

CHAPTER 2150
BOARD OF BEHAVIORAL HEALTH AND THERAPY
LICENSURE

LICENSE RENEWALS AND TERMINATION

- 2150.0050 TERM OF LICENSE.
- 2150.0060 NOTICE OF LICENSE RENEWAL.
- 2150.0070 APPLYING FOR RENEWAL OF A LICENSE.
- 2150.0080 PENDING RENEWAL.
- 2150.0090 LATE FEE.
- 2150.0100 EXPIRED LICENSE.
- 2150.0110 TERMINATION FOR NONRENEWAL.
- 2150.0120 VOLUNTARY TERMINATION.
- 2150.0130 RELICENSURE FOLLOWING TERMINATION.
- 2150.0140 CANCELLATION OF LICENSE.
- 2150.0150 JURISDICTION.
- 2150.0160 INACTIVE LICENSES.

CONTINUING EDUCATION

- 2150.2500 PURPOSE OF CONTINUING EDUCATION.
- 2150.2510 CONTINUING EDUCATION REQUIRED.
- 2150.2520 INITIAL REQUIREMENT.
- 2150.2530 SUBSEQUENT REQUIREMENT.
- 2150.2540 CRITERIA FOR APPROVAL OF CONTINUING EDUCATION ACTIVITIES.
- 2150.2550 SPONSOR'S APPLICATION FOR APPROVAL.
- 2150.2560 INDIVIDUAL LICENSEE'S APPLICATION FOR APPROVAL.
- 2150.2570 AUTOMATIC APPROVAL.
- 2150.2580 ADDITIONAL SOURCES OF CONTINUING EDUCATION CREDIT.
- 2150.2590 DOCUMENTATION AND REPORTING COMPLIANCE.
- 2150.2600 CARRYOVER OF CONTINUING EDUCATION CREDITS.
- 2150.2650 CONTINUING EDUCATION AUDIT.
- 2150.2660 VARIANCE FROM CONTINUING EDUCATION REQUIREMENTS.

**SUPERVISED FIELD EXPERIENCE AND
PROFESSIONAL PRACTICE**

- 2150.5000 PREDEGREE SUPERVISED FIELD EXPERIENCE.
- 2150.5010 POSTDEGREE SUPERVISED PROFESSIONAL PRACTICE.

CONDUCT

- 2150.7500 CONDUCT.

- 2150.7505 DEFINITIONS.
- 2150.7510 COMPETENT PROVISION OF SERVICES.
- 2150.7515 PROTECTING THE PRIVACY OF CLIENTS.
- 2150.7520 ACCESSING AND RELEASING PRIVATE INFORMATION.
- 2150.7525 INFORMED CONSENT.
- 2150.7530 TERMINATION OF SERVICES.
- 2150.7535 RECORD KEEPING.
- 2150.7540 IMPAIRED OBJECTIVITY OR EFFECTIVENESS.
- 2150.7545 PROVIDER IMPAIRMENT.
- 2150.7550 CLIENT WELFARE.
- 2150.7555 WELFARE OF STUDENTS, SUPERVISEES, AND RESEARCH SUBJECTS.
- 2150.7560 MEDICAL AND OTHER HEALTH CARE CONSIDERATIONS.
- 2150.7565 ASSESSMENTS, TESTS, REPORTS.
- 2150.7570 PUBLIC STATEMENTS.
- 2150.7575 PRESENTATION TO PUBLIC.
- 2150.7580 FEES AND STATEMENTS.
- 2150.7585 AIDING AND ABETTING UNLICENSED PRACTICE.
- 2150.7590 VIOLATION OF LAW.
- 2150.7595 DECEPTION OR FRAUD.
- 2150.7600 UNPROFESSIONAL CONDUCT.
- 2150.7605 COMPLAINTS TO BOARD.
- 2150.7610 WAIVERS AND VARIANCES.

LICENSE RENEWALS AND TERMINATION

2150.0050 TERM OF LICENSE.

A license is valid for one year beginning with the first day of the month following the date the license was granted by the board and expires on the last day of the month preceding the month in which the license was originally effective. Thereafter, the license is renewable for a period of one year.

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0060 NOTICE OF LICENSE RENEWAL.

The board shall mail an application for license renewal to a licensee at least 45 days before the expiration date of the license. In the alternative, upon the licensee's election, the board shall send the application via e-mail. Placing the application for license renewal in first class United States mail, addressed to the licensee at the licensee's last known mailing address with postage prepaid,

constitutes valid mailing. Sending the application via e-mail to the licensee's last known e-mail address on file also constitutes valid notification. Failure to receive the renewal documents by either means does not relieve a license holder of the obligation to renew a license or to pay the renewal fee.

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0070 APPLYING FOR RENEWAL OF A LICENSE.

In order to renew a license, a licensee must submit a completed, signed application for license renewal, with the required, nonrefundable license renewal fee as specified by Minnesota Statutes, section 148B.53, subdivision 3, clause (2), payable to the Board of Behavioral Health and Therapy. The application must be postmarked or received by the board by the end of the day on which the license expires, or the following business day if the expiration date falls on a Saturday, Sunday, or holiday. An application which is not completed or signed, or which is not accompanied by the correct fee, is void, and must be returned to the licensee.

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0080 PENDING RENEWAL.

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

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0090 LATE FEE.

If the application for license renewal is received after the expiration date, the licensee shall pay a late fee as specified by Minnesota Statutes, section 148B.53, subdivision 3, clause (4), in addition to the renewal fee, before the application for license renewal will be considered by the board.

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0100 EXPIRED LICENSE.

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

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0110 TERMINATION FOR NONRENEWAL.

Subpart 1. **Notice.** Within 30 days after the renewal date, a licensee who has not renewed the license shall be notified by registered or certified letter sent to the last known address of the licensee in the board's file that the renewal is overdue and that failure to pay the current fee and current late fee within 60 days after the renewal date will result in termination of the license. A second notice must be sent at least seven days before a board meeting occurring 60 days or more after the renewal date to each licensee who has not remitted the renewal fee and late fee.

Subp. 2. **Termination.** The board shall terminate the license of a licensee whose license renewal is at least 60 days overdue and to whom notification has been sent as provided in subpart 1. Failure of a licensee to receive notification is not grounds for later challenge of the termination. The former licensee shall be notified of the termination by registered or certified letter within seven days after the board action, in the same manner as provided in subpart 1.

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0120 VOLUNTARY TERMINATION.

A license may be voluntarily terminated at any time upon written notification to the board, unless a complaint is pending against the licensee. The notification must be received by the board prior to termination of the license for failure to renew. A former licensee may be licensed again only after complying with all laws and rules, as provided in part 2150.0130, for relicensure following termination.

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0130 RELICENSURE FOLLOWING TERMINATION.

Subpart 1. **Relicensure.** For a period of two years, a former licensee whose license has been voluntarily terminated or terminated for nonrenewal as provided in part 2150.0110 or 2150.0120

may be relicensed after complying with all laws and rules required of applicants for examination and licensure and verifying that the former licensee has not engaged in the practice of professional counseling in this state since the date of termination. The verification must be accompanied by a notarized affirmation that the statement is true and correct to the best knowledge and belief of the former licensee. The fee for relicensure following termination is the licensure fee in effect at the time of application for relicensure, and rules governing relicensure are the rules in effect at the time the initial license was granted.

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

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0140 CANCELLATION OF LICENSE.

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

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0150 JURISDICTION.

The board shall retain jurisdiction over a licensee whose license was terminated for nonrenewal, or voluntarily terminated, until the license is canceled pursuant to part 2150.0160, and may take disciplinary action against the former licensee based on conduct occurring before termination of the license.

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

2150.0160 INACTIVE LICENSES.

Subpart 1. **Inactive status.** A professional counselor currently licensed in Minnesota may apply for an inactive status license with the board. Requests for inactive status licensure must be made at the time of license renewal, and must be accompanied by the appropriate fee. A licensee

may not practice professional counseling in Minnesota while the licensee's license is in inactive status.

Subp. 2. **Application.** The licensee must complete a board-approved application which must include a signed, notarized affidavit stating that the licensee is not currently practicing professional counseling in Minnesota. The board may refuse to approve an application if:

- A. a complaint is pending against the licensee;
- B. the licensee has an outstanding disciplinary order or corrective action agreement; or
- C. the licensee is not current in fees and penalties paid, or in continuing education units obtained for annual license renewal.

Subp. 3. **Renewal of inactive license.** A licensee whose license is in inactive status is subject to the renewal requirements in this chapter except that the licensee need not show compliance with continuing education requirements until seeking reactivation provided in subpart 4.

Subp. 4. **Reactivation.** A licensee whose license is in inactive status may return to active license status at any time, subject to the requirements in items A and B.

A. The licensee shall complete a board-approved application which must include a signed, notarized affidavit stating that the licensee has not practiced professional counseling in Minnesota during the period of time in which the license was inactive. The application must be accompanied by the active license fee. If application is made at a time other than the licensee's renewal cycle, the licensee shall pay the difference between the inactive license fee and the active license fee.

B. The licensee shall provide documentation acceptable to the board that the licensee has met the continuing education requirements during the period of time in which the license was inactive.

Subp. 5. **Jurisdiction.** The board shall retain jurisdiction over a licensee whose license is in inactive status, and may take disciplinary action against the licensee for conduct occurring before or during the time in which the license is inactive.

Statutory Authority: *MS s 148B.54*

History: *30 SR 5*

Published Electronically: *July 25, 2007*

CONTINUING EDUCATION

2150.2500 PURPOSE OF CONTINUING EDUCATION.

The purpose of mandatory continuing education is to:

- A. promote the health and well-being of the residents of Minnesota who receive services from licensees; and
- B. promote the professional development of providers of these services.

The continued professional growth and maintenance of competence in providing professional counseling services are the ethical responsibilities of each licensee.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

2150.2510 CONTINUING EDUCATION REQUIRED.

All licensees must meet the continuing education requirements in this chapter and Minnesota Statutes, section 148B.54, subdivision 2.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

2150.2520 INITIAL REQUIREMENT.

Subpart 1. **Coursework.** Except as provided in subparts 2 and 3, licensees must complete 12 graduate semester credits in counseling or the quarter credit equivalent within the first four years of licensure. Coursework completed for purposes of this requirement shall comply with items A to D.

A. Courses must be completed at a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA).

B. Courses must be taken and passed for graduate credit. Audited courses or courses not otherwise taken for credit may not be used to satisfy this requirement.

C. Courses must fall within one of the course content areas specified in Minnesota Statutes, section 148B.53, subdivision 1, paragraph (b).

D. In addition to submission of the Affidavit of Continuing Education Compliance, all licensees are required to have transcripts documenting completion of the coursework sent directly to the board from the educational institutions where the coursework was completed.

Subp. 2. **Prelicensure credit exception.** Notwithstanding subpart 1, and subject to subpart 4, a licensee may use prelicensure coursework to satisfy this requirement, so long as the coursework otherwise satisfies the requirements of subpart 1, items A to D.

Subp. 3. **Degree program credit exception.** If a licensee can document to the satisfaction of the board that the degree program upon which the licensee's license is based was in excess of 48 semester credits, or quarter credit equivalent, that licensee need only complete the number of graduate credits sufficient to reach a combined total of 60 graduate semester credits between the

degree program and this requirement. The licensee must comply with the requirements of subpart 4.

Subp. 4. **Additional requirements.** In addition to completing the requisite graduate coursework as outlined in subparts 1 to 3, each licensee shall also complete in the first four years of licensure, a minimum of 40 hours of continuing education activities approved by the board as described in part 2150.2540.

Statutory Authority: *MS s 14.389; 148B.52*

History: *29 SR 1605; 31 SR 325*

Published Electronically: *July 25, 2007*

2150.2530 SUBSEQUENT REQUIREMENT.

After the first four years of licensure, all licensees must complete a minimum of 40 hours of continuing education activities approved by the board every two years as described in part 2150.2540.

Statutory Authority: *MS s 14.389; 148B.52*

History: *29 SR 1605; 31 SR 325*

Published Electronically: *July 25, 2007*

2150.2540 CRITERIA FOR APPROVAL OF CONTINUING EDUCATION ACTIVITIES.

To satisfy the requirements of parts 2150.2500 to 2150.2660, a continuing education activity must be approved by the board or its designee. Activities may be approved for all attendees when submitted by the sponsor as prescribed in part 2150.2550, a licensee may request individual approval as prescribed in part 2150.2560, or activities may be automatically approved as prescribed in part 2150.2570. The board shall consider the following factors in determining whether an activity should be approved:

- A. the activity's relevance to the practices of professional counseling;
- B. the activity's relevance to the development and maintenance of professional skills of professional counselors;
- C. relation of the activity's proposed topics to the body of professional counseling knowledge;
- D. whether the activity is structured on sound educational principles and fits into one of the following categories:
 - (1) structured educational activities with an instructor as a part of conventions, workshops, seminars, lectures, interactive or other online media, and graduate and postgraduate courses from regionally accredited institutions;
 - (2) home study activities related to professional counseling that have an independently graded test component with no more than one-fourth of the required 40 continuing education hours earned by this method;

E. whether the activity is at least one hour in length. "One hour" means at least 50 minutes spent as a student in direct participation in a structured educational format. Time for home study activities is based on the developer's research on average time to complete; or

F. whether the instructors or developers of the activity are qualified by practical or academic experience to teach, lecture, make presentations, or develop activities.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

2150.2550 SPONSOR'S APPLICATION FOR APPROVAL.

Subpart 1. **Content.** Except as provided in part 2150.2570, individuals, organizations, associations, corporations, educational institutions, or groups intending to offer continuing education activities for approval must submit to the board a completed application for approval on a form provided by the board. The sponsor must comply with items A and B to receive and maintain approval.

A. The application for approval must be submitted at least 60 days before the activity is scheduled to begin.

B. The application for approval must include the following information to enable the board to determine whether the activity meets the standards for board approval in part 2150.2540:

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

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

(3) a description of the method to be used by the participants to evaluate the activity;

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

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

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

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

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

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

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

Subp. 5. **Denial of approval.** The board shall deny approval of an activity if it does not meet the criteria in part 2150.2540. The board shall notify the sponsor in writing of its reasons for denying approval of an activity.

Subp. 6. **Revocation of approval.** The board shall revoke its approval of an activity if a sponsor fails to comply with subpart 4, or if a sponsor falsifies information requested by the board in the application for approval of an activity.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

2150.2560 INDIVIDUAL LICENSEE'S APPLICATION FOR APPROVAL.

Subpart 1. **Requirement.** A licensee may apply individually for approval of any continuing education activities that have not been approved by the board. The licensee must submit the information required in subpart 2 as well as other information the board reasonably requires to evaluate the activity for approval. A licensee may apply for approval of a continuing education activity at any time, except that in order to obtain approval prior to taking the activity, the licensee must apply at least 60 days before the activity is scheduled to begin.

Subp. 2. **Content.** To apply for approval, a licensee shall complete and submit a form provided by the board, and provide the following information:

- A. the name and address of the organization sponsoring the activity;
 - B. a detailed description of the content of the activity;
 - C. the name of each instructor or presenter and the instructor's or presenter's credentials;
- and
- D. the location, including the name and address of the facility, at which the activity will be conducted.

Subp. 3. **Activity not previously approved.** Licensees intending to take an activity not previously approved by the board are strongly encouraged to seek board approval before attending the activity.

Subp. 4. **Denial of approval.** The board shall deny approval for an activity if it does not meet the standards in part 2150.2540. The board shall notify the applicant in writing of its reasons for denying approval under this subpart.

Subp. 5. **Addition to list of approved activities.** Once an activity has been approved for an individual licensee, the activity shall be assigned a number and added to the board's list of approved continuing education activities.

Statutory Authority: *MS s 14.389; 148B.52*

History: *29 SR 1605; 31 SR 325*

Published Electronically: *July 25, 2007*

2150.2570 AUTOMATIC APPROVAL.

Any activity approved for continuing education credit for professional counselors by the American Counseling Association (ACA), Council for Accreditation of Counseling and Related Education Programs (CACREP), American Association of State Counseling Boards (AASCB), the National Board for Certified Counselors (NBCC), or other national organization as determined by the board, shall automatically be approved for continuing education credit without further application by the sponsor or licensee.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

2150.2580 ADDITIONAL SOURCES OF CONTINUING EDUCATION CREDIT.

In addition to the activities described in part 2150.2560, an individual may apply for continuing education hours for the activities in items A to F.

A. Teaching a course at an institution by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). To qualify for continuing education credit, the course must fall within one of the ten content areas specified by Minnesota Statutes, section 148B.53, subdivision 1, paragraph (b), as determined by the board. Continuing education hours may be earned only for the first time the licensee teaches the course. Ten continuing education hours may be earned for each semester credit hour taught. Acceptable documentation is verification from the dean or head of the department of the institution that the licensee taught the course content for the first time and of the number of credits, units, or hours assigned by the institution.

B. Authoring, editing, producing, or reviewing in the area of professional counseling. Continuing education hours may be earned only in the year of publication. The maximum hours earned are as follows:

(1) author of a professional book, 30 hours. Acceptable documentation is a copy of the title page and any other pages needed to indicate the date of publication;

(2) author of a professional book chapter or peer-reviewed journal article, 25 hours. Acceptable documentation is the table of contents showing the title and author and any other pages needed to indicate the date of publication;

(3) editor of a professional book or peer-reviewed journal, 20 hours. Acceptable documentation is a copy of the title page and any other pages needed to indicate the date of publication; and

(4) journal article peer review, two hours per manuscript. For this unit only, continuing education hours may be earned in the year the review is received by the editor. Acceptable documentation is a letter from the editor verifying the review has been provided.

C. Presentations at workshops, seminars, symposia, meetings of professional organizations, or postgraduate institutes. The presentation must be related to professional counseling. A presenter may claim one hour of continuing education for each hour of presentation time. A presenter may also receive continuing education hours for development time at the rate of three hours for each hour of presentation time. Continuing education hours may be earned only for the licensee's first presentation on the subject developed. Acceptable documentation of completion is a printed program or agenda. One presentation hour equals three continuing education hours. Continuing education hours may be earned only for the licensee's first presentation of the content.

D. Acting as:

(1) a board member of a major state or national professional counseling organization or a member of a committee of such an organization;

(2) a board member of a national counselor certification board;

(3) a board member of a state counseling licensure/certification board; or

(4) the chair of a major counseling conference or convention.

Continuing education hours may be claimed for actual meeting time only, on a per-hour basis up to 20 hours per reporting period. Acceptable documentation is a letter from the board's executive director or equivalent attesting to the hours spent in service to the board.

E. Individually designed continuing education activity. Licensees may submit proposals for continuing education activities that do not meet other guidelines established in this part. No more than one-fourth of the required 40 continuing education hours may be earned by this method. The proposal request must include the following:

(1) the rationale for pursuing an individually designed activity;

(2) specific goals and objectives, and an explanation of how the goals and objectives are related to the enhancement of the licensee's professional skills;

(3) an outline of the topics to be covered;

(4) a description of related resources and activities;

(5) the proposed documentation of completion of activity; and

(6) the estimate of time to be expended on the activity and the number of continuing education hours requested. The board shall make the final decision in the number of hours credited for completion of such activity.

F. Taking and passing for credit a graduate level course in counseling from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). Acceptable documentation is an academic transcript showing graduate credits earned. A licensee may receive 15 continuing education hours per semester credit hour or ten continuing education hours per quarter credit hour.

Statutory Authority: *MS s 14.389; 148B.52*

History: *29 SR 1605; 31 SR 325*

Published Electronically: *July 25, 2007*

2150.2590 DOCUMENTATION AND REPORTING COMPLIANCE.

Subpart 1. **Initial reporting requirement.** At the completion of the first four years of licensure, the licensee shall submit, with the renewal application, the Affidavit of Continuing Education Compliance as described in subpart 1a, showing completion of a minimum of 40 approved continuing education hours as required in part 2150.2520, subpart 4. The affidavit shall also list any graduate coursework completed as required by part 2150.2520 and Minnesota Statutes, section 148B.54, subdivision 2. For any such graduate courses, the licensee shall arrange to have transcripts showing completion of the requisite graduate credits sent directly to the board from the educational institution. Such transcripts must be received by the board within 60 days of the licensee's renewal date, or the licensee may be subject to administrative suspension until such time as the transcripts are received.

Subp. 1a. **Affidavit.** Following the initial four-year reporting period, every two years thereafter, when the licensee applies for renewal of the license, the licensee must complete and submit an Affidavit of Continuing Education Compliance showing that the licensee has completed a minimum of 40 approved continuing education hours since the last renewal. Failure to submit the affidavit when required makes the licensee's renewal application incomplete and void.

Subp. 2. **Documentation.** All licensees shall retain original documentation of completion of continuing education hours for a period of five years. For purposes of parts 2150.2500 to 2150.2660, a receipt for payment of the fee for the course is not sufficient evidence of completion of the required hours of continuing education.

Subp. 3. [Repealed, 31 SR 325]

Statutory Authority: *MS s 14.389; 148B.52*

History: *29 SR 1605; 31 SR 325*

Published Electronically: *July 25, 2007*

2150.2600 CARRYOVER OF CONTINUING EDUCATION CREDITS.

A licensee who has completed more than 40 approved continuing education hours in the preceding reporting period may carry hours in excess of 40 over to the next reporting period, up to a maximum of ten hours.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

2150.2650 CONTINUING EDUCATION AUDIT.

Annually, the board may randomly audit a percentage of its licensees for compliance with continuing education requirements as described in items A and B.

A. The board shall include with a selected licensee's renewal notice and application a notice that the licensee has been selected for an audit of continuing education hours. The notice must include the reporting periods selected for audit.

B. Selected licensees shall submit with their renewal application copies of the original documentation of completed continuing education hours. Upon specific request, the licensee shall submit original documentation. Failure to submit required documentation shall result in the renewal application being considered incomplete and void, and constitute grounds for nonrenewal of the license and disciplinary action.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

2150.2660 VARIANCE FROM CONTINUING EDUCATION REQUIREMENTS.

Subpart 1. **General.** If a licensee is unable to meet the continuing education requirements by the renewal date, the licensee may request a time-limited variance to fulfill the requirement after the renewal date. A licensee seeking a variance is considered to be renewing late, and is subject to the late renewal fee, regardless of when the request is received or whether the variance is granted.

Subp. 2. **Procedure.** The licensee shall submit the variance request on a form designated by the board, and include the variance fee in Minnesota Statutes, section 14.056, and the late fee for licensure renewal. The variance request is subject to Minnesota Statutes, section 14.055, subdivision 4, and must include a written plan listing the activities, including the dates and the number of hours for each, offered to meet the requirement. Hours completed after the renewal date pursuant to the written plan count toward meeting only the requirements of the previous renewal period. A variance granted under this subpart expires six months after the renewal date. A licensee who is granted a variance but fails to complete the required continuing education within the six-month period may apply for a second variance in accordance with this subpart.

Subp. 3. **Nonrenewal; suspension.** If an initial variance request is denied, the license of the licensee shall not be renewed until the licensee completes the continuing education requirements. If an initial variance is granted, and the licensee fails to complete the required continuing education with the six-month period, the license shall be administratively suspended until the licensee completes the required continuing education unless the licensee has obtained a second variance according to subpart 2.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

SUPERVISED FIELD EXPERIENCE AND PROFESSIONAL PRACTICE

2150.5000 PREDEGREE SUPERVISED FIELD EXPERIENCE.

Applicants must provide evidence satisfactory to the board of having completed supervised field experience as required in Minnesota Statutes, section 148B.53, subdivision 1, paragraph (a), clause (3). Verification must be in the form of a transcript or letter sent directly to the board from the program director or equivalent documenting the supervised field experience.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

2150.5010 POSTDEGREE SUPERVISED PROFESSIONAL PRACTICE.

Subpart 1. **Supervision.** For the purpose of meeting this part, "supervision" means documented interactive consultation, which, subject to the limitations in subpart 4, item B, may be conducted in person, by telephone, or by audio or audiovisual electronic device, between an approved supervisor and a licensed professional counselor. The supervision must be adequate to ensure the quality and competence of the activities supervised. Supervisory consultation must include discussions on the nature and content of the practice of the supervisee, including, but not limited to, a review of a representative sample of counseling services in the supervisee's practice.

Subp. 2. **Postdegree professional practice.** "Postdegree professional practice" means required postdegree paid or volunteer work experience and training that involves the professional oversight by an approved supervisor and satisfies the supervision requirements in subpart 4.

Subp. 3. **Approved supervisor.** For the purpose of this part, the supervision must be provided by a supervisor, approved by the board, who must:

A. be a licensed professional counselor, licensed psychologist, or other qualified supervisor as determined by the board;

B. have four years of professional counseling experience; and

C. have received a minimum of 45 hours of formal training in providing counseling supervision, which may include graduate coursework, continuing education courses, workshops, or a combination thereof. A supervisor approved by the board prior to July 5, 2005, is considered to have met the requirements of this subpart.

Subp. 4. Supervised practice requirements.

A. Licensed professional counselors must obtain supervision by an approved supervisor for the first 2,000 hours of professional practice. This part does not prohibit licensees from participating in other supervisory relationships for purposes other than meeting the requirements of this part.

B. The content of supervision must include:

(1) professional counseling knowledge, skills, values, and ethics with specific application to the practice issues faced by the supervisee;

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

(3) the supervisee's permissible scope of practice, as defined by Minnesota Statutes, section 148B.50, subdivision 5.

C. The supervision must be obtained at the rate of two hours of supervision per 40 hours of professional practice, for a total of 100 hours of supervision. The supervision must be evenly distributed over the course of the supervised professional practice. At least 75 percent of the required supervision hours must be received in person. The remaining 25 percent of the required hours may be received by telephone or by audio or audiovisual electronic device. At least 50 percent of the required hours of supervision must be received on an individual basis. The remaining 50 percent may be received in a group setting.

D. The supervision must be completed in no fewer than 12 consecutive months and no more than 36 consecutive months.

E. Except as provided in Minnesota Statutes, section 148B.53, subdivision 1, paragraph (c), the supervised practice must be completed under an approved supervision plan. Applicants must submit, on a form specified by the board, a written plan for meeting the supervision requirements. If the board determines that the supervision plan submitted meets the applicable supervision requirements, then the supervisee's completion of the supervised practice, as verified under this part, applies toward the supervised professional counseling practice requirement provided that there was no substantial change from the approved supervision plan. A licensee must not engage in the practice of professional counseling until the licensee's supervision plan has been approved by the board.

F. A professional counselor licensed under Minnesota Statutes, section 148B.53, subdivision 1, paragraph (c), and who maintain licensure as a licensed psychological practitioner may satisfy the 2,000 hours of supervised professional practice by complying with the supervision requirements

for a licensed psychological practitioner in Minnesota Statutes, section 148.925. Upon completion of 2,000 hours of supervised professional practice, the supervisor shall submit the verification described in item I. If a professional counselor is no longer licensed as a psychological practitioner for any reason prior to completion of the 2,000 hours of supervised professional practice, then the professional counselor shall comply with this item until completion of the 2,000 hours of supervised professional practice.

G. Applicants who are licensed psychologists under Minnesota Statutes, section 148.907, at the time of application for licensure as professional counselors are considered to have met the 2,000 hours of supervised professional practice. Such applicants shall submit true and correct copies of notarized supervision verifications submitted to the Board of Psychology pursuant to part 7200.0600.

H. The board shall not accept the verification of supervised practice, or approve a supervision plan, if the board determines that the supervisor does not meet the requirements of subpart 3.

I. Upon completion of the 2,000 hours of supervised professional practice, the supervisor shall verify, on a form specified by the board, that the supervisee has completed the supervision plan. The supervised practice required under this part is unacceptable if the supervisor attests that the supervisee's performance, competence, or adherence to the standards of practice and ethical conduct has been unsatisfactory.

J. A licensee shall submit a new supervision plan for board approval within 30 days if any of the following occur:

- (1) the licensee has a new supervisor;
- (2) the scope or content of the counseling practice changes substantially during the course of the supervision; or
- (3) the licensee begins a new counseling position.

K. Failure to submit changes to the supervision plan as required by item J shall result in hours accrued during this time period not counting towards the supervised practice requirement.

L. An applicant may receive complete or partial credit for supervised professional practice experience occurring postdegree but prior to licensure if the supervised professional practice meets the requirements of this subpart. Verification shall be on a form specified by the board, and shall be submitted in lieu of the supervision plan required in item E.

Statutory Authority: *MS s 148B.52*

History: *29 SR 1605*

Published Electronically: *July 25, 2007*

CONDUCT**2150.7500 CONDUCT.**

Subpart 1. **Scope.** Parts 2150.7500 to 2150.7610, as required by Minnesota Statutes, section 148B.52, apply to the conduct of all licensees and applicants, including conduct during the period of education, training, and employment, that is required for licensure.

Subp. 2. **Purpose.** The rules of conduct constitute the standards by which the professional conduct of professional counselors is measured.

Subp. 3. **Violations.** A violation of the rules of conduct is a sufficient reason for disciplinary action, corrective action, or denial of licensure.

Subp. 4. **Conflicts between rules and organizational demands.** If the organizational policies at the provider's work setting conflict with the rules of conduct, the provider shall clarify to the employer the nature of the conflict, make known the requirement to comply with the rules of conduct, and seek to resolve the conflict in a manner that results in compliance with the rules of conduct.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7505 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 2150.7500 to 2150.7610 have the meanings given in this part.

Subp. 2. **Applicant.** "Applicant" means an individual who has submitted to the board an application for licensure.

Subp. 3. **Board.** "Board" means the Board of Behavioral Health and Therapy.

Subp. 4. **Client.** "Client" means an individual or entity who is the recipient of any of the professional counseling services described in Minnesota Statutes, section 148B.50, subdivisions 4 and 5. Client also means "patient" as defined in Minnesota Statutes, section 144.291, subdivision 2, paragraph (g).

Subp. 5. **Competence.** "Competence" means the ability to provide services within the practice of licensed professional counseling as defined in Minnesota Statutes, section 148B.50, that:

A. are rendered with reasonable skill and safety;

B. meet minimum standards of acceptable and prevailing practice as described in part 2150.7600; and

C. take into account human diversity.

Subp. 6. **Dependent on the provider.** "Dependent on the provider" means that the nature of a former client's emotional or cognitive condition and the nature of the services by the provider are such that the provider knows or should have known that the former client is unable to withhold consent to sexual exploitative behavior by the provider.

Subp. 7. **Dual clients.** "Dual clients" means two or more individuals or entities that are each a corecipient of professional counseling services. Dual clients may include, but are not limited to, two or more family members, when each is the direct recipient of services; each client receiving group counseling services; a court and a client under court order to receive counseling services; or an employer and employee when the employee receives services in order to provide the employer with information regarding an employment matter.

Subp. 8. **False or misleading information.** "False or misleading information" means any public statement that contains a material misrepresentation or omission of fact that is likely to create an unjustified expectation about results the provider can achieve or that compares the provider's services with other providers' services, unless the comparison can be factually substantiated.

Subp. 9. **Familial.** "Familial" means of, involving, related to, or common to a family member as defined in subpart 10.

Subp. 10. **Family member or member of the family.** "Family member" or "member of the family" are relatives in the first degree, which means a spouse, parent, offspring, sibling, grandparent, grandchild, uncle, aunt, niece, or nephew, or an individual who serves in the role of one of the foregoing.

Subp. 11. **Forensic.** "Forensic" means services within the practice of professional counseling, of which the purpose is to address questions and issues relating to parties to legal proceedings and to law and the legal system, including the courts, correctional agencies and facilities, attorneys, and administrative, judicial, and legislative agencies acting in an adjudicative capacity.

Subp. 12. **Human diversity.** "Human diversity" means individual client differences that are associated with the client's cultural group, including race, ethnicity, national origin, religious affiliation, language, age, gender, gender identity, physical and mental capabilities, sexual orientation, marital status, or socioeconomic status.

Subp. 13. **Informed consent.** "Informed consent" means an agreement between a provider and a client that authorizes the provider to engage in a professional activity affecting the client. Informed consent requires that the client be given sufficient information to decide knowingly whether to agree to the proposed professional activity, that the information be discussed in language that the client can reasonably be expected to understand, and that the consent be given without undue influence by the provider.

Subp. 14. **Licensee of the board or licensee.** "Licensee of the board" or "licensee" means a licensed professional counselor.

Subp. 15. **Multiple relationship.** "Multiple relationship" means a relationship between a provider and a client that is both professional and one or more of the following:

A. cohabitational;

B. familial;

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

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

Subp. 16. **Objective.** "Objective" means a manner of administering a test and recording, scoring, and interpreting responses that is independent, insofar as is possible, of the subjective judgment of the particular examiner.

Subp. 17. **Practice foundation.** "Practice foundation" means that a professional counseling service or continuing education activity is based upon observations, methods, procedures, or theories that are generally accepted by the professional community in professional counseling.

Subp. 18. **Private information.** "Private information" means any information, including but not limited to, client records as defined in part 2150.7535, test results, or test interpretations developed during a professional relationship between a provider and a client.

Subp. 19. **Professional relationship.** "Professional relationship" means the relationship between a provider and the provider's client.

Subp. 20. **Provider.** "Provider" means a licensee or applicant.

Subp. 21. **Public statements.** "Public statements" means any statements, communications, or representations by providers to the public regarding themselves or their professional services or products. Public statements include, but are not limited to, advertising, representations in reports or letters, descriptions of credentials and qualifications, brochures and other descriptions of services, directory listings, personal resumes or curricula vitae, comments for use in the media, websites, grant and credentialing applications, or product endorsements.

Subp. 22. **Report.** "Report" means any written or oral professional communication, including a letter, regarding a client or subject that includes one or more of the following: historical data, behavioral observations, test interpretations, opinions, diagnostic or evaluative statements, or recommendations. The testimony of a provider as an expert or fact witness in a legal proceeding also constitutes a report. For purposes of these rules, letters of recommendation for academic or career purposes are not considered reports.

Subp. 23. **Research subject.** "Research subject" means an individual participating in a research study for the period of time during which the individual is providing data for the study.

Subp. 24. **Scientific foundation.** "Scientific foundation" means that a professional counseling or continuing education activity is based upon quantitative or qualitative research, such as, but not

limited to, published peer-reviewed experiments or correlational, observational, or ethnographic studies, or upon research presented at professional meetings.

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

Subp. 26. **Standardized test.** "Standardized test" means a test that is administered, recorded, and scored in a uniform and objective manner, is interpreted by means of normative data, and includes a manual or other published information that fully describes its development, rationale, validity, reliability, and normative data.

Subp. 27. **Student.** "Student" means an individual over whom the provider has evaluative academic authority, including an individual who is enrolled in a graduate program in professional counseling at an educational institution or who is taking a professional counseling course for credit. This does not apply to an individual who is taking a professional counseling course to receive continuing education credit from a board or who is auditing a course.

Subp. 28. **Supervised field experience.** "Supervised field experience" means an internship, practicum, or other supervised professional experience used for purposes of obtaining licensure as a professional counselor.

Subp. 29. **Supervisee.** "Supervisee" means an individual whose supervision is required to obtain credentialing by a licensure board or to comply with a board order.

Subp. 30. **Test.** "Test" means any instrument, device, survey, questionnaire, technique, scale, inventory, or other process which is designed or constructed for the purpose of measuring, evaluating, assessing, describing, or predicting personality, behavior, traits, cognitive functioning, aptitudes, attitudes, skills, values, interests, abilities, or other characteristics of individuals.

Subp. 31. **Unprofessional conduct.** "Unprofessional conduct" means any conduct that fails to conform to the minimum standards of acceptable and prevailing practice as described in part 2150.7600.

Subp. 32. **Variance.** "Variance" means board-authorized permission to comply with a rule in a manner other than that generally specified in the rule.

Subp. 33. **Waiver.** "Waiver" means board-authorized permission not to comply with a rule.

Subp. 34. **Written informed consent.** "Written informed consent" means a written statement signed by the individual making the statement that authorizes a provider to engage in activity which directly affects the individual signing the statement. The statement must include a declaration that the individual signing the statement has been told of and understands the purpose of the authorized activity. Written informed consent means informed consent that is set forth in writing and signed by the client.

Statutory Authority: *MS s 148B.52*

History: 30 SR 345; L 2007 c 147 art 10 s 15

Published Electronically: September 6, 2018

2150.7510 COMPETENT PROVISION OF SERVICES.

Subpart 1. **Limits on practice.** Professional counselors shall limit practice to the client populations and services for which they have competence or for which they are developing competence.

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

Subp. 3. **Experimental, emerging, or innovative services.** Professional counselors may offer experimental, emerging, or innovative services, methods, or procedures that are based on a scientific or practice foundation. However, when doing so, they have a heightened responsibility to understand and communicate the potential risks to clients, to use reasonable skill and safety, and to undertake appropriate preparation as required in subpart 2 to ensure that they provide such services, methods, or procedures competently and in a manner that protects clients from harm.

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

Subp. 5. **Burden of proof.** Whenever a complaint is submitted to the board involving violation of subparts 1 to 4, the burden of proof is upon the provider to demonstrate that the elements of competence have reasonably been met.

Statutory Authority: *MS s 148B.52*

History: 30 SR 345

Published Electronically: July 25, 2007

2150.7515 PROTECTING THE PRIVACY OF CLIENTS.

Subpart 1. **Safeguarding private information.** The provider shall safeguard the private information obtained in the course of the practice of professional counseling. Private information may be disclosed to others only in accordance with part 2150.7520, with certain exceptions as specified in subparts 2 to 13.

Subp. 2. **Limited disclosure to others without consent.** Private information may be disclosed without the consent of the client when disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another individual, or as otherwise provided by law or court order. In such case, the private information may be disclosed

only to law enforcement agencies, the potential victim, the family of the client, or appropriate third parties in a position to prevent or avert the harm.

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

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

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

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

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

Subp. 8. **Case reports.** Case reports or other clinical materials used in teaching, presentations, professional meetings, or publications shall be reasonably disguised to prevent identification of the client.

Subp. 9. **Observation and recording.** Diagnostic interviews or therapeutic sessions with a client may be observed or electronically recorded only with written informed consent.

Subp. 10. **Continued privacy of client information.** The provider shall maintain indefinitely the privacy of client information after the professional relationship has ceased between the provider and the client.

Subp. 11. **Court-ordered or other mandated disclosures.** The proper disclosure of private information upon a court order or to conform with state or federal law, rule, or regulation shall not be considered a violation of parts 2150.7500 to 2150.7610.

Subp. 12. **Abuse or neglect of minors or vulnerable adults.** In the course of professional practice, the provider shall not violate any law concerning the reporting of abuse or neglect of minors or vulnerable adults.

Subp. 13. **Initial contacts.** When the provider is initially contacted by an individual regarding professional counseling services to a potential client, the provider or another individual designated by the provider may, with oral consent from the potential client, contact third parties to determine payment or benefits information, arrange for precertification of services when required by the individual's health plan, or acknowledge a referral from another health care professional.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7520 ACCESSING AND RELEASING PRIVATE INFORMATION.

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

Subp. 2. **Release of private information.** When a client initiates the release of private information, the request must be in writing and signed by the client. Informed consent is not required. When the request involves client records, all pertinent information shall be released in compliance with Minnesota Statutes, sections 144.291 to 144.298. However, if the provider initiates the release of private information, written authorization for release of information must be obtained from the client and must minimally include:

- A. the name of the client;
- B. the name of the individual or entity providing the information;
- C. the name of the individual or entity to which release is to be made;
- D. the types of information to be released, such as progress notes, diagnoses, assessment data, or other specific information;
- E. the purpose of the release, such as whether the release is to coordinate professional care with another provider, to obtain insurance payments for services, or for other specified purposes;
- F. the time period covered by the consent;
- G. a statement that the consent is valid for one year, except as otherwise allowed by statute, or for a lesser period that is specified in the consent;
- H. a declaration that the individual signing the statement has been told of and understands the nature and purpose of the authorized release;

I. a statement that the consent may be rescinded, except to the extent that the consent has already been acted upon or that the right to rescind consent has been waived separately in writing;

J. the signature of the client or the client's legally authorized representative, whose relationship to the client must be stated; and

K. the date on which the consent is signed.

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

Subp. 4. **Board investigations.** The provider shall release to the board and its agents private information that the board and its agents consider to be germane to the investigation of all matters pending before the board that relate to its lawful regulation activities.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345; L 2007 c 147 art 10 s 15*

Published Electronically: *July 25, 2007*

2150.7525 INFORMED CONSENT.

Subpart 1. **Obtaining informed consent for services.** The provider shall obtain informed consent for services to a client. Except as provided in subpart 2, the informed consent may be oral or written and must minimally include the following:

A. the goals, purpose, and procedures of the proposed service;

B. a discussion of factors that may impact the duration of the service;

C. the applicable fee schedule;

D. the limits to the client's privacy;

E. the provider's responsibilities if the client decides to terminate the service;

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

G. if the proposed service, method, or procedure is of an experimental, emerging, or innovative nature, the provider shall advise the client in accordance with part 2150.7510, subpart 3; and

H. where applicable, information that the provider is developing a competence in the proposed service, method, or procedure and alternatives to the service, if any.

Subp. 2. **Written informed consent.** Written informed consent is required for forensic services, services in which the provider is developing competence, or for services of an experimental, emerging, or innovating nature.

Subp. 3. **Updating informed consent.** If the nature or purpose of a service changes substantially, the provider must reobtain informed consent accordingly.

Subp. 4. **Emergency or crisis services.** When emergency or crisis services are provided, the provider need not obtain informed consent. If services continue after the emergency or crisis has abated, informed consent must then be obtained.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7530 TERMINATION OF SERVICES.

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

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

A. the provider's objectivity or effectiveness is impaired, unless a resolution can be achieved as permitted in part 2150.7540; or

B. the client is unlikely to benefit from continued professional services by the provider, is being harmed by further services, or the services are not needed.

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

Subp. 4. **Recommendation upon termination.** Upon the termination of counseling services, the provider shall:

A. offer to make a recommendation to the client for appropriate mental health services whenever the provider believes they are needed by the client; or

B. provide such a recommendation upon the request of the client.

Subp. 5. **Exception to required recommendation.** The requirements of subpart 4 do not apply when an assessment of an individual for a third party is conducted in which a recommendation for mental health services is not part of the requested service.

Subp. 6. **Absence from practice.** Nothing in this part requires the provider to terminate a client due to an absence from practice that is the result of a period of illness or injury that does not affect the provider's ability to practice with reasonable skill and safety, as long as arrangements

have been made for temporary counseling services that may be needed by the client during the provider's absence.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7535 RECORD KEEPING.

Subpart 1. **Record-keeping requirements.** Providers shall maintain accurate and legible records of their services for each client. Records must minimally contain:

- A. an accurate chronological listing of all contacts with the client;
- B. documentation of services, including, where applicable:
 - (1) assessment methods, data, and reports;
 - (2) an initial treatment plan and any subsequent revisions;
 - (3) the name of the individual providing the services;
 - (4) case notes for each date of service, including any interventions;
 - (5) consultations with collateral sources;
 - (6) diagnoses or problem description;
 - (7) documentation that informed consent for services was obtained, including written informed consent documents, where required; and
 - (8) the name and credentials of the individual who is professionally responsible for the services provided;
- C. copies of all correspondence relevant to the client;
- D. a client personal data sheet;
- E. copies of all client authorizations for release of information and any other documents pertaining to the client; and
- F. an accurate chronological listing of all fees charged, if any, to the client or a third-party payer.

Subp. 2. **Duplicate records.** Although it is the responsibility of providers to document the information required in subpart 1, they need not maintain client records that duplicate those maintained by the agency, clinic, or other facility at which they provide services.

Subp. 3. **Records retention.** The provider shall retain a client's records for a minimum of seven years after the date of the provider's last professional service to the client, except as otherwise

provided by law. If the client is a minor, the records retention period does not begin until the client reaches the age of 18, except as otherwise provided by law.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7540 IMPAIRED OBJECTIVITY OR EFFECTIVENESS.

Subpart 1. **Situations involving impaired objectivity or effectiveness.** A professional counselor must not provide counseling services to a client or potential client when the professional counselor's objectivity or effectiveness is impaired. The situations in items A to F are deemed to involve impaired objectivity or effectiveness and are prohibited as specified.

A. The provider shall not provide counseling services to a client if doing so would create a multiple relationship. If an unforeseen multiple relationship arises after services have been initiated, the provider shall promptly terminate the professional relationship.

B. The provider shall not provide to a client psychotherapy or assessment services and, concurrently, either supervision or teaching. If an unforeseen situation arises in which both types of services are required or requested by the client or a third party, the provider shall decline to provide one or both of the services.

C. The provider shall not provide concurrently to a client two or more types of counseling services in which a fundamental conflict arises. If the conflict cannot be resolved in the manner required in subpart 2, the provider shall decline to provide one or more of the services that give rise to the conflict.

D. The provider shall not provide psychotherapy services to dual clients whose psychotherapy goals are fundamentally irreconcilable. If an unforeseen situation of this type should arise after services have been initiated, the provider shall promptly terminate services to one or both clients.

E. The provider shall not provide counseling services to a client when the provider is biased for or against the client for any reason that interferes with the provider's impartial judgment, including where the client is a member of a class of individuals that is legally protected from discrimination. However, services may be provided if the provider is resolving the impairment in the manner required in subpart 2.

F. The provider shall not provide counseling services to a client when there is a fundamental divergence or conflict of service goals, interests, values, or attitudes between the client and the provider that adversely affects the professional relationship. However, services may be provided if the provider is resolving the impairment in the manner required in subpart 2.

Subp. 2. **Resolution of impaired objectivity or effectiveness.** When an impairment occurs that is listed in subpart 1, item C, E, or F, the provider may provide services only if the provider actively pursues a resolution of the impairment and is able to do so in a manner that results in

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

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7545 PROVIDER IMPAIRMENT.

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

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7550 CLIENT WELFARE.

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

Subp. 2. **Clients' bill of rights.** The provider shall display prominently on the premises of the professional practice or make available as a handout the bill of rights of clients as required by Minnesota Statutes, section 144.652, that includes a statement that consumers of professional counseling services have the right to:

A. expect that the provider has met the minimal qualifications of training and experience required by state law;

B. examine public records maintained by the Board of Behavioral Health and Therapy that contain the credentials of the provider;

C. obtain a copy of the Rules of Conduct from Minnesota's Bookstore, Department of Administration, 660 Olive Street, St. Paul, MN 55155, or its current location;

D. report complaints to the Board of Behavioral Health and Therapy;

- E. be informed of the cost of professional services before receiving the services;
- F. privacy as defined and limited by rule and law;
- G. be free from being the object of unlawful discrimination while receiving counseling services;
- H. have access to their records as provided in part 2150.7520, subpart 1, and Minnesota Statutes, section 144.292, except as otherwise provided by law;
- I. be free from exploitation for the benefit or advantage of the provider;
- J. terminate services at any time, except as otherwise provided by law or court order;
- K. know the intended recipients of assessment results;
- L. withdraw consent to release assessment results, unless this right is prohibited by law or court order or is waived by prior written agreement;
- M. a nontechnical description of assessment procedures; and
- N. a nontechnical explanation and interpretation of assessment results, unless this right is prohibited by law or court order or this right was waived by prior written agreement.

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

Subp. 4. **Misusing client relationship.** The provider shall not misuse the relationship with a client due to a relationship with another individual or entity.

Subp. 5. **Exploitation of client.** The provider shall not exploit in any manner the professional relationship with a client for the provider's emotional, financial, sexual, or personal advantage or benefit. This prohibition is extended indefinitely to former clients who are vulnerable or dependent on the provider.

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

A. sexual contact with the client, as defined in Minnesota Statutes, section 148A.01, subdivision 7; or

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

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

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

Subp. 9. **Referrals on request.** A provider shall make a prompt and appropriate referral of the client to another professional when requested to do so by the client.

Subp. 10. **Coordinating services with other professionals.** . A provider shall ask a client whether the client has had or continues to have a professional relationship with another mental health professional. If it is determined that the client had or has a professional relationship with another mental health professional, the provider shall, to the extent possible and consistent with the wishes and best interests of the client, coordinate services for that client with the other mental health professional.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345; L 2007 c 147 art 10 s 15*

Published Electronically: *July 25, 2007*

2150.7555 WELFARE OF STUDENTS, SUPERVISEES, AND RESEARCH SUBJECTS.

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

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

A. impose any stereotypes of behavior, values, or roles related to race, ethnicity, national origin, religious affiliation, language, age, gender, physical disabilities, mental capabilities, sexual orientation or identity, marital status, or socioeconomic status;

B. exploit or misuse in any manner the professional relationship for the emotional, financial, sexual, or personal advantage or benefit of the provider or another individual or entity;

C. engage in any sexual behavior with a current student, supervisee, or research subject, including sexual contact, as defined in Minnesota Statutes, section 148A.01, subdivision 7, or any physical, verbal, written, interactive, or electronic communication, conduct, or act that may be reasonably interpreted to be sexually seductive, demeaning, or harassing. Nothing in this part shall prohibit a provider from engaging in teaching or research with an individual with whom the provider has a preexisting and ongoing sexual relationship;

D. engage in any behavior likely to be deceptive or fraudulent;

E. disclose evaluative information except for legitimate professional or scientific purposes;

or

F. engage in any other unprofessional conduct.

Statutory Authority: *MS s 148B.52*

History: 30 SR 345

Published Electronically: July 25, 2007

2150.7560 MEDICAL AND OTHER HEALTH CARE CONSIDERATIONS.

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

Subp. 2. **Reviewing previous health care information.** If the provider determines that the client has had a relationship that is relevant to the provider's services to the client, the provider shall, to the extent possible and consistent with the wishes and best interests of the client, seek to review this information.

Subp. 3. **Relevant medical conditions.** If the provider becomes aware that a client's psychological condition or diagnosis may have a medical etiology or consequence, the provider shall, within the boundaries of the provider's competence and consistent with the wishes and best interests of the client, discuss this with the client and offer to assist with identifying possible medical resources for the client to consider.

Subp. 4. Medications.

A. Within their competence, providers may discuss prescription or nonprescription medications and their effects with a client or the client's physician or prescribing health care provider, or in a report.

B. Providers shall make clear in medication discussions with a client or in a report that the ultimate decision whether to prescribe, alter, or discontinue a medication lies solely with a physician or other prescribing health care provider.

C. Providers shall not recommend to a client or in a report specific medications by trade or generic name or dosage, or recommend the discontinuation of medications.

Statutory Authority: *MS s 148B.52*

History: 30 SR 345

Published Electronically: July 25, 2007

2150.7565 ASSESSMENTS, TESTS, REPORTS.

Subpart 1. **Basis for assessments.** When providers conduct assessments, they shall meet the requirements in items A to C.

A. They shall base their assessments on records, information, observations, and techniques sufficient to substantiate their findings.

B. Except as permitted in item C, they shall render opinions regarding individuals only after they have conducted an examination of the individual adequate to support their statements or conclusions, unless such an examination is not practical despite reasonable efforts.

C. They may limit their assessments to reviewing records or providing testing services when an individual examination is not warranted or necessary for the opinion requested.

Subp. 2. **Administration and interpretation of tests.** Providers shall use tests as described in items A to E.

A. Standardized tests shall be used preferentially over nonstandardized tests.

B. All tests must be administered and responses must be recorded, scored, and interpreted based on practice or scientific foundations.

C. If a test is used in a nonstandard manner, the limitations of the test and the reasons for its nonstandard use must be clearly stated in the report.

D. A test's reliability, validity, and normative data must be taken into account in its selection, use, and interpretation.

E. The reliability and validity of test statements and interpretations in reports are the responsibility of the provider, including when automated testing services are used.

Subp. 3. **Reports.** The provision of a written or oral report, including testimony of a provider as an expert witness and letters to third parties concerning the psychological or emotional health or state of a client, must be based on information and techniques sufficient to substantiate their findings. Providers shall be fair and accurate and shall guard against making unsubstantiated statements or providing unsubstantiated opinions, interpretations, or recommendations in their reports. The report must include:

A. a description of all assessments, evaluations, or other procedures, including materials reviewed, upon which the provider's conclusions are based;

B. any reservations or qualifications concerning the validity or reliability of the opinions and conclusions formulated and recommendations made, taking into account the conditions under which the procedures were carried out, including any nonstandard use of a test, the limitations of scientific procedures and descriptions, base rate and baseline considerations, and the impossibility of absolute predictions;

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

D. a statement of the nature of and reasons for any use of a test that differs from the purposes, populations, or referral questions for which it has been designed or validated, or that is administered, recorded, scored, or interpreted in other than a standard and objective manner; and

E. a statement indicating whenever any test interpretations or report conclusions are not based on direct contact between the provider and the client.

Subp. 4. **Private information.** A test result or interpretation regarding an individual is private information.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7570 PUBLIC STATEMENTS.

Subpart 1. **Prohibition against false or misleading information.** Public statements by providers must not include false or misleading information. Providers shall not solicit or use testimonials by quotation or implication from current clients or former clients who are vulnerable to undue influence. The provider shall make reasonable efforts to ensure that public statements by others on behalf of the provider are truthful and shall make reasonable remedial efforts to bring a public statement into compliance with parts 2150.7500 to 2150.7610 when the provider becomes aware of a violation.

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

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

- A. specified educational requirements defined by the specialty board;
- B. specified experience requirements defined by the specialty board;
- C. a work product evaluated by other specialty board members; and

D. a face-to-face examination by a committee of specialty board members or a comprehensive written examination in the area of specialization.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7575 PRESENTATION TO PUBLIC.

Subpart 1. **Requirements for professional identification.** All licensees, when representing themselves in activities relating to the practice of professional counseling, including in written materials or advertising, shall identify the academic degree upon which their licensure is based, as

well as their licensure. Individuals licensed on the basis of the equivalent of a master's degree in a doctoral program shall similarly use the designation "M. Eq." to identify the educational status on which their licensure is based, as well as their licensure.

Subp. 2. **Disclosure of education.** At the initial meeting, a licensee shall display or make available to each new client accurate information about the qualifications and competencies of the licensee, including whether the licensee is currently completing the postlicensure supervised practice requirement.

Subp. 3. **Requirements for representations to public.**

A. Unless licensed under Minnesota Statutes, sections 148B.50 to 148B.593, persons shall not represent themselves or permit themselves to be represented to the public by:

(1) using any title or description of services, incorporating the words "licensed professional counselor" or "professional counselor" or otherwise holding themselves out to the public by any title or description stating or implying that they are licensed to engage in the practice of professional counseling; or

(2) representing that the person has expert qualifications in an area of professional counseling.

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

C. An individual trained in professional counseling from an institution described in item B may offer lecture services and is exempt from the provisions of this part.

D. A person who is participating in a supervised field experience as part of a degree program or for purposes of licensure by the board may be designated as a "counselor intern."

Subp. 4. **Persons or techniques not regulated by board.**

A. Nothing in Minnesota Statutes, sections 148B.50 to 148B.593, may be construed to limit the occupational pursuits consistent with their training and codes of ethics of professionals such as licensed physicians, registered nurses, licensed practical nurses, licensed psychologists, probation officers, attorneys, social workers, marriage and family therapists, qualified rehabilitation consultants, natural family planning practitioners certified by the American Academy of Natural Family Planning, and registered occupational therapists or certified occupational therapist assistants. These persons must not, however, use a title incorporating the words "licensed professional counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are licensed to engage in the practice of professional counseling unless they are licensed under Minnesota Statutes, sections 148B.50 to 148B.593.

B. Use of professional counseling techniques by business and industrial organizations for their own personnel purposes or by employment agencies or state vocational rehabilitation agencies for the evaluation of their own clients prior to recommendation for employment is also specifically allowed. However, no representative of an industrial or business firm or corporation may sell, offer, or provide any professional counseling services as defined in Minnesota Statutes, section 148B.50, unless the services are performed or supervised by individuals licensed under Minnesota Statutes, sections 148B.50 to 148B.593.

Subp. 5. **Other professions not authorized.** Nothing in Minnesota Statutes, sections 148B.50 to 148B.593, may be construed to authorize a person licensed under Minnesota Statutes, sections 148B.50 to 148B.593, to engage in the practice of any profession regulated under Minnesota law unless the person is duly licensed or registered in that profession.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7580 FEES AND STATEMENTS.

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

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

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

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

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

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7585 AIDING AND ABETTING UNLICENSED PRACTICE.

A provider shall not aid or abet an unlicensed individual to engage in the practice of professional counseling. However, a provider who supervises a student as part of an internship, practicum, or

other supervised field experience is not in violation of this part if the supervision is conducted according to part 2150.5000 and Minnesota Statutes, sections 148B.50 to 148B.593. Additionally, properly qualified individuals who administer and score testing instruments under the direction of a provider who maintains responsibility for the service are not considered to be in violation of this part. The provider assumes responsibility for adequate training, experience, and oversight to assure proper qualifications to administer and score the instruments.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7590 VIOLATION OF LAW.

A provider shall not violate any law in which the facts giving rise to the violation involve the practice of professional counseling as defined in Minnesota Statutes, sections 148B.50 to 148B.593. In any board proceeding alleging such a violation of this part, the proof of a conviction of a crime constitutes proof of the underlying factual elements necessarily underlying that conviction.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7595 DECEPTION OR FRAUD.

A provider shall not engage in any conduct likely to deceive or defraud the public or the board.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7600 UNPROFESSIONAL CONDUCT.

A provider shall not engage in any unprofessional conduct. Unprofessional conduct is any conduct violating parts 2150.7500 to 2150.7610, Minnesota Statutes, sections 148B.50 to 148B.593, or any conduct that fails to conform to the minimum standards of acceptable and prevailing practice that have become established by consensus of the expert opinion of professional counselors as reasonably necessary for the protection of the public interest.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*

2150.7605 COMPLAINTS TO BOARD.

Subpart 1. **Mandatory reporting requirements.** A provider shall file a complaint with the board when the provider has reason to believe that another provider:

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

B. is engaging in or has engaged in sexual behavior with a client or former client in violation of part 2150.7550, subparts 5 and 6. This subpart does not apply when the information is obtained in the course of treating the other provider for the sexual behavior;

C. has failed to report abuse or neglect of children or vulnerable adults in violation of Minnesota Statutes, chapter 260E or section 626.557; or

D. has employed fraud or deception in obtaining or renewing a professional counseling license.

Subp. 2. **Optional reporting requirements.** A provider who has reason to believe that the conduct of another provider appears to be in violation of parts 2150.7500 to 2150.7610 or Minnesota Statutes, sections 148B.50 to 148B.593, other than conduct listed in subpart 1 may file a complaint with the board.

Subp. 3. **Client complaints to board.** A provider shall, upon request, provide information regarding the procedure for filing a complaint with the board and shall, upon request, assist with filing a complaint. A provider shall not attempt to dissuade a client from filing a complaint with the board, or require that the client waive the right to file a complaint with the board as a condition for providing services.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *October 13, 2021*

2150.7610 WAIVERS AND VARIANCES.

Subpart 1. **Application.** A licensee or applicant for licensure may petition the board for a waiver or variance of any rule except for any part of a rule which incorporates a statutory requirement. The petition shall be on a form prescribed by the board, and shall be accompanied by the applicable fee. The waiver or variance shall be granted if:

A. adherence to the rule would impose an undue burden on the petitioner;

B. the granting of a waiver or variance will not adversely affect the public welfare; and

C. in the case of a variance, the rationale for the rule in question can be met by alternative practices or measures specified by the petitioner.

Subp. 2. **Renewal, reporting, and revocation.** A waiver or variance shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver or variance shall immediately notify the board in writing of any material change in the circumstances that justify its granting. A

waiver or variance shall be revoked if a material change in the circumstances that justify its granting occurs or, in the case of a variance, if the petitioner has not complied with the alternative practices or measures specified in the petition.

Subp. 3. **Burden of proof.** The burden of proof is upon the petitioner to demonstrate to the board that the requirements in subpart 1 have been met.

Subp. 4. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked must include the reason for the action.

Statutory Authority: *MS s 148B.52*

History: *30 SR 345*

Published Electronically: *July 25, 2007*