

1 Board of Unlicensed Mental Health Service Providers

2

3 Adopted Permanent Rules Relating to Unlicensed Mental Health  
4 Service Providers

5

6 Rules as Adopted

7 9000.0050 PURPOSE.

8 Parts 9000.0100 to 9000.0200 establish filing procedures  
9 for unlicensed mental health service providers. The purpose of  
10 the filing procedures is to establish a regulatory system and  
11 central registry of persons who provide or purport to provide  
12 mental health services.

13 9000.0100 DEFINITIONS.

14 Subpart 1. **Scope.** For purposes of parts 9000.0100 to  
15 9000.0200, the following terms have the meanings given them.

16 Subp. 2. **Applicant.** "Applicant" means a person who  
17 applies to file as a mental health service provider with the  
18 board.

19 Subp. 3. **Board.** "Board" means the Board of Unlicensed  
20 Mental Health Service Providers.

21 Subp. 4. **Mental health services.**

22 A. "Mental health services" means the provision of  
23 any assessment; diagnosis; treatment; ~~aftercare~~; counseling;  
24 therapy including guidance, pastoral ~~care~~ mental health  
25 counseling, treatment or therapy for addiction, abuse, or  
26 abusive behavior exhibited or received by an individual;  
27 psychotherapy; hypnotherapy or hypnoanalysis; personal analysis;  
28 or other mental health services for remuneration. Mental health  
29 services are services that are designed to alleviate symptoms,  
30 change or reduce disturbed patterns of behavior, enhance  
31 intrapsychic awareness, and increase the ability of the  
32 individual to adapt to and cope with internal and external  
33 stress. Mental health services must use interpersonal,  
34 intrapsychic, or behavioral methods. Mental health services may  
35 be provided to individuals, couples, families, or groups who are

1 experiencing a problem behavior; have social, interpersonal, or  
2 intrapersonal dysfunction; or have cognitive or emotional  
3 distress, unwanted anxiety, or other mental,  
4 psycho-physiological, or psycho-social conditions that they seek  
5 to alleviate.

6 B. "Mental health services" includes those services  
7 in item A. Mental health services does not include services  
8 that are:

- 9 (1) primarily for entertainment;  
10 (2) primarily informational;  
11 (3) primarily for client advocacy; or  
12 (4) related to a custodial or maintenance  
13 function.

14 C. "Mental health services" does not include the  
15 following areas of practice unless the primary focus is the  
16 provision of services as defined in item A: educational,  
17 vocational, or career guidance; and spiritual counseling or  
18 pastoral care of a congregation, or a congregation member, by  
19 clergy when the care is not related to the provision of mental  
20 health services in item A.

21 Subp. 5. **Provider.** "Provider" means a person who provides  
22 or purports to provide mental health services for remuneration.  
23 A mental health service provider may be:

24 A. a counselor (crisis, grief, eating disorder,  
25 compulsion, phobia or anxiety, drug and alcohol addiction,  
26 mental health, pastoral mental health, or sexual and physical  
27 abuse);

28 B. a school and college counselor, if the counselor  
29 is providing mental health services as defined in subpart 4;

30 C. a rehabilitation officer or counselor, if the  
31 person provides mental health services as defined in subpart 4;

32 D. a social worker or marriage and family therapist,  
33 if the person is exempt from licensure under Minnesota Statutes,  
34 section 148B.28, subdivision 4, 5, or 6, or 148B.38;

35 E. a therapist in an area related to child care,  
36 education, new age therapy, holistic therapy, dance, music, or

1 recreation, if the therapist is providing mental health services  
2 as defined in subpart 4;

3 F. a hypnotist or hypnotherapist;

4 G. a behavior modification practitioner or analyst;

5 and

6 H. any other person, regardless of title, providing  
7 mental health services for remuneration who is not exempt from  
8 filing or is not one of the licensed providers described in  
9 Minnesota Statutes, section 148B.40, subdivision 3.

10 Subp. 6. **Remuneration.** "Remuneration" means a fee,  
11 salary, gift, reward, compensation, barter, or the expectation  
12 of payment or voluntary donation from the mental health client,  
13 or from the client's agent, insurer, employer, or other  
14 representative for providing mental health services.

15 Subp. 7. **Variance.** "Variance" means board authorized  
16 permission to comply with a rule in a manner other than that  
17 generally specified in the rule.

18 9000.0110 REQUIREMENT TO FILE.

19 Subpart 1. **Who must file.** A provider of mental health  
20 services for remuneration must file with the board on the forms  
21 provided, unless specifically excluded from filing by law or by  
22 subpart 2.

23 The application for filing must contain the information  
24 required according to Minnesota Statutes, sections 148B.06,  
25 subdivision 3, and 148B.42.

26 Subp. 2. **Exclusions from filing.** Persons excluded from  
27 filing under subpart 1 include the following:

28 A. a person specifically excluded from the definition  
29 of mental health service provider in Minnesota Statutes, section  
30 148B.40, subdivision 3; or

31 B. a person not providing mental health services as  
32 defined in part 9000.0100, subpart 4; ~~or.~~

33 ~~C. a person not providing mental health services for~~  
34 ~~remuneration.~~

35 Subp. 3. **Requirement to file.** A provider who wishes to

1 provide mental health services after the effective date of parts  
2 9000.0100 to 9000.0200 must apply to the board and receive  
3 acknowledgment of the filing as provided in part 9000.0130  
4 before providing services.

5 Subp. 4. **Late fees.** A provider who is providing mental  
6 health services when parts 9000.0110 to 9000.0200 become  
7 effective and who fails to file must pay the late filing fee and  
8 the regular filing fee specified in part 9000.0200.

9 This does not preclude the board from taking action under  
10 Minnesota Statutes, section 214.11 or from seeking relief under  
11 Minnesota Statutes, section 148B.42, subdivision 5.

12 9000.0120 PROCEDURE FOR FILING.

13 Subpart 1. **Application.** The application for filing must:

14 A. be made to the board on the forms provided by the  
15 board;

16 B. include an affirmation from the applicant that the  
17 statements are true and correct to the best of the applicant's  
18 knowledge and belief;

19 C. be accompanied by a nonrefundable application fee  
20 according to part 9000.0200;

21 D. be accompanied by a written authorization for the  
22 board to make inquiries to the appropriate regulatory agency in  
23 this state or any other state where the applicant has provided  
24 mental health service, about the applicant's malpractice  
25 history, if any;

26 E. be accompanied by a written authorization for the  
27 board to inquire about the malpractice history, if any, of the  
28 applicant at the National Clearing House for Licensure,  
29 Enforcement, and Regulation; and

30 F. be completed in sufficient detail for the board to  
31 determine if the applicant meets the requirements for filing.

32 The board may ask the applicant to provide additional  
33 information necessary to clarify incomplete or ambiguous  
34 information submitted in the application.

35 Subp. 2. **Requirements to maintain current information.** A

1 provider must notify the board within 30 days of occurrence of  
2 the following:

3           A. a change of name, address, or phone number (home  
4 and business);

5           B. a conviction of a crime against persons, or of a  
6 crime reasonably related to the provision of mental health  
7 service;

8           C. a settlement or award based on alleged malpractice  
9 by the provider;

10           D. a physical or mental disability that may affect a  
11 provider's ability to practice; and

12           E. ~~other factors that may reasonably be construed to~~  
13 affect public safety activities that are specifically prohibited  
14 under Minnesota Statutes, section 148B.44.

15           The board may take an adverse action under Minnesota  
16 Statutes, section 148B.45, against a filer who fails to meet the  
17 requirements of this part.

18 9000.0130 ACKNOWLEDGMENT OF FILING.

19           When an applicant has satisfied the requirements of filing,  
20 the board will issue a written "Acknowledgment of Filing" to the  
21 applicant. The "Acknowledgment of Filing" is a written  
22 statement that the applicant has met the requirements for filing  
23 under parts 9000.0100 to 9000.0200. This acknowledgment is  
24 personal and is not transferable to another person. It may not  
25 be displayed or published in any way. The date the board acts  
26 to authorize issuance of the applicant's "Acknowledgment of  
27 Filing" is the date on which the term of filing begins.

28 9000.0140 DENIAL OF FILING.

29           Subpart 1. **Grounds for denial.** An application for filing  
30 may be denied by the board if:

31           A. the application does not contain the information  
32 necessary for filing as determined by Minnesota Statutes,  
33 sections 148B.06, subdivisions 1 to 3, and 148B.42, subdivision  
34 1, and the information required by part 9000.0120, subpart 1,  
35 and the applicant has not provided the required information

1 within 60 days of application;

2 B. the applicant has presented false or misleading  
3 information on the application;

4 C. the applicant fails to fully disclose disciplinary  
5 actions taken in another state, province, or foreign government;

6 D. the applicant fails to notify the board of  
7 disciplinary action taken against the applicant by a licensing,  
8 certifying, or registering authority;

9 E. the applicant fails to authorize the board, as  
10 required in part 9000.0120, subpart 1, item D, to obtain  
11 information from the appropriate regulatory agency in this state  
12 or any other state or foreign government where the individual  
13 has provided mental health services; or

14 F. the applicant has engaged in behavior that is  
15 specifically prohibited under Minnesota Statutes, section  
16 148B.44.

17 Subp. 2. **Criminal conviction.** If the applicant has been  
18 convicted of a crime under Minnesota Statutes, section 148B.44,  
19 subdivision 1, paragraph (a) or (b), the board shall follow the  
20 standards and procedures in Minnesota Statutes, chapter 364, in  
21 determining whether to approve or deny an application for filing.

22 Subp. 3. **Notice of denial.** The board must notify an  
23 applicant, in writing, of a denial of an application for filing  
24 and the reasons for the denial. If the board denies an  
25 application for filing for reasons described in subpart 2, the  
26 board's notice must meet the requirements of Minnesota Statutes,  
27 section 364.05. An application submitted after a denial is a  
28 new application and must be accompanied by a new filing fee.

29 9000.0150 TERM OF FILING.

30 A filing is valid for one year. The year begins with the  
31 date on which the board acts to authorize the issuance of the  
32 "Acknowledgment of Filing," according to part 9000.0130, or the  
33 date the board acts to reissue the "Acknowledgment of Filing"  
34 after suspension, and ends one year later on the last day of the  
35 month in which the filing was acknowledged. The filing must be

1 renewed each year.

2 9000.0160 RENEWAL OF FILING.

3 Subpart 1. **Renewal notice.** Prior to the date the filing  
4 ends under part 9000.0150, the board shall send a renewal notice  
5 to the last known address of the provider. The notice must  
6 inform the provider of the requirement to renew the provider's  
7 filing and pay the current renewal fee by the deadline  
8 determined in subpart 2. If the provider does not receive the  
9 notice, the provider is still obligated to complete a renewal  
10 application and pay the renewal fee specified in part 9000.0200  
11 within the deadline in subpart 2. The renewal application must  
12 be made on the forms provided by the board. The forms are  
13 available from the board office.

14 Subp. 2. **Renewal deadline.** The provider must submit to  
15 the board the renewal application and the annual renewal fee  
16 required in part 9000.0200. The renewal application must be  
17 submitted or postmarked on or before the date the filing ends  
18 according to part 9000.0150. The renewal application must  
19 include an affirmation by the provider that the statements on  
20 the form are true and correct to the best knowledge and belief  
21 of the provider.

22 Subp. 3. **Late fees.** A provider seeking renewal must pay  
23 the renewal fee and the late fee if the application for renewal  
24 is submitted or postmarked after the time period specified in  
25 subpart 2.

26 The late fee must accompany applications of practicing  
27 mental health service providers not made by the effective date  
28 of this part.

29 Subp. 4. **Expiration of filing.** A filing expires if it is  
30 not renewed with the board within the deadline specified in  
31 subpart 2. A filing may be reissued following expiration only  
32 if the provider submits a new application and pays the regular  
33 and the late filing fees required in part 9000.0200.

34 Subp. 5. **Reduction of first renewal fee.** A provider who  
35 had a valid "Acknowledgment of Filing" before December 5, 1989,

1 upon the first renewal under subpart 2, shall pay the current  
2 renewal fee minus a portion of the fee that is equal to 1/12th  
3 of the fee for each month from the date of initial  
4 acknowledgment to December 5, 1989.

5 For example, if the provider received a valid  
6 "Acknowledgment of Filing" in September of 1989, and the current  
7 filing fee is ~~\$60~~ \$50 upon renewal of filing, the provider would  
8 have three months credit and would pay only ~~\$45~~ \$37.50 for the  
9 next yearly filing fee, calculated as follows: ~~\$60~~ \$50 - (three  
10 months x 1/12th of ~~\$60~~ \$50) = ~~\$45~~ \$37.50.

11 9000.0170 BILL OF RIGHTS.

12 A provider of mental health services must provide clients  
13 with the client's bill of rights as required under Minnesota  
14 Statutes, section 148B.46, including the right to choose freely  
15 among available providers. For clients incarcerated in a state  
16 or contractual community correctional facility or committed to  
17 an institution under a court order, "available providers" means  
18 those providers who provide services in the correctional  
19 facility in which the client is incarcerated or in the  
20 institution to which the client is committed.

21 9000.0190 VARIANCES.

22 Subpart 1. **Grounds for variance; variance application.** A  
23 filer or applicant may petition the board for a time limited  
24 variance from provisions in parts 9000.0100 to 9000.0200, except  
25 for a provision that incorporates a statutory requirement. The  
26 petition must be in writing. The board shall grant a variance  
27 if the filer or applicant specifies alternative practices or  
28 measures equivalent to or superior to those in the rule in  
29 question and provides evidence that:

30 A. the rationale for the rule in question can be met  
31 or exceeded by the specified alternative practices or measures;

32 B. adherence to the rule would impose an undue burden  
33 on the filer or applicant; and

34 C. the granting of the variance will not adversely  
35 affect the public welfare.



1           Subp. 2. **Information required in variance petition.** A  
2 petition for a variance must contain the following information:

3           A. the specific rule for which the variance is  
4 requested;

5           B. the reason for the request;

6           C. the alternative practices or measures that will be  
7 taken if a variance is granted;

8           D. the length of time for which a variance is  
9 requested; and

10           E. any other relevant information the board needs to  
11 properly evaluate the petition for the variance.

12           Subp. 3. **Variance compliance.** A filer or applicant who is  
13 granted a variance must comply with the alternative practices or  
14 measures specified in the petition for the variance.

15           Subp. 4. **Renewal of variance.** A variance shall be renewed  
16 upon reapplication for a variance if the circumstances  
17 justifying the variance continue to exist. A filer or applicant  
18 who has been granted a variance must immediately notify the  
19 board of any material change in circumstances that affect the  
20 variance. A variance shall be revoked if there is a material  
21 change in the circumstances that justify the variance.

22           Subp. 5. **Burden of proof.** The burden of proof is upon the  
23 filer or applicant to demonstrate to the board, by a  
24 preponderance of the evidence, that the requirements in subparts  
25 1 and 2 have been met.

26           Subp. 6. **Notice of board's decision.** The board shall  
27 notify the filer or applicant in writing when the board grants,  
28 denies, renews, or revokes a variance. The notice must state  
29 the reasons for the action. If a variance is granted, the  
30 notice shall specify the period of time for which the variance  
31 is effective, and must state the alternative practices or  
32 measures the filer or applicant must meet.