

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 731**

(SENATE AUTHORS: HANN, Rosen and Gazelka)

DATE	D-PG	OFFICIAL STATUS
03/10/2011	484	Introduction and first reading Referred to Health and Human Services
05/03/2011	1619a	Comm report: To pass as amended and re-refer to Rules and Administration
05/09/2011	1804	Comm report: To pass
	1846	Second reading
05/11/2011	1978a	Special Order: Amended
	1981	Third reading Passed See SF760, Art. 4, Sec. 3-7 (vetoed) See HF25, Art. 5, Sec. 3-7, Art. 6, Sec. 95 (First Special Session)

A bill for an act

1.1 relating to state government; extending effective date for electronic prescribing
1.2 requirements for certain providers; creating a patient-centered decision-making
1.3 process for certain medical assistance reimbursements; modifying health plan
1.4 estimated payment disclosures; establishing an autism spectrum disorder
1.5 task force; authorizing detoxification services interstate contracts; modifying
1.6 single-family residential use day care requirements; modifying human services
1.7 supplemental service contracts; requiring a request for information for an
1.8 integrated service delivery system for health care programs, food support
1.9 cash assistance and child care; modifying the nursing licensure requirements;
1.10 modifying the alcohol and drug counselor requirements; exempting certain
1.11 organizations from the food, beverage, and lodging establishment requirements;
1.12 amending Minnesota Statutes 2010, sections 62J.497, subdivision 2; 62J.81,
1.13 subdivision 1; 148.191, subdivision 2; 148.211, subdivision 1; 148.212,
1.14 subdivision 1; 148.231; 157.15, subdivision 12b; 157.22; 245.50; 245A.04,
1.15 subdivision 2; 245A.14, subdivisions 1, 4; 256.0112, by adding a subdivision;
1.16 462.357, subdivision 7; proposing coding for new law in Minnesota Statutes,
1.17 chapters 148; 256B; proposing coding for new law as Minnesota Statutes,
1.18 chapter 148F; repealing Minnesota Statutes 2010, sections 148C.01, subdivisions
1.19 1, 1a, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15,
1.20 16, 17, 18; 148C.015; 148C.03, subdivisions 1, 4; 148C.0351, subdivisions 1, 3,
1.21 4; 148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, 7; 148C.044; 148C.045;
1.22 148C.05; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1,
1.23 1a, 2, 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions
1.24 1, 2, 3; 148C.11; 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13,
1.25 14, 15; Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030; 4747.0040;
1.26 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, 6; 4747.0200; 4747.0400,
1.27 subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 2, 4, 5, 6,
1.28 7, 8, 9; 4747.1400; 4747.1500; 6310.3100, subpart 2; 6310.3600; 6310.3700,
1.29 subpart 1.
1.30

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

ARTICLE 1

HEALTH CARE

1.34 Section 1. Minnesota Statutes 2010, section 62J.497, subdivision 2, is amended to read:

2.1 Subd. 2. **Requirements for electronic prescribing.** (a) Effective January 1, 2011,
2.2 all providers, group purchasers, prescribers, and dispensers must establish, maintain,
2.3 and use an electronic prescription drug program. This program must comply with the
2.4 applicable standards in this section for transmitting, directly or through an intermediary,
2.5 prescriptions and prescription-related information using electronic media.

2.6 (b) If transactions described in this section are conducted, they must be done
2.7 electronically using the standards described in this section. Nothing in this section
2.8 requires providers, group purchasers, prescribers, or dispensers to electronically conduct
2.9 transactions that are expressly prohibited by other sections or federal law.

2.10 (c) Providers, group purchasers, prescribers, and dispensers must use either HL7
2.11 messages or the NCPDP SCRIPT Standard to transmit prescriptions or prescription-related
2.12 information internally when the sender and the recipient are part of the same legal entity. If
2.13 an entity sends prescriptions outside the entity, it must use the NCPDP SCRIPT Standard
2.14 or other applicable standards required by this section. Any pharmacy within an entity
2.15 must be able to receive electronic prescription transmittals from outside the entity using
2.16 the adopted NCPDP SCRIPT Standard. This exemption does not supersede any Health
2.17 Insurance Portability and Accountability Act (HIPAA) requirement that may require the
2.18 use of a HIPAA transaction standard within an organization.

2.19 (d) Notwithstanding paragraph (a), any clinic with two or fewer practicing
2.20 physicians is exempt from this subdivision if the clinic is making a good-faith effort to
2.21 meet the electronic health records system requirement under section 62J.495 that includes
2.22 an electronic prescribing component. This paragraph expires January 1, 2015.

2.23 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2011.

2.24 Sec. 2. Minnesota Statutes 2010, section 62J.81, subdivision 1, is amended to read:

2.25 Subdivision 1. **Required disclosure of estimated payment.** (a) A health care
2.26 provider, as defined in section 62J.03, subdivision 8, or the provider's designee as agreed to
2.27 by that designee, shall, at the request of a consumer, and at no cost to the consumer or the
2.28 consumer's employer, provide that consumer with a good faith estimate of the allowable
2.29 payment the provider has agreed to accept from the consumer's health plan company
2.30 for the services specified by the consumer, specifying the amount of the allowable
2.31 payment due from the health plan company. Health plan companies must allow contracted
2.32 providers, or their designee, to release this information. If a consumer has no applicable
2.33 public or private coverage, the health care provider must give the consumer, and at no
2.34 cost to the consumer, a good faith estimate of the average allowable reimbursement the
2.35 provider accepts as payment from private third-party payers for the services specified by

3.1 the consumer and the estimated amount the noncovered consumer will be required to pay.
3.2 Payment information provided by a provider, or by the provider's designee as agreed to by
3.3 that designee, to a patient pursuant to this subdivision does not constitute a legally binding
3.4 estimate of the allowable charge for or cost to the consumer of services.

3.5 (b) A health plan company, as defined in section 62J.03, subdivision 10, shall, at the
3.6 request of an enrollee intending to receive specific health care services or the enrollee's
3.7 designee, provide that enrollee with a good faith estimate of the allowable amount the
3.8 health plan company has contracted for with a specified provider within the network
3.9 as total payment for a health care service specified by the enrollee and the portion of
3.10 the allowable amount due from the enrollee and the enrollee's out-of-pocket costs. An
3.11 estimate provided to an enrollee under this paragraph is not a legally binding estimate of
3.12 the allowable amount or enrollee's out-of-pocket cost.

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

3.14 Sec. 3. **[256B.768] PATIENT-CENTERED DECISION MAKING.**

3.15 (a) Effective January 1, 2012, the commissioner shall require active participation in
3.16 a patient-centered decision-making process before authorization is approved or payment
3.17 reimbursement is provided for the following:

3.18 (1) a surgical procedure for the following conditions: abnormal uterine bleeding,
3.19 benign prostate enlargement, chronic back pain, early stage breast and prostate cancers,
3.20 gastroesophageal reflux disease, hemorrhoids, spinal stenosis, temporomandibular joint
3.21 dysfunction, ulcerative colitis, urinary incontinence, uterine fibroids, or varicose veins; or

3.22 (2) bypass surgery for coronary disease, angioplasty for stable coronary artery
3.23 disease, and total hip replacement.

3.24 (b) A list of these procedures shall be published in the State Register by October
3.25 1, 2011. The list shall be reviewed no less than every two years by the commissioner, in
3.26 consultation with the commissioner of health. The commissioner, in consultation with the
3.27 Health Services Policy Committee under section 256B.0625, subdivision 3c, may include
3.28 additional preference-sensitive procedures for which the clinical evidence does not clearly
3.29 support one treatment option over another and the appropriate course of treatment depends
3.30 on the values and preferences of the patient. The commissioner shall hold a public forum
3.31 and receive public comment prior to any changes to the list provided in paragraph (a).
3.32 Any changes made shall be published in the State Register.

3.33 (c) Prior to receiving authorization or reimbursement for the procedures identified
3.34 under this section, a health care provider must certify that the patient has participated in
3.35 a patient-centered decision-making process. The format for this certification and the

4.1 process for coordination between providers shall be developed by the Health Services
4.2 Policy Committee.

4.3 (d) For purposes of this section, "patient-centered decision making" means a process
4.4 that involves directed interaction between a health care professional and the patient or
4.5 the patient's legal representative to assist the patient in understanding the patient's health
4.6 condition, available treatment options, and the benefits and harms of each option, and in
4.7 deciding what treatment is best for the patient based on the patient's circumstances, values,
4.8 and preferences. The interaction may be conducted by a health care provider or through
4.9 the use of patient decision aids, or both.

4.10 (e) For purposes of this section, "patient decision aid" means a written, audiovisual,
4.11 or online tool that provides a balanced presentation of the condition or treatment options,
4.12 benefits, and harms, and is certified by one or more national certifying organizations.

4.13 (f) This section does not apply if any of the procedures identified in this section are
4.14 performed under an emergency situation.

4.15 Sec. 4. **SHARED DECISION-MAKING RESOURCE CENTER.**

4.16 (a) The commissioner of human services shall pursue a federal grant for the
4.17 establishment and support of a shared decision-making resource center to provide technical
4.18 assistance to providers and to develop and disseminate best practices and the information
4.19 to support and accelerate to adoption of patient decision aids and shared decision making.

4.20 (b) If a shared decision-making resource center is established, the resource center
4.21 shall review the procedures listed in Minnesota Statutes, section 256B.768, and make
4.22 recommendations to the commissioner on procedures that should be included in the list.

4.23 Sec. 5. **MINNESOTA AUTISM SPECTRUM DISORDER TASK FORCE.**

4.24 Subdivision 1. **Members.** (a) The Autism Spectrum Disorder Task Force is
4.25 composed of 20 members, appointed as follows:

4.26 (1) two members of the senate, one appointed by the senate Subcommittee on
4.27 Committees of the Committee on Rules and Administration, and one appointed by the
4.28 minority leader;

4.29 (2) two members of the house of representatives, one from the majority party,
4.30 appointed by the speaker of the house, and one from the minority party, appointed by
4.31 the minority leader;

4.32 (3) two members who are family members of individuals with autism spectrum
4.33 disorder (ASD), one of whom shall be appointed by the senate Subcommittee on

5.1 Committees of the Committee on Rules and Administration, and one of whom shall be
5.2 appointed by the speaker of the house;

5.3 (4) one member appointed by the Minnesota chapter of the American Academy of
5.4 Pediatrics who is a developmental behavioral pediatrician;

5.5 (5) one member appointed by the Minnesota Academy of Family Medicine who is a
5.6 family practice physician;

5.7 (6) one member appointed by the Minnesota Psychological Association who is a
5.8 neuropsychologist;

5.9 (7) one member appointed by the senate Subcommittee on Committees of the
5.10 Committee on Rules and Administration who represents a minority autism community;

5.11 (8) one member representing the directors of public school student support services;

5.12 (9) one member appointed by the Minnesota School Board Association;

5.13 (10) one member appointed by the Minnesota Council of Health Plans;

5.14 (11) three members who represent autism advocacy groups, two of whom shall be
5.15 appointed by the speaker of the house and one of whom shall be appointed by the senate

5.16 Subcommittee on Committees of the Committee on Rules and Administration; and

5.17 (12) one member appointed by each of the respective commissioners of the
5.18 following departments: education, employment and economic development, health, and
5.19 human services.

5.20 (b) Appointments must be made by September 1, 2011. The senate member
5.21 appointed by the senate Subcommittee on Committees of the Committee on Rules and
5.22 Administration shall convene the first meeting of the task force no later than October 1,
5.23 2011. The task force shall elect a chair from among the members at the first meeting. The
5.24 task force shall meet at least six times per year.

5.25 (c) The Legislative Coordinating Commission shall provide meeting space for the
5.26 task force.

5.27 Subd. 2. **Duties.** (a) The task force shall develop an autism spectrum disorder
5.28 statewide strategic plan that focuses on improving awareness, early diagnosis, and
5.29 intervention and on ensuring delivery of treatment and services for individuals diagnosed
5.30 with an autism spectrum disorder, including the coordination and accessibility of
5.31 cost-effective treatments and services throughout the individual's lifetime.

5.32 (b) The task force shall coordinate with existing efforts relating to autism spectrum
5.33 disorders at the Departments of Education, Employment and Economic Development,
5.34 Health, and Human Services and at the University of Minnesota and other agencies and
5.35 organizations as the task force deems appropriate.

6.1 Subd. 3. **Report.** The task force shall submit its strategic plan to the legislature
6.2 by January 15, 2013. The task force shall continue to provide assistance with the
6.3 implementation of the strategic plan, as approved by the legislature, and shall submit
6.4 a progress report by January 15, 2014, and by January 15, 2015, on the status of
6.5 implementation of the strategic plan, including any draft legislation necessary for
6.6 implementation.

6.7 Subd. 4. **Expiration.** The task force shall expire June 30, 2015, unless extended
6.8 by law.

6.9 **EFFECTIVE DATE.** This section is effective July 1, 2011.

6.10 **ARTICLE 2**

6.11 **HUMAN SERVICES**

6.12 Section 1. Minnesota Statutes 2010, section 245.50, is amended to read:

6.13 **245.50 INTERSTATE CONTRACTS, MENTAL HEALTH, CHEMICAL**
6.14 **HEALTH, DETOXIFICATION SERVICES.**

6.15 Subdivision 1. **Definitions.** For purposes of this section, the following terms have
6.16 the meanings given them.

6.17 (a) "Bordering state" means Iowa, North Dakota, South Dakota, or Wisconsin.

6.18 (b) "Receiving agency" means a public or private hospital, mental health center,
6.19 chemical health treatment facility, detoxification facility, or other person or organization
6.20 which provides mental health ~~or~~ chemical health, or detoxification services under this
6.21 section to individuals from a state other than the state in which the agency is located.

6.22 (c) "Receiving state" means the state in which a receiving agency is located.

6.23 (d) "Sending agency" means a state or county agency which sends an individual to a
6.24 bordering state for treatment or detoxification under this section.

6.25 (e) "Sending state" means the state in which the sending agency is located.

6.26 Subd. 2. **Purpose and authority.** (a) The purpose of this section is to enable
6.27 appropriate treatment or detoxification services to be provided to individuals, across state
6.28 lines from the individual's state of residence, in qualified facilities that are closer to the
6.29 homes of individuals than are facilities available in the individual's home state.

6.30 (b) Unless prohibited by another law and subject to the exceptions listed in
6.31 subdivision 3, a county board or the commissioner of human services may contract
6.32 with an agency or facility in a bordering state for mental health ~~or~~ chemical health, or
6.33 detoxification services for residents of Minnesota, and a Minnesota mental health ~~or~~
6.34 chemical health, or detoxification agency or facility may contract to provide services to

7.1 residents of bordering states. Except as provided in subdivision 5, a person who receives
7.2 services in another state under this section is subject to the laws of the state in which
7.3 services are provided. A person who will receive services in another state under this
7.4 section must be informed of the consequences of receiving services in another state,
7.5 including the implications of the differences in state laws, to the extent the individual will
7.6 be subject to the laws of the receiving state.

7.7 Subd. 3. **Exceptions.** A contract may not be entered into under this section for
7.8 services to persons who:

- 7.9 (1) are serving a sentence after conviction of a criminal offense;
- 7.10 (2) are on probation or parole;
- 7.11 (3) are the subject of a presentence investigation; or
- 7.12 (4) have been committed involuntarily in Minnesota under chapter 253B for
7.13 treatment of mental illness or chemical dependency, except as provided under subdivision
7.14 5.

7.15 Subd. 4. **Contracts.** Contracts entered into under this section must, at a minimum:

- 7.16 (1) describe the services to be provided;
- 7.17 (2) establish responsibility for the costs of services;
- 7.18 (3) establish responsibility for the costs of transporting individuals receiving
7.19 services under this section;
- 7.20 (4) specify the duration of the contract;
- 7.21 (5) specify the means of terminating the contract;
- 7.22 (6) specify the terms and conditions for refusal to admit or retain an individual; and
- 7.23 (7) identify the goals to be accomplished by the placement of an individual under
7.24 this section.

7.25 Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained,
7.26 committed, or placed on an involuntary basis under chapter 253B may be confined or
7.27 treated in a bordering state pursuant to a contract under this section. An individual
7.28 who is detained, committed, or placed on an involuntary basis under the civil law of a
7.29 bordering state may be confined or treated in Minnesota pursuant to a contract under
7.30 this section. A peace or health officer who is acting under the authority of the sending
7.31 state may transport an individual to a receiving agency that provides services pursuant to
7.32 a contract under this section and may transport the individual back to the sending state
7.33 under the laws of the sending state. Court orders valid under the law of the sending state
7.34 are granted recognition and reciprocity in the receiving state for individuals covered by
7.35 a contract under this section to the extent that the court orders relate to confinement for
7.36 treatment or care of mental illness ~~or~~₂ chemical dependency, or detoxification. Such

8.1 treatment or care may address other conditions that may be co-occurring with the mental
8.2 illness or chemical dependency. These court orders are not subject to legal challenge in
8.3 the courts of the receiving state. Individuals who are detained, committed, or placed under
8.4 the law of a sending state and who are transferred to a receiving state under this section
8.5 continue to be in the legal custody of the authority responsible for them under the law
8.6 of the sending state. Except in emergencies, those individuals may not be transferred,
8.7 removed, or furloughed from a receiving agency without the specific approval of the
8.8 authority responsible for them under the law of the sending state.

8.9 (b) While in the receiving state pursuant to a contract under this section, an
8.10 individual shall be subject to the sending state's laws and rules relating to length of
8.11 confinement, reexaminations, and extensions of confinement. No individual may be sent
8.12 to another state pursuant to a contract under this section until the receiving state has
8.13 enacted a law recognizing the validity and applicability of this section.

8.14 (c) If an individual receiving services pursuant to a contract under this section leaves
8.15 the receiving agency without permission and the individual is subject to involuntary
8.16 confinement under the law of the sending state, the receiving agency shall use all
8.17 reasonable means to return the individual to the receiving agency. The receiving agency
8.18 shall immediately report the absence to the sending agency. The receiving state has the
8.19 primary responsibility for, and the authority to direct, the return of these individuals
8.20 within its borders and is liable for the cost of the action to the extent that it would be
8.21 liable for costs of its own resident.

8.22 (d) Responsibility for payment for the cost of care remains with the sending agency.

8.23 (e) This subdivision also applies to county contracts under subdivision 2 which
8.24 include emergency care and treatment provided to a county resident in a bordering state.

8.25 (f) If a Minnesota resident is admitted to a facility in a bordering state under this
8.26 chapter, a physician, licensed psychologist who has a doctoral degree in psychology, or
8.27 an advance practice registered nurse certified in mental health, who is licensed in the
8.28 bordering state, may act as an examiner under sections 253B.07, 253B.08, 253B.092,
8.29 253B.12, and 253B.17 subject to the same requirements and limitations in section
8.30 253B.02, subdivision 7. Such examiner may initiate an emergency hold under section
8.31 253B.05 on a Minnesota resident who is in a hospital that is under contract with a
8.32 Minnesota governmental entity under this section provided the resident, in the opinion of
8.33 the examiner, meets the criteria in section 253B.05.

8.34 (g) This section shall apply to detoxification services that are unrelated to treatment
8.35 whether the services are provided on a voluntary or involuntary basis.

S.F. No. 731, 2nd Engrossment - 87th Legislative Session (2011-2012) [S0731-2]

9.1 Sec. 2. Minnesota Statutes 2010, section 245A.04, subdivision 2, is amended to read:

9.2 Subd. 2. **Notification of affected municipality.** Except as provided under section
9.3 245A.14, subdivision 4, the commissioner must not issue a license without giving 30
9.4 calendar days' written notice to the affected municipality or other political subdivision
9.5 unless the program is considered a permitted single-family residential use under sections
9.6 245A.11 and 245A.14. The notification must be given before the first issuance of a license
9.7 and annually after that time if annual notification is requested in writing by the affected
9.8 municipality or other political subdivision. State funds must not be made available to or be
9.9 spent by an agency or department of state, county, or municipal government for payment
9.10 to a residential or nonresidential program licensed under this chapter until the provisions
9.11 of this subdivision have been complied with in full. The provisions of this subdivision
9.12 shall not apply to programs located in hospitals.

9.13 Sec. 3. Minnesota Statutes 2010, section 245A.14, subdivision 1, is amended to read:

9.14 Subdivision 1. **Permitted single-family residential use.** (a) A licensed
9.15 nonresidential program with a licensed capacity of 12 or fewer persons and a group family
9.16 day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve
9.17 14 or fewer children shall be considered a permitted single-family residential use of
9.18 property for the purposes of zoning and other land use regulations.

9.19 (b) A family day care or group family day care facility licensed under Minnesota
9.20 Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children shall be considered a
9.21 permitted single-family residential use of property for the purposes of zoning and other
9.22 land use regulations only if the license holder owns or rents and resides in the home, and
9.23 is the primary provider of care.

9.24 (c) A municipality may prohibit property zoned as a permitted single-family
9.25 residential use from being used as licensed family day care and group family day care
9.26 when the applicant or license holder is not the primary provider of care or does not occupy
9.27 the property as a primary residence.

9.28 Sec. 4. Minnesota Statutes 2010, section 245A.14, subdivision 4, is amended to read:

9.29 Subd. 4. **Special family day care homes.** (a) Nonresidential child care programs
9.30 servicing 14 or fewer children that are conducted at a location other than the license holder's
9.31 own residence shall be licensed under this section and the rules governing family day
9.32 care or group family day care if:

9.33 (a) the license holder is the primary provider of care and the nonresidential child
9.34 care program is conducted in a dwelling that is located on a residential lot;

10.1 ~~(b)~~ (1) the license holder is an employer who may or may not be the primary
10.2 provider of care, and the purpose for the child care program is to provide child care
10.3 services to children of the license holder's employees;

10.4 ~~(c)~~ (2) the license holder is a church or religious organization;

10.5 ~~(d)~~ (3) the license holder is a community collaborative child care provider. For
10.6 purposes of this subdivision, a community collaborative child care provider is a provider
10.7 participating in a cooperative agreement with a community action agency as defined in
10.8 section 256E.31; or

10.9 ~~(e)~~ (4) the license holder is a not-for-profit agency that provides child care in a
10.10 dwelling located on a residential lot and the license holder maintains two or more contracts
10.11 with community employers or other community organizations to provide child care
10.12 services. The county licensing agency may grant a capacity variance to a license holder
10.13 licensed under this ~~paragraph~~ clause to exceed the licensed capacity of 14 children by no
10.14 more than five children during transition periods related to the work schedules of parents,
10.15 if the license holder meets the following requirements:

10.16 ~~(1)~~ (i) the program does not exceed a capacity of 14 children more than a cumulative
10.17 total of four hours per day;

10.18 ~~(2)~~ (ii) the program meets a one to seven staff-to-child ratio during the variance
10.19 period;

10.20 ~~(3)~~ (iii) all employees receive at least an extra four hours of training per year than
10.21 required in the rules governing family child care each year;

10.22 ~~(4)~~ (iv) the facility has square footage required per child under Minnesota Rules,
10.23 part 9502.0425;

10.24 ~~(5)~~ (v) the program is in compliance with local zoning regulations;

10.25 ~~(6)~~ (vi) the program is in compliance with the applicable fire code as follows:

10.26 ~~(i)~~ (A) if the program serves more than five children older than 2-1/2 years of age,
10.27 but no more than five children 2-1/2 years of age or less, the applicable fire code is
10.28 educational occupancy, as provided in Group E Occupancy under the Minnesota State
10.29 Fire Code 2003, Section 202; or

10.30 ~~(ii)~~ (B) if the program serves more than five children 2-1/2 years of age or less, the
10.31 applicable fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire
10.32 Code 2003, Section 202; and

10.33 ~~(7)~~ (vii) any age and capacity limitations required by the fire code inspection and
10.34 square footage determinations shall be printed on the license.

10.35 (b) The commissioner shall not issue or reissue a license for a family day care or
10.36 group family child care to an applicant who does not occupy the property as a primary

11.1 residence, unless the municipality has provided the commissioner with written approval
11.2 for this use of the property. Following the initial receipt of written approval under
11.3 this section, subsequent approvals are not required prior to reissuing a license. The
11.4 commissioner's decision to not issue or reissue a license according to this paragraph is not
11.5 subject to appeal provisions under this chapter.

11.6 (c) Upon receipt of notice from a municipality that an existing family day care
11.7 or group family day care license is not in conformance with the municipality's zoning
11.8 requirement, the commissioner shall provide the license holder with a 60-days' notice of
11.9 closure of the program. The commissioner's decision to close a family day care or group
11.10 family day care program according to this paragraph is not subject to appeal provisions
11.11 under this chapter.

11.12 (d) County licensing agencies performing licensing functions under section 245A.16
11.13 shall maintain and provide to the commissioner all municipality decisions and ordinances
11.14 received that relate to limitations imposed under this section for purposes of ongoing
11.15 licensing decisions under this section.

11.16 Sec. 5. Minnesota Statutes 2010, section 256.0112, is amended by adding a subdivision
11.17 to read:

11.18 Subd. 9. **Contracting for performance.** In addition to the agreements in
11.19 subdivision 8, a local agency may negotiate a supplemental agreement to a contract
11.20 executed between a lead county and an approved vendor under subdivision 6 for the
11.21 purposes of contracting for specific performance. The supplemental agreement may
11.22 augment the lead contract requirements and rates for services authorized by that local
11.23 agency only. The additional provisions must be negotiated with the vendor and designed
11.24 to encourage successful, timely, and cost-effective outcomes for clients, and may establish
11.25 incentive payments, penalties, performance-related reporting requirements, and similar
11.26 conditions. The per diem rate allowed under this subdivision must not be less than the rate
11.27 established in the lead county contract. Nothing in the supplemental agreement between a
11.28 local agency and an approved vendor binds the lead county or other local agencies to the
11.29 terms and the conditions of the supplemental agreement.

11.30 Sec. 6. Minnesota Statutes 2010, section 462.357, subdivision 7, is amended to read:

11.31 Subd. 7. **Permitted single family use.** (a) A state licensed residential facility or a
11.32 housing with services establishment registered under chapter 144D serving six or fewer
11.33 persons, ~~a licensed day care facility serving 12 or fewer persons, and a group family day~~
11.34 ~~care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or~~

12.1 ~~fewer children~~ shall be considered a permitted single family residential use of property
12.2 for the purposes of zoning, except that a residential facility whose primary purpose is to
12.3 treat juveniles who have violated criminal statutes relating to sex offenses or have been
12.4 adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to
12.5 sex offenses shall not be considered a permitted use.

12.6 (b) A family day care or group family day care facility licensed under Minnesota
12.7 Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children shall be considered a
12.8 permitted single-family residential use of property for purposes of zoning and other land
12.9 use regulations only if the license holder owns or rents and resides in the home, and
12.10 is the primary provider of care.

12.11 (c) A municipality may prohibit property zoned as a permitted single-family
12.12 residential use from being used as licensed family day care and group family day care
12.13 when the applicant or license holder is not the primary provider of care or does not occupy
12.14 the property as a primary residence.

12.15 Sec. 7. **SIMPLIFICATION OF ELIGIBILITY AND ENROLLMENT PROCESS.**

12.16 (a) The commissioner of human services shall issue a request for information for an
12.17 integrated service delivery system for health care programs, food support, cash assistance,
12.18 and child care. The commissioner shall determine, in consultation with partners in
12.19 paragraph (c), if the products meet departments' and counties' functions. The request for
12.20 information must incorporate a performance-based vendor financing option in which the
12.21 vendor shares the risk of the project's success. The health care system must be developed
12.22 in phases with the capacity to integrate food support, cash assistance, and child care
12.23 programs as funds are available. The request for information must require that the system:

12.24 (1) streamline eligibility determinations and case processing to support statewide
12.25 eligibility processing;

12.26 (2) enable interested persons to determine eligibility for each program, and to apply
12.27 for programs online in a manner that the applicant will be asked only those questions
12.28 relevant to the programs for which the person is applying;

12.29 (3) leverage technology that has been operational in other state environments with
12.30 similar requirements; and

12.31 (4) include Web-based application, worker application processing support, and the
12.32 opportunity for expansion.

12.33 (b) The commissioner shall issue a final report, including the implementation plan,
12.34 to the chairs and ranking minority members of the legislative committees with jurisdiction
12.35 over health and human services no later than October 31, 2011.

13.1 (c) The commissioner shall partner with counties, a service delivery authority
13.2 established under Minnesota Statutes, chapter 402A, the Office of Enterprise Technology,
13.3 other state agencies, and service partners to develop an integrated service delivery
13.4 framework, which will simplify and streamline human services eligibility and enrollment
13.5 processes. The primary objectives for the simplification effort include significantly
13.6 improved eligibility processing productivity resulting in reduced time for eligibility
13.7 determination and enrollment, increased customer service for applicants and recipients of
13.8 services, increased program integrity, and greater administrative flexibility.

13.9 (d) The commissioner, along with a county representative appointed by the
13.10 Association of Minnesota Counties, shall report specific implementation progress to the
13.11 legislature annually beginning May 15, 2012.

13.12 (e) The commissioner shall work with the Minnesota Association of County Social
13.13 Service Administrators and the Office of Enterprise Technology to develop collaborative
13.14 task forces, as necessary, to support implementation of the service delivery components
13.15 under this paragraph. The commissioner must evaluate, develop, and include, as part
13.16 of the integrated eligibility and enrollment service delivery framework, the following
13.17 minimum components:

13.18 (1) screening tools for applicants to determine potential eligibility as part of an
13.19 online application process;

13.20 (2) the capacity to use databases to electronically verify application and renewal
13.21 data as required by law;

13.22 (3) online accounts accessible by applicants and enrollees;

13.23 (4) an interactive voice response system, available statewide, that provides case
13.24 information for applicants, enrollees, and authorized third parties;

13.25 (5) an electronic document management system that provides electronic transfer of
13.26 all documents required for eligibility and enrollment processes; and

13.27 (6) a centralized customer contact center that applicants, enrollees, and authorized
13.28 third parties can use statewide to receive program information, application assistance, case
13.29 information, report changes, to make cost-sharing payments, and conduct other eligibility
13.30 and enrollment transactions.

13.31 (f) Subject to a legislative appropriation, the commissioner of human services shall
13.32 issue a request for proposals for the appropriate phase of an integrated service delivery
13.33 system for health care programs, food support, cash assistance, and child care.

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

14.1 **ARTICLE 3**

14.2 **HEALTH LICENSING**

14.3 Section 1. Minnesota Statutes 2010, section 148.191, subdivision 2, is amended to read:

14.4 Subd. 2. **Powers.** (a) The board is authorized to adopt and, from time to time, revise
14.5 rules not inconsistent with the law, as may be necessary to enable it to carry into effect the
14.6 provisions of sections 148.171 to 148.285. The board shall prescribe by rule curricula
14.7 and standards for schools and courses preparing persons for licensure under sections
14.8 148.171 to 148.285. It shall conduct or provide for surveys of such schools and courses
14.9 at such times as it may deem necessary. It shall approve such schools and courses as
14.10 meet the requirements of sections 148.171 to 148.285 and board rules. It shall examine,
14.11 license, and renew the license of duly qualified applicants. It shall hold examinations
14.12 at least once in each year at such time and place as it may determine. It shall by rule
14.13 adopt, evaluate, and periodically revise, as necessary, requirements for licensure and for
14.14 registration and renewal of registration as defined in section 148.231. It shall maintain a
14.15 record of all persons licensed by the board to practice professional or practical nursing and
14.16 all registered nurses who hold Minnesota licensure and registration and are certified as
14.17 advanced practice registered nurses. It shall cause the prosecution of all persons violating
14.18 sections 148.171 to 148.285 and have power to incur such necessary expense therefor.
14.19 It shall register public health nurses who meet educational and other requirements
14.20 established by the board by rule, including payment of a fee. ~~Prior to the adoption of rules,~~
14.21 ~~the board shall use the same procedures used by the Department of Health to certify public~~
14.22 ~~health nurses.~~ It shall have power to issue subpoenas, and to compel the attendance of
14.23 witnesses and the production of all necessary documents and other evidentiary material.
14.24 Any board member may administer oaths to witnesses, or take their affirmation. It shall
14.25 keep a record of all its proceedings.

14.26 (b) The board shall have access to hospital, nursing home, and other medical records
14.27 of a patient cared for by a nurse under review. If the board does not have a written consent
14.28 from a patient permitting access to the patient's records, the nurse or facility shall delete
14.29 any data in the record that identifies the patient before providing it to the board. The board
14.30 shall have access to such other records as reasonably requested by the board to assist the
14.31 board in its investigation. Nothing herein may be construed to allow access to any records
14.32 protected by section 145.64. The board shall maintain any records obtained pursuant to
14.33 this paragraph as investigative data under chapter 13.

15.1 (c) The board may accept and expend grants or gifts of money or in-kind services
15.2 from a person, a public or private entity, or any other source for purposes consistent with
15.3 the board's role and within the scope of its statutory authority.

15.4 (d) The board may accept registration fees for meetings and conferences conducted
15.5 for the purposes of board activities that are within the scope of its authority.

15.6 Sec. 2. Minnesota Statutes 2010, section 148.211, subdivision 1, is amended to read:

15.7 Subdivision 1. **Licensure by examination.** (a) An applicant for a license to practice
15.8 as a registered nurse or licensed practical nurse shall apply to the board for a license by
15.9 examination on forms prescribed by the board and pay a fee in an amount determined by
15.10 statute. An applicant applying for reexamination shall pay a fee in an amount determined
15.11 by law. In no case may fees be refunded.

15.12 (b) The applicant must satisfy the following requirements for licensure by
15.13 examination:

15.14 (1) present evidence the applicant has not engaged in conduct warranting disciplinary
15.15 action under section 148.261;

15.16 (2) present evidence of completion of a nursing education program that was
15.17 conducted in English and approved by the board, another United States nursing board,
15.18 or a Canadian province, which prepared the applicant for the type of license for which
15.19 the application has been submitted; and

15.20 (3) pass a national nurse licensure written examination. "Written examination"
15.21 includes paper and pencil examinations and examinations administered with a computer
15.22 and related technology and may include supplemental oral or practical examinations
15.23 approved by the board.

15.24 (c) An applicant who graduated from an approved nursing education program in
15.25 Canada and was licensed in Canada or another United States jurisdiction, without passing
15.26 the national nurse licensure examination, must also submit a verification of licensure from
15.27 the original Canadian licensure authority and from the United States jurisdiction.

15.28 (d) An applicant who graduated from a nursing program in a country other than the
15.29 United States or Canada, excluding Quebec, must also satisfy the following requirements:

15.30 (1) present verification of graduation from a nursing education program which
15.31 prepared the applicant for the type of license for which the application has been submitted
15.32 and is determined to be equivalent to the education required in the same type of nursing
15.33 education programs in the United States as evaluated by a credentials evaluation service
15.34 acceptable to the board. The credentials evaluation service must submit the evaluation and
15.35 verification directly to the board;

16.1 (2) demonstrate successful completion of coursework to resolve identified nursing
16.2 education deficiencies; and

16.3 (3) pass examinations acceptable to the board that test written and spoken English,
16.4 unless the applicant graduated from a nursing education program conducted in English
16.5 and located in an English-speaking country. The results of the examinations must be
16.6 submitted directly to the board from the testing service.

16.7 (e) An applicant failing to pass the examination may apply for reexamination.

16.8 (f) When the applicant has met all requirements stated in this subdivision, the board
16.9 shall issue a license to the applicant. The board may issue a license with conditions and
16.10 limitations if it considers it necessary to protect the public.

16.11 Sec. 3. Minnesota Statutes 2010, section 148.212, subdivision 1, is amended to read:

16.12 Subdivision 1. **Issuance.** Upon receipt of the applicable licensure or reregistration
16.13 fee and permit fee, and in accordance with rules of the board, the board may issue
16.14 a nonrenewable temporary permit to practice professional or practical nursing to an
16.15 applicant for licensure or reregistration who is not the subject of a pending investigation
16.16 or disciplinary action, nor disqualified for any other reason, under the following
16.17 circumstances:

16.18 ~~(a) The applicant for licensure by examination under section 148.211, subdivision~~
16.19 ~~1, has graduated from an approved nursing program within the 60 days preceding board~~
16.20 ~~receipt of an affidavit of graduation or transcript and has been authorized by the board to~~
16.21 ~~write the licensure examination for the first time in the United States. The permit holder~~
16.22 ~~must practice professional or practical nursing under the direct supervision of a registered~~
16.23 ~~nurse. The permit is valid from the date of issue until the date the board takes action on~~
16.24 ~~the application or for 60 days whichever occurs first.~~

16.25 ~~(b)~~ The applicant for licensure by endorsement under section 148.211, subdivision 2,
16.26 is currently licensed to practice professional or practical nursing in another state, territory,
16.27 or Canadian province. The permit is valid ~~from submission of a proper request~~ until the
16.28 date of board action on the application or for 60 days, whichever comes first.

16.29 ~~(c)~~ (b) The applicant for licensure by endorsement under section 148.211,
16.30 subdivision 2, or for reregistration under section 148.231, subdivision 5, is currently
16.31 registered in a formal, structured refresher course or its equivalent for nurses that includes
16.32 clinical practice.

16.33 ~~(d) The applicant for licensure by examination under section 148.211, subdivision~~
16.34 ~~1, who graduated from a nursing program in a country other than the United States or~~
16.35 ~~Canada has completed all requirements for licensure except registering for and taking the~~

17.1 ~~nurse licensure examination for the first time in the United States. The permit holder must~~
17.2 ~~practice professional nursing under the direct supervision of a registered nurse. The permit~~
17.3 ~~is valid from the date of issue until the date the board takes action on the application or for~~
17.4 ~~60 days, whichever occurs first.~~

17.5 Sec. 4. Minnesota Statutes 2010, section 148.231, is amended to read:

17.6 **148.231 REGISTRATION; FAILURE TO REGISTER; REREGISTRATION;**
17.7 **VERIFICATION.**

17.8 Subdivision 1. **Registration.** Every person licensed to practice professional or
17.9 practical nursing must maintain with the board a current registration for practice as a
17.10 registered nurse or licensed practical nurse which must be renewed at regular intervals
17.11 established by the board by rule. No ~~certificate~~ of registration shall be issued by the board
17.12 to a nurse until the nurse has submitted satisfactory evidence of compliance with the
17.13 procedures and minimum requirements established by the board.

17.14 The fee for periodic registration for practice as a nurse shall be determined by the
17.15 board by rule law. ~~A penalty fee shall be added for any application received after the~~
17.16 ~~required date as specified by the board by rule.~~ Upon receipt of the application and the
17.17 required fees, the board shall verify the application and the evidence of completion of
17.18 continuing education requirements in effect, and thereupon issue to the nurse a ~~certificate~~
17.19 ~~of~~ registration for the next renewal period.

17.20 Subd. 4. **Failure to register.** Any person licensed under the provisions of sections
17.21 148.171 to 148.285 who fails to register within the required period shall not be entitled to
17.22 practice nursing in this state as a registered nurse or licensed practical nurse.

17.23 Subd. 5. **Reregistration.** A person whose registration has lapsed desiring to
17.24 resume practice shall make application for reregistration, submit satisfactory evidence of
17.25 compliance with the procedures and requirements established by the board, and pay the
17.26 ~~registration~~ reregistration fee for the current period to the board. A penalty fee shall be
17.27 required from a person who practiced nursing without current registration. Thereupon, ~~the~~
17.28 registration ~~certificate~~ shall be issued to the person who shall immediately be placed on
17.29 the practicing list as a registered nurse or licensed practical nurse.

17.30 Subd. 6. **Verification.** A person licensed under the provisions of sections 148.171 to
17.31 148.285 who requests the board to verify a Minnesota license to another state, territory,
17.32 or country or to an agency, facility, school, or institution shall pay a fee ~~to the board~~
17.33 for each verification.

17.34 Sec. 5. **[148.242] FEES.**

18.1 The fees specified in section 148.243 are nonrefundable and must be deposited in
18.2 the state government special revenue fund.

18.3 Sec. 6. **[148.243] FEE AMOUNTS.**

18.4 Subdivision 1. **Licensure by examination.** The fee for licensure by examination is
18.5 \$105.

18.6 Subd. 2. **Reexamination fee.** The reexamination fee is \$60.

18.7 Subd. 3. **Licensure by endorsement.** The fee for licensure by endorsement is \$105.

18.8 Subd. 4. **Registration renewal.** The fee for registration renewal is \$85.

18.9 Subd. 5. **Reregistration.** The fee for reregistration is \$105.

18.10 Subd. 6. **Replacement license.** The fee for a replacement license is \$20.

18.11 Subd. 7. **Public health nurse certification.** The fee for public health nurse
18.12 certification is \$30.

18.13 Subd. 8. **Drug Enforcement Administration verification for Advanced Practice**
18.14 **Registered Nurse (APRN).** The Drug Enforcement Administration verification for
18.15 APRN is \$50.

18.16 Subd. 9. **Licensure verification other than through Nursys.** The fee for
18.17 verification of licensure status other than through Nursys verification is \$20.

18.18 Subd. 10. **Verification of examination scores.** The fee for verification of
18.19 examination scores is \$20.

18.20 Subd. 11. **Microfilmed licensure application materials.** The fee for a copy of
18.21 microfilmed licensure application materials is \$20.

18.22 Subd. 12. **Nursing business registration; initial application.** The fee for the initial
18.23 application for nursing business registration is \$100.

18.24 Subd. 13. **Nursing business registration; annual application.** The fee for the
18.25 annual application for nursing business registration is \$25.

18.26 Subd. 14. **Practicing without current registration.** The fee for practicing without
18.27 current registration is two times the amount of the current registration renewal fee for any
18.28 part of the first calendar month, plus the current registration renewal fee for any part of
18.29 any subsequent month up to 24 months.

18.30 Subd. 15. **Practicing without current APRN certification.** The fee for practicing
18.31 without current APRN certification is \$200 for the first month or any part thereof, plus
18.32 \$100 for each subsequent month or part thereof.

18.33 Subd. 16. **Dishonored check fee.** The service fee for a dishonored check is as
18.34 provided in section 604.113.

19.1 Sec. 7. [148F.001] SCOPE.

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

19.6 Sec. 8. [148F.010] DEFINITIONS.

19.7 Subdivision 1. Scope. For purposes of this chapter, the terms in this section have
19.8 the meanings given.

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

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

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

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

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

19.18 Subd. 3. Accredited school or educational program. "Accredited school or
19.19 educational program" means a school of alcohol and drug counseling, university, college,
19.20 or other postsecondary education program that, at the time the student completes
19.21 the program, is accredited by a regional accrediting association whose standards are
19.22 substantially equivalent to those of the North Central Association of Colleges and
19.23 Postsecondary Education Institutions or an accrediting association that evaluates schools
19.24 of alcohol and drug counseling for inclusion of the education, practicum, and core function
19.25 standards in this chapter.

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

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

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

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

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

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

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

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

20.11 (3) take into account human diversity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22.8 Subd. 19. **Practice of alcohol and drug counseling.** "Practice of alcohol and
22.9 drug counseling" means the observation, description, evaluation, interpretation, and
22.10 modification of human behavior by the application of core functions as it relates to the
22.11 harmful or pathological use or abuse of alcohol or other drugs. The practice of alcohol
22.12 and drug counseling includes, but is not limited to, the following activities, regardless of
22.13 whether the counselor receives compensation for the activities:

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

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

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

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

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

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

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

22.26 (8) consultation with other professionals;

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

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

22.30 Subd. 20. **Practice foundation.** "Practice foundation" means that an alcohol and
22.31 drug counseling service or continuing education activity is based upon observations,
22.32 methods, procedures, or theories that are generally accepted by the professional
22.33 community in alcohol and drug counseling.

22.34 Subd. 21. **Private information.** "Private information" means any information,
22.35 including, but not limited to, client records as defined in section 148F.150, test results,

23.1 or test interpretations developed during a professional relationship between a provider
23.2 and a client.

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

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

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

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

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

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

23.28 Subd. 28. **Supervisor.** "Supervisor" means a licensed alcohol and drug counselor
23.29 licensed under this chapter or other licensed professional practicing alcohol and drug
23.30 counseling under section 148F.110, who meets the requirements of section 148F.040,
23.31 subdivision 3, and who provides supervision to persons seeking licensure under section
23.32 148F.025, subdivision 3, paragraph (2), clause (ii).

23.33 Subd. 29. **Test.** "Test" means any instrument, device, survey, questionnaire,
23.34 technique, scale, inventory, or other process which is designed or constructed for the
23.35 purpose of measuring, evaluating, assessing, describing, or predicting personality,

24.1 behavior, traits, cognitive functioning, aptitudes, attitudes, skills, values, interests,
24.2 abilities, or other characteristics of individuals.

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

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

24.9 **Sec. 9. [148F.015] DUTIES OF THE BOARD.**

24.10 The board shall:

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

24.14 (2) issue licenses and temporary permits to qualified individuals under sections
24.15 148F.001 to 148F.205;

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

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

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

24.21 **Sec. 10. [148F.020] DUTY TO MAINTAIN CURRENT INFORMATION.**

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

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

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

24.28 **Sec. 11. [148F.025] REQUIREMENTS FOR LICENSURE.**

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

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

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

25.5 (2) received 18 semester credits or 270 clock hours of academic course work and
25.6 880 clock hours of supervised alcohol and drug counseling practicum from an accredited
25.7 school or education program. The course work and practicum do not have to be part of
25.8 the bachelor's degree earned under clause (1). The academic course work must be in
25.9 the following areas:

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

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

25.15 (iii) professional and ethical responsibilities;

25.16 (iv) multicultural aspects of chemical dependency;

25.17 (v) co-occurring disorders; and

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

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

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

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

25.26 (i) complete a written case presentation and pass an oral examination that
25.27 demonstrates competence in the core functions as defined in section 148F.010, subdivision
25.28 10; or

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

25.31 Subd. 4. **Background investigation.** The applicant must sign a release authorizing
25.32 the board to obtain information from the Bureau of Criminal Apprehension, the Federal
25.33 Bureau of Investigation, the Department of Human Services, the Office of Health Facilities
25.34 Complaints, and other agencies specified by the board. After the board has given written
25.35 notice to an individual who is the subject of a background investigation, the agencies shall
25.36 assist the board with the investigation by giving the board criminal conviction data, reports

26.1 about substantiated maltreatment of minors and vulnerable adults, and other information.
26.2 The board may contract with the commissioner of human services to obtain criminal
26.3 history data from the Bureau of Criminal Apprehension.

26.4 Sec. 12. **[148F.030] RECIPROCITY.**

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

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

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

26.17 Sec. 13. **[148F.035] TEMPORARY PERMIT.**

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

26.20 (1) received an associate degree, or an equivalent number of credit hours, completed
26.21 880 clock hours of supervised alcohol and drug counseling practicum, and 18 semester
26.22 credits or 270 clock hours of academic course work in alcohol and drug counseling from
26.23 an accredited school or education program; and

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

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

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

26.30 (iii) professional and ethical responsibilities;

26.31 (iv) multicultural aspects of chemical dependency;

26.32 (v) co-occurring disorders; and

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

27.1 (b) An individual seeking a temporary permit shall fully complete and submit
27.2 a notarized written application on forms provided by the board together with the
27.3 nonrefundable temporary permit fee specified in section 148F.115, subdivision 3, clause
27.4 (1).

27.5 (c) An individual practicing under this section:

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

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

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

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

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

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

27.20 Sec. 14. **[148F.040] SUPERVISED POSTDEGREE PROFESSIONAL**
27.21 **PRACTICE.**

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

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

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

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

28.5 (2) have three years of experience providing alcohol and drug counseling services;
28.6 and

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

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

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

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

28.18 (3) the supervisee's permissible scope of practice, as defined in section 148F.010,
28.19 subdivision 19.

28.20 (b) The supervision must be obtained at the rate of one hour of supervision per 40
28.21 hours of professional practice, for a total of 50 hours of supervision. The supervision must
28.22 be evenly distributed over the course of the supervised professional practice. At least 75
28.23 percent of the required supervision hours must be received in person. The remaining 25
28.24 percent of the required hours may be received by telephone or by audio or audiovisual
28.25 electronic device. At least 50 percent of the required hours of supervision must be received
28.26 on an individual basis. The remaining 50 percent may be received in a group setting.

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

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

29.1 Sec. 15. [148F.045] ALCOHOL AND DRUG COUNSELOR TECHNICIAN.

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

29.5 Sec. 16. [148F.050] LICENSE RENEWAL REQUIREMENTS.

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

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

29.13 Subd. 3. Renewal requirements. (a) To renew a license, a licensee must submit to
29.14 the board:

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

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

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

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

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

29.29 Subd. 5. Late renewal fee. If the application for license renewal is postmarked or
29.30 received after the expiration date, the licensee shall pay a late fee as specified by section
29.31 148F.115, subdivision 5, clause (1), in addition to the renewal fee, before the application
29.32 for license renewal will be considered by the board.

29.33 Sec. 17. [148F.055] EXPIRED LICENSE.

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

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

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

30.15 Sec. 18. **[148F.060] VOLUNTARY TERMINATION.**

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

30.24 Sec. 19. **[148F.065] RELICENSURE FOLLOWING TERMINATION.**

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

30.32 Subd. 2. **Continuing education for relicensure.** A former licensee seeking
30.33 relicensure after license termination must provide evidence of having completed at least

31.1 20 hours of continuing education activities for each year, or portion thereof, that the
31.2 former licensee did not hold a license.

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

31.10 Sec. 20. [148F.070] INACTIVE LICENSE STATUS.

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

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

31.25 Sec. 21. [148F.075] CONTINUING EDUCATION REQUIREMENTS.

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

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

31.31 Subd. 2. **Requirement.** Every two years, all licensees must complete a minimum of
31.32 40 clock hours of continuing education activities that meet the requirements in this section.
31.33 The 40 clock hours shall include a minimum of nine clock hours on human diversity, and a

32.1 minimum of three clock hours on professional ethics. A licensee may be given credit only
32.2 for activities that directly relate to the practice of alcohol and drug counseling.

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

32.5 (1) constitute an organized program of learning;

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

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

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

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

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

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

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

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

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

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

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

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

32.34 (5) presentations at workshops, seminars, symposia, meetings of professional
32.35 organizations, in-service trainings, or postgraduate institutes. The presentation must be
32.36 related to alcohol and drug counseling. A presenter may claim one hour of continuing

33.1 education for each hour of presentation time. A presenter may also receive continuing
33.2 education hours for development time at the rate of three hours for each hour of
33.3 presentation time. Continuing education hours may be earned only for the licensee's
33.4 first presentation on the subject developed.

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

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

- 33.8 (1) any subject contrary to the rules of professional conduct;
33.9 (2) supervision of personnel;
33.10 (3) entertainment or recreational activities;
33.11 (4) employment orientation sessions;
33.12 (5) policy meetings;
33.13 (6) marketing;
33.14 (7) business;
33.15 (8) first aid, CPR, and similar training classes; and
33.16 (9) training related to payment systems, including covered services, coding, and
33.17 billing.

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

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

- 33.27 (1) the continuing education activity title;
33.28 (2) a brief description of the continuing education activity;
33.29 (3) the sponsor, presenter, or author;
33.30 (4) the location and the dates attended;
33.31 (5) the number of clock hours; and
33.32 (6) the certificate of attendance, if applicable.

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

34.1 Subd. 7. Continuing education audit. (a) At the time of renewal, the board may
34.2 randomly audit a percentage of its licensees for compliance with continuing education
34.3 requirements.

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

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

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

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

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

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

34.33 **Sec. 22. [148F.080] SPONSOR'S APPLICATION FOR APPROVAL.**

34.34 Subdivision 1. Content. Individuals, organizations, associations, corporations,
34.35 educational institutions, or groups intending to offer continuing education activities for

35.1 approval must submit to the board the sponsor application fee and a completed application
35.2 for approval on a form provided by the board. The sponsor must comply with the
35.3 following to receive and maintain approval:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35.35 Sec. 23. **[148F.085] NONTRANSFERABILITY OF LICENSES.**

36.1 An alcohol and drug counselor license is not transferable.

36.2 Sec. 24. **[148F.090] DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

37.12 (13) fails to comply with a client's request for health records made under sections
37.13 144.291 to 144.298, or to furnish a client record or report required by law;

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

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

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

37.24 (ii) referring a client to any health care provider as defined in sections 144.291 to
37.25 144.298 in which the referring licensee has a significant financial interest, unless the
37.26 licensee has disclosed in advance to the client the licensee's own financial interest; or

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

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

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

37.32 (2) revoke a license;

37.33 (3) suspend a license;

37.34 (4) impose limitations or conditions on a licensee's practice of alcohol and drug
37.35 counseling, including, but not limited to, limiting the scope of practice to designated
37.36 competencies, imposing retraining or rehabilitation requirements, requiring the licensee to

38.1 practice under supervision, or conditioning continued practice on the demonstration of
38.2 knowledge or skill by appropriate examination or other review of skill and competence;

38.3 (5) censure or reprimand the licensee;

38.4 (6) impose a civil penalty not exceeding \$10,000 for each separate violation,
38.5 the amount of the civil penalty to be fixed so as to deprive the applicant or licensee
38.6 of any economic advantage gained by reason of the violation charged, to discourage
38.7 similar violations or to reimburse the board for the cost of the investigation and
38.8 proceeding, including, but not limited to, fees paid for services provided by the Office of
38.9 Administrative Hearings, legal and investigative services provided by the Office of the
38.10 Attorney General, court reporters, witnesses, reproduction of records, board members' per
38.11 diem compensation, board staff time, and travel costs and expenses incurred by board staff
38.12 and board members; or

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

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

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

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

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

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

38.33 (e) At the time the board issues a temporary suspension order, the board shall
38.34 schedule a hearing to be held before its own members. The hearing shall begin no later
38.35 than 60 days after issuance of the temporary suspension order or within 15 working
38.36 days of the date of the board's receipt of a request for hearing by a licensee, on the sole

39.1 issue of whether there is a reasonable basis to continue, modify, or lift the temporary
39.2 suspension. The hearing is not subject to chapter 14. Evidence presented by the board
39.3 or the licensee shall be in affidavit form only. The licensee or counsel of record may
39.4 appear for oral argument.

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

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

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

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

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

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

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

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

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

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

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

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

40.11 (2) an insurance company; or

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

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

40.18 (d) Information obtained under this subdivision is classified as private under sections
40.19 13.01 to 13.87.

40.20 Sec. 25. **[148F.095] ADDITIONAL REMEDIES.**

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

40.28 (b) A hearing must be initiated by the board not later than 30 days from the date
40.29 of the board's receipt of a written hearing request. Within 30 days of receipt of the
40.30 administrative law judge's report, and any written agreement or exceptions filed by the
40.31 parties, the board shall issue a final order modifying, vacating, or making permanent the
40.32 cease and desist order as the facts require. The final order remains in effect until modified
40.33 or vacated by the board.

40.34 (c) When a request for a stay accompanies a timely hearing request, the board may,
40.35 in the board's discretion, grant the stay. If the board does not grant a requested stay, the

41.1 board shall refer the request to the Office of Administrative Hearings within three working
41.2 days of receipt of the request. Within ten days after receiving the request from the board,
41.3 an administrative law judge shall issue a recommendation to grant or deny the stay. The
41.4 board shall grant or deny the stay within five working days of receiving the administrative
41.5 law judge's recommendation.

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

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

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

41.18 Sec. 26. **[148F.100] COOPERATION.**

41.19 An alcohol and drug counselor who is the subject of an investigation, or who
41.20 is questioned in connection with an investigation, by or on behalf of the board, shall
41.21 cooperate fully with the investigation. Cooperation includes responding fully to any
41.22 question raised by or on behalf of the board relating to the subject of the investigation,
41.23 whether tape recorded or not. Challenges to requests of the board may be brought before
41.24 the appropriate agency or court.

41.25 Sec. 27. **[148F.105] PROHIBITED PRACTICE OR USE OF TITLES; PENALTY.**

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

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

42.1 by any title or description stating or implying that they are licensed or otherwise qualified
42.2 to practice alcohol and drug counseling, unless that individual holds a valid license.

42.3 (b) An individual issued a temporary permit must use titles consistent with section
42.4 148F.035, subdivisions 1 and 2, paragraph (c), clause (3).

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

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

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

42.15 **Sec. 28. [148F.110] EXCEPTIONS TO LICENSE REQUIREMENT.**

42.16 Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members
42.17 of other professions or occupations from performing functions for which they are qualified
42.18 or licensed. This exception includes, but is not limited to: licensed physicians; registered
42.19 nurses; licensed practical nurses; licensed psychologists and licensed psychological
42.20 practitioners; members of the clergy provided such services are provided within the scope
42.21 of regular ministries; American Indian medicine men and women; licensed attorneys;
42.22 probation officers; licensed marriage and family therapists; licensed social workers; social
42.23 workers employed by city, county, or state agencies; licensed professional counselors;
42.24 licensed professional clinical counselors; licensed school counselors; registered
42.25 occupational therapists or occupational therapy assistants; Upper Midwest Indian Council
42.26 on Addictive Disorders (UMICAD) certified counselors when providing services to Native
42.27 American people; city, county, or state employees when providing assessments or case
42.28 management under Minnesota Rules, chapter 9530; and individuals providing integrated
42.29 dual-diagnosis treatment in adult mental health rehabilitative programs certified by the
42.30 Department of Human Services under section 256B.0622 or 256B.0623.

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

42.34 (c) Any person who is exempt from licensure under this section must not use a
42.35 title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug

43.1 counselor" or otherwise hold themselves out to the public by any title or description
43.2 stating or implying that they are engaged in the practice of alcohol and drug counseling, or
43.3 that they are licensed to engage in the practice of alcohol and drug counseling, unless that
43.4 person is also licensed as an alcohol and drug counselor. Persons engaged in the practice
43.5 of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the
43.6 use of one of the titles in paragraph (a).

43.7 Subd. 2. **Students.** Nothing in sections 148F.001 to 148F.110 shall prevent students
43.8 enrolled in an accredited school of alcohol and drug counseling from engaging in the
43.9 practice of alcohol and drug counseling while under qualified supervision in an accredited
43.10 school of alcohol and drug counseling.

43.11 Subd. 3. **Federally recognized tribes.** Alcohol and drug counselors practicing
43.12 alcohol and drug counseling according to standards established by federally recognized
43.13 tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this
43.14 chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals
43.15 practicing under that authority shall be afforded the same rights, responsibilities, and
43.16 recognition as persons licensed under this chapter.

43.17 Sec. 29. **[148F.115] FEES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44.12 Sec. 30. **[148F.120] CONDUCT.**

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

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

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

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

44.26 Sec. 31. **[148F.125] COMPETENT PROVISION OF SERVICES.**

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

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

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

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

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

45.16 Sec. 32. **[148F.130] PROTECTING CLIENT PRIVACY.**

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

45.21 Subd. 2. **Duty to warn; limitation on liability.** Private information may be
45.22 disclosed without the consent of the client when a duty to warn arises, or as otherwise
45.23 provided by law or court order. The duty to warn of, or take reasonable precautions to
45.24 provide protection from, violent behavior arises only when a client or other person has
45.25 communicated to the provider a specific, serious threat of physical violence to self or a
45.26 specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty
45.27 is discharged by the provider if reasonable efforts are made to communicate the threat to
45.28 law enforcement agencies, the potential victim, the family of the client, or appropriate
45.29 third parties who are in a position to prevent or avert the harm. No monetary liability
45.30 and no cause of action or disciplinary action by the board may arise against a provider
45.31 for disclosure of confidences to third parties, for failure to disclose confidences to third
45.32 parties, or for erroneous disclosure of confidences to third parties in a good faith effort to
45.33 warn against or take precautions against a client's violent behavior or threat of suicide.

45.34 Subd. 3. **Services to group clients.** Whenever alcohol and drug counseling
45.35 services are provided to group clients, the provider shall initially inform each client of the

46.1 provider's responsibility and each client's individual responsibility to treat any information
46.2 gained in the course of rendering the services as private information, including any
46.3 limitations to each client's right to privacy.

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

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

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

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

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

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

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

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

47.4 Subd. 12. **Abuse or neglect of minor or vulnerable adults.** An applicant or
47.5 licensee must comply with the reporting of maltreatment of minors established in section
47.6 626.556 and the reporting of maltreatment of vulnerable adults established in section
47.7 626.557.

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

47.14 Sec. 33. **[148F.135] PRIVATE INFORMATION; ACCESS AND RELEASE.**

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

47.19 Subd. 2. **Release of private information.** (a) When a client makes a request for
47.20 the provider to release the client's private information, the request must be in writing
47.21 and signed by the client. Informed consent is not required. When the request involves
47.22 client records, all pertinent information shall be released in compliance with sections
47.23 144.291 to 144.298.

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

47.27 (1) the name of the client;

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

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

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

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

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

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

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

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

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

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

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

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

48.23 Sec. 34. **[148F.140] INFORMED CONSENT.**

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

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

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

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

48.31 (4) the applicable fee schedule;

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

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

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

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

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

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

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

49.13 Sec. 35. **[148F.145] TERMINATION OF SERVICES.**

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

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

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

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

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

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

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

49.33 Subd. 5. **Absence from practice.** Nothing in this section requires the provider to
49.34 terminate a client due to an absence from practice that is the result of a period of illness
49.35 or injury that does not affect the provider's ability to practice with reasonable skill and

50.1 safety, as long as arrangements have been made for temporary counseling services that
50.2 may be needed by the client during the provider's absence.

50.3 Sec. 36. **[148F.150] RECORD KEEPING.**

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

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

50.7 (2) documentation of services, including:

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

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

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

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

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

50.14 (vi) consultations with collateral sources;

50.15 (vii) diagnoses or presenting problems; and

50.16 (viii) documentation that informed consent was obtained, including written informed
50.17 consent documents;

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

50.19 (4) a client personal data sheet;

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

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

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

50.24 Subd. 2. Duplicate records. If the client records containing the documentation
50.25 required by subdivision 1 are maintained by the agency, clinic, or other facility where the
50.26 provider renders services, the provider is not required to maintain duplicate records of
50.27 client information.

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

50.32 Sec. 37. **[148F.155] IMPAIRED OBJECTIVITY OR EFFECTIVENESS.**

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

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

51.7 (1) cohabitational;

51.8 (2) familial;

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

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

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

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

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

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

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

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

52.5 Sec. 38. **[148F.160] PROVIDER IMPAIRMENT.**

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

52.13 Sec. 39. **[148F.165] CLIENT WELFARE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53.34 Sec. 40. **[148F.170] WELFARE OF STUDENTS, SUPERVISEES, AND**
53.35 **RESEARCH SUBJECTS.**

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

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

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

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

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

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

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

54.20 (6) engage in any other unprofessional conduct.

54.21 Sec. 41. [148F.175] **MEDICAL AND OTHER HEALTH CARE**
54.22 **CONSIDERATIONS.**

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

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

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

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

55.5 Sec. 42. [148F.180] ASSESSMENTS; TESTS; REPORTS.

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

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

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

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

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

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

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

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

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

55.31 Sec. 43. [148F.185] PUBLIC STATEMENTS.

55.32 Subdivision 1. **Prohibition against false or misleading information.** Public
55.33 statements by providers must not include false or misleading information. Providers shall
55.34 not solicit or use testimonials by quotation or implication from current clients or former

56.1 clients who are vulnerable to undue influence. The provider shall make reasonable efforts
56.2 to ensure that public statements by others on behalf of the provider are truthful and shall
56.3 make reasonable remedial efforts to bring a public statement into compliance with sections
56.4 148F.120 to 148F.205 when the provider becomes aware of a violation.

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

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

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

56.19 Sec. 44. **[148F.190] FEES; STATEMENTS.**

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

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

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

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

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

57.1 Sec. 45. [148F.195] AIDING AND ABETTING UNLICENSED PRACTICE.

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

57.7 Sec. 46. [148F.200] VIOLATION OF LAW.

57.8 A provider shall not violate any law in which the facts giving rise to the violation
57.9 involve the practice of alcohol and drug counseling as defined in sections 148F.001 to
57.10 148F.205. In any board proceeding alleging a violation of this section, the proof of a
57.11 conviction of a crime constitutes proof of the underlying factual elements necessary to
57.12 that conviction.

57.13 Sec. 47. [148F.205] COMPLAINTS TO BOARD.

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

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

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

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

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

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

57.31 Subd. 3. Institutions. A state agency, political subdivision, agency of a local unit
57.32 of government, private agency, hospital, clinic, prepaid medical plan, or other health
57.33 care institution or organization located in this state shall report to the board any action
57.34 taken by the agency, institution, or organization or any of its administrators or medical

58.1 or other committees to revoke, suspend, restrict, or condition an alcohol and drug
58.2 counselor's privilege to practice or treat patients or clients in the institution, or as part of
58.3 the organization, any denial of privileges, or any other disciplinary action for conduct that
58.4 might constitute grounds for disciplinary action by the board under sections 148F.001
58.5 to 148F.205. The institution, organization, or governmental entity shall also report the
58.6 resignation of any alcohol and drug counselors before the conclusion of any disciplinary
58.7 action proceeding for conduct that might constitute grounds for disciplinary action under
58.8 this chapter, or before the commencement of formal charges but after the practitioner had
58.9 knowledge that formal charges were contemplated or were being prepared.

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

58.17 Subd. 5. **Insurers.** Each insurer authorized to sell insurance described in section
58.18 60A.06, subdivision 1, clause (13), and providing professional liability insurance to
58.19 alcohol and drug counselors or the Medical Joint Underwriting Association under chapter
58.20 62F, shall submit to the board quarterly reports concerning the alcohol and drug counselors
58.21 against whom malpractice settlements and awards have been made. The report must
58.22 contain at least the following information:

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

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

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

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

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

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

58.35 Subd. 6. **Self-reporting.** An alcohol and drug counselor shall report to the board
58.36 any personal action that would require that a report be filed with the board by any person,

59.1 health care facility, business, or organization under subdivisions 1 and 3 to 5. The alcohol
59.2 and drug counselor shall also report the revocation, suspension, restriction, limitation,
59.3 or other disciplinary action in this state and report the filing of charges regarding the
59.4 practitioner's license or right of practice in another state or jurisdiction.

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

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

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

59.17 Sec. 48. Minnesota Statutes 2010, section 157.15, subdivision 12b, is amended to read:

59.18 Subd. 12b. **School concession stand.** "School concession stand" means a food
59.19 and beverage service establishment located in a school, on school grounds, or within a
59.20 school-owned athletic complex, that is operated in conjunction with school-sponsored
59.21 events. A school kitchen or school cafeteria is not a school concession stand.

59.22 Sec. 49. Minnesota Statutes 2010, section 157.22, is amended to read:

59.23 **157.22 EXEMPTIONS.**

59.24 This chapter does not apply to:

59.25 (1) interstate carriers under the supervision of the United States Department of
59.26 Health and Human Services;

59.27 (2) weddings, fellowship meals, or funerals conducted by a faith-based organization
59.28 using any building constructed and primarily used for religious worship or education;

59.29 (3) any building owned, operated, and used by a college or university in accordance
59.30 with health regulations promulgated by the college or university under chapter 14;

59.31 (4) any person, firm, or corporation whose principal mode of business is licensed
59.32 under sections 28A.04 and 28A.05, is exempt at that premises from licensure as a food
59.33 or beverage establishment; provided that the holding of any license pursuant to sections
59.34 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable

60.1 provisions of this chapter or the rules of the state commissioner of health relating to
60.2 food and beverage service establishments;

60.3 (5) family day care homes and group family day care homes governed by sections
60.4 245A.01 to 245A.16;

60.5 (6) nonprofit senior citizen centers for the sale of home-baked goods;

60.6 (7) fraternal, sportsman, or patriotic organizations that are tax exempt under section
60.7 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(10), or 501(c)(19) of the Internal
60.8 Revenue Code of 1986, or organizations related to ~~or~~, affiliated with, or supported by
60.9 such fraternal, sportsman, or patriotic organizations. ~~Such organizations may organize~~
60.10 ~~events for events held in the building or on the grounds of the organization and at which~~
60.11 home-prepared food is donated by organization members for sale at the events, provided:

60.12 (i) the event is not a circus, carnival, or fair;

60.13 (ii) the organization controls the admission of persons to the event, the event agenda,
60.14 or both; and

60.15 (iii) the organization's licensed kitchen is not used in any manner for the event;

60.16 (8) food not prepared at an establishment and brought in by individuals attending a
60.17 potluck event for consumption at the potluck event. An organization sponsoring a potluck
60.18 event under this clause may advertise the potluck event to the public through any means.
60.19 Individuals who are not members of an organization sponsoring a potluck event under this
60.20 clause may attend the potluck event and consume the food at the event. Licensed food
60.21 establishments other than schools cannot be sponsors of potluck events. A school may
60.22 sponsor and hold potluck events in areas of the school other than the school's kitchen,
60.23 provided that the school's kitchen is not used in any manner for the potluck event. For
60.24 purposes of this clause, "school" means a public school as defined in section 120A.05,
60.25 subdivisions 9, 11, 13, and 17, or a nonpublic school, church, or religious organization
60.26 at which a child is provided with instruction in compliance with sections 120A.22 and
60.27 120A.24. Potluck event food shall not be brought into a licensed food establishment
60.28 kitchen;

60.29 (9) a home school in which a child is provided instruction at home;

60.30 (10) school concession stands ~~operated in conjunction with school-sponsored events~~
60.31 ~~on school property are exempt from the 21-day restriction; and~~ serving commercially
60.32 prepared, nonpotentially hazardous foods, as defined in Minnesota Rules, chapter 4626;

60.33 (11) group residential facilities of ten or fewer beds licensed by the commissioner of
60.34 human services under Minnesota Rules, chapter 2960, provided the facility employs or
60.35 contracts with a certified food manager under Minnesota Rules, part 4626.2015;

61.1 (12) meals, fund-raisers, or community events conducted in the building or on
61.2 the grounds of a faith-based organization, provided that a certified food manager, or a
61.3 volunteer trained in a food safety course, trains the food preparation workers in safe
61.4 food handling practices. This exemption does not apply to faith-based organizations that
61.5 choose to apply for a license for events; and

61.6 (13) food service events conducted following a disaster for purposes of feeding
61.7 disaster relief staff and volunteers serving commercially prepared, nonpotentially
61.8 hazardous foods, as defined in Minnesota Rules, chapter 4626.

61.9 Sec. 50. **REPORT; BOARD OF BEHAVIORAL HEALTH AND THERAPY.**

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

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

61.20 (c) The board shall present its written report, including any proposed legislation, to
61.21 the chairs and ranking minority members of the legislative committees with jurisdiction
61.22 over health and human services no later than December 15, 2014.

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

61.25 Sec. 51. **REPEALER.**

61.26 (a) Minnesota Statutes 2010, sections 148C.01, subdivisions 1, 1a, 2, 2a, 2b, 2c,
61.27 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16, 17, and 18; 148C.015;
61.28 148C.03, subdivisions 1 and 4; 148C.0351, subdivisions 1, 3, and 4; 148C.0355; 148C.04,
61.29 subdivisions 1, 2, 3, 4, 5a, 6, and 7; 148C.044; 148C.045; 148C.05; 148C.055; 148C.07;
61.30 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, and 4; 148C.091; 148C.093;
61.31 148C.095; 148C.099; 148C.10, subdivisions 1, 2, and 3; 148C.11; and 148C.12,
61.32 subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, are repealed.

61.33 (b) Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030; 4747.0040;
61.34 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, and 6; 4747.0200; 4747.0400, subpart

S.F. No. 731, 2nd Engrossment - 87th Legislative Session (2011-2012) [S0731-2]

- 62.1 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 2, 4, 5, 6, 7, 8, and 9;
- 62.2 4747.1400; 4747.1500; 6310.3100, subpart 2; 6310.3600; and 6310.3700, subpart 1, are
- 62.3 repealed.

APPENDIX
Article locations in S0731-2

ARTICLE 1	HEALTH CARE	Page.Ln 1.32
ARTICLE 2	HUMAN SERVICES	Page.Ln 6.10
ARTICLE 3	HEALTH LICENSING	Page.Ln 14.1