

(SENATE AUTHORS: SHERAN and Rosen)

DATE	D-PG	OFFICIAL STATUS
04/07/2011	1236	Introduction and first reading Referred to Health and Human Services

1.1

A bill for an act

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relating to health professions; modifying licensure requirements for alcohol and

1.3

drug counselors; proposing coding for new law as Minnesota Statutes, chapter

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148F; repealing Minnesota Statutes 2010, sections 148C.01, subdivisions 1, 1a,

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2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16,

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17, 18; 148C.015; 148C.03, subdivisions 1, 4; 148C.0351, subdivisions 1, 3, 4;

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148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, 7; 148C.044; 148C.045;

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148C.05; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1,

1.9

1a, 2, 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions

1.10

1, 2, 3; 148C.11; 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13,

1.11

14, 15; Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030; 4747.0040;

1.12

4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, 6; 4747.0200; 4747.0400,

1.13

subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 2, 4, 5, 6,

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7, 8, 9; 4747.1400; 4747.1500.

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

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

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This chapter applies to all applicants and licensees, all persons who use the title

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alcohol and drug counselor, and all persons in or out of this state who provide alcohol

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and drug counseling services to clients who reside in this state unless there are specific

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applicable exemptions provided by law.

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

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

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the meanings given.

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Subd. 2. **Abuse.** "Abuse" means a maladaptive pattern of substance use leading to

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clinically significant impairment or distress, as manifested by one or more of the following

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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.

Subd. 3. 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. 4. 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, as part of an accredited school or educational program of alcohol and drug counseling.

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

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

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

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

Subd. 9. Competence. "Competence" means the ability to provide services within the practice of alcohol and drug counseling as defined in subdivision 18, that:

(1) are rendered with reasonable skill and safety;

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

(3) take into account human diversity.

Subd. 10. 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;

(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 that 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 and writing reports, progress notes, discharge summaries, and other client-related data; and

(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.

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

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

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

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

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

4.18 Subd. 16. **Human diversity.** "Human diversity" means individual client differences
4.19 that are associated with the client's cultural group, including race, ethnicity, national
4.20 origin, religious affiliation, language, age, gender, gender identity, physical and mental
4.21 capabilities, sexual orientation, marital status, or socioeconomic status.

4.22 Subd. 17. **Informed consent.** "Informed consent" means an agreement between
4.23 a provider and a client that authorizes the provider to engage in a professional activity
4.24 affecting the client. Informed consent requires:

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

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

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

4.30 Subd. 18. **Licensee.** "Licensee" means a person who holds a valid license under
4.31 this chapter.

4.32 Subd. 19. **Practice of alcohol and drug counseling.** "Practice of alcohol and
4.33 drug counseling" means the observation, description, evaluation, interpretation, and
4.34 modification of human behavior by the application of core functions as it relates to the
4.35 harmful or pathological use or abuse of alcohol or other drugs. 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) diagnosing the level of alcohol or other drug use involvement to determine the level of care;

(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 diversity awareness through ongoing training and education; 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. 20. **Practice foundation.** "Practice foundation" means that an alcohol and drug counseling service or continuing education activity is based upon observations, methods, procedures, or theories that are generally accepted by the professional community in alcohol and drug counseling.

Subd. 21. **Private information.** "Private information" means any information, including, but not limited to, client records as defined in section 148F.150, test results, or test interpretations developed during a professional relationship between a provider and a client.

Subd. 22. **Provider.** "Provider" means a licensee, a temporary permit holder, or an applicant.

Subd. 23. **Public statement.** "Public statement" means any statement, communication, or representation, by a provider to the public regarding the provider or the provider's professional services or products. Public statements include, but are not limited to, advertising, representations in reports or letters, descriptions of credentials and qualifications, brochures and other descriptions of services, directory listings, personal resumes or curricula vitae, comments for use in the media, websites, grant and credentialing applications, or product endorsements.

Subd. 24. **Report.** "Report" means any written or oral professional communication, including a letter, regarding a client or subject that includes one or more of the following: historical data, behavioral observations, opinions, diagnostic or evaluative statements, or recommendations. The testimony of a provider as an expert or fact witness in a legal proceeding also constitutes a report. For purposes of this chapter, letters of recommendation for academic or career purposes are not considered reports.

Subd. 25. **Significant risks and benefits.** "Significant risks and benefits" means those risks and benefits that are known or reasonably foreseeable by the provider, including the possible range and likelihood of outcomes, and that are necessary for the client to know in order to decide whether to give consent to proposed services or to reasonable alternative services.

Subd. 26. **Student.** "Student" means an individual who is enrolled in a program in alcohol and drug counseling at an accredited educational institution, or who is taking an alcohol and drug counseling course or practicum for credit.

Subd. 27. **Supervisee.** "Supervisee" means an individual whose supervision is required to obtain credentialing by a licensure board or to comply with a board order.

Subd. 28. **Supervisor.** "Supervisor" means a licensed alcohol and drug counselor licensed under this chapter or other licensed professional practicing alcohol and drug counseling under section 148F.110, who meets the requirements of section 148F.040, subdivision 3, and who provides supervision to persons seeking licensure under section 148F.025, subdivision 3, paragraph (2), clause (ii).

Subd. 29. **Test.** "Test" means any instrument, device, survey, questionnaire, technique, scale, inventory, or other process which is designed or constructed for the purpose of measuring, evaluating, assessing, describing, or predicting personality, behavior, traits, cognitive functioning, aptitudes, attitudes, skills, values, interests, abilities, or other characteristics of individuals.

Subd. 30. **Unprofessional conduct.** "Unprofessional conduct" means any conduct violating sections 148F.001 to 148F.205, or any conduct that fails to conform to the minimum standards of acceptable and prevailing practice necessary for the protection of the public.

Subd. 31. **Variance.** "Variance" means board-authorized permission to comply with a law or rule in a manner other than that generally specified in the law or rule.

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

The board shall:

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

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

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

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

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

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

All individuals licensed as alcohol and drug counselors, all individuals with temporary permits, and all applicants for licensure 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 change in any other application information.

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

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

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

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

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

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

(ii) pharmacology of substance abuse disorders and the dynamics of addiction, including medication-assisted therapy;
(iii) professional and ethical responsibilities;
(iv) multicultural aspects of chemical dependency;
(v) co-occurring disorders; and
(vi) the core functions defined in section 148F.010, subdivision 10.

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

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

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

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

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

Subd. 4. 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 Department of Human Services, the Office of Health Facilities Complaints, and other agencies specified by the board. 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. The board may contract with the commissioner of human services to obtain criminal history data from the Bureau of Criminal Apprehension.

Sec. 6. [148F.030] 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 in 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 met to obtain the credential from the other jurisdiction were substantially similar to the current requirements for licensure in this chapter and that the applicant is not otherwise disqualified under section 148F.090.

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

Subdivision 1. Eligibility; temporary permit requirements between August 1, 2011, and August 1, 2015. (a) The board may issue a temporary permit to practice alcohol and drug counseling to an individual prior to being licensed under this chapter if the person:

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

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

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

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

(iii) professional and ethical responsibilities;

(iv) multicultural aspects of chemical dependency;

(v) co-occurring disorders; and

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

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

(c) An individual practicing under this section:

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

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

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

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

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

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

Subd. 2. Eligibility; temporary permit requirements after August 1, 2015.

(a) The board may issue a temporary permit to practice alcohol and drug counseling to an individual prior to being licensed under this chapter if the individual has applied for licensure under section 148F.025 and meets the educational requirements for licensure in section 148F.025, subdivision 2.

(b) An individual seeking a temporary permit shall fully complete and submit a notarized written application on forms provided by the board together with the fee set by the board. No portion of the fee is refundable.

(c) An individual practicing under this subdivision:

(1) must be employed or contracted by an entity that also employs or contracts with a licensed alcohol and drug counselor or other licensed professional practicing alcohol and drug counseling under section 148F.110, subdivision 1;

(2) is subject to all statutes and rules to the same extent as an individual who is licensed under this chapter; and

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

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

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

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

(e) An individual practicing with a temporary permit who received the permit prior to August 1, 2011, may renew the permit no more than five times and is not required to meet the educational requirements in section 148F.025, subdivision 2.

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

Subdivision 1. Supervision. For the purposes of this section, "supervision" means documented interactive consultation, which, subject to the limitations of subdivision 4, paragraph (b), may be conducted in person, by telephone, or by audio or audiovisual electronic device by a supervisor with a supervisee. 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 alcohol and drug counseling services in the supervisee's practice.

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

Subd. 3. Supervisor requirements. For the 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 three years of experience providing alcohol and drug counseling services; and

(3) have received a minimum of 12 hours of training in clinical and ethical supervision, which may include 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 in section 148F.010, subdivision 10;

(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 in section 148F.010, subdivision 19.

(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

12.1 percent of the required supervision hours must be received in person. The remaining 25
12.2 percent of the required hours may be received by telephone or by audio or audiovisual
12.3 electronic device. At least 50 percent of the required hours of supervision must be received
12.4 on an individual basis. The remaining 50 percent may be received in a group setting.

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

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

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

12.15 An alcohol and drug counselor technician may perform the screening intake and
12.16 orientation services described in section 148F.010, subdivision 19, clauses (1), (2), and
12.17 (3), while under the direct supervision of a licensed alcohol and drug counselor.

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

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

12.20 Subd. 2. **License renewal notice.** At least 60 calendar days before the renewal
12.21 deadline date, the board shall mail a renewal notice to the licensee's last known address
12.22 on file with the board. The notice must include instructions for accessing an online
12.23 application for license renewal, the renewal deadline, and notice of fees required for
12.24 renewal. The licensee's failure to receive notice does not relieve the licensee of the
12.25 obligation to meet the renewal deadline and other requirements for license renewal.

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

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

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

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

12.33 (b) The application must be postmarked or received by the board by the end of the
12.34 day on which the license expires or the following business day if the expiration date

falls on a Saturday, Sunday, or holiday. An application which is not completed, signed, notarized, or which is not accompanied by the correct fee, is void and must be returned to the licensee.

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

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

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

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

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

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

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

A license may be voluntarily terminated by the licensee at any time upon written notification to the board, unless a complaint is pending against the licensee. The notification must be received by the board prior to termination of the license for failure to renew. A former licensee may be licensed again only after complying with the relicensure following termination requirements under section 148F.065. For purposes of this section, the board retains jurisdiction over any licensee whose license has been voluntarily

14.1 terminated and against whom the board receives a complaint for conduct occurring during
14.2 the period of licensure.

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

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

14.11 Subd. 2. **Continuing education for relicensure.** A former licensee seeking
14.12 relicensure after license termination must provide evidence of having completed at least
14.13 20 hours of continuing education activities for each year, or portion thereof, that the
14.14 former licensee did not hold a license.

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

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

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

14.31 Subd. 2. **Renewal of inactive license.** A licensee whose license is inactive must
14.32 renew the inactive status by the inactive status expiration date determined by the board,
14.33 or the license will expire. An application for renewal of inactive status must include
14.34 evidence satisfactory to the board that the licensee has completed 40 clock hours of

15.1 continuing education required in section 148F.075. Late renewal of inactive status must be
15.2 accompanied by a late fee as required in section 148F.115, subdivision 5, paragraph (2).

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

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

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

15.9 Subd. 2. **Requirement.** Every two years, all licensees must complete a minimum of
15.10 40 clock hours of continuing education activities that meet the requirements in this section.
15.11 The 40 clock hours shall include a minimum of nine clock hours on human diversity, and a
15.12 minimum of three clock hours on professional ethics. A licensee may be given credit only
15.13 for activities that directly relate to the practice of alcohol and drug counseling.

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

15.16 (1) constitute an organized program of learning;

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

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

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

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

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

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

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

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

15.35 (ii) one trimester credit equals 12 clock hours;

(iii) one quarter credit equals 10 clock hours;

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

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

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

Subd. 5. Activities not qualifying for continuing education clock hours.
Approval shall not be given for courses that do not do meet the requirements of this section or are limited to the following:

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

(2) supervision of personnel;

(3) entertainment or recreational activities;

(4) employment orientation sessions;

(5) policy meetings;

(6) marketing;

(7) business;

(8) first aid, CPR, and similar training classes; and

(9) training related to payment systems, including covered services, coding, and billing.

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

(b) All licensees shall retain original documentation of completion of continuing education hours for a period of five years. For purposes of compliance with this section, a

17.1 receipt for payment of the fee for the course is not sufficient evidence of completion of the
17.2 required hours of continuing education. Information retained shall include:

17.3 (1) the continuing education activity title;

17.4 (2) a brief description of the continuing education activity;

17.5 (3) the sponsor, presenter, or author;

17.6 (4) the location and the dates attended;

17.7 (5) the number of clock hours; and

17.8 (6) the certificate of attendance, if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

An alcohol and drug counselor license is not transferable.

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

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

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

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

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

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

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

(6) has had any license, certificate, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, or not renewed for cause in any jurisdiction or has surrendered or voluntarily terminated a license or

certificate during a board investigation of a complaint, as part of a disciplinary order, or while under a disciplinary order;

(7) has failed to meet any requirement for the issuance or renewal of the person's license. The burden of proof is on the applicant or licensee to demonstrate the qualifications or satisfy the requirements for a license under chapter 148F;

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

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

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

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

(12) has been adjudicated as mentally incompetent, mentally ill, or developmentally disabled or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction within this state or an equivalent adjudication from another state. Adjudication automatically suspends a license for the duration thereof unless the board orders otherwise;

(13) 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;

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

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

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

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

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

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

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

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

(5) censure or reprimand the licensee;

(6) 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 applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members; or

(7) any other action justified by the case.

Subd. 3. Evidence. In disciplinary actions alleging violations of subdivision 1, clause (4), (12), 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.

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

(b) The order may prohibit the licensee from engaging in the practice of alcohol and drug counseling in whole or in part and may condition the end of a suspension on

22.1 the licensee's compliance with a statute, rule, or order that the board has issued or is
22.2 empowered to enforce.

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

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

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

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

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

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

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

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

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

22.34 (1) For the purposes of this section, every licensee and applicant is deemed to
22.35 have consented to submit to a mental, physical, or chemical dependency examination or
22.36 evaluation when directed in writing by the board and to have waived all objections to the

admissibility of the examining professionals' testimony or examination reports on the grounds that the testimony or examination reports constitute a privileged communication.

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

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

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

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384 or 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that subdivision 1, clause (9), applies to the licensee or applicant. The medical data may be requested from:

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

(2) an insurance company; or

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

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

(d) Information obtained under this subdivision is classified as private under sections 13.01 to 13.87.

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

Subdivision 1. **Cease and desist.** (a) 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.

(b) 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.

(c) 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.

(d) 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 to exceed \$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 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.

Sec. 20. [148F.100] 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.

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

Subdivision 1. **Practice.** No person 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 148F.010, subdivision 18, or if the individual is held out as able to perform those services.

Subd. 2. **Use of titles.** (a) No individual shall present themselves or any other individual to the public by any title incorporating the words "licensed alcohol and drug counselor," "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.

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

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

(d) Individuals who are trained in alcohol and drug counseling and employed by an educational institution recognized by a regional accrediting organization, by a federal, state, county, or local government institution, by agencies, or research facilities, may represent themselves by the titles designated by that organization provided the title does not indicate the individual is licensed by the board.

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

Sec. 22. **[148F.110] 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 psychologists and licensed psychological practitioners; members of the clergy provided such services are provided within the scope of regular ministries; American 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 professional clinical 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 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 titles in paragraph (a).

Subd. 2. **Students.** Nothing in sections 148F.001 to 148F.110 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.** 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 under this chapter.

Sec. 23. **[148F.115] 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 a renewal schedule, and the scheduled renewal date is less than two years, the fee may be prorated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 4. **Limitations.** Alcohol and drug counselors shall recognize the limitations to the scope of practice of alcohol and drug counseling. When the needs of clients appear to be outside their scope of practice, providers shall inform the clients that there may be other professional, technical, community, and administrative resources available to them. Providers shall assist with identifying resources when it is in the best interests of clients to be provided with alternative or complementary services.

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

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

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

Subd. 2. **Duty to warn; limitation on liability.** Private information may be disclosed without the consent of the client when a duty to warn arises, or as otherwise provided by law or court order. The duty to warn of, or take reasonable precautions to provide protection from, violent behavior arises only when a client or other person has communicated to the provider a specific, serious threat of physical violence to self or a specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty is discharged by the provider if reasonable efforts are made to communicate the threat to

law enforcement agencies, the potential victim, the family of the client, or appropriate third parties who are in a position to prevent or avert the harm. No monetary liability and no cause of action or disciplinary action by the board may arise against a provider for disclosure of confidences to third parties, for failure to disclose confidences to third parties, or for erroneous disclosure of confidences to third parties in a good faith effort to warn against or take precautions against a client's violent behavior or threat of suicide.

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

Subd. 4. **Obtaining collateral information.** Prior to obtaining collateral information about a client from other individuals, the provider shall obtain consent from the client unless the consent is not required by law or court order, and shall inform the other individuals that the information obtained may become part of the client's records and may therefore be accessed or released by the client, unless prohibited by law. For purposes of this subdivision, "other individual" means any individual, except for credentialed health care providers acting in their professional capacities, who participates adjunctively in the provision of services to a client. Examples of other individuals include, but are not limited to, family members, friends, coworkers, day care workers, guardian ad litem, foster parents, or school personnel.

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

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

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

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

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

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

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

30.12 Subd. 12. **Abuse or neglect of minor or vulnerable adults.** An applicant or
30.13 licensee must comply with the reporting of maltreatment of minors established in section
30.14 626.556 and the reporting of maltreatment of vulnerable adults established in section
30.15 626.557.

30.16 Subd. 13. **Initial contacts.** When an individual initially contacts a provider
30.17 regarding alcohol and drug counseling services, the provider or another individual
30.18 designated by the provider may, with oral consent from the potential client, contact third
30.19 parties to determine payment or benefits information, arrange for precertification of
30.20 services when required by the individual's health plan, or acknowledge a referral from
30.21 another health care professional.

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

30.23 Subdivision 1. **Client right to access and release private information.** A client
30.24 has the right to access and release private information maintained by the provider,
30.25 including client records as provided in Minnesota Statutes, sections 144.291 to 144.298,
30.26 relating to the provider's counseling services to that client, except as otherwise provided
30.27 by law or court order.

30.28 Subd. 2. **Release of private information.** (a) When a client makes a request for
30.29 the provider to release the client's private information, the request must be in writing
30.30 and signed by the client. Informed consent is not required. When the request involves
30.31 client records, all pertinent information shall be released in compliance with sections
30.32 144.291 to 144.298.

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

- 31.1 (1) the name of the client;
31.2 (2) the name of the individual or entity providing the information;
31.3 (3) the name of the individual or entity to which the release is made;
31.4 (4) the types of information to be released, such as progress notes, diagnoses,
31.5 assessment data, or other specific information;
31.6 (5) the purpose of the release, such as whether the release is to coordinate
31.7 professional care with another provider, to obtain insurance payment for services, or for
31.8 other specified purposes;
31.9 (6) the time period covered by the consent;
31.10 (7) a statement that the consent is valid for one year, except as otherwise allowed by
31.11 statute, or for a lesser period that is specified in the consent;
31.12 (8) a declaration that the individual signing the statement has been told of and
31.13 understands the nature and purpose of the authorized release;
31.14 (9) a statement that the consent may be rescinded, except to the extent that the
31.15 consent has already been acted upon or that the right to rescind consent has been waived
31.16 separately in writing;
31.17 (10) the signature of the client or the client's legally authorized representative, whose
31.18 relationship to the client must be stated; and
31.19 (11) the date on which the consent is signed.

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

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

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

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

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

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

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

(4) the applicable fee schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 4. Recommendation upon termination. (a) Upon termination of counseling services, the provider shall make a recommendation for alcohol and drug counseling

33.1 services if requested by the client or if the provider believes the services are needed by
33.2 the client.

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

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

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

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

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

33.15 (2) documentation of services, including:

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

33.17 (ii) an initial treatment plan and any revisions to the plan;

33.18 (iii) the name of the individual providing services;

33.19 (iv) the name and credentials of the individual who is professionally responsible
33.20 for the services provided;

33.21 (v) case notes for each date of service, including interventions;

33.22 (vi) consultations with collateral sources;

33.23 (vii) diagnoses or presenting problems; and

33.24 (viii) documentation that informed consent was obtained, including written informed
33.25 consent documents;

33.26 (3) copies of all correspondence relevant to the client;

33.27 (4) a client personal data sheet;

33.28 (5) copies of all client authorizations for release of information;

33.29 (6) an accurate chronological listing of all fees charged, if any, to the client or
33.30 a third party payer; and

33.31 (7) any other documents pertaining to the client.

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

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

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

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

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

(1) cohabitational;

(2) familial;

(3) one in which there has been personal involvement with the client or family member of the client that is reasonably likely to adversely affect the client's welfare or ability to benefit from services; or

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

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

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

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

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

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

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

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

The provider shall not provide counseling services to clients when the provider is unable to provide services with reasonable skill and safety as a result of a physical or mental illness or condition, including, but not limited to, substance abuse or dependence. During the period the provider is unable to practice with reasonable skill and safety, the provider shall either promptly terminate the professional relationship with all clients or shall make arrangements for other alcohol and drug counselors to provide temporary services during the provider's absence.

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

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

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

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

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

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

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

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

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

(7) have access to their records as provided in sections 144.92 and 148F.135, subdivision 1, except as otherwise provided by law;

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

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

(10) know the intended recipients of assessment results;

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

(12) a nontechnical description of assessment procedures; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) engage in any sexual behavior with a current student, supervisee, or research subject, including sexual contact, as defined in section 604.20, subdivision 7, or any physical, verbal, written, interactive, or electronic communication, conduct, or act that may be reasonably interpreted to be sexually seductive, demeaning, or harassing. Nothing in this part shall prohibit a provider from engaging in teaching or research with an individual with whom the provider has a preexisting and ongoing sexual relationship;

(4) engage in any behavior likely to be deceptive or fraudulent;

(5) disclose evaluative information except for legitimate professional or scientific purposes; or

(6) engage in any other unprofessional conduct.

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

Subdivision 1. **Coordinating services with other health care professionals.** Upon initiating services, the provider shall inquire whether the client has a preexisting relationship with another health care professional. If the client has such a relationship, and it is relevant to the provider's services to the client, the provider shall, to the extent possible and consistent with the wishes and best interests of the client, coordinate services for the client with the other health care professional. This requirement does not apply if brief crisis intervention services are provided.

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

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

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

Subdivision 1. **Assessments.** Providers who conduct assessments of individuals shall base their assessments on records, information, observations, and techniques sufficient to substantiate their findings. They shall render opinions only after they have conducted an examination of the individual adequate to support their statements or conclusions, unless an examination is not practical despite reasonable efforts. An assessment may be limited to reviewing records or providing testing services when an individual examination is not necessary for the opinion requested.

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

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

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

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

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

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

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

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

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

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

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

Subd. 3. Use of specialty board designation. Providers may represent themselves as having an area of specialization from a specialty board, such as a designation as a diplomate or fellow, if the specialty board used, at a minimum, the following criteria to award such a designation:

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

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

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

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

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

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

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

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

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

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

A provider shall not violate any law in which the facts giving rise to the violation involve the practice of alcohol and drug counseling as defined in sections 148F.001 to 148F.205. In any board proceeding alleging a violation of this section, the proof of a conviction of a crime constitutes proof of the underlying factual elements necessary to that conviction.

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

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

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

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

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

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

Subd. 2. **Optional reporting requirements.** Other than conduct listed in subdivision 1, a provider who has reason to believe that the conduct of another provider

41.1 appears to be in violation of sections 148F.001 to 148F.205 may file a complaint with
41.2 the board.

41.3 Subd. 3. **Institutions.** A state agency, political subdivision, agency of a local unit
41.4 of government, private agency, hospital, clinic, prepaid medical plan, or other health
41.5 care institution or organization located in this state shall report to the board any action
41.6 taken by the agency, institution, or organization or any of its administrators or medical
41.7 or other committees to revoke, suspend, restrict, or condition an alcohol and drug
41.8 counselor's privilege to practice or treat patients or clients in the institution, or as part of
41.9 the organization, any denial of privileges, or any other disciplinary action for conduct that
41.10 might constitute grounds for disciplinary action by the board under sections 148F.001
41.11 to 148F.205. The institution, organization, or governmental entity shall also report the
41.12 resignation of any alcohol and drug counselors before the conclusion of any disciplinary
41.13 action proceeding for conduct that might constitute grounds for disciplinary action under
41.14 this chapter, or before the commencement of formal charges but after the practitioner had
41.15 knowledge that formal charges were contemplated or were being prepared.

41.16 Subd. 4. **Professional societies.** A state or local professional society for alcohol and
41.17 drug counselors shall report to the board any termination, revocation, or suspension of
41.18 membership or any other disciplinary action taken against an alcohol and drug counselor.
41.19 If the society has received a complaint that might be grounds for discipline under this
41.20 chapter against a member on which it has not taken any disciplinary action, the society
41.21 shall report the complaint and the reason why it has not taken action on it or shall direct
41.22 the complainant to the board.

41.23 Subd. 5. **Insurers.** Each insurer authorized to sell insurance described in section
41.24 60A.06, subdivision 1, clause (13), and providing professional liability insurance to
41.25 alcohol and drug counselors or the Medical Joint Underwriting Association under chapter
41.26 62F, shall submit to the board quarterly reports concerning the alcohol and drug counselors
41.27 against whom malpractice settlements and awards have been made. The report must
41.28 contain at least the following information:

- 41.29 (1) the total number of malpractice settlements or awards made;
41.30 (2) the date the malpractice settlements or awards were made;
41.31 (3) the allegations contained in the claim or complaint leading to the settlements or
41.32 awards made;
41.33 (4) the dollar amount of each settlement or award;
41.34 (5) the address of the practice of the alcohol and drug counselor against whom an
41.35 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 1 and 3 to 5. The alcohol and drug counselor shall also report the revocation, suspension, restriction, limitation, or other disciplinary action in this state and report the filing of charges regarding the practitioner's license or right of practice in another state or jurisdiction.

Subd. 7. **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. 8. **Client complaints to the board.** A provider shall, upon request, provide information regarding the procedure for filing a complaint with the board and shall, upon request, assist with filing a complaint. A provider shall not attempt to dissuade a client from filing a complaint with the board, or require that the client waive the right to file a complaint with the board as a condition for providing services.

Subd. 9. **Deadlines; forms.** Reports required by subdivisions 1 and 3 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 and may require that reports be submitted on the forms provided.

Sec. 42. **REPEALER.**

Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030; 4747.0040; 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, and 6; 4747.0200; 4747.0400, subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 2, 4, 5, 6, 7, 8, and 9; 4747.1400; and 4747.1500, are repealed.

Minnesota Statutes 2010, sections 148C.01, subdivisions 1, 1a, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16, 17, and 18; 148C.015; 148C.03, subdivisions 1 and 4; 148C.0351, subdivisions 1, 3, and 4; 148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, and 7; 148C.044; 148C.045; 148C.05; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, and 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions 1, 2, and 3; 148C.11; and 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, are repealed.