310.3600; 6310.3700, subpart 1.

2.3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

2.4 **ARTICLE 1**

2.5 **SUNSET REVIEW**

2.6 Section 1. Minnesota Statutes 2011 Supplement, section 3D.04, is amended to read:

2.7 **3D.04 STAFF; CONTRACTS.**

2.8 The Legislative Coordinating Commission shall provide staff and administrative  
2.9 services for the commission. The Sunset Advisory Commission may enter into contracts  
2.10 for evaluations of agencies under review.

2.11 Sec. 2. Minnesota Statutes 2011 Supplement, section 3D.06, is amended to read:

2.12 **3D.06 AGENCY REPORT TO COMMISSION.**

2.13 (a) Before September 1 of the odd-numbered year before the year in which a  
2.14 state agency is subject to sunset review, the agency commissioner shall report to the  
2.15 commission:

2.16 (1) information regarding the application to the agency of the criteria in section  
2.17 3D.10;

2.18 (2) ~~a priority-based~~ an outcome-based budget for the agency;

2.19 (3) an inventory of all boards, commissions, committees, and other entities related  
2.20 to the agency; and

2.21 (4) any other information that the agency commissioner considers appropriate or that  
2.22 is requested by the commission.

2.23 ~~The September 1 deadline in this section does not apply in 2011.~~

2.24 (b) The outcome-based budget required by paragraph (a) must be for each of the  
2.25 agency's activities, as the term activity is used in state budgeting:

2.26 (1) identify the statutory authority for the activity;

2.27 (2) include one or more performance goals and associated performance measures  
2.28 that measure outcomes, not inputs;

2.29 (3) discuss the extent to which each performance measure is reliable and verifiable,  
2.30 and can be accurately measured;

2.31 (4) discuss the extent to which the agency has met each performance measure, and  
2.32 the extent to which the budget devoted to the activity has permitted or prevented the  
2.33 agency from meeting its performance goals;

3.1 (5) discuss efficiencies that would allow the agency to better meet its goals; and  
3.2 (6) identify agencies at any level of government or private sector entities that provide  
3.3 the same activities, and describe agency interaction with the activities provided by others.

3.4 Sec. 3. Minnesota Statutes 2011 Supplement, section 3D.21, subdivision 1, is amended  
3.5 to read:

3.6 Subdivision 1. **Group 1.** The following agencies are sunset and, except as provided  
3.7 in section 3D.14, expire on June 30, ~~2012~~ 2024: Capitol Area Architectural and Planning  
3.8 Board, Amateur Sports Commission, ~~Combative Sports Commission~~, all health-related  
3.9 licensing boards listed in section 214.01, Council on Affairs of Chicano/Latino People,  
3.10 ~~Council on Black Minnesotans~~, Council on Asian-Pacific Minnesotans, Indian Affairs  
3.11 Council, Council on Disabilities, and all advisory groups associated with these agencies.

3.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.13 Sec. 4. Minnesota Statutes 2011 Supplement, section 3D.21, subdivision 2, is amended  
3.14 to read:

3.15 Subd. 2. **Group 2.** The following agencies are sunset and, except as provided in  
3.16 section 3D.14, expire on June 30, 2014: Department of Health, Department of Human  
3.17 Services, Department of Human Rights, Department of Education, Board of Teaching,  
3.18 Minnesota Office of Higher Education, Council on Black Minnesotans, Emergency  
3.19 Medical Services Regulatory Board, and all advisory groups associated with these  
3.20 agencies.

3.21 Sec. 5. **COUNCIL ON BLACK MINNESOTANS INTERIM REVIEW.**

3.22 (a) The Council on Black Minnesotans is continued for two years and added to the  
3.23 2014 Sunset Advisory Commission review schedule. In the council's report to the Sunset  
3.24 Advisory Commission, the council must submit an interim report and respond to issues  
3.25 raised in previous audits by the Office of the Legislative Auditor.

3.26 (b) The Office of the Legislative Auditor should conduct a financial audit of the  
3.27 Council of Black Minnesotans by December 1, 2013, prior to sunset review in 2014.

## 3.28 **ARTICLE 2**

### 3.29 **ADMINISTRATIVE PROCEDURES AND FEES**

3.30 Section 1. Minnesota Statutes 2010, section 3.922, is amended by adding a subdivision  
3.31 to read:

4.1            Subd. 11. **Report.** The council shall prepare and distribute a report to the governor  
4.2 and legislature by November 15 of each year. The report shall summarize the activities  
4.3 of the council since its last report, list receipts and expenditures, identify the major  
4.4 problems and issues confronting American Indian people, and list the specific objectives  
4.5 that the council seeks to attain during the biennium. To the extent possible, the council  
4.6 shall report on outcome measures.

4.7            Sec. 2. Minnesota Statutes 2010, section 3.9223, subdivision 7, is amended to read:

4.8            Subd. 7. **Report.** The council shall prepare and distribute a report to the governor  
4.9 and legislature by November 15 of each ~~even-numbered~~ year. The report shall summarize  
4.10 the activities of the council since its last report, list receipts and expenditures, identify  
4.11 the major problems and issues confronting Chicano/Latino people, and list the specific  
4.12 objectives that the council seeks to attain during the next biennium. To the extent possible,  
4.13 the council shall report on outcome measures.

4.14            Sec. 3. Minnesota Statutes 2010, section 3.9225, subdivision 7, is amended to read:

4.15            Subd. 7. **Report.** The council shall prepare and distribute a report to the governor  
4.16 and legislature by November 15 of each ~~even-numbered~~ year. The report shall summarize  
4.17 the activities of the council since its last report, list receipts and expenditures, identify  
4.18 the major problems and issues confronting Black people, and list the specific objectives  
4.19 which the council seeks to attain during the next biennium. To the extent possible, the  
4.20 council shall report on outcome measures.

4.21            Sec. 4. Minnesota Statutes 2010, section 3.9226, subdivision 7, is amended to read:

4.22            Subd. 7. **Report.** The council shall prepare and distribute a report to the governor  
4.23 and legislature by November 15 of each ~~even-numbered~~ year. The report shall summarize  
4.24 the activities of the council since its last report, list receipts and expenditures, identify  
4.25 the major problems and issues confronting Asian-Pacific people, and list the specific  
4.26 objectives that the council seeks to attain during the next biennium. To the extent possible,  
4.27 the council shall report on outcome measures.

4.28            Sec. 5. **[3D.045] COORDINATION WITH LEGISLATIVE AUDITOR.**

4.29            To the extent possible, the commission and the Office of the Legislative Auditor  
4.30 shall align their work so that audits and program evaluations conducted by the Office  
4.31 of the Legislative Auditor can inform the work of the commission. The commission  
4.32 may request the Office of the Legislative Auditor to provide updates on financial audits

5.1 and program evaluations the Office of the Legislative Auditor has prepared on agencies  
5.2 scheduled for Sunset Advisory Commission review.

5.3 Sec. 6. **[3D.065] REPORT ON PERSONNEL.**

5.4 By September 1 of the odd-numbered year before the year in which a state agency is  
5.5 subject to sunset review, the commissioner of management and budget must report to the  
5.6 Sunset Advisory Commission on the number of full-time equivalent employees and the  
5.7 salary structure for each agency under review.

5.8 Sec. 7. **[16B.371] ASSISTANCE TO SMALL AGENCIES.**

5.9 (a) The commissioner may provide administrative support services to small agencies.  
5.10 To promote efficiency and cost-effective use of state resources, and to improve financial  
5.11 controls, the commissioner may require a small agency to receive administrative support  
5.12 services through the Department of Administration or through another agency designated  
5.13 by the commissioner. Services subject to this section include finance, accounting, payroll,  
5.14 purchasing, human resources, and other services designated by the commissioner. The  
5.15 commissioner may determine what constitutes a small agency for purposes of this section.  
5.16 The commissioner, in consultation with the commissioner of management and budget and  
5.17 small agencies, shall evaluate small agencies' needs for administrative support services.  
5.18 If the commissioner provides administrative support services to a small agency, the  
5.19 commissioner must enter into a service level agreement with the agency, specifying the  
5.20 services to be provided and the costs and anticipated outcomes of the services.

5.21 (b) The Chicano Latino Affairs Council, the Council on Black Minnesotans, the  
5.22 Council on Asian-Pacific Minnesotans, the Indian Affairs Council, and the Minnesota  
5.23 State Council on Disability must use the services specified in paragraph (a).

5.24 (c) The commissioner of administration may assess agencies for services it provides  
5.25 under this section. The amounts assessed are appropriated to the commissioner.

5.26 (d) For agencies covered in this section, the commissioner has the authority to require  
5.27 the agency to comply with applicable state finance, accounting, payroll, purchasing, and  
5.28 human resources policies. The agencies served retain the ownership and responsibility for  
5.29 spending decisions and for ongoing implementation of appropriate business operations.

5.30 Sec. 8. Minnesota Statutes 2010, section 147.01, subdivision 4, is amended to read:

5.31 Subd. 4. **Disclosure.** Subject to the exceptions listed in this subdivision, all  
5.32 communications or information received by or disclosed to the board relating to any

6.1 person or matter subject to its regulatory jurisdiction are confidential and privileged and  
6.2 any disciplinary hearing shall be closed to the public.

6.3 (a) Upon application of a party in a proceeding before the board under section  
6.4 147.091, the board shall produce and permit the inspection and copying, by or on behalf of  
6.5 the moving party, of any designated documents or papers relevant to the proceedings, in  
6.6 accordance with the provisions of rule 34, Minnesota Rules of Civil Procedure.

6.7 (b) If the board takes corrective action or imposes disciplinary measures of any kind,  
6.8 whether by contested case or by settlement agreement, the name and business address of  
6.9 the licensee, the nature of the misconduct, and the action taken by the board are public  
6.10 data. If disciplinary action is taken by settlement agreement, the entire agreement is public  
6.11 data. The board shall decide disciplinary matters, whether by settlement or by contested  
6.12 case, by roll call vote. The votes are public data.

6.13 (c) The board shall exchange information with other licensing boards, agencies, or  
6.14 departments within the state, as required under section 214.10, subdivision 8, paragraph  
6.15 (c), and may release information in the reports required under section 147.02, subdivision  
6.16 6.

6.17 (d) The board shall upon request furnish to a person who made a complaint, or the  
6.18 alleged victim of a violation of section 147.091, subdivision 1, paragraph (t), or both, a  
6.19 description of the activities and actions of the board relating to that complaint, a summary  
6.20 of the results of an investigation of that complaint, and the reasons for actions taken  
6.21 by the board.

6.22 (e) A probable cause hearing held pursuant to section 147.092 shall be closed to the  
6.23 public, except for the notices of hearing made public by operation of section 147.092.

6.24 (f) Findings of fact, conclusions, and recommendations issued by the administrative  
6.25 law judge, and transcripts of oral arguments before the board pursuant to a contested case  
6.26 proceeding in which an administrative law judge found a violation of section 147.091,  
6.27 subdivision 1, paragraph (t), are public data.

6.28 **EFFECTIVE DATE.** This section is effective for all corrective action taken on  
6.29 or after August 1, 2012.

6.30 Sec. 9. Minnesota Statutes 2010, section 147.111, is amended by adding a subdivision  
6.31 to read:

6.32 **Subd. 10. Failure to report.** On or after August 1, 2012, any person, health care  
6.33 facility, business, or organization that fails to report as required under subdivisions 2 to 6  
6.34 shall be subject to civil penalties for failing to report as required by law.

7.1 **EFFECTIVE DATE.** This section is effective August 1, 2012.

7.2 Sec. 10. Minnesota Statutes 2010, section 148.102, is amended by adding a subdivision  
7.3 to read:

7.4 Subd. 8. **Failure to report.** On or after August 1, 2012, any person or insurer that  
7.5 fails to report as required under subdivisions 2 to 4 shall be subject to civil penalties for  
7.6 failing to report as required by law.

7.7 **EFFECTIVE DATE.** This section is effective August 1, 2012.

7.8 Sec. 11. Minnesota Statutes 2010, section 148.261, subdivision 1, is amended to read:

7.9 Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or  
7.10 condition the license and registration of any person to practice professional, advanced  
7.11 practice registered, or practical nursing under sections 148.171 to 148.285, or to otherwise  
7.12 discipline a licensee or applicant as described in section 148.262. The following are  
7.13 grounds for disciplinary action:

7.14 (1) Failure to demonstrate the qualifications or satisfy the requirements for a license  
7.15 contained in sections 148.171 to 148.285 or rules of the board. In the case of a person  
7.16 applying for a license, the burden of proof is upon the applicant to demonstrate the  
7.17 qualifications or satisfaction of the requirements.

7.18 (2) Employing fraud or deceit in procuring or attempting to procure a permit, license,  
7.19 or registration certificate to practice professional or practical nursing or attempting to  
7.20 subvert the licensing examination process. Conduct that subverts or attempts to subvert  
7.21 the licensing examination process includes, but is not limited to:

7.22 (i) conduct that violates the security of the examination materials, such as removing  
7.23 examination materials from the examination room or having unauthorized possession of  
7.24 any portion of a future, current, or previously administered licensing examination;

7.25 (ii) conduct that violates the standard of test administration, such as communicating  
7.26 with another examinee during administration of the examination, copying another  
7.27 examinee's answers, permitting another examinee to copy one's answers, or possessing  
7.28 unauthorized materials; or

7.29 (iii) impersonating an examinee or permitting an impersonator to take the  
7.30 examination on one's own behalf.

7.31 (3) Conviction ~~during the previous five years~~ of a felony or gross misdemeanor  
7.32 reasonably related to the practice of professional, advanced practice registered, or practical  
7.33 nursing. Conviction as used in this subdivision includes a conviction of an offense that if  
7.34 committed in this state would be considered a felony or gross misdemeanor without regard

8.1 to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is  
8.2 made or returned but the adjudication of guilt is either withheld or not entered.

8.3 (4) Revocation, suspension, limitation, conditioning, or other disciplinary action  
8.4 against the person's professional or practical nursing license or advanced practice  
8.5 registered nursing credential, in another state, territory, or country; failure to report to the  
8.6 board that charges regarding the person's nursing license or other credential are pending in  
8.7 another state, territory, or country; or having been refused a license or other credential by  
8.8 another state, territory, or country.

8.9 (5) Failure to or inability to perform professional or practical nursing as defined in  
8.10 section 148.171, subdivision 14 or 15, with reasonable skill and safety, including failure  
8.11 of a registered nurse to supervise or a licensed practical nurse to monitor adequately the  
8.12 performance of acts by any person working at the nurse's direction.

8.13 (6) Engaging in unprofessional conduct, including, but not limited to, a departure  
8.14 from or failure to conform to board rules of professional or practical nursing practice that  
8.15 interpret the statutory definition of professional or practical nursing as well as provide  
8.16 criteria for violations of the statutes, or, if no rule exists, to the minimal standards of  
8.17 acceptable and prevailing professional or practical nursing practice, or any nursing  
8.18 practice that may create unnecessary danger to a patient's life, health, or safety. Actual  
8.19 injury to a patient need not be established under this clause.

8.20 (7) Failure of an advanced practice registered nurse to practice with reasonable  
8.21 skill and safety or departure from or failure to conform to standards of acceptable and  
8.22 prevailing advanced practice registered nursing.

8.23 (8) Delegating or accepting the delegation of a nursing function or a prescribed  
8.24 health care function when the delegation or acceptance could reasonably be expected to  
8.25 result in unsafe or ineffective patient care.

8.26 (9) Actual or potential inability to practice nursing with reasonable skill and safety  
8.27 to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or  
8.28 as a result of any mental or physical condition.

8.29 (10) Adjudication as mentally incompetent, mentally ill, a chemically dependent  
8.30 person, or a person dangerous to the public by a court of competent jurisdiction, within or  
8.31 without this state.

8.32 (11) Engaging in any unethical conduct, including, but not limited to, conduct likely  
8.33 to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard  
8.34 for the health, welfare, or safety of a patient. Actual injury need not be established under  
8.35 this clause.

9.1 (12) Engaging in conduct with a patient that is sexual or may reasonably be  
9.2 interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually  
9.3 demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

9.4 (13) Obtaining money, property, or services from a patient, other than reasonable  
9.5 fees for services provided to the patient, through the use of undue influence, harassment,  
9.6 duress, deception, or fraud.

9.7 (14) Revealing a privileged communication from or relating to a patient except when  
9.8 otherwise required or permitted by law.

9.9 (15) Engaging in abusive or fraudulent billing practices, including violations of  
9.10 federal Medicare and Medicaid laws or state medical assistance laws.

9.11 (16) Improper management of patient records, including failure to maintain adequate  
9.12 patient records, to comply with a patient's request made pursuant to sections 144.291 to  
9.13 144.298, or to furnish a patient record or report required by law.

9.14 (17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to  
9.15 engage in the unlawful practice of professional, advanced practice registered, or practical  
9.16 nursing.

9.17 (18) Violating a rule adopted by the board, an order of the board, or a state or federal  
9.18 law relating to the practice of professional, advanced practice registered, or practical  
9.19 nursing, or a state or federal narcotics or controlled substance law.

9.20 (19) Knowingly providing false or misleading information that is directly related  
9.21 to the care of that patient unless done for an accepted therapeutic purpose such as the  
9.22 administration of a placebo.

9.23 (20) Aiding suicide or aiding attempted suicide in violation of section 609.215 as  
9.24 established by any of the following:

9.25 (i) a copy of the record of criminal conviction or plea of guilty for a felony in  
9.26 violation of section 609.215, subdivision 1 or 2;

9.27 (ii) a copy of the record of a judgment of contempt of court for violating an  
9.28 injunction issued under section 609.215, subdivision 4;

9.29 (iii) a copy of the record of a judgment assessing damages under section 609.215,  
9.30 subdivision 5; or

9.31 (iv) a finding by the board that the person violated section 609.215, subdivision  
9.32 1 or 2. The board shall investigate any complaint of a violation of section 609.215,  
9.33 subdivision 1 or 2.

9.34 (21) Practicing outside the scope of practice authorized by section 148.171,  
9.35 subdivision 5, 10, 11, 13, 14, 15, or 21.

10.1 (22) Practicing outside the specific field of nursing practice for which an advanced  
10.2 practice registered nurse is certified unless the practice is authorized under section 148.284.

10.3 (23) Making a false statement or knowingly providing false information to the  
10.4 board, failing to make reports as required by section 148.263, or failing to cooperate with  
10.5 an investigation of the board as required by section 148.265.

10.6 (24) Engaging in false, fraudulent, deceptive, or misleading advertising.

10.7 (25) Failure to inform the board of the person's certification status as a nurse  
10.8 anesthetist, nurse-midwife, nurse practitioner, or clinical nurse specialist.

10.9 (26) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse  
10.10 practitioner practice, or registered nurse anesthetist practice without current certification  
10.11 by a national nurse certification organization acceptable to the board, except during the  
10.12 period between completion of an advanced practice registered nurse course of study and  
10.13 certification, not to exceed six months or as authorized by the board.

10.14 (27) Engaging in conduct that is prohibited under section 145.412.

10.15 (28) Failing to report employment to the board as required by section 148.211,  
10.16 subdivision 2a, or knowingly aiding, assisting, advising, or allowing a person to fail to  
10.17 report as required by section 148.211, subdivision 2a.

10.18 Sec. 12. Minnesota Statutes 2010, section 148.263, is amended by adding a subdivision  
10.19 to read:

10.20 Subd. 7. **Failure to report.** On or after August 1, 2012, any person, institution,  
10.21 insurer, or organization that fails to report as required under subdivisions 2 to 5 shall be  
10.22 subject to civil penalties for failing to report as required by law.

10.23 **EFFECTIVE DATE.** This section is effective August 1, 2012.

10.24 Sec. 13. Minnesota Statutes 2010, section 148B.07, is amended by adding a  
10.25 subdivision to read:

10.26 Subd. 10. **Failure to report.** On or after August 1, 2012, any person, institution,  
10.27 insurer, or organization that fails to report as required under subdivisions 2 to 6 shall be  
10.28 subject to civil penalties for failing to report as required by law.

10.29 **EFFECTIVE DATE.** This section is effective August 1, 2012.

10.30 Sec. 14. Minnesota Statutes 2010, section 148C.095, is amended by adding a  
10.31 subdivision to read:

11.1 Subd. 8. **Failure to report.** On or after August 1, 2012, any person, institution,  
11.2 insurer, or organization that fails to report as required under subdivisions 2 to 5 shall be  
11.3 subject to civil penalties for failing to report as required by law.

11.4 **EFFECTIVE DATE.** This section is effective August 1, 2012.

11.5 Sec. 15. Minnesota Statutes 2010, section 148E.285, is amended by adding a  
11.6 subdivision to read:

11.7 Subd. 4. **Failure to report.** On or after August 1, 2012, any person, institution, or  
11.8 organization that fails to report as required under subdivisions 1 and 2 shall be subject  
11.9 to civil penalties for failing to report as required by law.

11.10 **EFFECTIVE DATE.** This section is effective August 1, 2012.

11.11 Sec. 16. Minnesota Statutes 2010, section 150A.13, is amended by adding a  
11.12 subdivision to read:

11.13 Subd. 10. **Failure to report.** On or after August 1, 2012, any person, institution,  
11.14 insurer, or organization that fails to report as required under subdivisions 2 to 6 shall be  
11.15 subject to civil penalties for failing to report as required by law.

11.16 **EFFECTIVE DATE.** This section is effective August 1, 2012.

11.17 Sec. 17. Minnesota Statutes 2010, section 153.24, is amended by adding a subdivision  
11.18 to read:

11.19 Subd. 8. **Failure to report.** On or after August 1, 2012, any person, institution, or  
11.20 insurer that fails to report as required under subdivisions 2 to 5 shall be subject to civil  
11.21 penalties for failing to report as required by law.

11.22 **EFFECTIVE DATE.** This section is effective August 1, 2012.

11.23 Sec. 18. Minnesota Statutes 2010, section 214.06, subdivision 1, is amended to read:

11.24 Subdivision 1. ~~Fee adjustment~~ **Fees to recover expenditures.** ~~Notwithstanding~~  
11.25 ~~any law to the contrary, the commissioner of health as authorized by section 214.13, all~~  
11.26 ~~health-related licensing boards and all non-health-related licensing boards shall by rule,~~  
11.27 ~~with the approval of the commissioner of management and budget, adjust, as needed,~~  
11.28 ~~any fee which the commissioner of health or the board is empowered to assess.~~ The  
11.29 commissioner of health as authorized by section 214.13 and all health-related licensing  
11.30 boards and non-health-related licensing boards shall propose or adjust any fee according

12.1 to section 16A.1283. As provided in section 16A.1285, the ~~adjustment~~ fees shall be  
12.2 an amount sufficient so that the total fees collected by each board will be based on  
12.3 anticipated expenditures, including expenditures for the programs authorized by sections  
12.4 214.10, 214.103, 214.11, 214.17 to 214.24, 214.28 to 214.37, and 214.40, except that a  
12.5 health-related licensing board may have anticipated expenditures in excess of anticipated  
12.6 revenues in a biennium by using accumulated surplus revenues from fees collected by  
12.7 that board in previous bienniums. A health-related licensing board may accumulate up  
12.8 to six months of operating funds, and then must reduce fees. A health-related licensing  
12.9 board shall not spend more money than the amount appropriated by the legislature  
12.10 for a biennium. For members of an occupation registered after July 1, 1984, by the  
12.11 commissioner of health under the provisions of section 214.13, the fee established must  
12.12 include an amount necessary to recover, over a five-year period, the commissioner's  
12.13 direct expenditures for adoption of the rules providing for registration of members of the  
12.14 occupation. All fees received shall be deposited in the state treasury.

12.15 Sec. 19. Minnesota Statutes 2010, section 214.06, subdivision 1a, is amended to read:

12.16 Subd. 1a. **Health occupations licensing account.** (a) Fees received by the  
12.17 commissioner of health or health-related licensing boards must be credited to the health  
12.18 occupations licensing account in the state government special revenue fund. The  
12.19 commissioner of management and budget shall ensure that the revenues and expenditures  
12.20 of each health-related licensing board are tracked separately in the health occupations  
12.21 licensing account.

12.22 (b) The fees collected must be used only by the boards identified in section  
12.23 214.01, subdivision 2, and the commissioner of health, as the regulator for occupational  
12.24 therapy practitioners, speech-language pathologists, audiologists, and hearing instrument  
12.25 dispensers, and only for the purposes of the programs they administer. The legislature  
12.26 must not transfer money generated by these fees from the state government special  
12.27 revenue fund to the general fund.

12.28 Sec. 20. Minnesota Statutes 2010, section 214.06, is amended by adding a subdivision  
12.29 to read:

12.30 Subd. 1b. **Health-related licensing boards; surcharges.** When a health-related  
12.31 licensing board imposes a surcharge, the surcharge must not be incorporated as a fee  
12.32 increase, but must be made as a separate assessment to be paid by the individuals regulated  
12.33 by the board.

13.1 Sec. 21. **[214.072] HEALTH-RELATED LICENSING BOARDS; WEB SITE.**

13.2 (a) Each health-related licensing board, as defined in section 214.01, subdivision 2,  
13.3 and the commissioner of health, as the regulator for occupational therapy practitioners,  
13.4 speech-language pathologists, audiologists, and hearing instrument dispensers, are  
13.5 required to post on its public Web site the name and business address of each regulated  
13.6 individual who has:

13.7 (1) a conviction during the previous ten years of a felony or gross misdemeanor.  
13.8 Conviction includes a conviction of an offense that if committed in this state would be  
13.9 considered a felony or gross misdemeanor without regard to its designation elsewhere,  
13.10 or a criminal proceeding where a finding or verdict of guilt is made or returned but the  
13.11 adjudication of guilt is either withheld or not entered;

13.12 (2) a malpractice judgment entered against the regulated individual in any state  
13.13 or jurisdiction within the past ten years and malpractice settlements entered against  
13.14 the regulated individual in any state or jurisdiction if there have been more than three  
13.15 within the past ten years. Information describing the judgments and settlements shall be  
13.16 developed by the boards, shall be stated in plain English, and shall ensure the public  
13.17 understands the context of the action involving the licensee; or

13.18 (3) any disciplinary or corrective action or restriction of privileges taken against the  
13.19 individual's license by a licensing board in this state or in any other state or jurisdiction.  
13.20 The Web site shall identify the basis for disciplinary action, the type of disciplinary action  
13.21 taken, and whether the action was taken by a licensing board in this or another state or by  
13.22 the federal government.

13.23 (b) Each board and the commissioner of health must post in-state information  
13.24 required in paragraph (a) no later than January 1, 2013. Information from other states and  
13.25 jurisdictions must be posted no later than July 1, 2013.

13.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

13.27 Sec. 22. **[214.073] HEALTH-RELATED LICENSING BOARDS; AUTHORITY.**

13.28 (a) Each health-related licensing board, as defined in section 214.01, subdivision 2,  
13.29 and the commissioner of health, as the regulator for occupational therapy practitioners,  
13.30 speech-language pathologists, audiologists, and hearing instrument dispensers, shall  
13.31 require an applicant on or after August 1, 2012, to provide the individual's primary  
13.32 business address at the time of initial application and all subsequent renewals.

13.33 (b) Each health-related licensing board, as defined in section 214.01, subdivision 2,  
13.34 and the commissioner of health, as the regulator for occupational therapy practitioners,  
13.35 speech-language pathologists, audiologists, and hearing instrument dispensers, shall have

14.1 the authority to conduct criminal background checks on all applicants, at the expense of  
14.2 the individual. The boards and the commissioner shall establish a protocol for conducting  
14.3 criminal background checks no later than January 1, 2013. This protocol must be effective  
14.4 January 1, 2014, and require the applicant to:

14.5 (1) submit a full set of fingerprints to the board or its designee in a form and manner  
14.6 specified by the board; and

14.7 (2) provide consent authorizing the board to obtain the individual's state and national  
14.8 criminal history record information for the purpose of determining the individual's  
14.9 suitability for receiving a credential to practice.

14.10 (c) The health-related licensing boards and the commissioner of health shall study:  
14.11 the value of implementing a requirement for criminal background checks for existing  
14.12 regulated individuals; how to utilize criminal background checks that have already been  
14.13 performed on these individuals; and how to implement any new requirements in the most  
14.14 cost effective way possible. The plan will include recommendations for any necessary  
14.15 statutory changes and shall seek to minimize duplication of requirements for background  
14.16 studies.

14.17 (d) Each health-related licensing board, as defined in section 214.01, subdivision 2,  
14.18 and the commissioner of health, as the regulator for occupational therapy practitioners,  
14.19 speech-language pathologists, audiologists, and hearing instrument dispensers, shall  
14.20 submit legislation for consideration in 2013 to require institutions, professional societies,  
14.21 other licensed professionals, and insurers and other entities to report conduct constituting  
14.22 grounds for disciplinary action to the respective regulatory entity. Each board and the  
14.23 commissioner must include penalties that may be imposed for failure to report. Boards  
14.24 with reporting obligations in statutes are exempt from this paragraph.

14.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.26 Sec. 23. **[214.0732] REQUIREMENT FOR CRIMINAL BACKGROUND**  
14.27 **CHECK.**

14.28 Subdivision 1. **Applicants.** Each health-related licensing board, as defined in section  
14.29 214.01, subdivision 2, and the commissioner of health, as regulator for occupational  
14.30 therapy practitioners, speech-language pathologists, audiologists, and hearing instrument  
14.31 dispensers, shall complete a fingerprint-based criminal background check on each  
14.32 applicant for initial licensure or other credential prior to granting a credential to practice.  
14.33 Each applicant must:

14.34 (1) submit a full set of fingerprints to the commissioner or board or its designee in a  
14.35 form and manner specified by the commissioner or board; and

15.1 (2) provide consent authorizing the board or commissioner to obtain the applicant's  
15.2 state and national criminal history record information for the purpose of determining the  
15.3 applicant's suitability and eligibility for a credential to practice.

15.4 Subd. 2. **Fees.** The applicant shall be responsible for all fees associated with  
15.5 preparation of the fingerprints and the criminal background check and the fees are not  
15.6 refundable.

15.7 Subd. 3. **Refusal to consent.** The boards and the commissioner of health shall  
15.8 not issue a credential to practice to any applicant who refuses to consent to a criminal  
15.9 background check or fails to submit fingerprints within 90 days after the application is  
15.10 submitted. Any fees paid by the applicant to a board or commissioner shall be forfeited  
15.11 if the applicant refuses to consent to the criminal background check or fails to submit  
15.12 fingerprints.

15.13 Subd. 4. **Submission of fingerprints.** A board or its designee and the commissioner  
15.14 of health shall submit applicant fingerprints to the Minnesota Bureau of Criminal  
15.15 Apprehension (BCA). The BCA shall perform a check for state criminal justice  
15.16 information and shall forward the applicant's fingerprints to the Federal Bureau of  
15.17 Investigation to perform a check for national criminal justice information regarding the  
15.18 applicant. The BCA shall report to the board or the commissioner the results of the state  
15.19 and national background checks.

15.20 Subd. 5. **Alternative to fingerprint-based background check.** A board or the  
15.21 commissioner of health may require an alternative method of criminal history background  
15.22 check for an applicant who has submitted at least three sets of fingerprints under this  
15.23 section that cannot be read.

15.24 Subd. 6. **Opportunity to challenge accuracy of report.** Prior to taking disciplinary  
15.25 action against an applicant based on a criminal conviction, a board or the commissioner  
15.26 of health shall provide the applicant with the opportunity to complete, or challenge the  
15.27 accuracy of, the criminal justice information reported to the board or commissioner. The  
15.28 applicant shall have 30 calendar days following notice from a board or the commissioner  
15.29 of the intent to take disciplinary action on a license to request an opportunity to correct or  
15.30 complete the record prior to a board or the commissioner taking disciplinary action based  
15.31 on the report. The applicant shall be allowed up to 180 days to challenge the accuracy or  
15.32 completeness of the report with the agency that is responsible for the record.

15.33 Subd. 7. **Disciplinary action.** A board or the commissioner of health shall review  
15.34 each criminal history report and determine whether the criminal convictions, if any, relate  
15.35 to the practice of the regulated profession or occupation. If the criminal convictions are  
15.36 found to relate to the profession or occupation, the regulating board or commissioner

16.1 may take any disciplinary action allowed by the respective practice act and pursuant  
16.2 to sections 214.10 and 214.103.

16.3 Subd. 8. **Factors to be considered.** In determining whether an applicant is suitable  
16.4 to receive a credential to practice, a board or the commissioner of health shall consider:

16.5 (1) the number of crimes for which the applicant has been convicted;

16.6 (2) the nature and seriousness of the crimes and vulnerability of the victims of the  
16.7 crimes, including whether the commission of the crimes involved the abuse of trust or the  
16.8 exploitation of a unique position or knowledge;

16.9 (3) the relationship between the crimes and the practice of the applicable profession  
16.10 or occupation;

16.11 (4) the age of the applicant at the time the crimes were committed;

16.12 (5) the amount of time that has elapsed since the crimes occurred;

16.13 (6) steps taken by the applicant to address substance abuse or mental or physical  
16.14 health issues present at the time of the crimes or subsequent to the crimes;

16.15 (7) evidence of the applicant's work history;

16.16 (8) whether the applicant has successfully completed the terms of any sentence  
16.17 imposed; and

16.18 (9) any other evidence demonstrating the applicant does not pose a risk of harm to  
16.19 the health or safety of the public.

16.20 Subd. 9. **Conviction.** For purposes of this section, an applicant is considered to  
16.21 have been convicted of a crime if the applicant has pleaded guilty or nolo contendere,  
16.22 been found guilty, or entered an Alford plea to any offense by any court in the state of  
16.23 Minnesota or similar offense in another state or United States territory or federal court.  
16.24 An applicant is considered to have been convicted of a crime if the applicant has been  
16.25 convicted or found guilty but adjudication was withheld. A board or the commissioner of  
16.26 health may consider public records from a juvenile delinquency proceeding where there  
16.27 has been a judicial determination that the elements of the offense occurred.

16.28 Subd. 10. **Data practices.** Fingerprints and all criminal history record information  
16.29 obtained by the boards or the commissioner of health is private data on individuals under  
16.30 section 13.02, subdivision 12, and restricted to the exclusive use of the board and its  
16.31 members and staff, the commissioner, investigative staff, agents, and attorneys for the  
16.32 purpose of evaluating an applicant's eligibility or qualifications to practice. The boards and  
16.33 the commissioner shall maintain fingerprints and the criminal history records information  
16.34 in a secure manner and comply with all applicable state and federal requirements.

17.1 **EFFECTIVE DATE.** This section is effective July 1, 2013, or as soon as the  
17.2 necessary agency interagency infrastructure and related business processes are operational,  
17.3 whichever is later.

17.4 Sec. 24. **SUNSET ADVISORY COMMISSION; DEPARTMENT OF HEALTH**  
17.5 **REVIEW.**

17.6 The Sunset Advisory Commission review of the Department of Health in 2013  
17.7 and 2014 must include an analysis of the extent to which health occupations should be  
17.8 licensed by the Department of Health, and the extent to which occupations should be  
17.9 licensed by licensing boards.

17.10 Sec. 25. **REPORT; INVESTIGATIONS FOR HEALTH-RELATED LICENSING**  
17.11 **BOARDS.**

17.12 The health-related licensing boards and the attorney general shall review and  
17.13 make recommendations to the legislature by January 15, 2013, on the respective roles  
17.14 of the boards and the attorney general in conducting investigations of licensees of the  
17.15 health-related licensing boards.

17.16 Sec. 26. **REPORT; INFORMATION SYSTEMS FOR LICENSING BOARDS.**

17.17 The chief information officer of the Office of Enterprise Technology and the  
17.18 commissioner of administration shall report to the legislature by January 15, 2013, on the  
17.19 best method of providing electronic licensing systems to the health-related licensing  
17.20 boards.

17.21 Sec. 27. **REPORT; HEALTH-RELATED LICENSING BOARD FEES.**

17.22 Each health-related licensing board, as defined in section 214.01, subdivision 2,  
17.23 and the commissioner of health, as the regulator for occupational therapy practitioners,  
17.24 speech-language pathologists, audiologists, and hearing instrument dispensers, shall  
17.25 report to the chair and lead minority member of the senate and house of representatives  
17.26 committees with jurisdiction over health and human services finance by January 15,  
17.27 2013, on the degree to which fees imposed by the board comply with Minnesota Statutes,  
17.28 sections 214.055 and 214.06. If a board determines that its fees are expected to produce  
17.29 more revenue than needed to recover expenditures during a five-year period, the board  
17.30 must propose reductions in those fees to the legislature.

17.31 Sec. 28. **REPORTS; ADMINISTRATIVE SUPPORT SERVICES.**

18.1 (a) The commissioner of administration shall report to the legislature by January 15,  
18.2 2013, on use of the SMART program by executive branch agencies.

18.3 (b) The administrative services unit of health-related licensing boards shall report to  
18.4 the legislature by January 15, 2013, evaluating use of the units' services by health-related  
18.5 licensing boards.

18.6 Sec. 29. **MEDICAL PRACTICE ACT; STUDY.**

18.7 (a) The commissioner of health shall convene a working group to evaluate the state's  
18.8 Medical Practice Act to ensure that it effectively protects the safety and well-being of the  
18.9 citizens of the state and allows transparency. In this evaluation, the working group shall  
18.10 consider practice acts in other states, including conduct that may result in disciplinary  
18.11 action.

18.12 (b) Members of the working group shall include:

18.13 (1) two members of the Board of Medical Practice;

18.14 (2) two practicing physicians recommended by the Minnesota Medical Association;

18.15 (3) two medical educators, one from the University of Minnesota and one from the  
18.16 Mayo Clinic;

18.17 (4) two senators, one from each caucus, appointed by the subcommittee on  
18.18 committees, and two members of the house of representatives, one from each caucus,  
18.19 appointed by the speaker;

18.20 (5) consumers; and

18.21 (6) experts in the field of medical practice.

18.22 The majority of the working group must be composed of members who have no  
18.23 current or past affiliation with the Board of Medical Practice.

18.24 (c) Compensation for working group members is subject to Minnesota Statutes,  
18.25 section 15.059, subdivision 3, and must be paid from the operating funds of the Board  
18.26 of Medical Practice. The cost of the contract under paragraph (a) must be paid from the  
18.27 operating funds of the Board of Medical Practice.

18.28 (d) The working group must elect a chair from its members.

18.29 (e) Meetings of the working group shall be open to the public.

18.30 (f) The board shall submit the report of the working group and legislation modifying  
18.31 the practice act for consideration during the 2013 legislative session.

18.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

18.33 Sec. 30. **BOARD OF MEDICAL PRACTICE REVIEW.**

19.1 (a) As provided in Minnesota Statutes, section 3.97, subdivision 3a, paragraph  
19.2 (b), the Legislative Audit Commission is requested to direct the legislative auditor to  
19.3 prepare a scoping document in response to the Sunset Advisory Commission's request  
19.4 for an evaluation of the Minnesota Medical Practice Act and its implementation by the  
19.5 Minnesota Board of Medical Practice.

19.6 (b) If the Office of the Legislative Auditor is not authorized to carry out the study  
19.7 in paragraph (a) by July 1, 2012, the commissioner of administration must contract for  
19.8 a programmatic and structural review of the Minnesota Board of Medical Practice. The  
19.9 commissioner must contract with the Federation of State Medical Boards to conduct the  
19.10 study. A copy of the review's work plan must be submitted to the chair and vice-chair  
19.11 of the Sunset Advisory Commission for review and comment. The review must be  
19.12 completed and submitted to the Sunset Advisory Commission and the senate and house of  
19.13 representatives policy committees having jurisdiction over the board by January 1, 2013.

19.14 (c) \$45,000 from the state government special revenue fund is appropriated to the  
19.15 commissioner for the study. Up to five percent of the appropriation is available to the  
19.16 commissioner for administrative costs related to the study.

19.17 Sec. 31. **APPROPRIATION.**

19.18 \$127,000 is appropriated to the Legislative Coordinating Commission from the  
19.19 general fund for the fiscal year ending June 30, 2013, to provide staff services or to enter  
19.20 into contracts to assist the Sunset Advisory Commission. The general fund budget base  
19.21 for the Legislative Coordinating Commission, as established in Laws 2011, First Special  
19.22 Session chapter 10, article 1, section 2, and as increased by the appropriation in this  
19.23 section, is increased by an additional \$33,000 per year.

19.24 Sec. 32. **REPEALER.**

19.25 Minnesota Statutes 2010, sections 138A.01; 138A.02; 138A.03; 138A.04; 138A.05;  
19.26 and 138A.06, are repealed effective the day following final enactment.

19.27 **ARTICLE 3**

19.28 **TRANSFER OF COMBATIVE SPORTS DUTIES**

19.29 Section 1. Minnesota Statutes 2010, section 341.21, is amended by adding a  
19.30 subdivision to read:

19.31 Subd. 3a. **Commissioner.** "Commissioner" means the commissioner of labor and  
19.32 industry.

20.1 Sec. 2. **[341.221] ADVISORY COUNCIL.**

20.2 The commissioner must appoint a Combative Sports Advisory Council to advise  
20.3 the commissioner on administration of duties under this chapter. The council must  
20.4 include members knowledgeable in the boxing and mixed martial arts industries and  
20.5 public members. Membership terms, removal of members, filling of vacancies, and  
20.6 compensation of members is as provided in section 15.059.

20.7 Sec. 3. Minnesota Statutes 2010, section 341.28, subdivision 1, is amended to read:

20.8 Subdivision 1. **Regulatory authority; combative sports.** All combative sport  
20.9 contests are subject to this chapter. ~~The commission shall, for every combative sport~~  
20.10 ~~contest:~~

20.11 ~~(1) direct a commission member to be present; and~~

20.12 ~~(2) direct the attending commission member to make a written report of the contest.~~

20.13 All combative sport contests within this state must be conducted according to the  
20.14 requirements of this chapter.

20.15 Sec. 4. Minnesota Statutes 2010, section 341.37, is amended to read:

20.16 **341.37 APPROPRIATION.**

20.17 A ~~commission~~ combative sports account is created in the special revenue fund.

20.18 Money in the account is annually appropriated to the ~~commission~~ commissioner for the  
20.19 purposes of conducting its statutory responsibilities and obligations under this chapter.

20.20 Sec. 5. **TRANSFER OF DUTIES.**

20.21 The Combative Sports Commission is abolished. Duties of the commission are  
20.22 transferred to the commissioner of labor and industry. Minnesota Statutes, section 15.039,  
20.23 subdivisions 1 to 6, apply to this transfer.

20.24 Sec. 6. **REVISOR'S INSTRUCTION.**

20.25 The revisor of statutes shall substitute the term "commissioner" for "commission" in  
20.26 each place the term "commission" appears in Minnesota Statutes, chapter 341.

20.27 Sec. 7. **REPEALER.**

20.28 Minnesota Statutes 2010, sections 341.21, subdivisions 3 and 4a; 341.22; 341.23;  
20.29 341.24; and 341.26, are repealed.

20.30 Sec. 8. **EFFECTIVE DATE.**

21.1 This article is effective July 1, 2013.

## 21.2 **ARTICLE 4**

### 21.3 **ALCOHOL AND DRUG COUNSELORS**

#### 21.4 Section 1. **[148F.001] SCOPE.**

21.5 This chapter applies to all applicants and licensees, all persons who use the title  
21.6 alcohol and drug counselor, and all persons in or out of this state who provide alcohol  
21.7 and drug counseling services to clients who reside in this state unless there are specific  
21.8 applicable exemptions provided by law.

#### 21.9 Sec. 2. **[148F.010] DEFINITIONS.**

21.10 Subdivision 1. **Scope.** For purposes of this chapter, the terms in this section have  
21.11 the meanings given.

21.12 Subd. 2. **Abuse.** "Abuse" means a maladaptive pattern of substance use leading to  
21.13 clinically significant impairment or distress, as manifested by one or more of the following  
21.14 occurring at any time during the same 12-month period:

21.15 (1) recurrent substance use resulting in a failure to fulfill major role obligations at  
21.16 work, school, or home;

21.17 (2) recurrent substance use in situations in which it is physically hazardous;

21.18 (3) recurrent substance-related legal problems; and

21.19 (4) continued substance use despite having persistent or recurrent social or  
21.20 interpersonal problems caused or exacerbated by the effects of the substance.

21.21 Subd. 3. **Accredited school or educational program.** "Accredited school or  
21.22 educational program" means a school of alcohol and drug counseling, university, college,  
21.23 or other postsecondary education program that, at the time the student completes  
21.24 the program, is accredited by a regional accrediting association whose standards are  
21.25 substantially equivalent to those of the North Central Association of Colleges and  
21.26 Postsecondary Education Institutions or an accrediting association that evaluates schools  
21.27 of alcohol and drug counseling for inclusion of the education, practicum, and core function  
21.28 standards in this chapter.

21.29 Subd. 4. **Alcohol and drug counseling practicum.** "Alcohol and drug counseling  
21.30 practicum" means formal experience gained by a student and supervised by a person either  
21.31 licensed under this chapter or exempt under its provisions, as part of an accredited school  
21.32 or educational program of alcohol and drug counseling.

22.1 Subd. 5. **Alcohol and drug counselor.** "Alcohol and drug counselor" means a  
22.2 person who holds a valid license issued under this chapter to engage in the practice of  
22.3 alcohol and drug counseling.

22.4 Subd. 6. **Applicant.** "Applicant" means a person seeking a license or temporary  
22.5 permit under this chapter.

22.6 Subd. 7. **Board.** "Board" means the Board of Behavioral Health and Therapy  
22.7 established in section 148B.51.

22.8 Subd. 8. **Client.** "Client" means an individual who is the recipient of any of the  
22.9 alcohol and drug counseling services described in this section. Client also means "patient"  
22.10 as defined in section 144.291, subdivision 2, paragraph (g).

22.11 Subd. 9. **Competence.** "Competence" means the ability to provide services within  
22.12 the practice of alcohol and drug counseling as defined in subdivision 19, that:

22.13 (1) are rendered with reasonable skill and safety;

22.14 (2) meet minimum standards of acceptable and prevailing practice as described  
22.15 in section 148F.120; and

22.16 (3) take into account human diversity.

22.17 Subd. 10. **Core functions.** "Core functions" means the following services provided  
22.18 in alcohol and drug treatment:

22.19 (1) "screening" means the process by which a client is determined appropriate and  
22.20 eligible for admission to a particular program;

22.21 (2) "intake" means the administrative and initial assessment procedures for  
22.22 admission to a program;

22.23 (3) "orientation" means describing to the client the general nature and goals of the  
22.24 program; rules governing client conduct and infractions that can lead to disciplinary  
22.25 action or discharge from the program; in a nonresidential program, the hours during which  
22.26 services are available; treatment costs to be borne by the client, if any; and client's rights;

22.27 (4) "assessment" means those procedures by which a counselor identifies and  
22.28 evaluates an individual's strengths, weaknesses, problems, and needs to develop a  
22.29 treatment plan or make recommendations for level of care placement;

22.30 (5) "treatment planning" means the process by which the counselor and the client  
22.31 identify and rank problems needing resolution; establish agreed-upon immediate and  
22.32 long-term goals; and decide on a treatment process and the sources to be utilized;

22.33 (6) "counseling" means the utilization of special skills to assist individuals, families,  
22.34 or groups in achieving objectives through exploration of a problem and its ramifications;  
22.35 examination of attitudes and feelings; consideration of alternative solutions; and decision  
22.36 making;

23.1 (7) "case management" means activities that bring services, agencies, resources,  
23.2 or people together within a planned framework of action toward the achievement of  
23.3 established goals;

23.4 (8) "crisis intervention" means those services which respond to an alcohol or other  
23.5 drug user's needs during acute emotional or physical distress;

23.6 (9) "client education" means the provision of information to clients who are  
23.7 receiving or seeking counseling concerning alcohol and other drug abuse and the available  
23.8 services and resources;

23.9 (10) "referral" means identifying the needs of the client which cannot be met by the  
23.10 counselor or agency and assisting the client to utilize the support systems and available  
23.11 community resources;

23.12 (11) "reports and record keeping" means charting the results of the assessment  
23.13 and treatment plan and writing reports, progress notes, discharge summaries, and other  
23.14 client-related data; and

23.15 (12) "consultation with other professionals regarding client treatment and services"  
23.16 means communicating with other professionals in regard to client treatment and services  
23.17 to assure comprehensive, quality care for the client.

23.18 Subd. 11. **Credential.** "Credential" means a license, permit, certification,  
23.19 registration, or other evidence of qualification or authorization to engage in the practice of  
23.20 an occupation in any state or jurisdiction.

23.21 Subd. 12. **Dependent on the provider.** "Dependent on the provider" means that the  
23.22 nature of a former client's emotional or cognitive condition and the nature of the services  
23.23 by the provider are such that the provider knows or should have known that the former  
23.24 client is unable to withhold consent to sexually exploitative behavior by the provider.

23.25 Subd. 13. **Familial.** "Familial" means of, involving, related to, or common to a  
23.26 family member as defined in subdivision 14.

23.27 Subd. 14. **Family member or member of the family.** "Family member" or  
23.28 "member of the family" means a spouse, parent, offspring, sibling, grandparent,  
23.29 grandchild, uncle, aunt, niece, or nephew, or an individual who serves in the role of one of  
23.30 the foregoing.

23.31 Subd. 15. **Group clients.** "Group clients" means two or more individuals who are  
23.32 each a corecipient of alcohol and drug counseling services. Group clients may include,  
23.33 but are not limited to, two or more family members, when each is the direct recipient of  
23.34 services, or each client receiving group counseling services.

24.1 Subd. 16. **Informed consent.** "Informed consent" means an agreement between  
24.2 a provider and a client that authorizes the provider to engage in a professional activity  
24.3 affecting the client. Informed consent requires:

24.4 (1) the provider to give the client sufficient information so the client is able to decide  
24.5 knowingly whether to agree to the proposed professional activity;

24.6 (2) the provider to discuss the information in language that the client can reasonably  
24.7 be expected to understand; and

24.8 (3) the client's consent to be given without undue influence by the provider.

24.9 Subd. 17. **Licensee.** "Licensee" means a person who holds a valid license under  
24.10 this chapter.

24.11 Subd. 18. **Practice of alcohol and drug counseling.** "Practice of alcohol and  
24.12 drug counseling" means the observation, description, evaluation, interpretation, and  
24.13 modification of human behavior by the application of core functions as it relates to the  
24.14 harmful or pathological use or abuse of alcohol or other drugs. The practice of alcohol  
24.15 and drug counseling includes, but is not limited to, the following activities, regardless of  
24.16 whether the counselor receives compensation for the activities:

24.17 (1) assisting clients who use alcohol or drugs, evaluating that use, and recognizing  
24.18 dependency if it exists;

24.19 (2) assisting clients with alcohol or other drug problems to gain insight and  
24.20 motivation aimed at resolving those problems;

24.21 (3) providing experienced professional guidance, assistance, and support for the  
24.22 client's efforts to develop and maintain a responsible functional lifestyle;

24.23 (4) recognizing problems outside the scope of the counselor's training, skill, or  
24.24 competence and referring the client to other appropriate professional services;

24.25 (5) diagnosing the level of alcohol or other drug use involvement to determine the  
24.26 level of care;

24.27 (6) individual planning to prevent a return to harmful alcohol or chemical use;

24.28 (7) alcohol and other drug abuse education for clients;

24.29 (8) consultation with other professionals;

24.30 (9) gaining diversity awareness through ongoing training and education; and

24.31 (10) providing the above services, as needed, to family members or others who are  
24.32 directly affected by someone using alcohol or other drugs.

24.33 Subd. 19. **Practice foundation.** "Practice foundation" means that an alcohol and  
24.34 drug counseling service or continuing education activity is based upon observations,  
24.35 methods, procedures, or theories that are generally accepted by the professional  
24.36 community in alcohol and drug counseling.

25.1            Subd. 20. **Private information.** "Private information" means any information,  
25.2 including, but not limited to, client records as defined in section 148F.150, test results,  
25.3 or test interpretations developed during a professional relationship between a provider  
25.4 and a client.

25.5            Subd. 21. **Provider.** "Provider" means a licensee, a temporary permit holder, or an  
25.6 applicant.

25.7            Subd. 22. **Public statement.** "Public statement" means any statement,  
25.8 communication, or representation by a provider to the public regarding the provider or  
25.9 the provider's professional services or products. Public statements include, but are not  
25.10 limited to, advertising, representations in reports or letters, descriptions of credentials  
25.11 and qualifications, brochures and other descriptions of services, directory listings,  
25.12 personal resumes or curricula vitae, comments for use in the media, Web sites, grant and  
25.13 credentialing applications, or product endorsements.

25.14            Subd. 23. **Report.** "Report" means any written or oral professional communication,  
25.15 including a letter, regarding a client or subject that includes one or more of the following:  
25.16 historical data, behavioral observations, opinions, diagnostic or evaluative statements,  
25.17 or recommendations. The testimony of a provider as an expert or fact witness in a  
25.18 legal proceeding also constitutes a report. For purposes of this chapter, letters of  
25.19 recommendation for academic or career purposes are not considered reports.

25.20            Subd. 24. **Significant risks and benefits.** "Significant risks and benefits" means  
25.21 those risks and benefits that are known or reasonably foreseeable by the provider,  
25.22 including the possible range and likelihood of outcomes, and that are necessary for the  
25.23 client to know in order to decide whether to give consent to proposed services or to  
25.24 reasonable alternative services.

25.25            Subd. 25. **Student.** "Student" means an individual who is enrolled in a program in  
25.26 alcohol and drug counseling at an accredited educational institution, or who is taking an  
25.27 alcohol and drug counseling course or practicum for credit.

25.28            Subd. 26. **Supervisee.** "Supervisee" means an individual whose supervision is  
25.29 required to obtain credentialing by a licensure board or to comply with a board order.

25.30            Subd. 27. **Supervisor.** "Supervisor" means a licensed alcohol and drug counselor  
25.31 licensed under this chapter or other licensed professional practicing alcohol and drug  
25.32 counseling under section 148F.110, who meets the requirements of section 148F.040,  
25.33 subdivision 3, and who provides supervision to persons seeking licensure under section  
25.34 148F.025, subdivision 3, paragraph (2), clause (ii).

25.35            Subd. 28. **Test.** "Test" means any instrument, device, survey, questionnaire,  
25.36 technique, scale, inventory, or other process which is designed or constructed for the

26.1 purpose of measuring, evaluating, assessing, describing, or predicting personality,  
26.2 behavior, traits, cognitive functioning, aptitudes, attitudes, skills, values, interests,  
26.3 abilities, or other characteristics of individuals.

26.4 Subd. 29. **Unprofessional conduct.** "Unprofessional conduct" means any conduct  
26.5 violating sections 148F.001 to 148F.205, or any conduct that fails to conform to the  
26.6 minimum standards of acceptable and prevailing practice necessary for the protection  
26.7 of the public.

26.8 Subd. 30. **Variance.** "Variance" means board-authorized permission to comply with  
26.9 a law or rule in a manner other than that generally specified in the law or rule.

26.10 **Sec. 3. [148F.015] DUTIES OF THE BOARD.**

26.11 The board shall:

26.12 (1) adopt and enforce rules for licensure and regulation of alcohol and drug  
26.13 counselors and temporary permit holders, including a standard disciplinary process and  
26.14 rules of professional conduct;

26.15 (2) issue licenses and temporary permits to qualified individuals under sections  
26.16 148F.001 to 148F.205;

26.17 (3) carry out disciplinary actions against licensees and temporary permit holders;

26.18 (4) educate the public about the existence and content of the regulations for alcohol  
26.19 and drug counselor licensing to enable consumers to file complaints against licensees who  
26.20 may have violated the rules; and

26.21 (5) collect nonrefundable license fees for alcohol and drug counselors.

26.22 **Sec. 4. [148F.020] DUTY TO MAINTAIN CURRENT INFORMATION.**

26.23 All individuals licensed as alcohol and drug counselors, all individuals with  
26.24 temporary permits, and all applicants for licensure must notify the board within 30 days  
26.25 of the occurrence of any of the following:

26.26 (1) a change of name, address, place of employment, and home or business  
26.27 telephone number; and

26.28 (2) a change in any other application information.

26.29 **Sec. 5. [148F.025] REQUIREMENTS FOR LICENSURE.**

26.30 Subdivision 1. **Form; fee.** Individuals seeking licensure as a licensed alcohol and  
26.31 drug counselor shall fully complete and submit a notarized written application on forms  
26.32 provided by the board together with the appropriate fee in the amount set under section  
26.33 148F.115. No portion of the fee is refundable.

27.1 Subd. 2. Education requirements for licensure. An applicant for licensure must  
27.2 submit evidence satisfactory to the board that the applicant has:

27.3 (1) received a bachelor's degree from an accredited school or educational program;  
27.4 and

27.5 (2) received 18 semester credits or 270 clock hours of academic course work and  
27.6 880 clock hours of supervised alcohol and drug counseling practicum from an accredited  
27.7 school or education program. The course work and practicum do not have to be part of  
27.8 the bachelor's degree earned under clause (1). The academic course work must be in  
27.9 the following areas:

27.10 (i) an overview of the transdisciplinary foundations of alcohol and drug counseling,  
27.11 including theories of chemical dependency, the continuum of care, and the process of  
27.12 change;

27.13 (ii) pharmacology of substance abuse disorders and the dynamics of addiction,  
27.14 including medication-assisted therapy;

27.15 (iii) professional and ethical responsibilities;

27.16 (iv) multicultural aspects of chemical dependency;

27.17 (v) co-occurring disorders; and

27.18 (vi) the core functions defined in section 148F.010, subdivision 10.

27.19 Subd. 3. Examination requirements for licensure. (a) To be eligible for licensure,  
27.20 the applicant must:

27.21 (1) satisfactorily pass the International Certification and Reciprocity Consortium  
27.22 Alcohol and Other Drug Abuse Counselor (IC&RC AODA) written examination adopted  
27.23 June 2008, or other equivalent examination as determined by the board; or

27.24 (2) satisfactorily pass a written examination for licensure as an alcohol and drug  
27.25 counselor, as determined by the board, and one of the following:

27.26 (i) complete a written case presentation and pass an oral examination that  
27.27 demonstrates competence in the core functions as defined in section 148F.010, subdivision  
27.28 10; or

27.29 (ii) complete 2,000 hours of postdegree supervised professional practice under  
27.30 section 148F.040.

27.31 Sec. 6. [148F.030] RECIPROCITY.

27.32 (a) An individual who holds a current license or national certification as an alcohol  
27.33 and drug counselor from another jurisdiction must file with the board a completed  
27.34 application for licensure by reciprocity containing the information required in this section.

28.1 (b) The applicant must request the credentialing authority of the jurisdiction in  
28.2 which the credential is held to send directly to the board a statement that the credential  
28.3 is current and in good standing, the applicant's qualifications that entitled the applicant  
28.4 to the credential, and a copy of the jurisdiction's credentialing laws and rules that were  
28.5 in effect at the time the applicant obtained the credential.

28.6 (c) The board shall issue a license if the board finds that the requirements which  
28.7 the applicant met to obtain the credential from the other jurisdiction were substantially  
28.8 similar to the current requirements for licensure in this chapter and that the applicant is not  
28.9 otherwise disqualified under section 148F.090.

28.10 **Sec. 7. [148F.035] TEMPORARY PERMIT.**

28.11 (a) The board may issue a temporary permit to practice alcohol and drug counseling  
28.12 to an individual prior to being licensed under this chapter if the person:

28.13 (1) received an associate degree, or an equivalent number of credit hours, completed  
28.14 880 clock hours of supervised alcohol and drug counseling practicum, and 18 semester  
28.15 credits or 270 clock hours of academic course work in alcohol and drug counseling from  
28.16 an accredited school or education program; and

28.17 (2) completed academic course work in the following areas:

28.18 (i) overview of the transdisciplinary foundations of alcohol and drug counseling,  
28.19 including theories of chemical dependency, the continuum of care, and the process of  
28.20 change;

28.21 (ii) pharmacology of substance abuse disorders and the dynamics of addiction,  
28.22 including medication-assisted therapy;

28.23 (iii) professional and ethical responsibilities;

28.24 (iv) multicultural aspects of chemical dependency;

28.25 (v) co-occurring disorders; and

28.26 (vi) core functions defined in section 148F.010, subdivision 10.

28.27 (b) An individual seeking a temporary permit shall fully complete and submit  
28.28 a notarized written application on forms provided by the board together with the  
28.29 nonrefundable temporary permit fee specified in section 148F.115, subdivision 3, clause  
28.30 (1).

28.31 (c) An individual practicing under this section:

28.32 (1) must be supervised by a licensed alcohol and drug counselor or other licensed  
28.33 professional practicing alcohol and drug counseling under section 148F.110, subdivision 1;

29.1 (2) is subject to all statutes and rules to the same extent as an individual who is  
29.2 licensed under this chapter, except the individual is not subject to the continuing education  
29.3 requirements of section 148F.075; and

29.4 (3) must use the title "Alcohol and Drug Counselor-Trainee" or the letters "ADC-T"  
29.5 in professional activities.

29.6 (d)(1) An individual practicing with a temporary permit must submit a renewal  
29.7 application annually on forms provided by the board with the renewal fee required in  
29.8 section 148F.115, subdivision 3.

29.9 (2) A temporary permit is automatically terminated if not renewed, upon a change in  
29.10 supervision, or upon the granting or denial by the board of the applicant's application for  
29.11 licensure as an alcohol and drug counselor.

29.12 (3) A temporary permit may be renewed no more than five times.

29.13 **Sec. 8. [148F.040] SUPERVISED POSTDEGREE PROFESSIONAL PRACTICE.**

29.14 Subdivision 1. **Supervision.** For the purposes of this section, "supervision" means  
29.15 documented interactive consultation, which, subject to the limitations of subdivision 4,  
29.16 paragraph (b), may be conducted in person, by telephone, or by audio or audiovisual  
29.17 electronic device by a supervisor with a supervisee. The supervision must be adequate to  
29.18 ensure the quality and competence of the activities supervised. Supervisory consultation  
29.19 must include discussions on the nature and content of the practice of the supervisee,  
29.20 including, but not limited to, a review of a representative sample of alcohol and drug  
29.21 counseling services in the supervisee's practice.

29.22 Subd. 2. **Postdegree professional practice.** "Postdegree professional practice"  
29.23 means paid or volunteer work experience and training following graduation from an  
29.24 accredited school or educational program that involves professional oversight by a  
29.25 supervisor approved by the board and that satisfies the supervision requirements in  
29.26 subdivision 4.

29.27 Subd. 3. **Supervisor requirements.** For the purposes of this section, a supervisor  
29.28 shall:

29.29 (1) be a licensed alcohol and drug counselor or other qualified professional as  
29.30 determined by the board;

29.31 (2) have three years of experience providing alcohol and drug counseling services;  
29.32 and

29.33 (3) have received a minimum of 12 hours of training in clinical and ethical  
29.34 supervision, which may include course work, continuing education courses, workshops,  
29.35 or a combination thereof.

30.1 Subd. 4. **Supervised practice requirements for licensure.** (a) The content of  
30.2 supervision must include:

30.3 (1) knowledge, skills, values, and ethics with specific application to the practice  
30.4 issues faced by the supervisee, including the core functions in section 148F.010,  
30.5 subdivision 10;

30.6 (2) the standards of practice and ethical conduct, with particular emphasis given to  
30.7 the counselor's role and appropriate responsibilities, professional boundaries, and power  
30.8 dynamics; and

30.9 (3) the supervisee's permissible scope of practice, as defined in section 148F.010,  
30.10 subdivision 18.

30.11 (b) The supervision must be obtained at the rate of one hour of supervision per 40  
30.12 hours of professional practice, for a total of 50 hours of supervision. The supervision must  
30.13 be evenly distributed over the course of the supervised professional practice. At least 75  
30.14 percent of the required supervision hours must be received in person. The remaining 25  
30.15 percent of the required hours may be received by telephone or by audio or audiovisual  
30.16 electronic device. At least 50 percent of the required hours of supervision must be received  
30.17 on an individual basis. The remaining 50 percent may be received in a group setting.

30.18 (c) The supervision must be completed in no fewer than 12 consecutive months  
30.19 and no more than 36 consecutive months.

30.20 (d) The applicant shall include with an application for licensure a verification of  
30.21 completion of the 2,000 hours of supervised professional practice. Verification must be  
30.22 on a form specified by the board. The supervisor shall verify that the supervisee has  
30.23 completed the required hours of supervision according to this section. The supervised  
30.24 practice required under this section is unacceptable if the supervisor attests that the  
30.25 supervisee's performance, competence, or adherence to the standards of practice and  
30.26 ethical conduct has been unsatisfactory.

30.27 **Sec. 9. [148F.045] ALCOHOL AND DRUG COUNSELOR TECHNICIAN.**

30.28 An alcohol and drug counselor technician may perform the screening, intake, and  
30.29 orientation services described in section 148F.010, subdivision 10, clauses (1), (2), and  
30.30 (3), while under the direct supervision of a licensed alcohol and drug counselor.

30.31 **Sec. 10. [148F.050] LICENSE RENEWAL REQUIREMENTS.**

30.32 Subdivision 1. **Biennial renewal.** A license must be renewed every two years.

30.33 Subd. 2. **License renewal notice.** At least 60 calendar days before the renewal  
30.34 deadline date, the board shall mail a renewal notice to the licensee's last known address

31.1 on file with the board. The notice must include instructions for accessing an online  
31.2 application for license renewal, the renewal deadline, and notice of fees required for  
31.3 renewal. The licensee's failure to receive notice does not relieve the licensee of the  
31.4 obligation to meet the renewal deadline and other requirements for license renewal.

31.5 Subd. 3. **Renewal requirements.** (a) To renew a license, a licensee must submit to  
31.6 the board:

31.7 (1) a completed, signed, and notarized application for license renewal;

31.8 (2) the renewal fee required under section 148F.115, subdivision 2; and

31.9 (3) evidence satisfactory to the board that the licensee has completed 40 clock  
31.10 hours of continuing education during the preceding two-year renewal period that meet the  
31.11 requirements of section 148F.075.

31.12 (b) The application must be postmarked or received by the board by the end of the  
31.13 day on which the license expires or the following business day if the expiration date  
31.14 falls on a Saturday, Sunday, or holiday. An application which is not completed, signed,  
31.15 notarized, or which is not accompanied by the correct fee, is void and must be returned  
31.16 to the licensee.

31.17 Subd. 4. **Pending renewal.** If a licensee's application for license renewal is  
31.18 postmarked or received by the board by the end of the business day on the expiration date  
31.19 of the license, the licensee may continue to practice after the expiration date while the  
31.20 application for license renewal is pending with the board.

31.21 Subd. 5. **Late renewal fee.** If the application for license renewal is postmarked or  
31.22 received after the expiration date, the licensee shall pay a late fee as specified by section  
31.23 148F.115, subdivision 5, clause (1), in addition to the renewal fee, before the application  
31.24 for license renewal will be considered by the board.

31.25 Sec. 11. **[148F.055] EXPIRED LICENSE.**

31.26 Subdivision 1. **Expiration of license.** A licensee who fails to submit an application  
31.27 for license renewal, or whose application for license renewal is not postmarked or received  
31.28 by the board as required, is not authorized to practice after the expiration date and is  
31.29 subject to disciplinary action by the board for any practice after the expiration date.

31.30 Subd. 2. **Termination for nonrenewal.** (a) Within 30 days after the renewal date, a  
31.31 licensee who has not renewed the license shall be notified by letter sent to the last known  
31.32 address of the licensee in the board's file that the renewal is overdue and that failure to  
31.33 pay the current fee and current late fee within 60 days after the renewal date will result in  
31.34 termination of the license.

32.1 (b) The board shall terminate the license of a licensee whose license renewal is at  
32.2 least 60 days overdue and to whom notification has been sent as provided in paragraph  
32.3 (a). Failure of a licensee to receive notification is not grounds for later challenge of the  
32.4 termination. The former licensee shall be notified of the termination by letter within seven  
32.5 days after the board action, in the same manner as provided in paragraph (a).

32.6 Sec. 12. **[148F.060] VOLUNTARY TERMINATION.**

32.7 A license may be voluntarily terminated by the licensee at any time upon written  
32.8 notification to the board, unless a complaint is pending against the licensee. The  
32.9 notification must be received by the board prior to termination of the license for failure to  
32.10 renew. A former licensee may be licensed again only after complying with the relicensure  
32.11 following termination requirements under section 148F.065. For purposes of this section,  
32.12 the board retains jurisdiction over any licensee whose license has been voluntarily  
32.13 terminated and against whom the board receives a complaint for conduct occurring during  
32.14 the period of licensure.

32.15 Sec. 13. **[148F.065] RELICENSURE FOLLOWING TERMINATION.**

32.16 Subdivision 1. **Relicensure.** For a period of two years, a former licensee whose  
32.17 license has been voluntarily terminated or terminated for nonrenewal as provided in  
32.18 section 148F.055, subdivision 2, may be relicensed by completing an application for  
32.19 relicensure, paying the applicable fee, and verifying that the former licensee has not  
32.20 engaged in the practice of alcohol and drug counseling in this state since the date of  
32.21 termination. The verification must be accompanied by a notarized affirmation that the  
32.22 statement is true and correct to the best knowledge and belief of the former licensee.

32.23 Subd. 2. **Continuing education for relicensure.** A former licensee seeking  
32.24 relicensure after license termination must provide evidence of having completed at least  
32.25 20 hours of continuing education activities for each year, or portion thereof, that the  
32.26 former licensee did not hold a license.

32.27 Subd. 3. **Cancellation of license.** The board shall not renew, reissue, reinstate,  
32.28 or restore the license of a former licensee which was terminated for nonrenewal, or  
32.29 voluntarily terminated, and for which relicensure was not sought for more than two years  
32.30 from the date the license was terminated for nonrenewal, or voluntarily terminated. A  
32.31 former licensee seeking relicensure after this two-year period must obtain a new license  
32.32 by applying for licensure and fulfilling all requirements then in existence for an initial  
32.33 license to practice alcohol and drug counseling in Minnesota.

33.1 Sec. 14. **[148F.070] INACTIVE LICENSE STATUS.**

33.2 **Subdivision 1. Request for inactive status.** Unless a complaint is pending against  
33.3 the licensee, a licensee whose license is in good standing may request, in writing, that the  
33.4 license be placed on the inactive list. If a complaint is pending against a licensee, a license  
33.5 may not be placed on the inactive list until action relating to the complaint is concluded.  
33.6 The board must receive the request for inactive status before expiration of the license, or  
33.7 the person must pay the late fee. A licensee may renew a license that is inactive under this  
33.8 subdivision by meeting the renewal requirements of subdivision 2. A licensee must not  
33.9 practice alcohol and drug counseling while the license is inactive.

33.10 **Subd. 2. Renewal of inactive license.** A licensee whose license is inactive must  
33.11 renew the inactive status by the inactive status expiration date determined by the board,  
33.12 or the license will expire. An application for renewal of inactive status must include  
33.13 evidence satisfactory to the board that the licensee has completed 40 clock hours of  
33.14 continuing education required in section 148F.075. Late renewal of inactive status must be  
33.15 accompanied by a late fee as required in section 148F.115, subdivision 5, paragraph (2).

33.16 Sec. 15. **[148F.075] CONTINUING EDUCATION REQUIREMENTS.**

33.17 **Subdivision 1. Purpose.** (a) The purpose of mandatory continuing education is to  
33.18 promote the professional development of alcohol and drug counselors so that the services  
33.19 they provide promote the health and well-being of clients who receive services.

33.20 (b) Continued professional growth and maintaining competence in providing alcohol  
33.21 and drug counseling services are the ethical responsibilities of each licensee.

33.22 **Subd. 2. Requirement.** Every two years, all licensees must complete a minimum  
33.23 of 40 clock hours of continuing education activities that meet the requirements in this  
33.24 section. The 40 clock hours shall include a minimum of nine clock hours on diversity,  
33.25 and a minimum of three clock hours on professional ethics. Diversity training includes,  
33.26 but is not limited to, the topics listed in Minnesota Rules, part 4747.1100, subpart 2.  
33.27 A licensee may be given credit only for activities that directly relate to the practice  
33.28 of alcohol and drug counseling.

33.29 **Subd. 3. Standards for approval.** In order to obtain clock hour credit for a  
33.30 continuing education activity, the activity must:

33.31 (1) constitute an organized program of learning;

33.32 (2) reasonably be expected to advance the knowledge and skills of the alcohol  
33.33 and drug counselor;

33.34 (3) pertain to subjects that directly relate to the practice of alcohol and drug  
33.35 counseling;

34.1 (4) be conducted by individuals who have education, training, and experience and  
34.2 are knowledgeable about the subject matter; and

34.3 (5) be presented by a sponsor who has a system to verify participation and maintains  
34.4 attendance records for three years, unless the sponsor provides dated evidence to each  
34.5 participant with the number of clock hours awarded.

34.6 Subd. 4. **Qualifying activities.** Clock hours may be earned through the following:

34.7 (1) attendance at educational programs of annual conferences, lectures, panel  
34.8 discussions, workshops, in-service training, seminars, and symposia;

34.9 (2) successful completion of college or university courses offered by a regionally  
34.10 accredited school or education program, if not being taken in order to meet the educational  
34.11 requirements for licensure under this chapter. The licensee must obtain a grade of at least  
34.12 a "C" or its equivalent or a pass in a pass/fail course in order to receive the following  
34.13 continuing education credits:

34.14 (i) one semester credit equals 15 clock hours;

34.15 (ii) one trimester credit equals 12 clock hours; and

34.16 (iii) one quarter credit equals 10 clock hours;

34.17 (3) successful completion of home study or online courses offered by an accredited  
34.18 school or education program and that require a licensee to demonstrate knowledge  
34.19 following completion of the course;

34.20 (4) teaching a course at a regionally accredited institution of higher education. To  
34.21 qualify for continuing education credit, the course must directly relate to the practice of  
34.22 alcohol and drug counseling, as determined by the board. Continuing education hours may  
34.23 be earned only for the first time the licensee teaches the course. Ten continuing education  
34.24 hours may be earned for each semester credit hour taught; or

34.25 (5) presentations at workshops, seminars, symposia, meetings of professional  
34.26 organizations, in-service trainings, or postgraduate institutes. The presentation must be  
34.27 related to alcohol and drug counseling. A presenter may claim one hour of continuing  
34.28 education for each hour of presentation time. A presenter may also receive continuing  
34.29 education hours for development time at the rate of three hours for each hour of  
34.30 presentation time. Continuing education hours may be earned only for the licensee's  
34.31 first presentation on the subject developed.

34.32 Subd. 5. **Activities not qualifying for continuing education clock hours.**

34.33 Approval shall not be given for courses that do not meet the requirements of this section  
34.34 or are limited to the following:

34.35 (1) any subject contrary to the rules of professional conduct;

34.36 (2) supervision of personnel;

- 35.1 (3) entertainment or recreational activities;  
35.2 (4) employment orientation sessions;  
35.3 (5) policy meetings;  
35.4 (6) marketing;  
35.5 (7) business;  
35.6 (8) first aid, CPR, and similar training classes; and  
35.7 (9) training related to payment systems, including covered services, coding, and  
35.8 billing.

35.9 **Subd. 6. Documentation of reporting compliance.** (a) When the licensee applies  
35.10 for renewal of the license, the licensee must complete and submit an affidavit of continuing  
35.11 education compliance showing that the licensee has completed a minimum of 40 approved  
35.12 continuing education clock hours since the last renewal. Failure to submit the affidavit  
35.13 when required makes the licensee's renewal application incomplete and void.

35.14 (b) All licensees shall retain original documentation of completion of continuing  
35.15 education hours for a period of five years. For purposes of compliance with this section, a  
35.16 receipt for payment of the fee for the course is not sufficient evidence of completion of the  
35.17 required hours of continuing education. Information retained shall include:

- 35.18 (1) the continuing education activity title;  
35.19 (2) a brief description of the continuing education activity;  
35.20 (3) the sponsor, presenter, or author;  
35.21 (4) the location and the dates attended;  
35.22 (5) the number of clock hours; and  
35.23 (6) the certificate of attendance, if applicable.

35.24 (c) Only continuing education obtained during the two-year reporting period may be  
35.25 considered at the time of reporting.

35.26 **Subd. 7. Continuing education audit.** (a) At the time of renewal, the board may  
35.27 randomly audit a percentage of its licensees for compliance with continuing education  
35.28 requirements.

35.29 (b) The board shall mail a notice to a licensee selected for an audit of continuing  
35.30 education hours. The notice must include the reporting periods selected for audit.

35.31 (c) Selected licensees shall submit copies of the original documentation of completed  
35.32 continuing education hours. Upon specific request, the licensee shall submit original  
35.33 documentation. Failure to submit required documentation shall result in the renewal  
35.34 application being considered incomplete and void and constitute grounds for nonrenewal  
35.35 of the license and disciplinary action.

36.1 Subd. 8. Variance of continuing education requirements. (a) If a licensee is  
36.2 unable to meet the continuing education requirements by the renewal date, the licensee  
36.3 may request a time-limited variance to fulfill the requirements after the renewal date. A  
36.4 licensee seeking a variance is considered to be renewing late and is subject to the late  
36.5 renewal fee, regardless of when the request is received or whether the variance is granted.

36.6 (b) The licensee shall submit the variance request on a form designated by the board,  
36.7 include the variance fee subject to section 14.056, subdivision 2, and the late fee for  
36.8 license renewal under section 148F.115. The variance request is subject to the criteria for  
36.9 rule variances in section 14.055, subdivision 4, and must include a written plan listing  
36.10 the activities offered to meet the requirement. Hours completed after the renewal date  
36.11 pursuant to the written plan count toward meeting only the requirements of the previous  
36.12 renewal period.

36.13 (c) A variance granted under this subdivision expires six months after the license  
36.14 renewal date. A licensee who is granted a variance but fails to complete the required  
36.15 continuing education within the six-month period may apply for a second variance  
36.16 according to this subdivision.

36.17 (d) If an initial variance request is denied, the license of the licensee shall not be  
36.18 renewed until the licensee completes the continuing education requirements. If an initial  
36.19 variance is granted, and the licensee fails to complete the required continuing education  
36.20 within the six-month period, the license shall be administratively suspended until the  
36.21 licensee completes the required continuing education, unless the licensee has obtained a  
36.22 second variance according to paragraph (c).

36.23 **Sec. 16. [148F.080] SPONSOR'S APPLICATION FOR APPROVAL.**

36.24 Subdivision 1. Content. Individuals, organizations, associations, corporations,  
36.25 educational institutions, or groups intending to offer continuing education activities for  
36.26 approval must submit to the board the sponsor application fee and a completed application  
36.27 for approval on a form provided by the board. The sponsor must comply with the  
36.28 following to receive and maintain approval:

36.29 (1) submit the application for approval at least 60 days before the activity is  
36.30 scheduled to begin; and

36.31 (2) include the following information in the application for approval to enable the  
36.32 board to determine whether the activity complies with section 148F.075:

36.33 (i) a statement of the objectives of the activity and the knowledge the participants  
36.34 will have gained upon completion of the activity;

37.1 (ii) a description of the content and methodology of the activity which will allow the  
 37.2 participants to meet the objectives;

37.3 (iii) a description of the method the participants will use to evaluate the activity;

37.4 (iv) a list of the qualifications of each instructor or developer that shows the  
 37.5 instructor's or developer's current knowledge and skill in the activity's subject;

37.6 (v) a description of the certificate or other form of verification of attendance  
 37.7 distributed to each participant upon successful completion of the activity;

37.8 (vi) the sponsor's agreement to retain attendance lists for a period of five years  
 37.9 from the date of the activity; and

37.10 (vii) a copy of any proposed advertisement or other promotional literature.

37.11 Subd. 2. **Approval expiration.** If the board approves an activity it shall assign the  
 37.12 activity a number. The approval remains in effect for one year from the date of initial  
 37.13 approval. Upon expiration, a sponsor must submit a new application for activity approval  
 37.14 to the board as required by subdivision 1.

37.15 Subd. 3. **Statement of board approval.** Each sponsor of an approved activity shall  
 37.16 include in any promotional literature a statement that "This activity has been approved by  
 37.17 the Minnesota Board of Behavioral Health and Therapy for ... hours of credit."

37.18 Subd. 4. **Changes.** The activity sponsor must submit proposed changes in an  
 37.19 approved activity to the board for its approval.

37.20 Subd. 5. **Denial of approval.** The board shall not approve an activity if it does not  
 37.21 meet the continuing education requirements in section 148F.075. The board shall notify  
 37.22 the sponsor in writing of its reasons for denial.

37.23 Subd. 6. **Revocation of approval.** The board shall revoke its approval of an activity  
 37.24 if a sponsor falsifies information contained in its application for approval, or if a sponsor  
 37.25 fails to notify the board of changes to an approved activity as required in subdivision 4.

37.26 Sec. 17. **[148F.085] NONTRANSFERABILITY OF LICENSES.**

37.27 An alcohol and drug counselor license is not transferable.

37.28 Sec. 18. **[148F.090] DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.**

37.29 Subdivision 1. **Grounds.** The board may impose disciplinary action as described  
 37.30 in subdivision 2 against an applicant or licensee whom the board, by a preponderance of  
 37.31 the evidence, determines:

37.32 (1) has violated a statute, rule, or order that the board issued or is empowered to  
 37.33 enforce;

38.1 (2) has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the  
38.2 conduct relates to the practice of licensed alcohol and drug counseling that adversely  
38.3 affects the person's ability or fitness to practice alcohol and drug counseling;

38.4 (3) has engaged in unprofessional conduct or any other conduct which has the  
38.5 potential for causing harm to the public, including any departure from or failure to  
38.6 conform to the minimum standards of acceptable and prevailing practice without actual  
38.7 injury having to be established;

38.8 (4) has been convicted of or has pled guilty or nolo contendere to a felony or other  
38.9 crime, an element of which is dishonesty or fraud, or has been shown to have engaged  
38.10 in acts or practices tending to show that the applicant or licensee is incompetent or has  
38.11 engaged in conduct reflecting adversely on the applicant's or licensee's ability or fitness  
38.12 to engage in the practice of alcohol and drug counseling;

38.13 (5) has employed fraud or deception in obtaining or renewing a license, or in  
38.14 passing an examination;

38.15 (6) has had any license, certificate, registration, privilege to take an examination,  
38.16 or other similar authority denied, revoked, suspended, canceled, limited, or not renewed  
38.17 for cause in any jurisdiction or has surrendered or voluntarily terminated a license or  
38.18 certificate during a board investigation of a complaint, as part of a disciplinary order, or  
38.19 while under a disciplinary order;

38.20 (7) has failed to meet any requirement for the issuance or renewal of the person's  
38.21 license. The burden of proof is on the applicant or licensee to demonstrate the  
38.22 qualifications or satisfy the requirements for a license under this chapter;

38.23 (8) has failed to cooperate with an investigation by the board;

38.24 (9) has demonstrated an inability to practice alcohol and drug counseling with  
38.25 reasonable skill and safety as a result of illness, use of alcohol, drugs, chemicals, or any  
38.26 other materials, or as a result of any mental, physical, or psychological condition;

38.27 (10) has engaged in conduct with a client that is sexual or may reasonably be  
38.28 interpreted by the client as sexual, or in any verbal behavior that is seductive or sexually  
38.29 demeaning to a client;

38.30 (11) has been subject to a corrective action or similar, nondisciplinary action in  
38.31 another jurisdiction or by another regulatory authority;

38.32 (12) has been adjudicated as mentally incompetent, mentally ill, or developmentally  
38.33 disabled or as a chemically dependent person, a person dangerous to the public, a sexually  
38.34 dangerous person, or a person who has a sexual psychopathic personality by a court  
38.35 of competent jurisdiction within this state or an equivalent adjudication from another

39.1 state. Adjudication automatically suspends a license for the duration thereof unless the  
 39.2 board orders otherwise;

39.3 (13) fails to comply with a client's request for health records made under sections  
 39.4 144.291 to 144.298, or to furnish a client record or report required by law;

39.5 (14) has engaged in abusive or fraudulent billing practices, including violations of  
 39.6 the federal Medicare and Medicaid laws or state medical assistance laws; or

39.7 (15) has engaged in fee splitting. This clause does not apply to the distribution  
 39.8 of revenues from a partnership, group practice, nonprofit corporation, or professional  
 39.9 corporation to its partners, shareholders, members, or employees if the revenues consist  
 39.10 only of fees for services performed by the licensee or under a licensee's administrative  
 39.11 authority. Fee splitting includes, but is not limited to:

39.12 (i) dividing fees with another person or a professional corporation, unless the  
 39.13 division is in proportion to the services provided and the responsibility assumed by  
 39.14 each professional;

39.15 (ii) referring a client to any health care provider as defined in sections 144.291 to  
 39.16 144.298 in which the referring licensee has a significant financial interest, unless the  
 39.17 licensee has disclosed in advance to the client the licensee's own financial interest; or

39.18 (iii) paying, offering to pay, receiving, or agreeing to receive a commission, rebate,  
 39.19 or remuneration, directly or indirectly, primarily for the referral of clients.

39.20 Subd. 2. **Forms of disciplinary action.** If grounds for disciplinary action exist  
 39.21 under subdivision 1, the board may take one or more of the following actions;

39.22 (1) refuse to grant or renew a license;

39.23 (2) revoke a license;

39.24 (3) suspend a license;

39.25 (4) impose limitations or conditions on a licensee's practice of alcohol and drug  
 39.26 counseling, including, but not limited to, limiting the scope of practice to designated  
 39.27 competencies, imposing retraining or rehabilitation requirements, requiring the licensee to  
 39.28 practice under supervision, or conditioning continued practice on the demonstration of  
 39.29 knowledge or skill by appropriate examination or other review of skill and competence;

39.30 (5) censure or reprimand the licensee;

39.31 (6) impose a civil penalty not exceeding \$10,000 for each separate violation,  
 39.32 the amount of the civil penalty to be fixed so as to deprive the applicant or licensee  
 39.33 of any economic advantage gained by reason of the violation charged, to discourage  
 39.34 similar violations or to reimburse the board for the cost of the investigation and  
 39.35 proceeding, including, but not limited to, fees paid for services provided by the Office of  
 39.36 Administrative Hearings, legal and investigative services provided by the Office of the

40.1 Attorney General, court reporters, witnesses, reproduction of records, board members' per  
40.2 diem compensation, board staff time, and travel costs and expenses incurred by board staff  
40.3 and board members; or

40.4 (7) any other action justified by the case.

40.5 Subd. 3. **Evidence.** In disciplinary actions alleging violations of subdivision 1,  
40.6 clause (4), (12), or (14), a copy of the judgment or proceedings under the seal of the court  
40.7 administrator or of the administrative agency that entered the judgment or proceeding  
40.8 is admissible into evidence without further authentication and constitutes prima facie  
40.9 evidence of its contents.

40.10 Subd. 4. **Temporary suspension.** (a) In addition to any other remedy provided by  
40.11 law, the board may issue an order to temporarily suspend the credentials of a licensee after  
40.12 conducting a preliminary inquiry to determine if the board reasonably believes that the  
40.13 licensee has violated a statute or rule that the board is empowered to enforce and whether  
40.14 continued practice by the licensee would create an imminent risk of harm to others.

40.15 (b) The order may prohibit the licensee from engaging in the practice of alcohol  
40.16 and drug counseling in whole or in part and may condition the end of a suspension on  
40.17 the licensee's compliance with a statute, rule, or order that the board has issued or is  
40.18 empowered to enforce.

40.19 (c) The order shall give notice of the right to a hearing according to this subdivision  
40.20 and shall state the reasons for the entry of the order.

40.21 (d) Service of the order is effective when the order is served on the licensee  
40.22 personally or by certified mail, which is complete upon receipt, refusal, or return for  
40.23 nondelivery to the most recent address of the licensee provided to the board.

40.24 (e) At the time the board issues a temporary suspension order, the board shall  
40.25 schedule a hearing to be held before its own members. The hearing shall begin no later  
40.26 than 60 days after issuance of the temporary suspension order or within 15 working  
40.27 days of the date of the board's receipt of a request for hearing by a licensee, on the sole  
40.28 issue of whether there is a reasonable basis to continue, modify, or lift the temporary  
40.29 suspension. The hearing is not subject to chapter 14. Evidence presented by the board  
40.30 or the licensee shall be in affidavit form only. The licensee or counsel of record may  
40.31 appear for oral argument.

40.32 (f) Within five working days of the hearing, the board shall issue its order and, if the  
40.33 suspension is continued, schedule a contested case hearing within 30 days of the issuance  
40.34 of the order. Notwithstanding chapter 14, the administrative law judge shall issue a report  
40.35 within 30 days after closing the contested case hearing record. The board shall issue a  
40.36 final order within 30 days of receipt of the administrative law judge's report.

41.1 Subd. 5. **Automatic suspension.** (a) The right to practice is automatically  
41.2 suspended when:

41.3 (1) a guardian of an alcohol and drug counselor is appointed by order of a district  
41.4 court under sections 524.5-101 to 524.5-502; or

41.5 (2) the counselor is committed by order of a district court under chapter 253B.

41.6 (b) The right to practice remains suspended until the counselor is restored to capacity  
41.7 by a court and, upon petition by the counselor, the suspension is terminated by the board  
41.8 after a hearing or upon agreement between the board and the counselor.

41.9 Subd. 6. **Mental, physical, or chemical health evaluation.** (a) If the board has  
41.10 probable cause to believe that an applicant or licensee is unable to practice alcohol and  
41.11 drug counseling with reasonable skill and safety due to a mental or physical illness or  
41.12 condition, the board may direct the individual to submit to a mental, physical, or chemical  
41.13 dependency examination or evaluation.

41.14 (1) For the purposes of this section, every licensee and applicant is deemed to  
41.15 have consented to submit to a mental, physical, or chemical dependency examination or  
41.16 evaluation when directed in writing by the board and to have waived all objections to the  
41.17 admissibility of the examining professionals' testimony or examination reports on the  
41.18 grounds that the testimony or examination reports constitute a privileged communication.

41.19 (2) Failure of a licensee or applicant to submit to an examination when directed by  
41.20 the board constitutes an admission of the allegations against the person, unless the failure  
41.21 was due to circumstances beyond the person's control, in which case a default and final  
41.22 order may be entered without the taking of testimony or presentation of evidence.

41.23 (3) A licensee or applicant affected under this subdivision shall at reasonable  
41.24 intervals be given an opportunity to demonstrate that the licensee or applicant can resume  
41.25 the competent practice of licensed alcohol and drug counseling with reasonable skill  
41.26 and safety to the public.

41.27 (4) In any proceeding under this subdivision, neither the record of proceedings  
41.28 nor the orders entered by the board shall be used against the licensee or applicant in  
41.29 any other proceeding.

41.30 (b) In addition to ordering a physical or mental examination, the board may,  
41.31 notwithstanding section 13.384 or 144.291 to 144.298, or any other law limiting access to  
41.32 medical or other health data, obtain medical data and health records relating to a licensee  
41.33 or applicant without the licensee's or applicant's consent if the board has probable cause to  
41.34 believe that subdivision 1, clause (9), applies to the licensee or applicant. The medical  
41.35 data may be requested from:

41.36 (1) a provider, as defined in section 144.291, subdivision 2, paragraph (h);

42.1 (2) an insurance company; or

42.2 (3) a government agency, including the Department of Human Services.

42.3 (c) A provider, insurance company, or government agency must comply with any  
42.4 written request of the board under this subdivision and is not liable in any action for  
42.5 damages for releasing the data requested by the board if the data are released pursuant to a  
42.6 written request under this subdivision, unless the information is false and the provider  
42.7 giving the information knew, or had reason to believe, the information was false.

42.8 (d) Information obtained under this subdivision is private data on individuals as  
42.9 defined in section 13.02, subdivision 12.

42.10 Sec. 19. **[148F.095] ADDITIONAL REMEDIES.**

42.11 Subdivision 1. **Cease and desist.** (a) The board may issue a cease and desist order  
42.12 to stop a person from violating or threatening to violate a statute, rule, or order which the  
42.13 board has issued or has authority to enforce. The cease and desist order must state the  
42.14 reason for its issuance and give notice of the person's right to request a hearing under  
42.15 sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order  
42.16 fails to request a hearing in writing, the order is the final order of the board and is not  
42.17 reviewable by a court or agency.

42.18 (b) A hearing must be initiated by the board no later than 30 days from the date  
42.19 of the board's receipt of a written hearing request. Within 30 days of receipt of the  
42.20 administrative law judge's report, and any written agreement or exceptions filed by the  
42.21 parties, the board shall issue a final order modifying, vacating, or making permanent the  
42.22 cease and desist order as the facts require. The final order remains in effect until modified  
42.23 or vacated by the board.

42.24 (c) When a request for a stay accompanies a timely hearing request, the board may,  
42.25 in the board's discretion, grant the stay. If the board does not grant a requested stay, the  
42.26 board shall refer the request to the Office of Administrative Hearings within three working  
42.27 days of receipt of the request. Within ten days after receiving the request from the board,  
42.28 an administrative law judge shall issue a recommendation to grant or deny the stay. The  
42.29 board shall grant or deny the stay within five working days of receiving the administrative  
42.30 law judge's recommendation.

42.31 (d) In the event of noncompliance with a cease and desist order, the board may  
42.32 institute a proceeding in district court to obtain injunctive relief or other appropriate  
42.33 relief, including a civil penalty payable to the board, not to exceed \$10,000 for each  
42.34 separate violation.

43.1            Subd. 2. **Injunctive relief.** In addition to any other remedy provided by law,  
43.2 including the issuance of a cease and desist order under subdivision 1, the board may in  
43.3 the board's own name bring an action in district court for injunctive relief to restrain an  
43.4 alcohol and drug counselor from a violation or threatened violation of any statute, rule, or  
43.5 order which the board has authority to administer, enforce, or issue.

43.6            Subd. 3. **Additional powers.** The issuance of a cease and desist order or injunctive  
43.7 relief granted under this section does not relieve a counselor from criminal prosecution by  
43.8 a competent authority or from disciplinary action by the board.

43.9            Sec. 20. **[148F.100] COOPERATION.**

43.10           An alcohol and drug counselor who is the subject of an investigation, or who  
43.11 is questioned in connection with an investigation, by or on behalf of the board, shall  
43.12 cooperate fully with the investigation. Cooperation includes responding fully to any  
43.13 question raised by or on behalf of the board relating to the subject of the investigation,  
43.14 whether tape recorded or not. Challenges to requests of the board may be brought before  
43.15 the appropriate agency or court.

43.16           Sec. 21. **[148F.105] PROHIBITED PRACTICE OR USE OF TITLES; PENALTY.**

43.17           Subdivision 1. **Practice.** No person shall engage in alcohol and drug counseling  
43.18 without first being licensed under this chapter as an alcohol and drug counselor. For  
43.19 purposes of this chapter, an individual engages in the practice of alcohol and drug  
43.20 counseling if the individual performs or offers to perform alcohol and drug counseling  
43.21 services as defined in section 148F.010, subdivision 19, or if the individual is held out as  
43.22 able to perform those services.

43.23           Subd. 2. **Use of titles.** (a) No individual shall present themselves or any other  
43.24 individual to the public by any title incorporating the words "licensed alcohol and drug  
43.25 counselor," "alcohol and drug counselor," or otherwise hold themselves out to the public  
43.26 by any title or description stating or implying that they are licensed or otherwise qualified  
43.27 to practice alcohol and drug counseling, unless that individual holds a valid license.

43.28           (b) An individual issued a temporary permit must use titles consistent with section  
43.29 148F.035, subdivisions 1 and 2, paragraph (c), clause (3).

43.30           (c) An individual who is participating in an alcohol and drug counseling practicum  
43.31 for purposes of licensure by the board may be designated an "alcohol and drug counselor  
43.32 intern."

43.33           (d) Individuals who are trained in alcohol and drug counseling and employed by an  
43.34 educational institution recognized by a regional accrediting organization, by a federal,

44.1 state, county, or local government institution, by agencies, or research facilities, may  
44.2 represent themselves by the titles designated by that organization provided the title does  
44.3 not indicate the individual is licensed by the board.

44.4 Subd. 3. **Penalty.** A person who violates sections 148F.001 to 148F.205 is guilty  
44.5 of a misdemeanor.

44.6 Sec. 22. **[148F.110] EXCEPTIONS TO LICENSE REQUIREMENT.**

44.7 Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members  
44.8 of other professions or occupations from performing functions for which they are qualified  
44.9 or licensed. This exception includes, but is not limited to: licensed physicians; registered  
44.10 nurses; licensed practical nurses; licensed psychologists and licensed psychological  
44.11 practitioners; members of the clergy provided such services are provided within the scope  
44.12 of regular ministries; American Indian medicine men and women; licensed attorneys;  
44.13 probation officers; licensed marriage and family therapists; licensed social workers; social  
44.14 workers employed by city, county, or state agencies; licensed professional counselors;  
44.15 licensed professional clinical counselors; licensed school counselors; registered  
44.16 occupational therapists or occupational therapy assistants; Upper Midwest Indian Council  
44.17 on Addictive Disorders (UMICAD) certified counselors when providing services to  
44.18 Native American people; city, county, or state employees when providing assessments  
44.19 or case management under Minnesota Rules, chapter 9530; and individuals defined in  
44.20 section 256B.0623, subdivision 5, clauses (1) and (2), providing integrated dual-diagnosis  
44.21 treatment in adult mental health rehabilitative programs certified by the Department of  
44.22 Human Services under section 256B.0622 or 256B.0623.

44.23 (b) Nothing in this chapter prohibits technicians and resident managers in programs  
44.24 licensed by the Department of Human Services from discharging their duties as provided  
44.25 in Minnesota Rules, chapter 9530.

44.26 (c) Any person who is exempt from licensure under this section must not use a  
44.27 title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug  
44.28 counselor" or otherwise hold themselves out to the public by any title or description  
44.29 stating or implying that they are engaged in the practice of alcohol and drug counseling, or  
44.30 that they are licensed to engage in the practice of alcohol and drug counseling, unless that  
44.31 person is also licensed as an alcohol and drug counselor. Persons engaged in the practice  
44.32 of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the  
44.33 use of one of the titles in paragraph (a).

44.34 Subd. 2. **Students.** Nothing in sections 148F.001 to 148F.110 shall prevent students  
44.35 enrolled in an accredited school of alcohol and drug counseling from engaging in the

45.1 practice of alcohol and drug counseling while under qualified supervision in an accredited  
45.2 school of alcohol and drug counseling.

45.3 Subd. 3. **Federally recognized tribes.** Alcohol and drug counselors practicing  
45.4 alcohol and drug counseling according to standards established by federally recognized  
45.5 tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this  
45.6 chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals  
45.7 practicing under that authority shall be afforded the same rights, responsibilities, and  
45.8 recognition as persons licensed under this chapter.

45.9 Sec. 23. **[148F.115] FEES.**

45.10 Subdivision 1. **Application fee.** The application fee is \$295.

45.11 Subd. 2. **Biennial renewal fee.** The license renewal fee is \$295. If the board  
45.12 establishes a renewal schedule, and the scheduled renewal date is less than two years,  
45.13 the fee may be prorated.

45.14 Subd. 3. **Temporary permit fee.** Temporary permit fees are as follows:

45.15 (1) initial application fee is \$100; and

45.16 (2) annual renewal fee is \$150. If the initial term is less or more than one year,  
45.17 the fee may be prorated.

45.18 Subd. 4. **Inactive license renewal fee.** The inactive license renewal fee is \$150.

45.19 Subd. 5. **Late fees.** Late fees are as follows:

45.20 (1) biennial renewal late fee is \$74;

45.21 (2) inactive license renewal late fee is \$37; and

45.22 (3) annual temporary permit late fee is \$37.

45.23 Subd. 6. **Fee to renew after expiration of license.** The fee for renewal of a license  
45.24 that has been expired for less than two years is the total of the biennial renewal fee in  
45.25 effect at the time of late renewal and the late fee.

45.26 Subd. 7. **Fee for license verification.** The fee for license verification is \$25.

45.27 Subd. 8. **Surcharge fee.** Notwithstanding section 16A.1285, subdivision 2, a  
45.28 surcharge of \$99 shall be paid at the time of initial application for or renewal of an alcohol  
45.29 and drug counselor license until June 30, 2013.

45.30 Subd. 9. **Sponsor application fee.** The fee for a sponsor application for approval  
45.31 of a continuing education course is \$60.

45.32 Subd. 10. **Order or stipulation fee.** The fee for a copy of a board order or  
45.33 stipulation is \$10.

45.34 Subd. 11. **Duplicate certificate fee.** The fee for a duplicate certificate is \$25.

46.1 Subd. 12. **Supervisor application processing fee.** The fee for licensure supervisor  
46.2 application processing is \$30.

46.3 Subd. 13. **Nonrefundable fees.** All fees in this section are nonrefundable.

46.4 Sec. 24. **[148F.120] CONDUCT.**

46.5 Subdivision 1. **Scope.** Sections 148F.120 to 148F.205 apply to the conduct of all  
46.6 alcohol and drug counselors, licensees, and applicants, including conduct during the  
46.7 period of education, training, and employment that is required for licensure.

46.8 Subd. 2. **Purpose.** Sections 148F.120 to 148F.205 constitute the standards by which  
46.9 the professional conduct of alcohol and drug counselors is measured.

46.10 Subd. 3. **Violations.** A violation of sections 148F.120 to 148F.205 is unprofessional  
46.11 conduct and constitutes grounds for disciplinary action, corrective action, or denial of  
46.12 licensure.

46.13 Subd. 4. **Conflict with organizational demands.** If the organizational policies at  
46.14 the provider's work setting conflict with any provision in sections 148F.120 to 148F.205,  
46.15 the provider shall discuss the nature of the conflict with the employer, make known the  
46.16 requirement to comply with these sections of law, and attempt to resolve the conflict  
46.17 in a manner that does not violate the law.

46.18 Sec. 25. **[148F.125] COMPETENT PROVISION OF SERVICES.**

46.19 Subdivision 1. **Limits on practice.** Alcohol and drug counselors shall limit their  
46.20 practice to the client populations and services for which they have competence or for  
46.21 which they are developing competence.

46.22 Subd. 2. **Developing competence.** When an alcohol and drug counselor is  
46.23 developing competence in a service, method, procedure, or to treat a specific client  
46.24 population, the alcohol and drug counselor shall obtain professional education, training,  
46.25 continuing education, consultation, supervision, or experience, or a combination thereof,  
46.26 necessary to demonstrate competence.

46.27 Subd. 3. **Experimental, emerging, or innovative services.** Alcohol and drug  
46.28 counselors may offer experimental services, methods, or procedures competently and  
46.29 in a manner that protects clients from harm. However, when doing so, they have a  
46.30 heightened responsibility to understand and communicate the potential risks to clients, to  
46.31 use reasonable skill and safety, and to undertake appropriate preparation as required in  
46.32 subdivision 2.

46.33 Subd. 4. **Limitations.** Alcohol and drug counselors shall recognize the limitations  
46.34 to the scope of practice of alcohol and drug counseling. When the needs of clients appear

47.1 to be outside their scope of practice, providers shall inform the clients that there may be  
47.2 other professional, technical, community, and administrative resources available to them.  
47.3 Providers shall assist with identifying resources when it is in the best interests of clients to  
47.4 be provided with alternative or complementary services.

47.5 Subd. 5. **Burden of proof.** Whenever a complaint is submitted to the board  
47.6 involving a violation of this section, the burden of proof is on the provider to demonstrate  
47.7 that the elements of competence have reasonably been met.

47.8 Sec. 26. **[148F.130] PROTECTING CLIENT PRIVACY.**

47.9 Subdivision 1. **Protecting private information.** The provider shall safeguard  
47.10 private information obtained in the course of the practice of alcohol and drug counseling.  
47.11 Private information may be disclosed to others only according to section 148F.135, or  
47.12 with certain exceptions as specified in subdivisions 2 to 13.

47.13 Subd. 2. **Duty to warn; limitation on liability.** Private information may be  
47.14 disclosed without the consent of the client when a duty to warn arises, or as otherwise  
47.15 provided by law or court order. The duty to warn of, or take reasonable precautions to  
47.16 provide protection from, violent behavior arises only when a client or other person has  
47.17 communicated to the provider a specific, serious threat of physical violence to self or a  
47.18 specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty  
47.19 is discharged by the provider if reasonable efforts are made to communicate the threat to  
47.20 law enforcement agencies, the potential victim, the family of the client, or appropriate  
47.21 third parties who are in a position to prevent or avert the harm. No monetary liability  
47.22 and no cause of action or disciplinary action by the board may arise against a provider  
47.23 for disclosure of confidences to third parties, for failure to disclose confidences to third  
47.24 parties, or for erroneous disclosure of confidences to third parties in a good faith effort to  
47.25 warn against or take precautions against a client's violent behavior or threat of suicide.

47.26 Subd. 3. **Services to group clients.** Whenever alcohol and drug counseling  
47.27 services are provided to group clients, the provider shall initially inform each client of the  
47.28 provider's responsibility and each client's individual responsibility to treat any information  
47.29 gained in the course of rendering the services as private information, including any  
47.30 limitations to each client's right to privacy.

47.31 Subd. 4. **Obtaining collateral information.** Prior to obtaining collateral  
47.32 information about a client from other individuals, the provider shall obtain consent from  
47.33 the client unless the consent is not required by law or court order, and shall inform the  
47.34 other individuals that the information obtained may become part of the client's records and  
47.35 may therefore be accessed or released by the client, unless prohibited by law. For purposes

48.1 of this subdivision, "other individual" means any individual, except for credentialed health  
48.2 care providers acting in their professional capacities, who participates adjunctively in  
48.3 the provision of services to a client. Examples of other individuals include, but are not  
48.4 limited to, family members, friends, coworkers, day care workers, guardians ad litem,  
48.5 foster parents, or school personnel.

48.6 Subd. 5. **Minor clients.** At the beginning of a professional relationship, the provider  
48.7 shall inform a minor client that the law imposes limitations on the right of privacy of the  
48.8 minor with respect to the minor's communications with the provider. This requirement is  
48.9 waived when the minor cannot reasonably be expected to understand the privacy statement.

48.10 Subd. 6. **Limited access to client records.** The provider shall limit access to client  
48.11 records. The provider shall make reasonable efforts to inform individuals associated  
48.12 with the provider's agency or facility, such as staff members, students, volunteers, or  
48.13 community aides, that access to client records, regardless of their format, is limited only to  
48.14 the provider with whom the client has a professional relationship, an individual associated  
48.15 with the agency or facility whose duties require access, or individuals authorized to have  
48.16 access by the written informed consent of the client.

48.17 Subd. 7. **Billing statements for services.** The provider shall comply with the  
48.18 privacy wishes of clients regarding to whom and where statements for services are to be  
48.19 sent.

48.20 Subd. 8. **Case reports.** The identification of the client shall be reasonably disguised  
48.21 in case reports or other clinical materials used in teaching, presentations, professional  
48.22 meetings, or publications.

48.23 Subd. 9. **Observation and recording.** Diagnostic interviews or therapeutic sessions  
48.24 with a client may be observed or electronically recorded only with the client's written  
48.25 informed consent.

48.26 Subd. 10. **Continued protection of client information.** The provider shall maintain  
48.27 the privacy of client data indefinitely after the professional relationship has ended.

48.28 Subd. 11. **Court-ordered or other mandated disclosures.** The proper disclosure  
48.29 of private client data upon a court order or to conform with state or federal law shall not be  
48.30 considered a violation of sections 148F.120 to 148F.205.

48.31 Subd. 12. **Abuse or neglect of minor or vulnerable adults.** An applicant or  
48.32 licensee must comply with the reporting of maltreatment of minors established in section  
48.33 626.556 and the reporting of maltreatment of vulnerable adults established in section  
48.34 626.557.

48.35 Subd. 13. **Initial contacts.** When an individual initially contacts a provider  
48.36 regarding alcohol and drug counseling services, the provider or another individual

49.1 designated by the provider may, with oral consent from the potential client, contact third  
49.2 parties to determine payment or benefits information, arrange for precertification of  
49.3 services when required by the individual's health plan, or acknowledge a referral from  
49.4 another health care professional.

49.5 Sec. 27. **[148F.135] PRIVATE INFORMATION; ACCESS AND RELEASE.**

49.6 Subdivision 1. Client right to access and release private information. A client has  
49.7 the right to access and release private information maintained by the provider, including  
49.8 client records as provided in sections 144.291 to 144.298, relating to the provider's  
49.9 counseling services to that client, except as otherwise provided by law or court order.

49.10 Subd. 2. Release of private information. (a) When a client makes a request for  
49.11 the provider to release the client's private information, the request must be in writing  
49.12 and signed by the client. Informed consent is not required. When the request involves  
49.13 client records, all pertinent information shall be released in compliance with sections  
49.14 144.291 to 144.298.

49.15 (b) If the provider initiates the request to release the client's private information,  
49.16 written authorization for the release of information must be obtained from the client  
49.17 and must include, at a minimum:

49.18 (1) the name of the client;

49.19 (2) the name of the individual or entity providing the information;

49.20 (3) the name of the individual or entity to which the release is made;

49.21 (4) the types of information to be released, such as progress notes, diagnoses,  
49.22 assessment data, or other specific information;

49.23 (5) the purpose of the release, such as whether the release is to coordinate  
49.24 professional care with another provider, to obtain insurance payment for services, or for  
49.25 other specified purposes;

49.26 (6) the time period covered by the consent;

49.27 (7) a statement that the consent is valid for one year, except as otherwise allowed by  
49.28 statute, or for a lesser period that is specified in the consent;

49.29 (8) a declaration that the individual signing the statement has been told of and  
49.30 understands the nature and purpose of the authorized release;

49.31 (9) a statement that the consent may be rescinded, except to the extent that the  
49.32 consent has already been acted upon or that the right to rescind consent has been waived  
49.33 separately in writing;

49.34 (10) the signature of the client or the client's legally authorized representative, whose  
49.35 relationship to the client must be stated; and

50.1 (11) the date on which the consent is signed.

50.2 Subd. 3. **Group client records.** Whenever counseling services are provided to  
50.3 group clients, each client has the right to access or release only that information in the  
50.4 records that the client has provided directly or has authorized other sources to provide,  
50.5 unless otherwise directed by law or court order. Upon a request by one client to access or  
50.6 release group client records, that information in the records that has not been provided  
50.7 directly or by authorization of the requesting client must be redacted unless written  
50.8 authorization to disclose this information has been obtained from the other clients.

50.9 Subd. 4. **Board investigation.** The board shall be allowed access to any records of  
50.10 a client provided services by an applicant or licensee who is under investigation. If the  
50.11 client has not signed a consent permitting access to the client's records, the applicant or  
50.12 licensee must delete any data that identifies the client before providing them to the board.  
50.13 The board shall maintain any records as investigative data pursuant to chapter 13.

50.14 Sec. 28. **[148F.140] INFORMED CONSENT.**

50.15 Subdivision 1. **Obtaining informed consent for services.** The provider shall obtain  
50.16 informed consent from the client before initiating services. The informed consent must be  
50.17 in writing, signed by the client, and include the following, at a minimum:

50.18 (1) authorization for the provider to engage in an activity which directly affects  
50.19 the client;

50.20 (2) the goals, purposes, and procedures of the proposed services;

50.21 (3) the factors that may impact the duration of the service;

50.22 (4) the applicable fee schedule;

50.23 (5) the limits to the client's privacy, including, but not limited to, the provider's duty  
50.24 to warn pursuant to section 148F.130, subdivision 2;

50.25 (6) the provider's responsibilities if the client terminates the service;

50.26 (7) the significant risks and benefits of the service, including whether the service  
50.27 may affect the client's legal or other interests;

50.28 (8) the provider's responsibilities under section 148F.125, subdivision 3, if the  
50.29 proposed service, method, or procedure is of an experimental, emerging, or innovative  
50.30 nature; and

50.31 (9) if applicable, information that the provider is developing competence in the  
50.32 proposed service, method, or procedure, and alternatives to the proposed service, if any.

50.33 Subd. 2. **Updating informed consent.** If there is a substantial change in the nature  
50.34 or purpose of a service, the provider must obtain a new informed consent from the client.

51.1 Subd. 3. **Emergency or crisis services.** Informed consent is not required when  
51.2 a provider is providing emergency or crisis services. If services continue after the  
51.3 emergency or crisis has abated, informed consent must be obtained.

51.4 Sec. 29. [148F.145] **TERMINATION OF SERVICES.**

51.5 Subdivision 1. **Right to terminate services.** Either the client or the provider may  
51.6 terminate the professional relationship unless prohibited by law or court order.

51.7 Subd. 2. **Mandatory termination of services.** The provider shall promptly  
51.8 terminate services to a client whenever:

51.9 (1) the provider's objectivity or effectiveness is impaired, unless a resolution can be  
51.10 achieved as permitted in section 148F.155, subdivision 2; or

51.11 (2) the client would be harmed by further services.

51.12 Subd. 3. **Notification of termination.** When the provider initiates a termination  
51.13 of professional services, the provider shall inform the client either orally or in writing.  
51.14 This requirement shall not apply when the termination is due to the successful completion  
51.15 of a predefined service such as an assessment, or if the client terminates the professional  
51.16 relationship.

51.17 Subd. 4. **Recommendation upon termination.** (a) Upon termination of counseling  
51.18 services, the provider shall make a recommendation for alcohol and drug counseling  
51.19 services if requested by the client or if the provider believes the services are needed by  
51.20 the client.

51.21 (b) A recommendation for alcohol and drug counseling services is not required if  
51.22 the professional service provided is limited to an alcohol and drug assessment and a  
51.23 recommendation for continued services is not requested.

51.24 Subd. 5. **Absence from practice.** Nothing in this section requires the provider to  
51.25 terminate a client due to an absence from practice that is the result of a period of illness  
51.26 or injury that does not affect the provider's ability to practice with reasonable skill and  
51.27 safety, as long as arrangements have been made for temporary counseling services that  
51.28 may be needed by the client during the provider's absence.

51.29 Sec. 30. [148F.150] **RECORD KEEPING.**

51.30 Subdivision 1. **Record-keeping requirements.** Providers must maintain accurate  
51.31 and legible client records. Records must include, at a minimum:

51.32 (1) an accurate chronological listing of all substantive contacts with the client;

51.33 (2) documentation of services, including:

51.34 (i) assessment methods, data, and reports;

- 52.1 (ii) an initial treatment plan and any revisions to the plan;  
 52.2 (iii) the name of the individual providing services;  
 52.3 (iv) the name and credentials of the individual who is professionally responsible  
 52.4 for the services provided;  
 52.5 (v) case notes for each date of service, including interventions;  
 52.6 (vi) consultations with collateral sources;  
 52.7 (vii) diagnoses or presenting problems; and  
 52.8 (viii) documentation that informed consent was obtained, including written informed  
 52.9 consent documents;  
 52.10 (3) copies of all correspondence relevant to the client;  
 52.11 (4) a client personal data sheet;  
 52.12 (5) copies of all client authorizations for release of information;  
 52.13 (6) an accurate chronological listing of all fees charged, if any, to the client or  
 52.14 a third-party payer; and  
 52.15 (7) any other documents pertaining to the client.

52.16 Subd. 2. **Duplicate records.** If the client records containing the documentation  
 52.17 required by subdivision 1 are maintained by the agency, clinic, or other facility where the  
 52.18 provider renders services, the provider is not required to maintain duplicate records of  
 52.19 client information.

52.20 Subd. 3. **Record retention.** The provider shall retain a client's record for a minimum  
 52.21 of seven years after the date of the provider's last professional service to the client, except  
 52.22 as otherwise provided by law. If the client is a minor, the record retention period does not  
 52.23 begin until the client reaches the age of 18, except as otherwise provided by law.

52.24 **Sec. 31. [148F.155] IMPAIRED OBJECTIVITY OR EFFECTIVENESS.**

52.25 Subdivision 1. **Situations involving impaired objectivity or effectiveness.** (a) An  
 52.26 alcohol and drug counselor must not provide alcohol and drug counseling services to a  
 52.27 client or potential client when the counselor's objectivity or effectiveness is impaired.

52.28 (b) The provider shall not provide alcohol and drug counseling services to a client  
 52.29 if doing so would create a multiple relationship. For purposes of this section, "multiple  
 52.30 relationship" means one that is both professional and:

- 52.31 (1) cohabitational;  
 52.32 (2) familial;  
 52.33 (3) one in which there has been personal involvement with the client or family  
 52.34 member of the client that is reasonably likely to adversely affect the client's welfare or  
 52.35 ability to benefit from services; or

53.1 (4) one in which there is significant financial involvement other than legitimate  
53.2 payment for professional services rendered that is reasonably likely to adversely affect the  
53.3 client's welfare or ability to benefit from services.

53.4 If an unforeseen multiple relationship arises after services have been initiated, the  
53.5 provider shall promptly terminate the professional relationship.

53.6 (c) The provider shall not provide alcohol and drug counseling services to a client  
53.7 who is also the provider's student or supervisee. If an unforeseen situation arises in which  
53.8 both types of services are required or requested by the client or a third party, the provider  
53.9 shall decline to provide the services.

53.10 (d) The provider shall not provide alcohol and drug counseling services to a client  
53.11 when the provider is biased for or against the client for any reason that interferes with the  
53.12 provider's impartial judgment, including where the client is a member of a class legally  
53.13 protected from discrimination. The provider may provide services if the provider is  
53.14 working to resolve the impairment in the manner required under subdivision 2.

53.15 (e) The provider shall not provide alcohol and drug counseling services to a client  
53.16 when there is a fundamental divergence or conflict of service goals, interests, values,  
53.17 or attitudes between the client and the provider that adversely affects the professional  
53.18 relationship. The provider may provide services if the provider is working to resolve the  
53.19 impairment in the manner required under subdivision 2.

53.20 Subd. 2. **Resolution of impaired objectivity or effectiveness.** (a) When an  
53.21 impairment occurs that is listed in subdivision 1, paragraph (d) or (e), the provider may  
53.22 provide services only if the provider actively pursues resolution of the impairment and is  
53.23 able to do so in a manner that results in minimal adverse effects on the client or potential  
53.24 client.

53.25 (b) If the provider attempts to resolve the impairment, it must be by means of  
53.26 professional education, training, continuing education, consultation, psychotherapy,  
53.27 intervention, supervision, or discussion with the client or potential client, or an appropriate  
53.28 combination thereof.

53.29 **Sec. 32. [148F.160] PROVIDER IMPAIRMENT.**

53.30 The provider shall not provide counseling services to clients when the provider is  
53.31 unable to provide services with reasonable skill and safety as a result of a physical or  
53.32 mental illness or condition, including, but not limited to, substance abuse or dependence.  
53.33 During the period the provider is unable to practice with reasonable skill and safety, the  
53.34 provider shall either promptly terminate the professional relationship with all clients or

54.1 shall make arrangements for other alcohol and drug counselors to provide temporary  
54.2 services during the provider's absence.

54.3 Sec. 33. **[148F.165] CLIENT WELFARE.**

54.4 Subdivision 1. **Explanation of procedures.** A client has the right to have, and a  
54.5 counselor has the responsibility to provide, a nontechnical explanation of the nature and  
54.6 purpose of the counseling procedures to be used and the results of tests administered to the  
54.7 client. The counselor shall establish procedures to be followed if the explanation is to be  
54.8 provided by another individual under the direction of the counselor.

54.9 Subd. 2. **Client bill of rights.** The client bill of rights required by section 144.652  
54.10 shall be prominently displayed on the premises of the professional practice or provided  
54.11 as a handout to each client. The document must state that consumers of alcohol and  
54.12 drug counseling services have the right to:

54.13 (1) expect that the provider meets the minimum qualifications of training and  
54.14 experience required by state law;

54.15 (2) examine public records maintained by the Board of Behavioral Health and  
54.16 Therapy that contain the credentials of the provider;

54.17 (3) report complaints to the Board of Behavioral Health and Therapy;

54.18 (4) be informed of the cost of professional services before receiving the services;

54.19 (5) privacy as defined and limited by law and rule;

54.20 (6) be free from being the object of unlawful discrimination while receiving  
54.21 counseling services;

54.22 (7) have access to their records as provided in sections 144.291 to 144.298 and  
54.23 148F.135, subdivision 1, except as otherwise provided by law;

54.24 (8) be free from exploitation for the benefit or advantage of the provider;

54.25 (9) terminate services at any time, except as otherwise provided by law or court  
54.26 order;

54.27 (10) know the intended recipients of assessment results;

54.28 (11) withdraw consent to release assessment results, unless the right is prohibited by  
54.29 law or court order or was waived by prior written agreement;

54.30 (12) a nontechnical description of assessment procedures; and

54.31 (13) a nontechnical explanation and interpretation of assessment results, unless this  
54.32 right is prohibited by law or court order or was waived by prior written agreement.

54.33 Subd. 3. **Stereotyping.** The provider shall treat the client as an individual and  
54.34 not impose on the client any stereotypes of behavior, values, or roles related to human  
54.35 diversity.

55.1 Subd. 4. **Misuse of client relationship.** The provider shall not misuse the  
55.2 relationship with a client due to a relationship with another individual or entity.

55.3 Subd. 5. **Exploitation of client.** The provider shall not exploit the professional  
55.4 relationship with a client for the provider's emotional, financial, sexual, or personal  
55.5 advantage or benefit. This prohibition extends to former clients who are vulnerable or  
55.6 dependent on the provider.

55.7 Subd. 6. **Sexual behavior with client.** A provider shall not engage in any sexual  
55.8 behavior with a client including:

55.9 (1) sexual contact, as defined in section 604.20, subdivision 7; or

55.10 (2) any physical, verbal, written, interactive, or electronic communication, conduct,  
55.11 or act that may be reasonably interpreted to be sexually seductive, demeaning, or  
55.12 harassing to the client.

55.13 Subd. 7. **Sexual behavior with a former client.** A provider shall not engage in any  
55.14 sexual behavior as described in subdivision 6 within the two-year period following the  
55.15 date of the last counseling service to a former client. This prohibition applies whether or  
55.16 not the provider has formally terminated the professional relationship. This prohibition  
55.17 extends indefinitely for a former client who is vulnerable or dependent on the provider.

55.18 Subd. 8. **Preferences and options for treatment.** A provider shall disclose to the  
55.19 client the provider's preferences for choice of treatment or outcome and shall present other  
55.20 options for the consideration or choice of the client.

55.21 Subd. 9. **Referrals.** A provider shall make a prompt and appropriate referral of the  
55.22 client to another professional when requested to make a referral by the client.

55.23 Sec. 34. **[148F.170] WELFARE OF STUDENTS, SUPERVISEES, AND**  
55.24 **RESEARCH SUBJECTS.**

55.25 Subdivision 1. **General.** Due to the evaluative, supervisory, or other authority that  
55.26 providers who teach, evaluate, supervise, or conduct research have over their students,  
55.27 supervisees, or research subjects, they shall protect the welfare of these individuals.

55.28 Subd. 2. **Student, supervisee, and research subject protections.** To protect the  
55.29 welfare of their students, supervisees, or research subjects, providers shall not:

55.30 (1) discriminate on the basis of race, ethnicity, national origin, religious affiliation,  
55.31 language, age, gender, physical disabilities, mental capabilities, sexual orientation or  
55.32 identity, marital status, or socioeconomic status;

55.33 (2) exploit or misuse the professional relationship for the emotional, financial,  
55.34 sexual, or personal advantage or benefit of the provider or another individual or entity;

- 56.1 (3) engage in any sexual behavior with a current student, supervisee, or research  
56.2 subject, including sexual contact, as defined in section 604.20, subdivision 7, or any  
56.3 physical, verbal, written, interactive, or electronic communication, conduct, or act that  
56.4 may be reasonably interpreted to be sexually seductive, demeaning, or harassing. Nothing  
56.5 in this section shall prohibit a provider from engaging in teaching or research with an  
56.6 individual with whom the provider has a preexisting and ongoing sexual relationship;  
56.7 (4) engage in any behavior likely to be deceptive or fraudulent;  
56.8 (5) disclose evaluative information except for legitimate professional or scientific  
56.9 purposes; or  
56.10 (6) engage in any other unprofessional conduct.

56.11 Sec. 35. **[148F.175] MEDICAL AND OTHER HEALTH CARE**

56.12 **CONSIDERATIONS.**

56.13 **Subdivision 1. Coordinating services with other health care professionals.**

56.14 Upon initiating services, the provider shall inquire whether the client has a preexisting  
56.15 relationship with another health care professional. If the client has such a relationship,  
56.16 and it is relevant to the provider's services to the client, the provider shall, to the extent  
56.17 possible and consistent with the wishes and best interests of the client, coordinate services  
56.18 for the client with the other health care professional. This requirement does not apply if  
56.19 brief crisis intervention services are provided.

56.20 **Subd. 2. Reviewing health care information.** If the provider determines that a  
56.21 client's preexisting relationship with another health care professional is relevant to the  
56.22 provider's services to the client, the provider shall, to the extent possible and consistent  
56.23 with the wishes and best interests of the client, review this information with the treating  
56.24 health care professional.

56.25 **Subd. 3. Relevant medical conditions.** If the provider believes that a client's  
56.26 psychological condition may have medical etiology or consequence, the provider shall,  
56.27 within the limits of the provider's competence, discuss this with the client and offer to  
56.28 assist in identifying medical resources for the client.

56.29 Sec. 36. **[148F.180] ASSESSMENTS; TESTS; REPORTS.**

56.30 **Subdivision 1. Assessments.** Providers who conduct assessments of individuals  
56.31 shall base their assessments on records, information, observations, and techniques  
56.32 sufficient to substantiate their findings. They shall render opinions only after they  
56.33 have conducted an examination of the individual adequate to support their statements  
56.34 or conclusions, unless an examination is not practical despite reasonable efforts. An

57.1 assessment may be limited to reviewing records or providing testing services when an  
57.2 individual examination is not necessary for the opinion requested.

57.3 Subd. 2. **Tests.** Providers may administer and interpret tests within the scope of the  
57.4 counselor's training, skill, and competence.

57.5 Subd. 3. **Reports.** Written and oral reports, including testimony as an expert  
57.6 witness and letters to third parties concerning a client, must be based on information and  
57.7 techniques sufficient to substantiate their findings. Reports must include:

57.8 (1) a description of all assessments, evaluations, or other procedures, including  
57.9 materials reviewed, which serve as a basis for the provider's conclusions;

57.10 (2) reservations or qualifications concerning the validity or reliability of the opinions  
57.11 and conclusions formulated and recommendations made;

57.12 (3) a statement concerning any discrepancy, disagreement, or inconsistent or  
57.13 conflicting information regarding the circumstances of the case that may have a bearing on  
57.14 the provider's conclusions;

57.15 (4) a statement of the nature of and reason for the use of a test that is administered,  
57.16 recorded, scored, or interpreted in other than a standard and objective manner; and

57.17 (5) a statement indicating when test interpretations or report conclusions are not  
57.18 based on direct contact between the client and the provider.

57.19 Subd. 4. **Private information.** Test results and interpretations regarding an  
57.20 individual are private information.

57.21 Sec. 37. **[148F.185] PUBLIC STATEMENTS.**

57.22 Subdivision 1. **Prohibition against false or misleading information.** Public  
57.23 statements by providers must not include false or misleading information. Providers shall  
57.24 not solicit or use testimonials by quotation or implication from current clients or former  
57.25 clients who are vulnerable to undue influence. The provider shall make reasonable efforts  
57.26 to ensure that public statements by others on behalf of the provider are truthful and shall  
57.27 make reasonable remedial efforts to bring a public statement into compliance with sections  
57.28 148F.120 to 148F.205 when the provider becomes aware of a violation.

57.29 Subd. 2. **Misrepresentation.** The provider shall not misrepresent directly or  
57.30 by implication, professional qualifications including education, training, experience,  
57.31 competence, credentials, or areas of specialization. The provider shall not misrepresent,  
57.32 directly or by implication, professional affiliations or the purposes and characteristics of  
57.33 institutions and organizations with which the provider is professionally associated.

57.34 Subd. 3. **Use of specialty board designation.** Providers may represent themselves  
57.35 as having an area of specialization from a specialty board, such as a designation as a

58.1 diplomate or fellow, if the specialty board used, at a minimum, the following criteria to  
58.2 award such a designation:

- 58.3 (1) specified educational requirements defined by the specialty board;  
58.4 (2) specified experience requirements defined by the specialty board;  
58.5 (3) a work product evaluated by other specialty board members; and  
58.6 (4) a face-to-face examination by a committee of specialty board members or a  
58.7 comprehensive written examination in the area of specialization.

58.8 Sec. 38. **[148F.190] FEES; STATEMENTS.**

58.9 Subdivision 1. **Disclosure.** The provider shall disclose the fees for professional  
58.10 services to a client before providing services.

58.11 Subd. 2. **Itemized statement.** The provider shall itemize fees for all services for  
58.12 which the client or a third party is billed and make the itemized statement available to  
58.13 the client. The statement shall identify the date the service was provided, the nature of  
58.14 the service, the name of the individual who provided the service, and the name of the  
58.15 individual who is professionally responsible for the service.

58.16 Subd. 3. **Representation of billed services.** The provider shall not directly or by  
58.17 implication misrepresent to the client or to a third party billed for services the nature or the  
58.18 extent of the services provided.

58.19 Subd. 4. **Claiming fees.** The provider shall not claim a fee for counseling services  
58.20 unless the provider is either the direct provider of the services or is clinically responsible  
58.21 for providing the services and under whose supervision the services were provided.

58.22 Subd. 5. **Referrals.** No commission, rebate, or other form of remuneration may be  
58.23 given or received by a provider for the referral of clients for counseling services.

58.24 Sec. 39. **[148F.195] AIDING AND ABETTING UNLICENSED PRACTICE.**

58.25 A provider shall not aid or abet an unlicensed individual to engage in the practice of  
58.26 alcohol and drug counseling. A provider who supervises a student as part of an alcohol  
58.27 and drug counseling practicum is not in violation of this section. Properly qualified  
58.28 individuals who administer and score testing instruments under the direction of a provider  
58.29 who maintains responsibility for the service are not considered in violation of this section.

58.30 Sec. 40. **[148F.200] VIOLATION OF LAW.**

58.31 A provider shall not violate any law in which the facts giving rise to the violation  
58.32 involve the practice of alcohol and drug counseling as defined in sections 148F.001 to  
58.33 148F.205. In any board proceeding alleging a violation of this section, the proof of a

59.1 conviction of a crime constitutes proof of the underlying factual elements necessary to  
59.2 that conviction.

59.3 Sec. 41. **[148F.205] COMPLAINTS TO BOARD.**

59.4 Subdivision 1. **Mandatory reporting requirements.** A provider is required to file a  
59.5 complaint when the provider knows or has reason to believe that another provider:

59.6 (1) is unable to practice with reasonable skill and safety as a result of a physical or  
59.7 mental illness or condition, including, but not limited to, substance abuse or dependence,  
59.8 except that this mandated reporting requirement is deemed fulfilled by a report made  
59.9 to the Health Professionals Services Program (HPSP) as provided by section 214.33,  
59.10 subdivision 1;

59.11 (2) is engaging in or has engaged in sexual behavior with a client or former client in  
59.12 violation of section 148F.165, subdivision 6 or 7;

59.13 (3) has failed to report abuse or neglect of children or vulnerable adults in violation  
59.14 of section 626.556 or 626.557; or

59.15 (4) has employed fraud or deception in obtaining or renewing an alcohol and drug  
59.16 counseling license.

59.17 Subd. 2. **Optional reporting requirements.** Other than conduct listed in  
59.18 subdivision 1, a provider who has reason to believe that the conduct of another provider  
59.19 appears to be in violation of sections 148F.001 to 148F.205 may file a complaint with  
59.20 the board.

59.21 Subd. 3. **Institutions.** A state agency, political subdivision, agency of a local unit  
59.22 of government, private agency, hospital, clinic, prepaid medical plan, or other health  
59.23 care institution or organization located in this state shall report to the board any action  
59.24 taken by the agency, institution, or organization or any of its administrators or medical  
59.25 or other committees to revoke, suspend, restrict, or condition an alcohol and drug  
59.26 counselor's privilege to practice or treat patients or clients in the institution, or as part of  
59.27 the organization, any denial of privileges, or any other disciplinary action for conduct that  
59.28 might constitute grounds for disciplinary action by the board under sections 148F.001  
59.29 to 148F.205. The institution, organization, or governmental entity shall also report the  
59.30 resignation of any alcohol and drug counselors before the conclusion of any disciplinary  
59.31 action proceeding for conduct that might constitute grounds for disciplinary action under  
59.32 this chapter, or before the commencement of formal charges but after the practitioner had  
59.33 knowledge that formal charges were contemplated or were being prepared.

59.34 Subd. 4. **Professional societies.** A state or local professional society for alcohol and  
59.35 drug counselors shall report to the board any termination, revocation, or suspension of

60.1 membership or any other disciplinary action taken against an alcohol and drug counselor.  
60.2 If the society has received a complaint that might be grounds for discipline under this  
60.3 chapter against a member on which it has not taken any disciplinary action, the society  
60.4 shall report the complaint and the reason why it has not taken action on it or shall direct  
60.5 the complainant to the board.

60.6 Subd. 5. **Insurers.** Each insurer authorized to sell insurance described in section  
60.7 60A.06, subdivision 1, clause (13), and providing professional liability insurance to  
60.8 alcohol and drug counselors or the Medical Joint Underwriting Association under chapter  
60.9 62F, shall submit to the board quarterly reports concerning the alcohol and drug counselors  
60.10 against whom malpractice settlements and awards have been made. The report must  
60.11 contain at least the following information:

60.12 (1) the total number of malpractice settlements or awards made;

60.13 (2) the date the malpractice settlements or awards were made;

60.14 (3) the allegations contained in the claim or complaint leading to the settlements or  
60.15 awards made;

60.16 (4) the dollar amount of each settlement or award;

60.17 (5) the address of the practice of the alcohol and drug counselor against whom an  
60.18 award was made or with whom a settlement was made; and

60.19 (6) the name of the alcohol and drug counselor against whom an award was made or  
60.20 with whom a settlement was made. The insurance company shall, in addition to the above  
60.21 information, submit to the board any information, records, and files, including clients'  
60.22 charts and records, it possesses that tend to substantiate a charge that a licensed alcohol  
60.23 and drug counselor may have engaged in conduct violating this chapter.

60.24 Subd. 6. **Self-reporting.** An alcohol and drug counselor shall report to the board  
60.25 any personal action that would require that a report be filed with the board by any person,  
60.26 health care facility, business, or organization under subdivisions 1 and 3 to 5. The alcohol  
60.27 and drug counselor shall also report the revocation, suspension, restriction, limitation,  
60.28 or other disciplinary action in this state and report the filing of charges regarding the  
60.29 practitioner's license or right of practice in another state or jurisdiction.

60.30 Subd. 7. **Permission to report.** A person who has knowledge of any conduct  
60.31 constituting grounds for disciplinary action relating to the practice of alcohol and drug  
60.32 counseling under this chapter may report the violation to the board.

60.33 Subd. 8. **Client complaints to the board.** A provider shall, upon request, provide  
60.34 information regarding the procedure for filing a complaint with the board and shall, upon  
60.35 request, assist with filing a complaint. A provider shall not attempt to dissuade a client

61.1 from filing a complaint with the board, or require that the client waive the right to file a  
61.2 complaint with the board as a condition for providing services.

61.3 Subd. 9. **Deadlines; forms.** Reports required by subdivisions 1 and 3 to 6 must be  
61.4 submitted no later than 30 days after the reporter learns of the occurrence of the reportable  
61.5 event or transaction. The board may provide forms for the submission of the reports  
61.6 required by this section and may require that reports be submitted on the forms provided.

61.7 Sec. 42. **REPORT; BOARD OF BEHAVIORAL HEALTH AND THERAPY.**

61.8 (a) The Board of Behavioral Health and Therapy shall convene a working group  
61.9 to evaluate the feasibility of a tiered licensure system for alcohol and drug counselors in  
61.10 Minnesota. This evaluation shall include proposed scopes of practice for each tier, specific  
61.11 degree and other education and examination requirements for each tier, the clinical  
61.12 settings in which each tier of practitioner would be utilized, and any other issues the  
61.13 board deems necessary.

61.14 (b) Members of the working group shall include, but not be limited to, members of  
61.15 the board, licensed alcohol and drug counselors, alcohol and drug counselor temporary  
61.16 permit holders, faculty members from two- and four-year education programs, professional  
61.17 organizations, and employers.

61.18 (c) The board shall present its written report, including any proposed legislation, to  
61.19 the chairs and ranking minority members of the legislative committees with jurisdiction  
61.20 over health and human services no later than December 15, 2015.

61.21 (d) The working group is not subject to the provisions of Minnesota Statutes,  
61.22 section 15.059.

61.23 Sec. 43. **REVISOR'S INSTRUCTION.**

61.24 The revisor of statutes shall consult with the Board of Behavioral Health and  
61.25 Therapy to make any necessary cross-reference changes that are needed as a result of the  
61.26 passage of this act.

61.27 Sec. 44. **REPEALER.**

61.28 (a) Minnesota Statutes 2010, sections 148C.01, subdivisions 1, 1a, 2, 2a, 2b, 2c,  
61.29 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16, 17, and 18; 148C.015;  
61.30 148C.03, subdivisions 1 and 4; 148C.0351, subdivisions 1, 3, and 4; 148C.0355; 148C.04,  
61.31 subdivisions 1, 2, 3, 4, 5a, 6, and 7; 148C.044; 148C.045; 148C.05, subdivisions 1, 1a, 5,  
61.32 and 6; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, and 4;

62.1 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions 1, 2, and 3; 148C.11;  
62.2 and 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, are repealed.

62.3 (b) Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030, subparts 1, 2, 3,  
62.4 4, 5, 7, 8, 9, 10, 15, 17, 18, 20, 21, 22, 24, and 29; 4747.0040; 4747.0050; 4747.0060;  
62.5 4747.0070, subparts 1, 2, 3, and 6; 4747.0200; 4747.0400, subpart 1; 4747.0700;  
62.6 4747.0800; 4747.0900; 4747.1100, subparts 1, 4, 5, 6, 7, 8, and 9; 4747.1400, subparts  
62.7 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, and 13; 4747.1500; 6310.3100, subpart 2; 6310.3600;  
62.8 and 6310.3700, subpart 1, are repealed.

62.9 Sec. 45. **EFFECTIVE DATE.**

62.10 This article is effective August 1, 2012.

## 62.11 **ARTICLE 5**

### 62.12 **LICENSED PROFESSIONAL COUNSELING**

62.13 Section 1. Minnesota Statutes 2010, section 148B.5301, subdivision 1, is amended to  
62.14 read:

62.15 Subdivision 1. **General requirements.** (a) To be licensed as a licensed professional  
62.16 clinical counselor (LPCC), an applicant must provide satisfactory evidence to the board  
62.17 that the applicant:

62.18 (1) is at least 18 years of age;

62.19 (2) is of good moral character;

62.20 (3) has completed a master's or doctoral degree program in counseling or a  
62.21 related field, as determined by the board based on the criteria in items (i) to (x), that  
62.22 includes a minimum of 48 semester hours or 72 quarter hours and a supervised field  
62.23 experience in counseling that is not fewer than 700 hours. The degree must be from  
62.24 a counseling program recognized by the Council for Accreditation of Counseling and  
62.25 Related Education Programs (CACREP) or from an institution of higher education that is  
62.26 accredited by a regional accrediting organization recognized by the Council for Higher  
62.27 Education Accreditation (CHEA). Specific academic course content and training must  
62.28 include coursework in each of the following subject areas:

62.29 (i) helping relationship, including counseling theory and practice;

62.30 (ii) human growth and development;

62.31 (iii) lifestyle and career development;

62.32 (iv) group dynamics, processes, counseling, and consulting;

62.33 (v) assessment and appraisal;

62.34 (vi) social and cultural foundations, including multicultural issues;

- 63.1 (vii) principles of etiology, treatment planning, and prevention of mental and  
63.2 emotional disorders and dysfunctional behavior;
- 63.3 (viii) family counseling and therapy;
- 63.4 (ix) research and evaluation; and
- 63.5 (x) professional counseling orientation and ethics;
- 63.6 (4) has demonstrated competence in professional counseling by passing the National  
63.7 Clinical Mental Health Counseling Examination (NCMHCE), administered by the  
63.8 National Board for Certified Counselors, Inc. (NBCC) and ethical, oral, and situational  
63.9 examinations as prescribed by the board. ~~In lieu of the NCMHCE, applicants who have  
63.10 taken and passed the National Counselor Examination (NCE) administered by the NBCC,  
63.11 or another board-approved examination, need only take and pass the Examination of  
63.12 Clinical Counseling Practice (ECCP) administered by the NBCC;~~
- 63.13 (5) has earned graduate-level semester credits or quarter-credit equivalents in the  
63.14 following clinical content areas as follows:
- 63.15 (i) six credits in diagnostic assessment for child or adult mental disorders; normative  
63.16 development; and psychopathology, including developmental psychopathology;
- 63.17 (ii) three credits in clinical treatment planning, with measurable goals;
- 63.18 (iii) six credits in clinical intervention methods informed by research evidence and  
63.19 community standards of practice;
- 63.20 (iv) three credits in evaluation methodologies regarding the effectiveness of  
63.21 interventions;
- 63.22 (v) three credits in professional ethics applied to clinical practice; and
- 63.23 (vi) three credits in cultural diversity; and
- 63.24 (6) has demonstrated successful completion of 4,000 hours of supervised,  
63.25 post-master's degree professional practice in the delivery of clinical services in the  
63.26 diagnosis and treatment of child and adult mental illnesses and disorders, conducted  
63.27 according to subdivision 2.
- 63.28 (b) If coursework in paragraph (a) was not completed as part of the degree program  
63.29 required by paragraph (a), clause (3), the coursework must be taken and passed for credit,  
63.30 and must be earned from a counseling program or institution that meets the requirements  
63.31 of paragraph (a), clause (3).

63.32 Sec. 2. Minnesota Statutes 2010, section 148B.5301, is amended by adding a  
63.33 subdivision to read:

63.34 **Subd. 3a. Conversion from licensed professional counselor to licensed**  
63.35 **professional clinical counselor.** (a) Until August 1, 2014, an individual currently licensed

64.1 in the state of Minnesota as a licensed professional counselor may convert to a LPCC by  
64.2 providing evidence satisfactory to the board that the applicant has met the following  
64.3 requirements:

64.4 (1) is at least 18 years of age;

64.5 (2) is of good moral character;

64.6 (3) has a license that is active and in good standing;

64.7 (4) has no complaints pending, uncompleted disciplinary orders, or corrective  
64.8 action agreements;

64.9 (5) has completed a master's or doctoral degree program in counseling or a related  
64.10 field, as determined by the board, and whose degree was from a counseling program  
64.11 recognized by CACREP or from an institution of higher education that is accredited by a  
64.12 regional accrediting organization recognized by CHEA;

64.13 (6) has earned 24 graduate-level semester credits or quarter-credit equivalents in  
64.14 clinical coursework which includes content in the following clinical areas:

64.15 (i) diagnostic assessment for child and adult mental disorders; normative  
64.16 development; and psychopathology, including developmental psychopathology;

64.17 (ii) clinical treatment planning, with measurable goals;

64.18 (iii) clinical intervention methods informed by research evidence and community  
64.19 standards of practice;

64.20 (iv) evaluation methodologies regarding the effectiveness of interventions;

64.21 (v) professional ethics applied to clinical practice; and

64.22 (vi) cultural diversity;

64.23 (7) has demonstrated, to the satisfaction of the board, successful completion of  
64.24 4,000 hours of supervised, post-master's degree professional practice in the delivery of  
64.25 clinical services in the diagnosis and treatment of child and adult mental illnesses and  
64.26 disorders; and

64.27 (8) has paid the LPCC application and licensure fees required in section 148B.53,  
64.28 subdivision 3.

64.29 (b) If the coursework in paragraph (a) was not completed as part of the degree  
64.30 program required by paragraph (a), clause (5), the coursework must be taken and passed  
64.31 for credit, and must be earned from a counseling program or institution that meets the  
64.32 requirements in paragraph (a), clause (5).

64.33 (c) This subdivision expires August 1, 2014.

64.34 **EFFECTIVE DATE.** This section is effective retroactively from August 1, 2011.

64.35 Sec. 3. Minnesota Statutes 2010, section 148B.5301, subdivision 4, is amended to read:

65.1 Subd. 4. **Conversion to licensed professional clinical counselor after August**  
65.2 **1, ~~2011~~ 2014.** After August 1, 2014, an individual licensed in the state of Minnesota  
65.3 as a licensed professional counselor may convert to a LPCC by providing evidence  
65.4 satisfactory to the board that the applicant has met the requirements of subdivisions 1  
65.5 and 2, subject to the following:

65.6 (1) the individual's license must be active and in good standing;

65.7 (2) the individual must not have any complaints pending, uncompleted disciplinary  
65.8 orders, or corrective action agreements; and

65.9 (3) the individual has paid the LPCC application and licensure fees required in  
65.10 section 148B.53, subdivision 3.

65.11 Sec. 4. Minnesota Statutes 2010, section 148B.54, subdivision 2, is amended to read:

65.12 Subd. 2. **Continuing education.** At the completion of the first four years of  
65.13 licensure, a licensee must provide evidence satisfactory to the board of completion of  
65.14 12 additional postgraduate semester credit hours or its equivalent in counseling as  
65.15 determined by the board, except that no licensee shall be required to show evidence of  
65.16 greater than 60 semester hours or its equivalent. In addition to completing the requisite  
65.17 graduate coursework, each licensee shall also complete in the first four years of licensure  
65.18 a minimum of 40 hours of continuing education activities approved by the board under  
65.19 Minnesota Rules, part 2150.2540. Graduate credit hours successfully completed in the  
65.20 first four years of licensure may be applied to both the graduate credit requirement and to  
65.21 the requirement for 40 hours of continuing education activities. A licensee may receive 15  
65.22 continuing education hours per semester credit hour or ten continuing education hours  
65.23 per quarter credit hour. Thereafter, at the time of renewal, each licensee shall provide  
65.24 evidence satisfactory to the board that the licensee has completed during each two-year  
65.25 period at least the equivalent of 40 clock hours of professional postdegree continuing  
65.26 education in programs approved by the board and continues to be qualified to practice  
65.27 under sections 148B.50 to 148B.593.

65.28 Sec. 5. Minnesota Statutes 2010, section 148B.54, subdivision 3, is amended to read:

65.29 Subd. 3. **Relicensure following termination.** An individual whose license was  
65.30 terminated ~~prior to August 1, 2010,~~ and who can demonstrate completion of the graduate  
65.31 credit requirement in subdivision 2, does not need to comply with the continuing education  
65.32 requirement of Minnesota Rules, part 2150.2520, subpart 4, or with the continuing  
65.33 education requirements for relicensure following termination in Minnesota Rules, part

66.1 2150.0130, subpart 2. This section does not apply to an individual whose license has  
66.2 been canceled.

66.3 Sec. 6. **EFFECTIVE DATE.**

66.4 Sections 1 to 5 are effective August 1, 2012, unless a different effective date is  
66.5 specified.

66.6 **ARTICLE 6**

66.7 **HEALTH BOARDS**

66.8 Section 1. Minnesota Statutes 2010, section 148.10, subdivision 7, is amended to read:

66.9 Subd. 7. **Conviction of a felony-level criminal sexual conduct offense.** (a) Except  
66.10 as provided in paragraph ~~(e)~~ (f), the board shall not grant or renew a license to practice  
66.11 chiropractic to any person who has been convicted on or after August 1, 2010, of any  
66.12 of the provisions of sections 609.342, subdivision 1, 609.343, subdivision 1, 609.344,  
66.13 subdivision 1, paragraphs (c) to (o), or 609.345, subdivision 1, paragraphs (b) to (o).

66.14 (b) The board shall not grant or renew a license to practice chiropractic to any  
66.15 person who has been convicted in any other state or country on or after August 1, 2011,  
66.16 of an offense where the elements of the offense are substantially similar to any of the  
66.17 offenses listed in paragraph (a).

66.18 ~~(b)~~ (c) A license to practice chiropractic is automatically revoked if the licensee is  
66.19 convicted of an offense listed in paragraph (a) ~~of this section.~~

66.20 ~~(e)~~ (d) A license to practice chiropractic that has been denied or revoked under this  
66.21 subdivision is not subject to chapter 364.

66.22 ~~(d)~~ (e) For purposes of this subdivision, "conviction" means a plea of guilty, a  
66.23 verdict of guilty by a jury, or a finding of guilty by the court, unless the court stays  
66.24 imposition or execution of the sentence and final disposition of the case is accomplished at  
66.25 a nonfelony level.

66.26 ~~(e)~~ (f) The board may establish criteria whereby an individual convicted of an offense  
66.27 listed in paragraph (a) of this subdivision may become licensed provided that the criteria:

66.28 (1) utilize a rebuttable presumption that the applicant is not suitable for licensing or  
66.29 credentialing;

66.30 (2) provide a standard for overcoming the presumption; and

66.31 (3) require that a minimum of ten years has elapsed since the applicant was released  
66.32 from any incarceration or supervisory jurisdiction related to the offense.

67.1 The board shall not consider an application under this paragraph if the board  
 67.2 determines that the victim involved in the offense was a patient or a client of the applicant  
 67.3 at the time of the offense.

67.4 Sec. 2. Minnesota Statutes 2010, section 214.09, is amended by adding a subdivision  
 67.5 to read:

67.6 Subd. 5. **Health-related boards.** No current member of a health-related licensing  
 67.7 board may seek a paid employment position with that board.

67.8 Sec. 3. Minnesota Statutes 2010, section 214.103, is amended to read:

67.9 **214.103 HEALTH-RELATED LICENSING BOARDS; COMPLAINT,**  
 67.10 **INVESTIGATION, AND HEARING.**

67.11 Subdivision 1. **Application.** For purposes of this section, "board" means  
 67.12 "health-related licensing board" and does not include the non-health-related licensing  
 67.13 boards. Nothing in this section supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as  
 67.14 they apply to the health-related licensing boards.

67.15 Subd. 1a. **Notifications and resolution.** (a) No more than 14 calendar days after  
 67.16 receiving a complaint regarding a licensee, the board shall notify the complainant that  
 67.17 the board has received the complaint and shall provide the complainant with the written  
 67.18 description of the board's complaint process. The board shall periodically, but no less  
 67.19 than every 120 days, notify the complainant of the status of the complaint consistent  
 67.20 with section 13.41.

67.21 (b) Except as provided in paragraph (d), no more than 60 calendar days after  
 67.22 receiving a complaint regarding a licensee, the board must notify the licensee that the  
 67.23 board has received a complaint and inform the licensee of:

67.24 (1) the substance of the complaint;

67.25 (2) the sections of the law that have allegedly been violated;

67.26 (3) the sections of the professional rules that have allegedly been violated; and

67.27 (4) whether an investigation is being conducted.

67.28 (c) The board shall periodically, but no less than every 120 days, notify the licensee  
 67.29 of the status of the complaint consistent with section 13.41.

67.30 (d) Paragraphs (b) and (c) do not apply if the board determines that such notice  
 67.31 would compromise the board's investigation and that such notice cannot reasonably be  
 67.32 accomplished within this time.

67.33 (e) No more than one year after receiving a complaint regarding a licensee, the  
 67.34 board must resolve or dismiss the complaint unless the board determines that resolving or

68.1 dismissing the complaint cannot reasonably be accomplished in this time and is not in  
68.2 the public interest.

68.3 (f) Failure to make notifications or to resolve the complaint within the time  
68.4 established in this subdivision shall not deprive the board of jurisdiction to complete the  
68.5 investigation or to take corrective, disciplinary, or other action against the licensee that is  
68.6 authorized by law. Such a failure by the board shall not be the basis for a licensee's request  
68.7 for the board to dismiss a complaint, and shall not be considered by an administrative law  
68.8 judge, the board, or any reviewing court.

68.9 Subd. 2. **Receipt of complaint.** The boards shall receive and resolve complaints  
68.10 or other communications, whether oral or written, against regulated persons. Before  
68.11 resolving an oral complaint, the executive director or a board member designated by the  
68.12 board to review complaints ~~may~~ shall require the complainant to state the complaint in  
68.13 writing or authorize transcribing the complaint. The executive director or the designated  
68.14 board member shall determine whether the complaint alleges or implies a violation of  
68.15 a statute or rule which the board is empowered to enforce. The executive director or  
68.16 the designated board member may consult with the designee of the attorney general as  
68.17 to a board's jurisdiction over a complaint. If the executive director or the designated  
68.18 board member determines that it is necessary, the executive director may seek additional  
68.19 information to determine whether the complaint is jurisdictional or to clarify the nature  
68.20 of the allegations by obtaining records or other written material, obtaining a handwriting  
68.21 sample from the regulated person, clarifying the alleged facts with the complainant, and  
68.22 requesting a written response from the subject of the complaint.

68.23 Subd. 3. **Referral to other agencies.** The executive director shall forward to  
68.24 another governmental agency any complaints received by the board which do not relate  
68.25 to the board's jurisdiction but which relate to matters within the jurisdiction of another  
68.26 governmental agency. The agency shall advise the executive director of the disposition  
68.27 of the complaint. A complaint or other information received by another governmental  
68.28 agency relating to a statute or rule which a board is empowered to enforce must be  
68.29 forwarded to the executive director of the board to be processed in accordance with this  
68.30 section. Governmental agencies may coordinate and conduct joint investigations of  
68.31 complaints that involve more than one governmental agency.

68.32 Subd. 4. **Role of the attorney general.** The executive director or the designated  
68.33 board member shall forward a complaint and any additional information to the designee  
68.34 of the attorney general when the executive director or the designated board member  
68.35 determines that a complaint is jurisdictional and:

69.1 (1) requires investigation before the executive director or the designated board  
69.2 member may resolve the complaint;

69.3 (2) that attempts at resolution for disciplinary action or the initiation of a contested  
69.4 case hearing is appropriate;

69.5 (3) that an agreement for corrective action is warranted; or

69.6 (4) that the complaint should be dismissed, consistent with subdivision 8.

69.7 Subd. 5. **Investigation by attorney general.** (a) If the executive director or the  
69.8 designated board member determines that investigation is necessary before resolving  
69.9 the complaint, the executive director shall forward the complaint and any additional  
69.10 information to the designee of the attorney general. The designee of the attorney general  
69.11 shall evaluate the communications forwarded and investigate as appropriate.

69.12 (b) The designee of the attorney general may also investigate any other complaint  
69.13 forwarded under subdivision 3 when the designee of the attorney general determines that  
69.14 investigation is necessary.

69.15 (c) In the process of evaluation and investigation, the designee shall consult with  
69.16 or seek the assistance of the executive director or the designated board member. The  
69.17 designee may also consult with or seek the assistance of other qualified persons who are  
69.18 not members of the board who the designee believes will materially aid in the process of  
69.19 evaluation or investigation.

69.20 (d) Upon completion of the investigation, the designee shall forward the investigative  
69.21 report to the executive director with recommendations for further consideration or  
69.22 dismissal.

69.23 Subd. 6. **Attempts at resolution.** (a) At any time after receipt of a complaint, the  
69.24 executive director or the designated board member may attempt to resolve the complaint  
69.25 with the regulated person. The available means for resolution include a conference or  
69.26 any other written or oral communication with the regulated person. A conference may  
69.27 be held for the purposes of investigation, negotiation, education, or conciliation. Neither  
69.28 the executive director nor any member of a board's staff shall be a voting member in any  
69.29 attempts at resolutions which may result in disciplinary or corrective action. The results  
69.30 of attempts at resolution with the regulated person may include a recommendation to  
69.31 the board for disciplinary action, an agreement between the executive director or the  
69.32 designated board member and the regulated person for corrective action, or the dismissal  
69.33 of a complaint. If attempts at resolution are not in the public interest ~~or are not satisfactory~~  
69.34 ~~to the executive director or the designated board member, then the executive director or~~  
69.35 ~~the designated board member may initiate~~ a contested case hearing may be initiated.

70.1 (1) The designee of the attorney general shall represent the board in all attempts at  
70.2 resolution which the executive director or the designated board member anticipate may  
70.3 result in disciplinary action. A stipulation between the executive director or the designated  
70.4 board member and the regulated person shall be presented to the board for the board's  
70.5 consideration. An approved stipulation and resulting order shall become public data.

70.6 (2) The designee of the attorney general shall represent the board upon the request of  
70.7 the executive director or the designated board member in all attempts at resolution which  
70.8 the executive director or the designated board member anticipate may result in corrective  
70.9 action. Any agreement between the executive director or the designated board member  
70.10 and the regulated person for corrective action shall be in writing and shall be reviewed by  
70.11 the designee of the attorney general prior to its execution. The agreement for corrective  
70.12 action shall provide for dismissal of the complaint upon successful completion by the  
70.13 regulated person of the corrective action.

70.14 (b) Upon receipt of a complaint alleging sexual contact or sexual conduct with a  
70.15 client, the board must forward the complaint to the designee of the attorney general for  
70.16 an investigation. If, after it is investigated, the complaint appears to provide a basis for  
70.17 disciplinary action, the board shall resolve the complaint by disciplinary action or initiate  
70.18 a contested case hearing. Notwithstanding paragraph (a), clause (2), a board may not take  
70.19 corrective action or dismiss a complaint alleging sexual contact or sexual conduct with a  
70.20 client unless, in the opinion of the executive director, the designated board member, and the  
70.21 designee of the attorney general, there is insufficient evidence to justify disciplinary action.

70.22 Subd. 7. **Contested case hearing.** If the executive director or the designated board  
70.23 member determines that attempts at resolution of a complaint are not in the public interest  
70.24 ~~or are not satisfactory to the executive director or the designated board member,~~ the  
70.25 executive director or the designated board member, after consultation with the designee  
70.26 of the attorney general, and the concurrence of a second board member, may initiate a  
70.27 contested case hearing under chapter 14. The designated board member or any board  
70.28 member who was consulted during the course of an investigation may participate at the  
70.29 contested case hearing. A designated or consulted board member may not deliberate or  
70.30 vote in any proceeding before the board pertaining to the case.

70.31 Subd. 8. **Dismissal and reopening of a complaint.** (a) A complaint may not be  
70.32 dismissed without the concurrence of at least two board members and, upon the request  
70.33 of the complainant, a review by a representative of the attorney general's office. The  
70.34 designee of the attorney general must review before dismissal any complaints which  
70.35 allege any violation of chapter 609, any conduct which would be required to be reported  
70.36 under section 626.556 or 626.557, any sexual contact or sexual conduct with a client,

71.1 any violation of a federal law, any actual or potential inability to practice the regulated  
 71.2 profession or occupation by reason of illness, use of alcohol, drugs, chemicals, or any other  
 71.3 materials, or as a result of any mental or physical condition, any violation of state medical  
 71.4 assistance laws, or any disciplinary action related to credentialing in another jurisdiction  
 71.5 or country which was based on the same or related conduct specified in this subdivision.

71.6 (b) The board may reopen a dismissed complaint if the board receives newly  
 71.7 discovered information that was not available to the board during the initial investigation  
 71.8 of the complaint, or if the board receives a new complaint that indicates a pattern of  
 71.9 behavior or conduct.

71.10 Subd. 9. **Information to complainant.** A board shall furnish to a person who made  
 71.11 a complaint a written description of the board's complaint process, and actions of the  
 71.12 board relating to the complaint.

71.13 Subd. 10. **Prohibited participation by board member.** A board member who  
 71.14 has actual bias or a current or former direct financial or professional connection with a  
 71.15 regulated person may not vote in board actions relating to the regulated person.

71.16 Sec. 4. **[214.108] HEALTH-RELATED LICENSING BOARDS; LICENSEE**  
 71.17 **GUIDANCE.**

71.18 A health-related licensing board may offer guidance to current licensees about the  
 71.19 application of laws and rules the board is empowered to enforce. This guidance shall not  
 71.20 bind any court or other adjudicatory body.

71.21 Sec. 5. **[214.109] RECORD KEEPING.**

71.22 (a) A board may take administrative action against a regulated person whose records  
 71.23 do not meet the standards of professional practice. Action taken under this paragraph  
 71.24 shall not be considered disciplinary action.

71.25 (b) Records that are fraudulent or could result in patient harm may be handled  
 71.26 through disciplinary or other corrective action.

71.27 Sec. 6. Laws 2010, chapter 349, section 1, the effective date, is amended to read:

71.28 **EFFECTIVE DATE.** This section is effective for ~~new~~ licenses issued or renewed  
 71.29 on or after August 1, 2010.

**ARTICLE 7****DENTISTRY**

72.1

72.2

72.3 Section 1. Minnesota Statutes 2010, section 150A.06, subdivision 1c, is amended to  
72.4 read:

72.5 Subd. 1c. **Specialty dentists.** (a) The board may grant a specialty license in the  
72.6 specialty areas of dentistry that are recognized by the American Dental Association.

72.7 (b) An applicant for a specialty license shall:

72.8 (1) have successfully completed a postdoctoral specialty education program  
72.9 accredited by the Commission on Dental Accreditation of the American Dental  
72.10 Association, or have announced a limitation of practice before 1967;

72.11 (2) have been certified by a specialty examining board approved by the Minnesota  
72.12 Board of Dentistry, or provide evidence of having passed a clinical examination for  
72.13 licensure required for practice in any state or Canadian province, or in the case of oral and  
72.14 maxillofacial surgeons only, have a Minnesota medical license in good standing;

72.15 (3) have been in active practice or a postdoctoral specialty education program or  
72.16 United States government service at least 2,000 hours in the 36 months prior to applying  
72.17 for a specialty license;

72.18 (4) if requested by the board, be interviewed by a committee of the board, which  
72.19 may include the assistance of specialists in the evaluation process, and satisfactorily  
72.20 respond to questions designed to determine the applicant's knowledge of dental subjects  
72.21 and ability to practice;

72.22 (5) if requested by the board, present complete records on a sample of patients  
72.23 treated by the applicant. The sample must be drawn from patients treated by the applicant  
72.24 during the 36 months preceding the date of application. The number of records shall be  
72.25 established by the board. The records shall be reasonably representative of the treatment  
72.26 typically provided by the applicant;

72.27 (6) at board discretion, pass a board-approved English proficiency test if English is  
72.28 not the applicant's primary language;

72.29 (7) pass all components of the National ~~Dental~~ Board Dental Examinations;

72.30 (8) pass the Minnesota Board of Dentistry jurisprudence examination;

72.31 (9) abide by professional ethical conduct requirements; and

72.32 (10) meet all other requirements prescribed by the Board of Dentistry.

72.33 (c) The application must include:

72.34 (1) a completed application furnished by the board;

73.1 (2) at least two character references from two different dentists, one of whom must  
 73.2 be a dentist practicing in the same specialty area, and the other the director of the specialty  
 73.3 program attended;

73.4 (3) a licensed physician's statement attesting to the applicant's physical and mental  
 73.5 condition;

73.6 (4) a statement from a licensed ophthalmologist or optometrist attesting to the  
 73.7 applicant's visual acuity;

73.8 (5) a nonrefundable fee; and

73.9 (6) a notarized, unmounted passport-type photograph, three inches by three inches,  
 73.10 taken not more than six months before the date of application.

73.11 (d) A specialty dentist holding a specialty license is limited to practicing in the  
 73.12 dentist's designated specialty area. The scope of practice must be defined by each national  
 73.13 specialty board recognized by the American Dental Association.

73.14 (e) A specialty dentist holding a general dentist license is limited to practicing in the  
 73.15 dentist's designated specialty area if the dentist has announced a limitation of practice.  
 73.16 The scope of practice must be defined by each national specialty board recognized by  
 73.17 the American Dental Association.

73.18 (f) All specialty dentists who have fulfilled the specialty dentist requirements and  
 73.19 who intend to limit their practice to a particular specialty area may apply for a specialty  
 73.20 license.

73.21 Sec. 2. Minnesota Statutes 2010, section 150A.06, subdivision 3, is amended to read:

73.22 Subd. 3. **Waiver of examination.** (a) All or any part of the examination for dentists  
 73.23 or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry  
 73.24 and the rules of the board, may, at the discretion of the board, be waived for an applicant  
 73.25 who presents a certificate of ~~qualification from having passed all components of the~~  
 73.26 National Board of Dental Examiners Examinations or evidence of having maintained an  
 73.27 adequate scholastic standing as determined by the board, in dental school as to dentists, or  
 73.28 dental hygiene school as to dental hygienists.

73.29 (b) The board shall waive the clinical examination required for licensure for any  
 73.30 dentist applicant who is a graduate of a dental school accredited by the Commission  
 73.31 on Dental Accreditation of the American Dental Association, who has ~~successfully~~  
 73.32 completed passed all components of the ~~National Dental Board Examination~~ Dental  
 73.33 Examinations, and who has satisfactorily completed a Minnesota-based postdoctoral  
 73.34 general dentistry residency program (GPR) or an advanced education in general dentistry  
 73.35 (AEGD) program after January 1, 2004. The postdoctoral program must be accredited

74.1 by the Commission on Dental Accreditation of the American Dental Association, be of  
74.2 at least one year's duration, and include an outcome assessment evaluation assessing  
74.3 the resident's competence to practice dentistry. The board may require the applicant to  
74.4 submit any information deemed necessary by the board to determine whether the waiver is  
74.5 applicable. The board may waive the clinical examination for an applicant who meets the  
74.6 requirements of this paragraph and has satisfactorily completed an accredited postdoctoral  
74.7 general dentistry residency program located outside of Minnesota.

74.8 Sec. 3. Minnesota Statutes 2010, section 150A.06, subdivision 4, is amended to read:

74.9 Subd. 4. **Licensure by credentials.** (a) Any dentist or dental hygienist may, upon  
74.10 application and payment of a fee established by the board, apply for licensure based on  
74.11 the applicant's performance record in lieu of passing an examination approved by the  
74.12 board according to section 150A.03, subdivision 1, and be interviewed by the board to  
74.13 determine if the applicant:

74.14 (1) has passed all components of the National Board Dental Examinations;

74.15 ~~(1)~~ (2) has been in active practice at least 2,000 hours within 36 months of the  
74.16 application date, or passed a board-approved reentry program within 36 months of the  
74.17 application date;

74.18 ~~(2)~~ (3) currently has a license in another state or Canadian province and is not subject  
74.19 to any pending or final disciplinary action, or if not currently licensed, previously had a  
74.20 license in another state or Canadian province in good standing that was not subject to any  
74.21 final or pending disciplinary action at the time of surrender;

74.22 ~~(3)~~ (4) is of good moral character and abides by professional ethical conduct  
74.23 requirements;

74.24 ~~(4)~~ (5) at board discretion, has passed a board-approved English proficiency test if  
74.25 English is not the applicant's primary language; and

74.26 ~~(5)~~ (6) meets other credentialing requirements specified in board rule.

74.27 (b) An applicant who fulfills the conditions of this subdivision and demonstrates  
74.28 the minimum knowledge in dental subjects required for licensure under subdivision 1 or  
74.29 2 must be licensed to practice the applicant's profession.

74.30 (c) If the applicant does not demonstrate the minimum knowledge in dental subjects  
74.31 required for licensure under subdivision 1 or 2, the application must be denied. When  
74.32 denying a license, the board may notify the applicant of any specific remedy that the  
74.33 applicant could take which, when passed, would qualify the applicant for licensure. A  
74.34 denial does not prohibit the applicant from applying for licensure under subdivision 1 or 2.

75.1 (d) A candidate whose application has been denied may appeal the decision to the  
75.2 board according to subdivision 4a.

75.3 Sec. 4. Minnesota Statutes 2010, section 150A.06, subdivision 6, is amended to read:

75.4 Subd. 6. **Display of name and certificates.** (a) The initial license and subsequent  
75.5 renewal, ~~or current registration~~ certificate, of every dentist, a dental therapist, dental  
75.6 hygienist, or dental assistant shall be conspicuously displayed in every office in which that  
75.7 person practices, in plain sight of patients. When available from the board, the board shall  
75.8 allow the display of a wallet-sized initial license and wallet-sized subsequent renewal  
75.9 certificate only at nonprimary practice locations instead of displaying an original-sized  
75.10 initial license and subsequent renewal certificate.

75.11 (b) Near or on the entrance door to every office where dentistry is practiced, the  
75.12 name of each dentist practicing there, as inscribed on the current license certificate, shall  
75.13 be displayed in plain sight.

75.14 Sec. 5. Minnesota Statutes 2010, section 150A.09, subdivision 3, is amended to read:

75.15 Subd. 3. **Current address, change of address.** Every dentist, dental therapist,  
75.16 dental hygienist, and dental assistant shall maintain with the board a correct and current  
75.17 mailing address and electronic mail address. For dentists engaged in the practice of  
75.18 dentistry, the postal address shall be that of the location of the primary dental practice.  
75.19 Within 30 days after changing postal or electronic mail addresses, every dentist, dental  
75.20 therapist, dental hygienist, and dental assistant shall provide the board written notice of  
75.21 the new address either personally or by first class mail.

75.22 Sec. 6. Minnesota Statutes 2010, section 150A.105, subdivision 7, is amended to read:

75.23 Subd. 7. **Use of dental assistants.** (a) A licensed dental therapist may supervise  
75.24 dental assistants to the extent permitted in the collaborative management agreement and  
75.25 according to section 150A.10, subdivision 2.

75.26 (b) Notwithstanding paragraph (a), a licensed dental therapist is limited to  
75.27 supervising no more than four ~~registered licensed~~ registered licensed dental assistants or ~~nonregistered~~  
75.28 nonlicensed dental assistants at any one practice setting.

75.29 Sec. 7. Minnesota Statutes 2010, section 150A.106, subdivision 1, is amended to read:

75.30 Subdivision 1. **General.** In order to be certified by the board to practice as an  
75.31 advanced dental therapist, a person must:

75.32 (1) complete a dental therapy education program;

- 76.1 (2) pass an examination to demonstrate competency under the dental therapy scope  
76.2 of practice;
- 76.3 (3) be licensed as a dental therapist;
- 76.4 (4) complete 2,000 hours of dental therapy clinical practice under direct or indirect  
76.5 supervision;
- 76.6 (5) graduate from a master's advanced dental therapy education program;
- 76.7 (6) pass a board-approved certification examination to demonstrate competency  
76.8 under the advanced scope of practice; and
- 76.9 (7) submit an application and fee for certification as prescribed by the board.

76.10 Sec. 8. Minnesota Statutes 2010, section 150A.14, is amended to read:

76.11 **150A.14 IMMUNITY.**

76.12 Subdivision 1. **Reporting immunity.** A person, health care facility, business, or  
76.13 organization is immune from civil liability or criminal prosecution for submitting a report  
76.14 in good faith to the board under section 150A.13, or for cooperating with an investigation  
76.15 of a report or with staff of the board relative to violations or alleged violations of section  
76.16 150A.08. Reports are confidential data on individuals under section 13.02, subdivision 3,  
76.17 and are privileged communications.

76.18 Subd. 2. **~~Program Investigation~~ immunity.** (a) Members of the board, persons  
76.19 employed by the board, and board consultants retained by the board are immune from  
76.20 civil liability and criminal prosecution for any actions, transactions, or publications in  
76.21 the execution of, or relating to, their duties under ~~section 150A.13~~ sections 150A.02 to  
76.22 150A.21, 214.10, and 214.103.

76.23 (b) For purposes of this section, a member of the board or a consultant described in  
76.24 paragraph (a) is considered a state employee under section 3.736, subdivision 9.

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**138A.01 LABOR INTERPRETIVE CENTER; BOARD OF DIRECTORS.**

Subdivision 1. **Establishment.** The Labor Interpretive Center is a public corporation of the state and is not subject to the laws governing a state agency except as provided in this chapter.

Subd. 2. **Purpose.** The purpose of the Labor Interpretive Center is to celebrate the contribution of working people to the past, present, and future of Minnesota; to spur an interest among the people of Minnesota in their own family and community traditions of work; to help young people discover their work skills and opportunities for a productive working life; and to advance the teaching of work and labor studies in schools and colleges.

Subd. 3. **Board of directors.** The center is governed by a board of ten directors. The membership terms, compensation, removal, and filling of vacancies of members of the board are as provided in section 15.0575. Membership of the board consists of:

- (1) three directors appointed by the governor;
- (2) one director appointed by the mayor of St. Paul, subject to the approval of the city council;
- (3) three directors appointed by the speaker of the house; and
- (4) three directors appointed by the Subcommittee on Committees of the senate Committee on Rules and Administration.

Directors must be representatives of labor, business, state and local government, local education authorities, and arts groups. The chairs of the senate Committee on Jobs, Energy, and Community Development and the house of representatives Committee on Labor-Management Relations shall serve as nonvoting members.

The board shall select a chair of the board from its members, and any other officers of the board deemed necessary.

Subd. 4. **Location.** The center must be located in the Capitol area of St. Paul as defined in section 15B.02, at the site recommended by the Capitol Area Architectural and Planning Board.

Subd. 5. **Meetings of the board.** The board shall meet at least twice a year and may hold additional meetings upon giving notice. Board meetings are subject to chapter 13D.

Subd. 6. **Conflict of interest.** A director, employee, or officer of the center may not participate in or vote on a decision of the board relating to a matter in which the director has either a direct or indirect financial interest or a conflict of interest as described in section 10A.07.

Subd. 7. **Tort claims.** The center is a state agency for purposes of section 3.736.

**138A.02 CENTER PERSONNEL.**

Subdivision 1. **Generally.** The board shall appoint an executive director of the center to serve in the unclassified service. The executive director must be chosen on the basis of training, experience, and knowledge in the areas of labor history and the changing world of work. The center shall employ staff, consultants, and other parties necessary to carry out the mission of the center.

Subd. 2. **Status of employees.** Employees of the center are executive branch state employees.

**138A.03 POWERS; DUTIES; BOARD; CENTER.**

Subdivision 1. **General powers.** The board has the powers necessary for the care, management, and direction of the center. The powers include:

- (1) overseeing the planning and construction of the center as funds are available;
- (2) leasing a temporary facility for the center during development of its organization and program; and
- (3) establishing advisory groups as needed to advise the board on program, policy, and related issues.

Subd. 2. **Duties.** The center is a state agency for purposes of the following accounting and budgeting requirements:

- (1) financial reports and other requirements under section 16A.06;
- (2) the state budget system under sections 16A.095, 16A.10, and 16A.11;
- (3) the state allotment and encumbrance, and accounting systems under sections 16A.14, subdivisions 2, 3, 4, and 5; and 16A.15, subdivisions 2 and 3; and
- (4) indirect costs under section 16A.127.

Subd. 3. **Program.** The board shall appoint a program advisory group to oversee the development of the center's programming. It must consist of representatives of cultural and educational organizations, labor education specialists, and curriculum supervisors in local schools.

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The program of the center may be implemented through exhibits, performances, seminars, films and multimedia presentations, participatory programs for all ages, and a resource center for teachers. Collaborative program development is encouraged with technical colleges, the Minnesota Historical Society, and other cultural institutions.

Subd. 4. **Board of governors.** The board may establish a board of governors to incorporate as a nonprofit organization to receive donations for the center and to serve as honorary advisors to the board of directors.

#### **138A.04 LABOR INTERPRETIVE CENTER ACCOUNT.**

The Minnesota labor interpretive center account is an account in the special revenue fund. Funds in the account not needed for the immediate purposes of the center may be invested by the state Board of Investment in any way authorized by section 11A.24. Funds in the account are appropriated to the center to be used as provided in this chapter.

#### **138A.05 AUDITS.**

The center is subject to the auditing requirements of sections 3.971 and 3.972.

#### **138A.06 ANNUAL REPORTS.**

The board shall submit annual reports to the legislature on the planning, development, and activities of the center. The board shall supply more frequent reports if requested.

#### **148C.01 DEFINITIONS.**

Subdivision 1. **Definitions.** For the purposes of sections 148C.01 to 148C.11 and 595.02, subdivision 1, the following terms have the meanings given them.

Subd. 1a. **Accrediting association.** "Accrediting association" means an organization recognized by the board that evaluates schools and education programs of alcohol and drug counseling or is listed in Nationally Recognized Accrediting Agencies and Associations, Criteria and Procedures for Listing by the U.S. Secretary of Education and Current List (1996), which is incorporated by reference.

Subd. 2. **Alcohol and drug counselor.** "Alcohol and drug counselor" or "counselor" means a person who:

(1) uses, as a representation to the public, any title, initials, or description of services incorporating the words "alcohol and drug counselor";

(2) offers to render professional alcohol and drug counseling services relative to the abuse of or the dependency on alcohol or other drugs to the general public or groups, organizations, corporations, institutions, or government agencies for compensation, implying that the person is licensed and trained, experienced or expert in alcohol and drug counseling;

(3) holds a valid license issued under this chapter to engage in the practice of alcohol and drug counseling; or

(4) is an applicant for an alcohol and drug counseling license.

Subd. 2a. **Alcohol and drug counselor academic course work.** "Alcohol and drug counselor academic course work" means classroom education, which is directly related to alcohol and drug counseling and meets the requirements of section 148C.04, subdivision 5a, and is taken through an accredited school or educational program.

Subd. 2b. **Alcohol and drug counselor continuing education activity.** "Alcohol and drug counselor continuing education activity" means clock hours that meet the requirements of section 148C.075 and Minnesota Rules, part 4747.1100, and are obtained by a licensee at educational programs of annual conferences, lectures, panel discussions, workshops, seminars, symposiums, employer-sponsored inservices, or courses taken through accredited schools or education programs, including home study courses. A home study course need not be provided by an accredited school or education program to meet continuing education requirements.

Subd. 2c. **Alcohol and drug counselor technician.** "Alcohol and drug counselor technician" means a person not licensed as an alcohol and drug counselor who is performing acts authorized under section 148C.045.

Subd. 2d. **Alcohol and drug counselor training.** "Alcohol and drug counselor training" means clock hours obtained by an applicant at educational programs of annual conferences, lectures, panel discussions, workshops, seminars, symposiums, employer-sponsored inservices, or courses taken through accredited schools or education programs, including home study courses.

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Clock hours obtained from accredited schools or education programs must be measured under Minnesota Rules, part 4747.1100, subpart 5.

Subd. 2e. **Board.** "Board" means the Board of Behavioral Health and Therapy established by section 148B.51.

Subd. 2f. **Clock hour.** "Clock hour" means an instructional session of 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Subd. 2g. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in the practice of an occupation.

Subd. 4. **Dependency.** "Dependency" means a maladaptive pattern of substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

(a) tolerance, as defined by either of the following:

(1) a need for markedly increased amounts of the substance to achieve intoxication or desired effect; or

(2) a markedly diminished effect with continued use of the same amount of the substance;

(b) withdrawal, as manifested by either of the following:

(1) the characteristic withdrawal syndrome for the substance, as referred to in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders; or

(2) the same or closely related substance is taken to relieve or avoid withdrawal symptoms;

(c) the substance is often taken in larger amounts or over a longer period than was intended;

(d) a persistent desire or unsuccessful efforts to cut down or control substance use;

(e) a great deal of time is spent in activities necessary to obtain the substance, use the substance, or recover from its effects;

(f) important social, occupational, or recreational activities are given up or reduced because of the substance use; or

(g) substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by the substance.

Subd. 4a. **Licensee.** "Licensee" means a person who holds a valid license under this chapter.

Subd. 5. **Abuse.** "Abuse" means a maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by one or more of the following occurring at any time during the same 12-month period:

(1) recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home;

(2) recurrent substance use in situations in which it is physically hazardous;

(3) recurrent substance-related legal problems; and

(4) continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance.

For substance use to be considered abuse, the individual must never have met the criteria for dependence in subdivision 4 for the class of substance in question.

Subd. 7. **Accredited school or educational program.** "Accredited school or educational program" means a school of alcohol and drug counseling, university, college, or other postsecondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Postsecondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of the education, practicum, and core function standards in this chapter.

Subd. 9. **Core functions.** "Core functions" means the following services provided in alcohol and drug treatment:

(1) "Screening" means the process by which a client is determined appropriate and eligible for admission to a particular program.

(2) "Intake" means the administrative and initial assessment procedures for admission to a program.

(3) "Orientation" means describing to the client the general nature and goals of the program; rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program; in a nonresidential program, the hours during which services are available; treatment costs to be borne by the client, if any; and client's rights.

(4) "Assessment" means those procedures by which a counselor identifies and evaluates an individual's strengths, weaknesses, problems, and needs to develop a treatment plan or make recommendations for level of care placement.

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(5) "Treatment planning" means the process by which the counselor and the client identify and rank problems needing resolution; establish agreed-upon immediate and long-term goals; and decide on a treatment process and the sources to be utilized.

(6) "Counseling" means the utilization of special skills to assist individuals, families, or groups in achieving objectives through exploration of a problem and its ramifications; examination of attitudes and feelings; consideration of alternative solutions; and decision making.

(7) "Case management" means activities which bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals.

(8) "Crisis intervention" means those services which respond to an alcohol or other drug user's needs during acute emotional or physical distress.

(9) "Client education" means the provision of information to clients who are receiving or seeking counseling concerning alcohol and other drug abuse and the available services and resources.

(10) "Referral" means identifying the needs of the client which cannot be met by the counselor or agency and assisting the client to utilize the support systems and available community resources.

(11) "Reports and record keeping" means charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries, and other client-related data.

(12) "Consultation with other professionals regarding client treatment and services" means communicating with other professionals in regard to client treatment and services to assure comprehensive, quality care for the client.

**Subd. 10. Practice of alcohol and drug counseling.** "Practice of alcohol and drug counseling" means the observation, description, evaluation, interpretation, and modification of human behavior as it relates to the harmful or pathological use or abuse of alcohol or other drugs by the application of the core functions. The practice of alcohol and drug counseling includes, but is not limited to, the following activities, regardless of whether the counselor receives compensation for the activities:

(1) assisting clients who use alcohol or drugs, evaluating that use, and recognizing dependency if it exists;

(2) assisting clients with alcohol or other drug problems to gain insight and motivation aimed at resolving those problems;

(3) providing experienced professional guidance, assistance, and support for the client's efforts to develop and maintain a responsible functional lifestyle;

(4) recognizing problems outside the scope of the counselor's training, skill, or competence and referring the client to other appropriate professional services;

(5) assessing the level of alcohol or other drug use involvement;

(6) individual planning to prevent a return to harmful alcohol or chemical use;

(7) alcohol and other drug abuse education for clients;

(8) consultation with other professionals;

(9) gaining cultural competence through ongoing training and education according to standards established by rule; and

(10) providing the above services, as needed, to family members or others who are directly affected by someone using alcohol or other drugs.

**Subd. 11. Sexual contact.** "Sexual contact" means contact as defined in section 604.20 with a client or former client, or engaging in contact that may reasonably be interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the client, or engaging in sexual exploitation of a client or former client.

**Subd. 11a. Student.** "Student" means a person enrolled in an alcohol and drug counselor education program at an accredited school or educational program and earning a minimum of nine semester credits per calendar year towards completion of an associate's, bachelor's, master's, or doctorate degree requirements that include an additional 18 semester credits or 270 clock hours of alcohol and drug counseling specific course work and 440 clock hours of practicum.

**Subd. 12. Supervised alcohol and drug counselor.** "Supervised alcohol and drug counselor" means a student, either before, during, or after the student completes a program from an accredited school or educational program of alcohol and drug counseling, an intern, or a person issued a temporary permit under section 148C.04, subdivision 4, and who is supervised by a person either licensed under this chapter or exempt under its provisions.

**Subd. 12a. Supervisor.** "Supervisor" means a licensed alcohol and drug counselor licensed under this chapter or other licensed professional practicing alcohol and drug counseling under section 148C.11 who monitors activities of and accepts legal liability for the person practicing under supervision. A supervisor shall supervise no more than three trainees practicing under section 148C.04, subdivision 6.

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Subd. 13. **Alcohol and drug counseling practicum.** "Alcohol and drug counseling practicum" means formal experience gained by a student and supervised by a person either licensed under this chapter or exempt under its provisions, in an accredited school or educational program of alcohol and drug counseling as part of the education requirements of this chapter.

Subd. 14. **Applicant.** "Applicant" means a person seeking a license under this chapter.

Subd. 15. **Client.** "Client" means an individual who is the recipient of any of the alcohol and drug counseling services described in this section.

Subd. 16. **Compensation.** "Compensation" means a fee, salary, reward, payment, or the expectation of payment from a client or a client's agent, insurer, employer, or other representative for providing alcohol and drug counseling services. Compensation does not include bartering for services.

Subd. 17. **Alcohol and drug counselor internship.** "Alcohol and drug counselor internship" means supervised, practical, on-the-job training as an intern, volunteer, or employee in alcohol and drug counseling.

Subd. 18. **Psychometrically valid and reliable.** "Psychometrically valid and reliable" means developed on the basis of role delineation, validation, reliability, passing point, and sensitivity review factors, according to generally accepted standards.

#### **148C.015 SCOPE; DEFINITIONS.**

Before engaging in the practice of alcohol and drug counseling as defined in section 148C.01, all persons, except as provided in section 148C.11, regardless of their titles, must obtain a license as provided in this chapter.

#### **148C.03 DUTIES OF BOARD.**

Subdivision 1. **General.** The board shall:

(a) adopt and enforce rules for licensure of alcohol and drug counselors, including establishing standards and methods of determining whether applicants and licensees are qualified under section 148C.04. The rules must provide for examinations and establish standards for the regulation of professional conduct. The rules must be designed to protect the public;

(b) issue licenses to individuals qualified under sections 148C.01 to 148C.11;

(c) issue copies of the rules for licensure to all applicants;

(d) adopt rules to establish and implement procedures, including a standard disciplinary process and rules of professional conduct;

(e) carry out disciplinary actions against licensees;

(f) establish written internal operating procedures for receiving and investigating complaints and for taking disciplinary actions as appropriate;

(g) educate the public about the existence and content of the rules for alcohol and drug counselor licensing to enable consumers to file complaints against licensees who may have violated the rules;

(h) evaluate the rules in order to refine and improve the methods used to enforce the board's standards; and

(i) collect license fees for alcohol and drug counselors.

Subd. 4. **Professional accountability.** The board shall maintain and keep current a file containing the reports and complaints filed against alcohol and drug counselors within the board's jurisdiction.

#### **148C.0351 PROCEDURES FOR ADMISSION TO LICENSURE.**

Subdivision 1. **Application forms.** Unless exempted under section 148C.11, a person who practices alcohol and drug counseling in Minnesota must:

(1) apply to the board for a license to practice alcohol and drug counseling on forms provided by the board;

(2) include with the application a statement that the statements in the application are true and correct to the best of the applicant's knowledge and belief;

(3) include with the application a nonrefundable application fee specified in section 148C.12;

(4) include with the application information describing the applicant's experience, including the number of years and months the applicant has practiced alcohol and drug counseling as defined in section 148C.01;

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(5) include with the application the applicant's business address and telephone number, or home address and telephone number if the applicant conducts business out of the home, and if applicable, the name of the applicant's supervisor, manager, and employer;

(6) include with the application a written and signed authorization for the board to make inquiries to appropriate state regulatory agencies and private credentialing organizations in this or any other state where the applicant has practiced alcohol and drug counseling; and

(7) complete the application in sufficient detail for the board to determine whether the applicant meets the requirements for filing. The board may ask the applicant to provide additional information necessary to clarify incomplete or ambiguous information submitted in the application.

**Subd. 3. Requirement to maintain current information.** An alcohol and drug counselor must notify the board within 30 days of the occurrence of any of the following:

(1) a change of name, address, place of employment, and home or business telephone number; and

(2) a settlement or award based on negligent or intentional acts committed in providing alcohol and drug counseling services.

**Subd. 4. Initial license; term.** (a) An initial license is effective on the date the board indicates on the license certificate, with the license number, sent to the applicant upon approval of the application.

(b) An initial license is valid for a period beginning with the effective date in paragraph (a) and ending on the date specified by the board on the license certificate placing the applicant in an existing two-year renewal cycle, as established under section 148C.05, subdivision 1.

### **148C.0355 BOARD ACTION ON APPLICATIONS FOR LICENSURE.**

The board shall act on each application for licensure within 90 days from the date the completed application and all required information is received by the board. The board shall determine if the applicant meets the requirements for licensure and whether there are grounds for denial of licensure under this chapter. If the board denies an application on grounds other than the applicant's failure of an examination, the board shall:

(1) notify the applicant, in writing, of the denial and the reason for the denial and provide the applicant 30 days from the date of the letter informing the applicant of the denial in which the applicant may provide additional information to address the reasons for the denial. If the applicant does not respond in writing to the board within the 30-day period, the denial is final. If the board receives additional information, the board shall review it and make a final determination thereafter;

(2) notify the applicant that an application submitted following denial is a new application and must be accompanied by the appropriate fee as specified in section 148C.12; and

(3) notify the applicant of the right to request a hearing under chapter 14.

### **148C.04 REQUIREMENTS FOR LICENSURE.**

**Subdivision 1. General requirements.** The board shall issue licenses to the individuals qualified under this chapter to practice alcohol and drug counseling.

**Subd. 2. Fee.** Each applicant shall pay a nonrefundable fee as specified in section 148C.12. Fees paid to the board shall be deposited in the special revenue fund.

**Subd. 3. Requirements for licensure before July 1, 2008.** An applicant for a license must furnish evidence satisfactory to the board that the applicant has met all the requirements in clauses (1) to (3). The applicant must have:

(1) received an associate degree, or an equivalent number of credit hours, and a certificate in alcohol and drug counseling, including 18 semester credits or 270 clock hours of academic course work in accordance with subdivision 5a, paragraph (a), from an accredited school or educational program and 880 clock hours of supervised alcohol and drug counseling practicum;

(2) completed one of the following:

(i) a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions as determined by the board; or

(ii) satisfactorily completed 2,000 hours of supervised postdegree equivalent professional practice in accordance with section 148C.044; and

(3) satisfactorily passed written examinations for licensure as determined by the board.

**Subd. 4. Requirements for licensure after July 1, 2008.** An applicant for a license must submit evidence to the board that the applicant has met one of the following requirements:

(1) the applicant must have:

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(i) received a bachelor's degree from an accredited school or educational program, including 18 semester credits or 270 clock hours of academic course work in accordance with subdivision 5a, paragraph (a), from an accredited school or educational program and 880 clock hours of supervised alcohol and drug counseling practicum;

(ii) completed a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions as determined by the board; or submitted to the board a plan for supervision during the first 2,000 hours of professional practice, or submitted proof of supervised professional practice that is acceptable to the board; and

(iii) satisfactorily passed written examinations as determined by the board established by the board; or

(2) the applicant must meet the requirements of section 148C.07.

Subd. 5a. **Academic course work.** (a) Minimum academic course work requirements for licensure as referred to under subdivision 3, clause (1), and subdivision 4, clause (1), item (i), must be in the following areas:

(1) overview of alcohol and drug counseling focusing on the transdisciplinary foundations of alcohol and drug counseling and providing an understanding of theories of chemical dependency, the continuum of care, and the process of change;

(2) pharmacology of substance abuse disorders and the dynamics of addiction;

(3) screening, intake, assessment, and treatment planning;

(4) counseling theory and practice, crisis intervention, orientation, and client education;

(5) case management, consultation, referral, treatment planning, reporting, record keeping, and professional and ethical responsibilities; and

(6) multicultural aspects of chemical dependency to include awareness of learning outcomes described in Minnesota Rules, part 4747.1100, subpart 2, and the ability to know when consultation is needed.

(b) Advanced academic course work includes, at a minimum, the course work required in paragraph (a) and additional course work in the following areas:

(1) advanced study in the areas listed in paragraph (a);

(2) chemical dependency and the family;

(3) treating substance abuse disorders in culturally diverse and identified populations;

(4) dual diagnoses/co-occurring disorders with substance abuse disorders; and

(5) ethics and chemical dependency.

Subd. 6. **Temporary permit requirements.** (a) The board shall issue a temporary permit to practice alcohol and drug counseling prior to being licensed under this chapter if the person:

(1) either:

(i) submits verification of a current and unrestricted credential for the practice of alcohol and drug counseling from a national certification body or a certification or licensing body from another state, United States territory, or federally recognized tribal authority;

(ii) submits verification of the completion of at least 64 semester credits, including 270 clock hours or 18 semester credits of formal classroom education in alcohol and drug counseling and at least 880 clock hours of alcohol and drug counseling practicum from an accredited school or educational program;

(iii) applies to renew a lapsed license according to the requirements of section 148C.055, subdivision 3, clauses (1) and (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

(iv) meets the requirements of section 148C.11, subdivision 1, paragraph (c), or 6, clauses (1), (2), and (5);

(2) applies, in writing, on an application form provided by the board, which includes the nonrefundable temporary permit fee as specified in section 148C.12 and an affirmation by the person's supervisor, as defined in paragraph (c), clause (1), which is signed and dated by the person and the person's supervisor; and

(3) has not been disqualified to practice temporarily on the basis of a background investigation under section 148C.09, subdivision 1a.

(b) The board must notify the person in writing within 90 days from the date the completed application and all required information is received by the board whether the person is qualified to practice under this subdivision.

(c) A person practicing under this subdivision:

(1) may practice under tribal jurisdiction or under the direct supervision of a person who is licensed under this chapter;

(2) is subject to the Rules of Professional Conduct set by rule; and

(3) is not subject to the continuing education requirements of section 148C.075.

(d) A person practicing under this subdivision must use the title or description stating or implying that the person is a trainee engaged in the practice of alcohol and drug counseling.

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(e) A person practicing under this subdivision must annually submit a renewal application on forms provided by the board with the renewal fee required in section 148C.12, subdivision 3, and the board may renew the temporary permit if the trainee meets the requirements of this subdivision. A trainee may renew a practice permit no more than five times.

(f) A temporary permit expires if not renewed, upon a change of employment of the trainee or upon a change in supervision, or upon the granting or denial by the board of a license.

Subd. 7. **Effect and suspension of temporary permit.** Approval of a person's application for temporary permit creates no rights to or expectation of approval from the board for licensure as an alcohol and drug counselor. The board may suspend or restrict a person's temporary permit status according to section 148C.09.

#### **148C.044 SUPERVISED POSTDEGREE PROFESSIONAL PRACTICE.**

Subdivision 1. **Supervision.** For the purpose of this section, "supervision" means documented interactive consultation, which, subject to the limitations in subdivision 4, paragraph (a), clause (2), may be conducted in person, by telephone, or by audio or audiovisual electronic device, with a supervisor as defined in subdivision 2. The supervision must be adequate to ensure the quality and competence of the activities supervised. Supervisory consultation must include discussions on the nature and content of the practice of the supervisee, including, but not limited to, a review of a representative sample of counseling services in the supervisee's practice.

Subd. 2. **Postdegree professional practice.** "Postdegree professional practice" means required postdegree paid or volunteer work experience and training that involves the professional oversight by a supervisor approved by the board and that satisfies the supervision requirements in subdivision 4.

Subd. 3. **Supervisor requirements.** For purposes of this section, a supervisor shall:

(1) be a licensed alcohol and drug counselor or other qualified professional as determined by the board;

(2) have four years of experience in providing alcohol and drug counseling; and

(3) have received a minimum of 12 hours of training in clinical and ethical supervision, which may include graduate course work, continuing education courses, workshops, or a combination thereof.

Subd. 4. **Supervised practice requirements for licensure.** (a) The content of supervision must include:

(1) knowledge, skills, values, and ethics with specific application to the practice issues faced by the supervisee, including the core functions as described in section 148C.01, subdivision 9;

(2) the standards of practice and ethical conduct, with particular emphasis given to the counselor's role and appropriate responsibilities, professional boundaries, and power dynamics; and

(3) the supervisee's permissible scope of practice, as defined by section 148C.01, subdivision 10.

(b) The supervision must be obtained at the rate of one hour of supervision per 40 hours of professional practice, for a total of 50 hours of supervision. The supervision must be evenly distributed over the course of the supervised professional practice. At least 75 percent of the required supervision hours must be received in person. The remaining 25 percent of the required hours may be received by telephone or by audio or audiovisual electronic device. At least 50 percent of the required hours of supervision must be received on an individual basis. The remaining 50 percent may be received in a group setting.

(c) The supervision must be completed in no fewer than 12 consecutive months and no more than 36 consecutive months.

(d) The applicant shall include with an application for licensure verification of completion of the 2,000 hours of supervised professional practice. Verification must be on a form specified by the board. The supervisor shall verify that the supervisee has completed the required hours of supervision in accordance with this section. The supervised practice required under this section is unacceptable if the supervisor attests that the supervisee's performance, competence, or adherence to the standards of practice and ethical conduct has been unsatisfactory.

#### **148C.045 ALCOHOL AND DRUG COUNSELOR TECHNICIAN.**

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An alcohol and drug counselor technician may perform the services described in section 148C.01, subdivision 9, paragraphs (1), (2), and (3), while under the direct supervision of a licensed alcohol and drug counselor.

**148C.05 LICENSE RENEWAL REQUIREMENTS; LAPSE.**

Subdivision 1. **Biennial renewal.** A license must be renewed every two years.

Subd. 1a. **Renewal requirements.** To renew a license, an applicant must submit to the board:

- (1) a completed and signed application for license renewal, including a signed consent authorizing the board to obtain information about the applicant from third parties, including, but not limited to, employers, former employers, and law enforcement agencies;
- (2) the renewal fee required under section 148C.12; and
- (3) additional information as requested by the board to clarify information presented in the renewal application. The licensee must submit information within 30 days of the date of the board's request.

Subd. 5. **License renewal notice.** At least 60 calendar days before the renewal deadline date in subdivision 6, the board shall mail a renewal notice to the licensee's last known address on file with the board. The notice must include an application for license renewal, the renewal deadline, and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for license renewal.

Subd. 6. **Renewal deadline and lapse of licensure.** (a) Licensees must comply with paragraphs (b) to (d).

(b) Each license certificate must state an expiration date. An application for license renewal must be received by the board or postmarked at least 30 calendar days before the expiration date. If the postmark is illegible, the application must be considered timely if received at least 21 calendar days before the expiration date.

(c) An application for license renewal not received within the time required under paragraph (b) must be accompanied by a late fee in addition to the renewal fee required in section 148C.12.

(d) A licensee's license lapses if the licensee fails to submit to the board a license renewal application by the licensure expiration date. A licensee shall not engage in the practice of alcohol and drug counseling while the license is lapsed. A licensee whose license has lapsed may renew the license by complying with section 148C.055.

**148C.055 INACTIVE OR LAPSED LICENSE.**

Subdivision 1. **Inactive license status.** Unless a complaint is pending against the licensee, a licensee whose license is in good standing may request, in writing, that the license be placed on the inactive list. If a complaint is pending against a licensee, a license may not be placed on the inactive list until action relating to the complaint is concluded. The board must receive the request for inactive status before expiration of the license. A request for inactive status received after the license expiration date must be denied. A licensee may renew a license that is inactive under this subdivision by meeting the renewal requirements of subdivision 2, except that payment of a late renewal fee is not required. A licensee must not practice alcohol and drug counseling while the license is inactive.

Subd. 2. **Renewal of inactive license.** A licensee whose license is inactive shall renew the inactive status by the inactive status expiration date determined by the board or the license will lapse. An application for renewal of inactive status must include evidence satisfactory to the board that the licensee has completed 40 clock hours of continuing professional education required in section 148C.075, and be received by the board at least 30 calendar days before the expiration date. If the postmark is illegible, the application must be considered timely if received at least 21 calendar days before the expiration date. Late renewal of inactive status must be accompanied by a late fee as required in section 148C.12.

Subd. 3. **Renewal of lapsed license.** An individual whose license has lapsed for less than two years may renew the license by submitting:

- (1) a completed and signed license renewal application;
- (2) the inactive license renewal fee or the renewal fee and the late fee as required under section 148C.12; and
- (3) proof of having met the continuing education requirements in section 148C.075 since the individual's initial licensure or last license renewal. The license issued is then effective for the remainder of the next two-year license cycle.

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Subd. 4. **License renewal for two years or more after license expiration date.** An individual who submitted a license renewal two years or more after the license expiration date must submit the following:

- (1) a completed and signed application for licensure, as required by section 148C.0351;
- (2) the initial license fee as required in section 148C.12; and
- (3) verified documentation of having achieved a passing score within the past year on an examination required by the board.

#### **148C.07 RECIPROCITY.**

(a) An individual who holds a current license or national certification as an alcohol and drug counselor from another jurisdiction must file with the board a completed application for licensure by reciprocity containing the information required under this section.

(b) The applicant must request the credentialing authority of the jurisdiction in which the credential is held to send directly to the board a statement that the credential is current and in good standing, the applicant's qualifications that entitled the applicant to the credential, and a copy of the jurisdiction's credentialing laws and rules that were in effect at the time the applicant obtained the credential.

(c) The board shall issue a license if the board finds that the requirements, which the applicant had to meet to obtain the credential from the other jurisdiction were substantially similar to the current requirements for licensure in this chapter, and the applicant is not otherwise disqualified under section 148C.09.

#### **148C.075 CONTINUING EDUCATION REQUIREMENTS.**

Subdivision 1. **General requirements.** The board shall establish a two-year continuing education reporting schedule requiring licensees to report completion of the requirements of this section. Licensees must document completion of a minimum of 40 clock hours of continuing education activities each reporting period. A licensee may be given credit only for activities that directly relate to the practice of alcohol and drug counseling, the core functions, or the Rules of Professional Conduct in Minnesota Rules, part 4747.1400. The continuing education reporting form must require reporting of the following information:

- (1) the continuing education activity title;
- (2) a brief description of the continuing education activity;
- (3) the sponsor, presenter, or author;
- (4) the location and attendance dates;
- (5) the number of clock hours; and
- (6) a statement that the information is true and correct to the best knowledge of the licensee.

Only continuing education obtained during the previous two-year reporting period may be considered at the time of reporting. Clock hours must be earned and reported in increments of one-half clock hour with a minimum of one clock hour for each continuing education activity.

Subd. 2. **Continuing education requirements for licensee's first four years.** A licensee must, as part of meeting the clock hour requirement of this section, obtain and document 18 hours of cultural diversity training within the first four years after the licensee's initial license effective date according to the board's reporting schedule. Cultural diversity training includes gaining knowledge in areas described in Minnesota Rules, part 4747.1100, subpart 2, and in identified population groups defined in Minnesota Rules, part 4747.0030, subpart 20.

Subd. 3. **Continuing education requirements after licensee's initial four years.** Beginning four years following a licensee's initial license effective date and according to the board's reporting schedule, a licensee must document completion of a minimum of six clock hours each reporting period of cultural diversity training. Licensees must also document completion of six clock hours in courses directly related to the Rules of Professional Conduct in Minnesota Rules, part 4747.1400.

Subd. 4. **Standards for approval.** In order to obtain clock hour credit for a continuing education activity, the activity must:

- (1) constitute an organized program of learning;
- (2) reasonably be expected to advance the knowledge and skills of the alcohol and drug counselor;
- (3) pertain to subjects that directly relate to the practice of alcohol and drug counseling and the core functions of an alcohol and drug counselor, or the Rules of Professional Conduct in Minnesota Rules, part 4747.1400;

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(4) be conducted by individuals who have education, training, and experience and are knowledgeable about the subject matter; and

(5) be presented by a sponsor who has a system to verify participation and maintains attendance records for three years, unless the sponsor provides dated evidence to each participant with the number of clock hours awarded.

Subd. 5. **Course work.** A licensee may obtain a maximum of six clock hours in any two-year continuing education period for teaching course work in an accredited school or educational program that meets the requirements of section 148C.04, subdivision 5a. A licensee may earn a maximum of two clock hours as preparation time for each clock hour of presentation time. Clock hours may be claimed only once per course in any two-year continuing education period. The licensee shall maintain a course schedule or brochure for audit.

#### **148C.08 NONTRANSFERABILITY OF LICENSES.**

An alcohol and drug counselor license is not transferable.

#### **148C.09 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.**

Subdivision 1. **Grounds.** The board may refuse to grant a license to, or may suspend, revoke, or restrict the license of an individual if the board determines that a licensee or applicant:

(1) is incompetent to engage in alcohol and drug counseling practice or is found to be engaged in alcohol and drug counseling practice in a manner harmful or dangerous to a client or the public;

(2) has violated the rules of the board or the statutes the board is empowered to enforce; or any law, rule order, stipulation and consent order, agreement, or settlement;

(3) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent misrepresentation;

(4) has knowingly made a false statement on the form required to be submitted to the board for licensing or license renewal;

(5) has failed to obtain continuing education credits required by the board;

(6) has failed to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to demonstrate qualifications or satisfaction of requirements;

(7) has been convicted of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of alcohol and drug counseling services. Conviction, as used in this subdivision, includes conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered;

(8) has been convicted of a crime against another person. For purposes of this chapter, a crime against another person means an offense listed in section 148B.68, subdivision 1, paragraph (b);

(9) has failed to comply with the self-reporting requirements of section 148C.095, subdivision 7;

(10) has engaged in sexual contact with a client, or a former client, as defined in section 604.20, or has engaged in conduct that may be reasonably interpreted by a client as sexual, or has engaged in any verbal behavior that is seductive or sexually demeaning to the client, or has engaged in sexual exploitation of a client or former client;

(11) has engaged in false, fraudulent, deceptive, or misleading advertising;

(12) has engaged in conduct likely to deceive, defraud, or harm the public; or has demonstrated a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(13) has been adjudicated as mentally incompetent, or as a person who has a psychopathic personality, or who is dangerous to self, or has been adjudicated as a person who is chemically dependent, mentally ill, developmentally disabled, or mentally ill and dangerous to the public pursuant to chapter 253B;

(14) is unable to provide alcohol and drug counseling services with reasonable safety to clients;

(15) has habitually overindulged in the use of or the dependence on alcohol within the past two years;

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(16) has engaged in the improper or unauthorized personal or other use of any legend drugs as defined in section 151.01, any chemicals as defined in section 151.01, or any controlled substance as defined in section 152.01 within the past two years;

(17) reveals a communication from, or relating to, a client except when required or permitted by law;

(18) fails to comply with a client's request for health records made under sections 144.291 to 144.298, or to furnish a client record or report required by law;

(19) has engaged in fee splitting or promises to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client;

(20) has engaged in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(21) fails to make reports as required by section 148C.095, or cooperate with an investigation of the board;

(22) obtains money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud;

(23) undertakes or continues a professional relationship with a client in which the objectivity of the alcohol and drug counselor may be impaired;

(24) engages in conduct that constitutes grounds for discipline as established by the board in rule; or

(25) engages in bartering for services with a client.

Subd. 1a. **Background investigation.** The applicant must sign a release authorizing the board to obtain information from the Bureau of Criminal Apprehension, the Federal Bureau of Investigation, the Office of Mental Health Practice, the Department of Human Services, the Office of Health Facilities Complaints, and other agencies specified in the rules. After the board has given written notice to an individual who is the subject of a background investigation, the agencies shall assist the board with the investigation by giving the board criminal conviction data, reports about substantiated maltreatment of minors and vulnerable adults, and other information specified in the rules. The board may contract with the commissioner of human services to obtain criminal history data from the Bureau of Criminal Apprehension.

Subd. 2. **Appeal; restoring a license.** If a license is denied, suspended, restricted, or revoked, an applicant or licensee may request a hearing under the contested case provisions of chapter 14. The board may, for good cause demonstrated by the applicant or counselor, grant a license previously refused, restore a license that has been revoked, or reduce a period of suspension or restriction of a license. The board may impose any conditions or limitations as the board deems reasonable.

Subd. 4. **Evidence.** In disciplinary actions alleging violations of subdivision 1, paragraph (7), (8), (13), or (14), a copy of the judgment or proceedings under the seal of the court administrator or of the administrative agency that entered the judgment or proceeding is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.

#### **148C.091 DISCIPLINARY ACTIONS.**

Subdivision 1. **Forms of disciplinary action.** When the board finds that an applicant or a licensed alcohol and drug counselor has violated a provision or provisions of sections 148C.01 to 148C.11, or rules promulgated under this chapter, the board may take one or more of the following actions:

(1) refuse to grant a license;

(2) revoke the license;

(3) suspend the license;

(4) impose limitations or conditions;

(5) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the counselor of any economic advantage gained by reason of the violation charged or to reimburse the board for all costs of the investigation and proceeding; including, but not limited to, the amount paid by the board for services from the Office of Administrative Hearings, attorney fees, court reports, witnesses, reproduction of records, staff time, and expense incurred by staff of the department;

(6) order the counselor to provide uncompensated professional service under supervision at a designated public hospital, clinic, or other health care institution;

(7) censure or reprimand the counselor; or

(8) any other action justified by the case.

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Subd. 2. **Discovery; subpoenas.** In all matters relating to the board's investigation and enforcement activities related to alcohol and drug counselors, the board of behavioral health and therapy may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary materials. Any person failing or refusing to appear or testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so may, upon application by the board to the district court in any district, be ordered to comply with the order or subpoena. The board may administer oaths to witnesses or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 3. **Temporary suspension.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the right of an alcohol and drug counselor to practice if the board finds that the counselor has violated a statute or rule that the board has authority to enforce and that continued practice by the practitioner would create a serious risk of harm to others. The suspension takes effect upon service of a written order on the practitioner specifying the statute or rule violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the counselor. Service of the order is effective if the order is served on the counselor or the counselor's attorney either personally or by first class mail. Within ten days of service of the order, the board shall hold a hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board or counselor must be by affidavit only. The counselor or the counselor's attorney of record may appear for oral argument. Within five working days after the hearing, the board shall issue an order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of that report, the hearing record, and any exceptions to the report filed by the parties.

Subd. 4. **Automatic suspension.** The right to practice is automatically suspended if (1) a guardian of an alcohol and drug counselor is appointed by order of a district court under sections 524.5-101 to 524.5-502, or (2) the counselor is committed by order of a district court under chapter 253B. The right to practice remains suspended until the counselor is restored to capacity by a court and, upon petition by the counselor, the suspension is terminated by the board after a hearing or upon agreement between the board and the counselor.

#### 148C.093 ADDITIONAL REMEDIES.

Subdivision 1. **Cease and desist.** The board may issue a cease and desist order to stop a person from violating or threatening to violate a statute, rule, or order which the board has issued or has authority to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the board and is not reviewable by a court or agency.

A hearing must be initiated by the board not later than 30 days from the date of the board's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, and any written agreement or exceptions filed by the parties, the board shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the board.

When a request for a stay accompanies a timely hearing request, the board may, in the board's discretion, grant the stay. If the board does not grant a requested stay, the board shall refer the request to the Office of Administrative Hearings within three working days of receipt of the request. Within ten days after receiving the request from the board, an administrative law judge shall issue a recommendation to grant or deny the stay. The board shall grant or deny the stay within five working days of receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the board may institute a proceeding in district court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the board not exceeding \$10,000 for each separate violation.

Subd. 2. **Injunctive relief.** In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, the board may in the board's own name

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bring an action in district court for injunctive relief to restrain an alcohol and drug counselor from a violation or threatened violation of any statute, rule, or order which the board has authority to administer, enforce, or issue.

Subd. 3. **Additional powers.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a counselor from criminal prosecution by a competent authority or from disciplinary action by the board.

#### **148C.095 REPORTING OBLIGATIONS.**

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct constituting grounds for disciplinary action relating to the practice of alcohol and drug counseling under this chapter may report the violation to the board.

Subd. 2. **Institutions.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an alcohol and drug counselor's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the board under this chapter. The institution, organization, or governmental entity shall also report the resignation of any alcohol and drug counselors before the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or before the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.

Subd. 3. **Professional societies.** A state or local professional society for alcohol and drug counselors shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against an alcohol and drug counselor. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board.

Subd. 4. **Licensed professionals.** A licensed health professional shall report to the board personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by an alcohol and drug counselor, including conduct indicating that the individual may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is an alcohol and drug counselor, and the treating individual successfully counsels the alcohol and drug counselor to limit or withdraw from practice to the extent required by the impairment, the board may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

Subd. 5. **Insurers.** Each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to alcohol and drug counselors or the Medical Joint Underwriting Association under chapter 62F, shall submit to the board quarterly reports concerning the alcohol and drug counselors against whom malpractice settlements and awards have been made. The report must contain at least the following information:

- (1) the total number of malpractice settlements or awards made;
- (2) the date the malpractice settlements or awards were made;
- (3) the allegations contained in the claim or complaint leading to the settlements or awards made;
- (4) the dollar amount of each settlement or award;
- (5) the address of the practice of the alcohol and drug counselor against whom an award was made or with whom a settlement was made; and
- (6) the name of the alcohol and drug counselor against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, submit to the board any information, records, and files, including clients' charts and records, it possesses that tend to substantiate a charge that a licensed alcohol and drug counselor may have engaged in conduct violating this chapter.

Subd. 6. **Self-reporting.** An alcohol and drug counselor shall report to the board any personal action that would require that a report be filed with the board by any person, health care facility, business, or organization under subdivisions 2 to 5. The alcohol and drug counselor shall also report the revocation, suspension, restriction, limitation, or other disciplinary action in this

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state and report the filing of charges regarding the practitioner's license or right of practice in another state or jurisdiction.

Subd. 7. **Deadlines; forms.** Reports required by subdivisions 2 to 6 must be submitted no later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The board may provide forms for the submission of the reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

#### **148C.099 INVESTIGATIONS; COOPERATION; EXCHANGING INFORMATION.**

Subdivision 1. **Cooperation.** An alcohol and drug counselor who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the board, shall cooperate fully with the investigation. Cooperation includes responding fully to any question raised by or on behalf of the board relating to the subject of the investigation whether tape recorded or not. Challenges to requests of the board may be brought before the appropriate agency or court.

Subd. 2. **Exchanging information.** (a) The board shall establish internal operating procedures for:

(1) exchanging information with state boards; agencies, including the Office of Ombudsman for Mental Health and Developmental Disabilities; health-related and law enforcement facilities; departments responsible for licensing health-related occupations, facilities, and programs; and law enforcement personnel in this and other states; and

(2) coordinating investigations involving matters within the jurisdiction of more than one regulatory agency.

(b) The procedures for exchanging information must provide for forwarding to an entity described in paragraph (a), clause (1), any information or evidence, including the results of investigations, that is relevant to matters within the regulatory jurisdiction of that entity. The data have the same classification in the possession of the agency receiving the data as they have in the possession of the agency providing the data.

(c) The board shall establish procedures for exchanging information with other states regarding disciplinary action against alcohol and drug counselors.

(d) The board shall forward to another governmental agency any complaints received by the board that do not relate to the board's jurisdiction but that relate to matters within the jurisdiction of the other governmental agency. The agency to which a complaint is forwarded shall advise the board of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule that the board is empowered to enforce must be forwarded to the board to be processed according to this section.

(e) The board shall furnish to a person who made a complaint a description of the actions of the board relating to the complaint.

#### **148C.10 PROHIBITED PRACTICE OR USE OF TITLES; PENALTY.**

Subdivision 1. **Practice.** No person, other than those individuals exempted under section 148C.11 or 148C.045, shall engage in alcohol and drug counseling without first being licensed under this chapter as an alcohol and drug counselor. For purposes of this chapter, an individual engages in the practice of alcohol and drug counseling if the individual performs or offers to perform alcohol and drug counseling services as defined in section 148C.01, subdivision 10, or if the individual is held out as able to perform those services.

Subd. 2. **Use of titles.** No person shall present themselves or any other individual to the public by any title incorporating the words "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are licensed or otherwise qualified to practice alcohol and drug counseling unless that individual holds a valid license. Persons issued a temporary permit must use titles consistent with section 148C.04, subdivision 6, paragraph (d).

Subd. 3. **Penalty.** A person who violates sections 148C.01 to 148C.11 is guilty of a misdemeanor.

#### **148C.11 EXCEPTIONS TO LICENSE REQUIREMENT.**

Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to: licensed physicians; registered nurses; licensed practical nurses; licensed psychological practitioners; members of the clergy; American

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Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt under this subdivision but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees. The board shall issue a license without examination to an applicant who is licensed or registered in a profession identified in paragraph (a) if the applicant:

(1) shows evidence of current licensure or registration; and

(2) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board.

(d) Any person who is exempt from licensure under this section must not use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling unless that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the use of one of the above titles.

Subd. 2. **Students.** Nothing in sections 148C.01 to 148C.10 shall prevent students enrolled in an accredited school of alcohol and drug counseling from engaging in the practice of alcohol and drug counseling while under qualified supervision in an accredited school of alcohol and drug counseling.

Subd. 3. **Federally recognized tribes; ethnic minorities.** (a) Alcohol and drug counselors practicing alcohol and drug counseling according to standards established by federally recognized tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals practicing under that authority shall be afforded the same rights, responsibilities, and recognition as persons licensed pursuant to this chapter.

(b) The board shall develop special licensing criteria for issuance of a license to alcohol and drug counselors who: (1) practice alcohol and drug counseling with a member of an ethnic minority population or with a person with a disability as defined by rule; or (2) are employed by agencies whose primary agency service focus addresses ethnic minority populations or persons with a disability as defined by rule. These licensing criteria may differ from the licensing requirements specified in section 148C.04. To develop, implement, and evaluate the effect of these criteria, the board shall establish a committee comprised of, but not limited to, representatives from the Commission of Deaf, DeafBlind and Hard-of-Hearing Minnesotans, the Council on Affairs of Chicano/Latino People, the Council on Asian-Pacific Minnesotans, the Council on Black Minnesotans, the Council on Disability, and the Indian Affairs Council. The committee does not expire.

(c) MS 2002 [Expired, 2002 c 354 s 1]

Subd. 4. **Hospital alcohol and drug counselors.** Effective January 1, 2007, hospitals employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol or drug counselor employed by a hospital must be licensed as an alcohol and drug counselor in accordance with this chapter.

Subd. 5. **City, county, and state agency alcohol and drug counselors.** Effective January 1, 2007, city, county, and state agencies employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol and drug counselor employed by a city, county, or state agency must be licensed as an alcohol and drug counselor in accordance with this chapter.

Subd. 6. **Transition period for hospital and city, county, and state agency alcohol and drug counselors.** For the period between July 1, 2003, and January 1, 2007, the board shall grant a license to an individual who is employed as an alcohol and drug counselor at a Minnesota school district or hospital, or a city, county, or state agency in Minnesota, if the individual meets the requirements in section 148C.0351 and:

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(1) was employed as an alcohol and drug counselor at a school district, a hospital, or a city, county, or state agency before August 1, 2002; has 8,000 hours of alcohol and drug counselor work experience; has satisfactorily completed 2,000 hours of supervised postdegree equivalent professional practice according to section 148C.04, subdivision 4; or has completed a written case presentation and satisfactorily passed an oral examination established by the board; and has satisfactorily passed a written examination as established by the board; or

(2) is credentialed as a board certified counselor (BCC) or board certified counselor reciprocal (BCCR) by the Minnesota Certification Board; or

(3) has 14,000 hours of supervised alcohol and drug counselor work experience as documented by the employer.

#### **148C.12 FEES.**

Subdivision 1. **Application fee.** The application fee is \$295.

Subd. 2. **Biennial renewal fee.** The license renewal fee is \$295. If the board establishes the renewal schedule and the expiration date is less than two years, the fee must be prorated.

Subd. 3. **Temporary permit fee.** The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), is \$100. The fee for annual renewal of a temporary permit is \$150, but when the first expiration date occurs in less or more than one year, the fee must be prorated.

Subd. 5. **Inactive renewal fee.** The inactive renewal fee is \$150.

Subd. 6. **Late fee.** The late fee is 25 percent of the biennial renewal fee, the inactive renewal fee, or the annual fee for renewal of temporary practice status.

Subd. 7. **Fee to renew after expiration of license.** The fee for renewal of a license that has expired for less than two years is the total of the biennial renewal fee, the late fee, and a fee of \$100 for review and approval of the continuing education report.

Subd. 8. **Fee for license verifications.** The fee for license verification to institutions and other jurisdictions is \$25.

Subd. 9. **Surcharge fee.** Notwithstanding section 16A.1285, subdivision 2, a surcharge of \$99 shall be paid at the time of initial application for or renewal of an alcohol and drug counselor license until June 30, 2013.

Subd. 10. **Nonrefundable fees.** All fees are nonrefundable.

Subd. 11. **Penalty fees.** (a) The penalty fee for practicing alcohol and drug counseling without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of alcohol and drug counseling before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of alcohol and drug counseling.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. The licensee must obtain the correct number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding 12 months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Subd. 12. **Sponsor application fee.** The fee for sponsor application for approval of a continuing education course is \$60.

Subd. 13. **Order or stipulation fee.** The fee for a copy of a board order or stipulation is \$10.

Subd. 14. **Duplicate certificate fee.** The fee for a duplicate certificate is \$25.

Subd. 15. **Supervisor application processing fee.** The fee for licensure supervisor application processing is \$30.

#### **341.21 DEFINITIONS.**

Subd. 3. **Commission.** "Commission" means the Combative Sports Commission.

Subd. 4a. **Director.** "Director" means the executive director of the commission.

#### **341.22 COMBATIVE SPORTS COMMISSION.**

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There is hereby created the Minnesota Combative Sports Commission consisting of nine members who are citizens of this state. The members must be appointed by the governor. One member of the commission must be a retired judge of the Minnesota district court, Minnesota Court of Appeals, Minnesota Supreme Court, the United States District Court for the District of Minnesota, or the Eighth Circuit Court of Appeals, and at least four members must have knowledge of the boxing industry. At least four members must have knowledge of the mixed martial arts industry. The governor shall make serious efforts to appoint qualified women to serve on the commission. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements must be as provided in sections 214.07 to 214.09. Unless otherwise provided, the provision of staff, administrative services, and office space; the review and processing of complaints; the setting of fees; and other provisions relating to commission operations are as provided in chapter 214. The purpose of the commission is to protect health, promote safety, and ensure fair events.

#### **341.23 LIMITATIONS.**

No member of the commission may directly or indirectly promote a contest, directly or indirectly engage in the managing of a combatant, or have an interest in any manner in the proceeds from a combative sport contest.

#### **341.24 EXECUTIVE DIRECTOR.**

The governor may appoint, and at pleasure remove, an executive director and prescribe the powers and duties of the office. The executive director shall not be a member of the commission. The commission may employ personnel necessary to the performance of its duties.

#### **341.26 MEETINGS.**

The commission shall hold a regular meeting quarterly and may hold special meetings. Except as otherwise provided in law, all meetings of the commission must be open to the public and reasonable notice of the meetings must be given under chapter 13D. If compliance with section 13D.02 is impractical, the commission may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

- (1) all members of the commission participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;
- (2) members of the public present at the regular meeting location of the commission can hear clearly all discussion and testimony and all votes of members of the commission and, if needed, receive those services required by sections 15.44 and 15.441;
- (3) at least one member of the commission is physically present at the regular meeting location; and
- (4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the commission participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If a telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the commission, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The commission may require the person making such a connection to pay for documented costs that the commission incurs as a result of the additional connection.

If a telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the commission shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. The timing and method of providing notice is governed by section 13D.04.

**4747.0010 SCOPE.**

This chapter applies to persons who either are engaged in or seek to engage in alcohol and drug counseling as defined in Minnesota Statutes, chapter 148C. During the transition period, applicants who practice alcohol and drug counseling while waiting for approval of pending applications are unlicensed mental health practitioners under Minnesota Statutes, chapter 148B.

**4747.0020 PURPOSE.**

This chapter contains rules for licensing and regulating alcohol and drug counselors. This chapter protects the public by setting standards of:

- A. qualifications, training, and experience for those who seek to perform alcohol and drug counseling services; and
- B. professional conduct for those engaged in the practice of alcohol and drug counseling.

**4747.0030 DEFINITIONS.**

Subpart 1. **Scope.** The definitions in this part and Minnesota Statutes, section 148C.01, apply to this chapter.

**4747.0030 DEFINITIONS.**

Subp. 2. **Accrediting association.** "Accrediting association" means an organization recognized by the board that evaluates schools and education programs of alcohol and drug counseling or is listed in Nationally Recognized Accrediting Agencies and Associations, Criteria and Procedures for Listing by the U.S. Secretary of Education and Current List (1996), which is incorporated by reference. It is available at the legislative reference library and is not subject to frequent change.

**4747.0030 DEFINITIONS.**

Subp. 3. **Alcohol and drug counselor classroom education.** "Alcohol and drug counselor classroom education" means classroom education which is directly related to the core functions and is taken through an accredited school or educational program.

**4747.0030 DEFINITIONS.**

Subp. 4. **Alcohol and drug counselor continuing education activity.** "Alcohol and drug counselor continuing education activity" means clock hours that meet the requirements of part 4747.1100 and are obtained by a licensee at educational programs of annual conferences, lectures, panel discussions, workshops, seminars, symposiums, employer-sponsored inservices, or courses taken through accredited schools or education programs, including home-study courses.

**4747.0030 DEFINITIONS.**

Subp. 5. **Alcohol and drug counselor training.** "Alcohol and drug counselor training" means clock hours obtained by an applicant at educational programs of annual conferences, lectures, panel discussions, workshops, seminars, symposiums, employer-sponsored inservices, or courses taken through accredited schools or education programs, including home-study courses. Clock hours obtained from accredited schools or education programs must be measured pursuant to part 4747.1100, subpart 5.

**4747.0030 DEFINITIONS.**

Subp. 7. **Applicant.** "Applicant" means a person who has applied for a license under this chapter and Minnesota Statutes, chapter 148C.

**4747.0030 DEFINITIONS.**

Subp. 8. **Board.** "Board" means the Board of Behavioral Health and Therapy.

**4747.0030 DEFINITIONS.**

Subp. 9. **Clock hour.** "Clock hour" means an instructional session of 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

**4747.0030 DEFINITIONS.**

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Subp. 10. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in the practice of an occupation.

**4747.0030 DEFINITIONS.**

Subp. 15. **Dual relationship.** "Dual relationship" means a relationship between a licensee and a client that is:

- A. professional; and
- B. one or more of the following:
  - (1) cohabitational, familial, or supervisory; or
  - (2) including or having included personal involvement or financial involvement other than legitimate payment for counseling services rendered. A professional relationship between a client and a licensee continues to exist until terminated, as defined in part 4747.1400, subpart 8, item D.

**4747.0030 DEFINITIONS.**

Subp. 17. **Ethnic minority group.** "Ethnic minority group" means persons of African American, Asian American, Native American, or Chicano/Latino descent.

**4747.0030 DEFINITIONS.**

Subp. 18. **Examination.** "Examination" means the written and oral examinations required by this chapter and Minnesota Statutes, section 148C.03.

**4747.0030 DEFINITIONS.**

Subp. 20. **Identified population group.** "Identified population group" means men, women, adolescents, elderly persons, and gay, lesbian, bisexual, and transgender persons.

**4747.0030 DEFINITIONS.**

Subp. 21. **Inservice.** "Inservice" means an activity sponsored by a licensee's employer and presented by a staff member of the licensee's employer that takes place at the licensee's place of employment.

**4747.0030 DEFINITIONS.**

Subp. 22. **Jurisdiction.** "Jurisdiction" means a state or territory of the United States.

**4747.0030 DEFINITIONS.**

Subp. 24. **Licensee.** "Licensee" means a person who holds a valid license under this chapter.

**4747.0030 DEFINITIONS.**

Subp. 29. **Supervisor.** "Supervisor" means a person whose position in an alcohol and drug counseling work setting includes, but is not limited to, the following:

- A. assessing the qualifications of and hiring counselors;
- B. assigning job duties and training and directing counselors in the execution of responsibilities to reach work plan objectives; and
- C. evaluating counselor work performance and holding periodic performance reviews.

**4747.0040 WRITTEN AND ORAL EXAMINATION.**

Subpart 1. **Examination required.** An applicant may not be licensed under this chapter unless the applicant has passed the examinations required by this part, unless the applicant is applying under part 4747.0080 or 4747.0100.

Subp. 2. **Examination eligibility.** An applicant who is denied eligibility to sit for an examination may request, in writing, that the board review the application. The board shall review the application with the advice of an independent qualified evaluator and determine the applicant's examination eligibility. The board's determination that an applicant is ineligible to sit for an examination is governed by part 4747.0500. If the board denies the applicant's eligibility, the board must provide written reasons for the denial and provide the applicant 30 days from the date of the letter informing the applicant of the denial that the applicant may provide additional information addressing the reasons for denial. If the board receives nothing within the additional

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30-day time period, the denial becomes final. If the board receives additional information, the board shall review it and make a final determination within 30 days.

**Subp. 3. Examination administration.**

A. [Repealed, L 2003 1Sp14 art 5 s 30]

B. The applicant is responsible for:

(1) making all arrangements with the examination administrator to take both the written and oral examinations for alcohol and drug counselors; and

(2) bearing all expenses associated with taking the examinations.

C. Applicants who are members of ethnic minority groups or who have a disability may request reasonable accommodations to complete the written examination authorized in Minnesota Statutes, section 148C.03, subdivision 1, and may request that at least one of the qualified evaluators who sit on the interview panel for the oral examination authorized in Minnesota Statutes, section 148C.03, subdivision 1, be of the same ethnic minority background as the applicant. Applicants who request and who are denied reasonable accommodations under this item may request that the board review the application according to subpart 2.

**Subp. 4. Reexamination permitted.** An applicant who fails either examination may take the examinations again upon application for reexamination and payment of the required examination fee to the examination administrator. There is no limit on the number of times an applicant may take the written or oral examinations. However, if an applicant fails either the written or the oral examination three times within a two-year period, the applicant must wait 12 months before retaking an examination.

**4747.0050 LICENSE REQUIREMENT.**

**Subpart 1. License required.** No person, other than those individuals exempted by Minnesota Statutes, section 148C.11, shall engage in alcohol and drug counseling, advertise the performance of those services, or use a title or description denoting alcohol and drug counselor without first being licensed under this chapter and Minnesota Statutes, chapter 148C. For purposes of this chapter, an individual engages in the practice of alcohol and drug counseling if the individual performs or offers to perform alcohol and drug counseling services, as defined in Minnesota Statutes, section 148C.01, subdivision 10, or if the individual is held out as able to perform those services.

**Subp. 2. Technicians in licensed programs.** This chapter does not prohibit technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in chapter 9530.

**Subp. 3. Others.** A person exempt under Minnesota Statutes, chapter 148C, who elects to obtain a license under this chapter is subject to this chapter and Minnesota Statutes, chapter 148C, to the same extent as other licensees.

**4747.0060 QUALIFICATIONS FOR LICENSURE AND GROUNDS FOR DENIAL.**

**Subpart 1. Qualifications.** To qualify for licensure, an applicant must satisfy the requirements in items A to C and not be subject to denial of licensure under subpart 2, part 4747.1400, or Minnesota Statutes, section 148C.09. An applicant must comply with the general licensure procedures in part 4747.0070.

A. [Repealed, L 2003 1Sp14 art 5 s 30]

B. [Repealed, L 2003 1Sp14 art 5 s 30]

C. Beginning five years after January 27, 1998, an applicant may qualify for licensure by meeting the requirements of part 4747.0300 or 4747.1000.

D. [Repealed, L 2003 1Sp14 art 5 s 30]

**Subp. 2. Discipline in this or another jurisdiction; effect on licensing.** In addition to the grounds listed in Minnesota Statutes, section 148C.09, the board may refuse to grant a license or may impose conditions as described in Minnesota Statutes, section 148C.091, for:

A. revocation, suspension, restriction, limitation, or other disciplinary action against the applicant's credential in this or another jurisdiction;

B. failure to report to the board that charges regarding the applicant's credential have been brought in this or another jurisdiction;

C. having been refused a license or certification by this or another jurisdiction; or

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D. performing the services of an alcohol and drug counselor in an incompetent manner or in a manner which falls below the professional community's standard of care.

**Subp. 3. Board duties; responsibilities.**

A. If the board finds evidence of a conviction of a crime under Minnesota Statutes, section 148C.09, subdivision 1, paragraph (7) or (8), or of any disciplinary action taken by this or another jurisdiction which is reasonably related to the practice of alcohol and drug counseling, the board may take the action specified in Minnesota Statutes, section 148C.091.

B. In determining whether a conviction under Minnesota Statutes, section 148C.09, subdivision 1, paragraph (7), or a disciplinary order reasonably relates to alcohol and drug counseling, the board must consider:

- (1) the nature and seriousness of the violation for which the applicant was convicted;
- (2) the relationship of the violation or crime to the purposes of regulating alcohol and drug counselors; and
- (3) the relationship of the violation or crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of alcohol and drug counselors.

C. An applicant who has been convicted of a crime as specified in Minnesota Statutes, section 148C.09, subdivision 1, paragraph (7) or (8), or is the subject of a disciplinary order reasonably related to the practice of alcohol and drug counseling must not be disqualified from the practice of alcohol and drug counseling if the applicant can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of alcohol and drug counselors. In making this determination, the board must consider the following evidence:

- (1) a copy of the local, state, or federal release order;
- (2) evidence showing that at least one year has elapsed from any official custody status, including probation or parole, and from any local, state, or federal correctional institution without subsequent conviction of a crime, or a copy of the relevant Department of Corrections discharge order or other documents showing completion of probation or parole supervision;
- (3) the nature and seriousness of the conduct or crime for which convicted;
- (4) all circumstances relative to the conduct or crime, including mitigating circumstances or social conditions surrounding the commission of the conduct or crime;
- (5) the age of the person at the time the conduct or crime was committed;
- (6) the length of time elapsed since the conduct or crime was committed; and
- (7) all other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the applicant since the applicant's release from any local, state, or federal correctional institution.

**4747.0070 LICENSE APPLICATION PROCEDURES.**

Subpart 1. **When application may be submitted.** A person may apply for a license only after obtaining the required supervised alcohol and drug counselor experience and completing the applicable examination, education, training, internship, and practicum requirements.

**4747.0070 LICENSE APPLICATION PROCEDURES.**

Subp. 2. **Application forms.** Unless otherwise indicated, all licensure information must be documented and submitted to the board on forms provided by the board.

**4747.0070 LICENSE APPLICATION PROCEDURES.**

Subp. 3. **Information required from all applicants.** An applicant for licensure must submit the following data:

- A. personal data, including:
- (1) name;
  - (2) date of birth;
  - (3) social security number;
  - (4) business address and telephone number or home address and telephone number if the applicant conducts business out of the home;
  - (5) daytime telephone number if different from the business telephone number;
  - (6) name of the applicant's supervisor, manager, or employer, if any; and
  - (7) criminal convictions;

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B. a list of languages in which the applicant is fluent, other than English, including sign language;

C. a statement that the applicant has read this chapter and Minnesota Statutes, chapter 148C, and agrees to abide by their provisions, and a statement that the information included in the application is true and correct to the best knowledge of the applicant;

D. a statement that the applicant, if issued a license, shall return the license directly to the board upon the revocation or suspension of the license;

E. the initial license fee required by part 4747.1600, and a statement that the applicant understands that all fees submitted in the licensure process are nonrefundable;

F. the applicant's signature and application date;

G. a listing of all credentials issued by this or any other jurisdiction. An applicant credentialed in this or another jurisdiction shall request that the appropriate governmental body in each jurisdiction in which the applicant holds a credential send documentation to the board that verifies the applicant's credential and that the credential is in good standing in that jurisdiction. The documentation must include the applicant's name, the date of issuance, a statement regarding investigations pending and disciplinary actions taken or pending against the applicant, the current status of the credential, and the terms under which the credential was issued; and

H. any other information the board considers necessary to determine whether the applicant meets the requirements for licensure specified in this chapter and Minnesota Statutes, chapter 148C.

**4747.0070 LICENSE APPLICATION PROCEDURES.**

Subp. 6. **License certificate.** If the board grants a license to an applicant, the board shall issue a license certificate including the licensee's name, business address, business telephone number, and the effective date and expiration date of the license.

**4747.0200 LICENSURE FOR FIVE YEARS AFTER JANUARY 27, 1998.**

Subpart 1. **Qualifications.** For five years after January 27, 1998, a person who has met the following requirements and other applicable requirements of this chapter and Minnesota Statutes, chapter 148C, shall be licensed upon documentation that the applicant has:

A. received an associate degree including 270 clock hours of alcohol and drug counselor classroom education from an accredited school or educational program. The applicant must arrange for an official copy of the transcript, including verification of the degree granted, to be sent directly to the board from the institution granting the degree;

B. successfully completed 880 clock hours of alcohol and drug counseling practicum, with a minimum of ten clock hours in each core function; and

C. verification of having passed both the written examination and oral examination according to part 4747.0040 and Minnesota Statutes, section 148C.03.

Subp. 2. **Documentation.** Before the board grants or denies a license, an applicant must document, according to part 4747.0400, that the applicant has met the requirements of subpart 1.

**4747.0400 DOCUMENTATION AND VERIFICATION OF ALCOHOL AND DRUG COUNSELING TRAINING, EDUCATION, INTERNSHIP, PRACTICUM, AND SUPERVISED EXPERIENCE.**

Subpart 1. **Documentation and verification.** Applicants must obtain documentation and verification of alcohol and drug counselor training, classroom education, internship, practicum, and supervised experience according to this chapter. Verification includes, but is not limited to, signed attestation by a supervisor or training sponsor, copies of official transcripts from accredited schools or education programs, and personnel records.

**4747.0700 LICENSE RENEWAL.**

Subpart 1. **Biennial renewal.** After the initial license term in part 4747.0600, licenses must be renewed every two years.

Subp. 2. **Renewal requirements.** To be eligible for license renewal, licensees must submit to the board:

A. a completed and signed application for license renewal, including a signed consent authorizing the board to obtain information about the applicant from third parties, including, but not limited to, employers, former employers, and law enforcement agencies;

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B. the renewal fee required under part 4747.1600; and

C. additional information as requested by the board to clarify information presented in the renewal application. The licensee must submit information within 30 days of the date of the board's request.

Subp. 3. **License renewal notice.** At least 60 calendar days before the renewal deadline date in subpart 4, the board shall mail a renewal notice to the licensee's last known address on file with the board. The notice must include an application for license renewal, the renewal deadline, and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for license renewal.

Subp. 4. **Renewal deadline and lapse of licensure.** Licensees must comply with items A to C.

A. Each license certificate must state an expiration date. An application for license renewal must be received by the board or postmarked at least 30 calendar days before the expiration date. If the postmark is illegible, the application must be considered timely if received at least 21 calendar days before the expiration date.

B. An application for license renewal not received within the time required under item A must be accompanied by a late fee in addition to the renewal fee specified by part 4747.1600.

C. A licensee's license lapses if the licensee fails to submit to the board a license renewal application by the licensure expiration date. A licensee shall not engage in the practice of alcohol and drug counseling while the license is lapsed. A licensee whose license has lapsed may renew the license by complying with part 4747.0800.

Subp. 5. **Inactive license status.** Unless a complaint is pending against the licensee, a licensee whose license is in good standing may request, in writing, that the license be placed on the inactive list. If a complaint is pending against a licensee, a license may not be placed on the inactive list until action relating to the complaint is concluded. The board must receive the request for inactive status before expiration of the license. A request for inactive status received after the license expiration date must be denied. A licensee may renew a license that is inactive under this subpart by meeting the renewal requirements of part 4747.0800, subpart 2, except that payment of a late renewal fee is not required. A licensee must not practice alcohol and drug counseling while the license is inactive.

**4747.0800 RENEWAL OF INACTIVE OR LAPSED LICENSE.**

Subpart 1. **Renewal of inactive license.** A licensee whose license is inactive shall renew the inactive status by the inactive status expiration date determined by the board or the license will lapse. An application for renewal of inactive status must include evidence satisfactory to the board that the licensee has completed 40 clock hours of continuing professional education required in part 4747.1100, and be received by the board at least 30 calendar days before the expiration date. If the postmark is illegible, the application must be considered timely if received at least 21 calendar days before the expiration date. Late renewal of inactive status must be accompanied by a late fee.

Subp. 2. **Renewal of lapsed license.** A licensee whose license has lapsed for less than two years may renew the license by submitting:

A. a completed and signed license renewal application;

B. the inactive license renewal fee or the renewal fee and the late fee required under part 4747.1600; and

C. proof of having met the continuing education requirements in part 4747.1100 since the individual's initial licensure or last license renewal. The license issued is then effective for the remainder of the next two-year license cycle.

Subp. 3. **License renewal for two years or more after the license expiration date.** A licensee who submitted a license renewal two years or more after the license expiration date must submit the following:

A. a completed and signed application for licensure, as required by part 4747.0070;

B. the initial license fee; and

C. verified documentation of having achieved a passing score within the past year on the examination required by part 4747.0040.

**4747.0900 CHANGE OF ADDRESS.**

A licensee who changes addresses must inform the board, in writing, within 30 days of the change of address. All notices or other correspondence mailed to or served on a licensee by the

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board at the licensee's address on file with the board must be considered as having been received by the licensee.

**4747.1100 CONTINUING EDUCATION REQUIREMENTS.**

Subpart 1. **General requirements.** The board shall establish a two-year continuing education reporting schedule requiring licensees to report completion of the requirements of this part. Licensees must document completion of a minimum of 40 clock hours of continuing education activities each reporting period. A licensee may be given credit only for activities that directly relate to the practice of alcohol and drug counseling, the core functions, or the rules of professional conduct in part 4747.1400. The continuing education reporting form must require reporting of the following information:

- A. the continuing education activity title;
- B. a brief description of the continuing education activity;
- C. the sponsor, presenter, or author;
- D. the location and attendance dates;
- E. the number of clock hours; and
- F. a statement that the information is true and correct to the best knowledge of the licensee.

Only continuing education obtained during the previous two-year reporting period may be considered at the time of reporting. Clock hours must be earned and reported in increments of one-half clock hour with a minimum of one clock hour for each continuing education activity.

**4747.1100 CONTINUING EDUCATION REQUIREMENTS.**

Subp. 4. **Standards for approval.** In order to obtain clock hour credit for a continuing education activity, the activity must:

- A. constitute an organized program of learning;
- B. reasonably be expected to advance the knowledge and skills of the alcohol and drug counselor;
- C. pertain to subjects that directly relate to the practice of alcohol and drug counseling and the core functions of an alcohol and drug counselor, or the rules of professional conduct in part 4747.1400;
- D. be conducted by individuals who have education, training, and experience and are knowledgeable about the subject matter; and
- E. be presented by a sponsor who has a system to verify participation and maintains attendance records for three years, unless the sponsor provides dated evidence to each participant with the number of clock hours awarded.

**4747.1100 CONTINUING EDUCATION REQUIREMENTS.**

Subp. 5. **Activities qualifying for continuing education clock hours.** The activities in items A to F qualify for continuing education clock hours and are considered approved programs for purposes of Minnesota Statutes, section 148C.05, subdivision 2, if they meet all other requirements of this part.

- A. Clock hours may be earned through participation in the following:
  - (1) attendance at educational programs of annual conferences, lectures, panel discussions, workshops, seminars, and symposiums;
  - (2) successful completion of college or university courses offered by an accredited school or education program, if not being taken in order to meet the requirements of Minnesota Statutes, section 148C.04. The licensee must obtain a grade of at least a "C" or its equivalent or a pass in a pass/fail course in order to receive the following continuing education credits:
    - (a) one semester credit equals 15 clock hours;
    - (b) one trimester credit equals 12 clock hours; and
    - (c) one quarter credit equals ten clock hours; and
  - (3) successful completion of home study courses offered by an accredited school or education program and that require a licensee to demonstrate knowledge following completion of the course.
- B. A licensee may obtain a maximum of six clock hours in any two-year continuing education period for teaching continuing education courses that meet the requirements of this part.

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A licensee may earn a maximum of two clock hours as preparation time for each clock hour of presentation time. Clock hours may be claimed only once per course in any two-year continuing education period. The licensee shall maintain a course schedule or brochure for audit.

C. A licensee may earn a maximum of 12 clock hours per reporting period through inservices offered by an employer at the licensee's place of employment.

D. A licensee may not receive credit for taking or teaching the same continuing education course more than once in the same reporting period.

#### **4747.1100 CONTINUING EDUCATION REQUIREMENTS.**

Subp. 6. **Activities not qualifying for continuing education clock hours.** No approval may be given for courses not meeting the requirements of subpart 4 and that are limited to:

- A. any subject contrary to the rules of professional conduct in part 4747.1400;
- B. supervision of personnel;
- C. entertainment or recreational activities;
- D. employment orientation sessions;
- E. policy meetings;
- F. marketing;
- G. business; and
- H. training related to payment systems, including covered services, coding, and billing.

#### **4747.1100 CONTINUING EDUCATION REQUIREMENTS.**

Subp. 7. **Auditing continuing education reports.**

A. The board shall audit continuing education reports based on random selection or if the board has reason to believe a report is inaccurate. A licensee shall maintain all documentation required by this part for two years after the last day of the reporting period in which the credits were earned.

B. Upon request, the licensee shall make available to the board for auditing purposes a description of the continuing education activity prepared by the presenter or sponsor that must include the course title and a description of the subject matter, date, place, number of clock hours, presenter, and sponsor. Self-study programs must be documented by materials prepared by the presenter or sponsor and must include course title, course description, name of sponsor or author, and number of hours required to complete the program. University, college, or vocational school courses must be documented by a course syllabus, listing in a course bulletin, or equivalent documentation that must include the course title; instructor's name; course dates; number of clock hours; and course content, objectives, or goals.

C. A licensee shall provide verification of attendance at continuing education activities upon request by the board. Verification must consist of a signature of the presenter, or a representative of the sponsor, a copy of the certificate of completion provided by the course sponsor, or, for completion of a course taken at an accredited school or educational program, an official copy of the transcript, or a report of clock hours attended signed by the instructor. A licensee may summarize or outline the educational content of an audio or video education activity to verify participation in the activity if a designee is not available to sign the continuing education reporting form. Independent study programs must be verified by a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program.

#### **4747.1100 CONTINUING EDUCATION REQUIREMENTS.**

Subp. 8. **Waiver of continuing education requirements.** The board may grant a waiver of the requirements of this part if the board determines that the requirements would impose an extreme hardship on the licensee. The request for a waiver must be submitted to the board in writing, state the circumstances that constitute extreme hardship, state the period of time the licensee wishes to have the continuing education requirement waived, and state the alternative measures that will be taken if a waiver is granted. The board shall set forth, in writing, the reasons for granting or refusing to grant the waiver. Waivers granted by the board must specify in writing the time limitation and required alternative measures to be taken by the licensee.

#### **4747.1100 CONTINUING EDUCATION REQUIREMENTS.**

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Subp. 9. **Penalties for noncompliance.** The board may refuse to renew or grant or may suspend, condition, limit, or qualify the license of any person whom the board determines has failed to comply with the continuing education requirements of this part.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subpart 1. **Scope.** The rules of professional conduct apply to the conduct of all licensees and applicants, including conduct during the periods of education, training, and employment required for licensure. A licensee must comply with this part notwithstanding any contrary policies of an employer or contractor.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 2. **Purpose.** The rules of professional conduct constitute the standard against which professional behavior of alcohol and drug counselors is measured.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 3. **Violations.** A violation of the rules of professional conduct constitutes unprofessional or unethical conduct and is a sufficient cause for disciplinary action or denial of licensure. Alcohol and drug counselors must not engage in any unprofessional conduct. Unprofessional conduct includes any conduct violating this chapter.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 4. **Integrity.** An alcohol and drug counselor:

A. must be truthful in dealing with clients, students, volunteers, colleagues, and the public;

B. must not perform, nor present himself or herself as able to perform, services beyond his or her field of competence. Licensed status is not a claim, promise, or guarantee of successful service and must not be used as such. Licensed status must not be used to imply competence in other human services occupations, as defined in part 4695.0600;

C. must not permit students, volunteers, or interns under supervision to perform, or represent themselves as able to perform, services beyond the students', volunteers', or interns' skill levels;

D. must not participate in any illegal activities involving drug or alcohol use, possession, sale, or distribution;

E. must make decisions regarding the continuation or the termination of professional services to a client based upon clinical need;

F. must not give or take any commission, rebate, or other form of compensation for the referral of clients for alcohol or drug counseling services or other professional services;

G. must not advertise in a way likely to deceive or defraud the public including, but not limited to, promises of a cure, misrepresentation of professional licensure status or other credential, or the disparagement of any treatment modalities;

H. must not use a client's or former client's name, image, or statements without the written consent of the client or former client;

I. must not knowingly solicit individuals who are receiving drug or alcohol counseling services from another licensed alcohol and drug counselor;

J. must not submit false or misleading information to the board; and

K. must provide information in response to a written request by the board within 30 days of the date of the request.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 5. **Relations to clients.**

A. An alcohol and drug counselor's primary professional responsibility is to the welfare of the client. Alcohol and drug counselors must respect the right of a client to make decisions regarding personal relationships with family members, friends, and community and must help the client understand the consequences of those decisions.

B. Alcohol and drug counselors must have no sexual contact with clients, as defined in Minnesota Statutes, section 148A.01, subdivision 7. Engaging in sexual contact with a client or former client as defined in Minnesota Statutes, section 148A.01; engaging in any contact that may be reasonably interpreted by a client as sexual; engaging in any verbal behavior that is seductive

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or sexually demeaning to the client; or engaging in sexual exploitation of a client or former client is prohibited. Conduct by an alcohol and drug counselor which may reasonably be interpreted by a client as sexual, and any verbal behavior which is seductive or sexually demeaning to the client, or any sexual exploitation of a client, is prohibited.

C. In the provision of services, alcohol and drug counselors must not discriminate on the basis of HIV status or any of the grounds listed in Minnesota Statutes, chapter 363. When unable to offer services, a counselor must make an appropriate referral.

D. Alcohol and drug counselors must recognize the influential position the counselor may have with respect to clients and must not exploit the trust and dependency of clients. A counselor must avoid dual relationships with clients that could impair the counselor's professional judgment or increase the risk of exploitation.

E. Alcohol and drug counselors must not use language of an abusive or obscene nature, including, but not limited to, name-calling, verbal put-downs, threats of harm, false accusations, or sexual jokes.

F. Alcohol and drug counselors must not engage in physical or any other abuse of clients, including, but not limited to, isolating clients from others without therapeutic basis, intimidation, possessiveness, or harassment of any kind.

G. Alcohol and drug counselors must accept no gifts of over \$10 in value from a client.

H. Alcohol and drug counselors must comply with all laws concerning the reporting of abuse of children under Minnesota Statutes, section 626.556, and vulnerable adults under Minnesota Statutes, section 626.557.

I. Alcohol and drug counselors must maintain all client information as private during the professional relationship and after the relationship has terminated.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 6. **Relations to students and interns.** Alcohol and drug counselors must not use or exploit their professional relationships with students, interns, volunteers, trainees, employees, independent contractors, colleagues, research subjects, or actual or potential witnesses or complainants in disciplinary proceedings in any manner through sexual or other harassment, or therapeutic deception for the counselor's emotional, financial, personal, political, religious, or sexual advantage or benefit. Alcohol and drug counselors must not engage in sexual contact, as defined in Minnesota Statutes, section 148A.01, with students, interns, or volunteers whom the counselor is directly supervising.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 7. **Client privacy and confidentiality.** Applicants and licensees not subject to item A are governed by items B, C, and D.

A. Confidentiality and disclosure of client records must be governed by all applicable laws, including, but not limited to Minnesota Statutes, chapters 13 and 148C, and Code of Federal Regulations, title 42, parts 2.1 to 2.67.

B. Code of Federal Regulations, title 42, parts 2.1 to 2.67, is incorporated by reference and applies to licensees who do not maintain client records in connection with the performance of any federally assisted alcohol and drug abuse program.

C. An alcohol and drug counselor must inform a client that self-disclosure in group therapy may result in a loss of confidentiality and client privacy.

D. Licensees governed by item B must, in addition to providing the notice required by Code of Federal Regulations, title 42, part 2.22, make disclosure of items mandated to be reported under Minnesota Statutes, section 626.557, to authorized report receivers without client consent.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 8. **Client welfare.**

A. Clients have the right and the counselor has an obligation to provide, on request, a clear explanation of the nature and purposes of the counseling procedures to be used and the results of any tests administered to the client.

B. A client whose treatment involves the use of a newly developed service, technique, or specialty must be informed of its innovative nature and of known risks associated with it.

C. Alcohol and drug counselors must conduct research activities with full respect for the rights and dignity of clients and with full concern for their welfare. Client participation in

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research is voluntary and is subject to the provisions of Code of Federal Regulations, title 45, parts 46.101-409.

D. A professional relationship between a licensee and a client terminates when the licensee or the client formally notifies the other verbally or in writing, or two years after the last contact in an alcohol and drug counseling capacity between the licensee and the client.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 10. **Impaired objectivity or effectiveness.**

A. An alcohol and drug counselor must make an appropriate referral for a client or potential client if the counselor's objectivity or effectiveness is impaired.

B. An alcohol and drug counselor's objectivity or effectiveness is impaired if the counselor:

- (1) has a dual relationship with a client;
- (2) is dysfunctional as a result of a severe physical or mental health problem, including the abuse of drugs or alcohol;
- (3) exploits or has exploited the professional relationship for the counselor's emotional, financial, sexual, or personal advantage or benefit; or
- (4) holds convictions that interfere with the professional relationship.

C. An alcohol and drug counselor must not practice while under the influence of alcohol or other controlled substances not prescribed by a physician. An alcohol and drug counselor must not use or possess controlled substances as defined by Minnesota Statutes, chapter 152, unless prescribed by, and used in accordance with the direction of, a practitioner, as defined by Minnesota Statutes, section 151.01, subdivision 23.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 11. **Public statements.** Public statements made by an alcohol and drug counselor must not directly or by implication contain any false or misleading representations about professional qualifications such as education, experience, the license, affiliations, purposes, or characteristics of institutions and organizations with which the counselor is associated, or any other aspect of the professional services provided by the counselor.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 12. **Fees and statements.**

A. An alcohol and drug counselor must disclose the cost of services provided and must clearly explain financial matters to clients. Arrangements for fees and payments must be made at the beginning of the counseling relationship. Bartering for services is prohibited.

B. If alcohol and drug counseling services are requested or paid for by one person or agency on behalf of a client, the counselor must inform both parties that any information gained by the counselor in the course of rendering services to the client may not be disclosed to any third party, including the person or agency paying for the services without the informed, written consent of the client.

C. An alcohol and drug counselor must not aid or abet an unlicensed individual engaged in the practice of alcohol and drug counseling. An alcohol and drug counselor who supervises an individual engaged in supervised alcohol and drug counselor experience, an alcohol and drug counselor practicum, or an alcohol and drug counselor internship is not in violation of this part.

**4747.1400 RULES OF PROFESSIONAL CONDUCT.**

Subp. 13. **Violation of law.** An alcohol and drug counselor must not violate any law in which the facts giving rise to the violation involve the provision of alcohol and drug counseling services. In determining whether a violation involves the provision of alcohol and drug counseling services, the board must consider:

- A. the nature of the violation the alcohol and drug counselor is alleged to have committed;
- B. the relationship of the alleged violation to the purposes of regulating the practice of alcohol and drug counseling; and
- C. the relationship of the violation to the ability, capacity, or integrity of the alcohol and drug counselor in rendering alcohol and drug counseling services. In any proceeding alleging a violation of this chapter, the proof of a conviction of a crime shall constitute proof of the factual elements necessarily underlying that conviction.

**4747.1500 CLIENT BILL OF RIGHTS.**

Subpart 1. **Scope.** The client bill of rights must be in writing, must include the information in items A to C, and must be provided to a client once upon intake prior to a client receiving alcohol and drug counseling services from a licensee. In addition, a client must receive the information in item A from each counselor worked with at the time the counselor begins working with the client. A copy of the client bill of rights must also be posted in a prominent location in the office of the counselor. Reasonable accommodations must be made for those clients who cannot read or who have communication impairments and those who do not read or speak English.

A. Personal information about the counselor, including:

- (1) the name, title, business address, license number, and telephone number; and
- (2) the name, business address, and telephone number of the counselor's supervisor, if any.

B. A list of specific rights a client has while in treatment, including the following statements:

(1) the counselor's fees per unit of service, the counselor's method of billing, the names of any insurance companies that have agreed to reimburse the counselor, or health maintenance organizations with whom the counselor contracts to provide service, whether the counselor accepts Medicare or reimbursement from the consolidated chemical dependency treatment fund, and whether the counselor is willing to accept partial payment, or to waive payment, and in what circumstances;

(2) a brief summary, in plain language, of the theoretical approach used by the counselor in treating clients; and

(3) a statement that other health and social services are available in the community, including where information concerning services is available.

C. The following statements:

(1) "You may obtain a copy of the rules of professional conduct from the Public Documents Division, Minnesota Department of Administration." It should include the current address and telephone number;

(2) "You have the right to report complaints to the Board of Behavioral Health and Therapy." It should include the current address and telephone number;

(3) "You have a right to reasonable notice of changes in counseling services or charges.";

(4) "You have a right to complete and current information concerning the counselor's assessment and recommended course of treatment, including the expected duration of treatment.";

(5) "You may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the counselor.";

(6) "Your records and transactions with the counselor are confidential unless release of these records is authorized in writing by you, or otherwise provided by law.";

(7) "You have a right to be allowed access to records and written information from records according to Minnesota Statutes, sections 144.291 to 144.298.";

(8) "You have a right to choose freely from among available counselors, and to change counselors after services have begun, within the limits of health insurance, medical assistance, or other payment programs or agreements.";

(9) "You have a right to coordinated transfer when there will be a change in the provider of services.";

(10) "You may refuse services or treatment, unless otherwise provided by law."; and

(11) "You may assert your rights without retaliation."

Subp. 2. **Acknowledgment by client.** Prior to intake, the counselor must obtain a written statement signed by the client attesting that the client has received the client bill of rights. If the client refuses to sign the statement, the counselor must document that fact.

**6310.3100 REREGISTRATION REQUIREMENTS.**

Subp. 2. **Fees.**

A. The fee for reregistration is the current registration renewal fee.

## APPENDIX

### Repealed Minnesota Rule: H2555-5

B. The late application fee is applicable if the licensee's registration expired within the two years preceding submission of the reregistration application unless the licensee has been licensed and is practicing nursing in another jurisdiction or country.

C. In addition to the fee in item A and when applicable the fee in item B, the penalty fee for practicing nursing without current registration is also applicable if the licensee practiced nursing in Minnesota after expiration of the licensee's registration.

D. For purposes of calculating the penalty fee for practicing nursing without current registration, the number of calendar months, or parts of months, of practice shall be calculated from the first day the licensee does not have current registration to the date of last nursing practice.

#### **6310.3600 REGISTRATION FEES.**

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

- A. registration renewal, as set by law;
- B. late application, as set by law;
- C. replacement license, \$20;
- D. replacement registration certificate, \$5;
- E. verification of licensure status, \$20;
- F. verification of examination scores, \$20;
- G. a copy of licensure application materials, \$20;
- H. service charge for a dishonored check, \$20; and
- I. penalty for practicing nursing without current registration, two times the amount of the current registration renewal fee for any part of the first calendar month, plus the current registration renewal fee for any part of any subsequent month up to 24 months. The fee shall be paid in the form of a certified check or money order.

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

#### **6310.3700 DISHONORED CHECKS.**

Subpart 1. **Service charge.** If a licensee submits a dishonored check for any of the fees required in part 6310.3600, subpart 1, items A to G or 6316.0200, subpart 3, a service charge shall be assessed in keeping with Minnesota Statutes, section 332.50, subdivision 2.