

## CHAPTER 148B

SOCIAL WORK, MARRIAGE AND FAMILY  
THERAPY, MENTAL HEALTH

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## 148B.18 DEFINITIONS.

*[For text of subds 1 and 2, see M.S.2002]*

Subd. 2a. **Applicant.** "Applicant" means a person who has submitted an application, with the appropriate fee, for licensure, temporary licensure, or reinstatement of an expired license.

*[For text of subds 3 to 12, see M.S.2002]*

Subd. 13. **Temporary licensee.** "Temporary licensee" means a person licensed by the board under section 148B.21, subdivision 7.

**History:** 2003 c 111 s 2,3

## 148B.20 DUTIES OF BOARD.

*[For text of subd 1, see M.S.2002]*

Subd. 3. **Duties of board.** The board shall establish fees, including late fees, for licenses and renewals so that the total fees collected by the board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.1285. Fees must be credited to accounts in the special revenue fund.

**History:** 2003 c 111 s 4

## 148B.21 REQUIREMENTS FOR LICENSURE.

*[For text of subds 1 to 6a, see M.S.2002]*

Subd. 7. **Temporary license.** (a) The board may issue a temporary license to practice social work to an applicant who is either:

- (1) not licensed in any jurisdiction but has:
  - (i) applied for a license under section 148B.24;
  - (ii) applied for a temporary license on a form provided by the board;
  - (iii) submitted a form provided by the board authorizing the board to complete a criminal background check with the Minnesota Bureau of Criminal Apprehension;
  - (iv) passed the applicable licensure examination provided for in section 148B.20, subdivision 1, paragraph (c); and
  - (v) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or master's degree from a social work program accredited by the Council on Social Work Education or the requirements for a doctoral degree in social work; or

(2) licensed in another jurisdiction, may or may not have applied for a license under section 148B.20, and has:

- (i) applied for a temporary license on a form provided by the board;
- (ii) submitted a form provided by the board authorizing the board to complete a criminal background check with the Minnesota Bureau of Criminal Apprehension;
- (iii) submitted evidence satisfactory to the board that the applicant is currently licensed or credentialed to practice social work in another jurisdiction; and
- (iv) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or master's degree from a social work program accredited by the Council on Social Work Education or the requirements for a doctoral degree in social work.

(b) An applicant for a temporary license must not practice social work in Minnesota until the applicant has been granted a temporary license. An applicant who is practicing social work at the time of application is ineligible for a temporary license.

(c) An applicant for a temporary license must pay the nonrefundable application fee described in section 148B.226 plus the required fee for the cost of the criminal background check. Only one fee for the cost of the criminal background check must be submitted when the applicant is applying for both a temporary license and a license under section 148B.20.

(d) An applicant who is not licensed in another jurisdiction and who obtains a temporary license may practice social work only under the supervision of a licensed social worker who is eligible to provide supervision under section 148B.18, subdivision 12. The applicant's supervisor must provide evidence to the board, before the applicant is approved by the board for licensure, that the applicant has practiced social work under supervision. This supervision applies toward the supervision requirement required after licensure.

(e) A temporary licensee who has provided evidence to the board that the licensee has completed the requirements for a baccalaureate degree in social work from a social work program accredited by the Council on Social Work Education may temporarily engage in the social work practice described in section 148B.18, subdivision 11, paragraph (b), but may not engage in the social work practice described in section 148B.18, subdivision 11, paragraph (c).

(f) A temporary licensee who has provided evidence to the board that the licensee has completed the requirements for a master's degree in social work from a social work program accredited by the Council on Social Work Education, or the requirements for a doctoral degree in social work, may temporarily engage in the social work practice described in section 148B.18, subdivision 11, paragraphs (b) and (c).

(g) A temporary licensee shall conduct all professional activities as a social worker in accordance with the requirements established by the statutes and rules of the board.

(h) A temporary licensee must use the title "Social Worker - Temporary Licensee" in all professional use of the temporary licensee's name.

(i) The board may immediately revoke the temporary license of any temporary licensee who violates any requirements of this subdivision. A temporary licensee whose temporary license is revoked shall immediately return the temporary license to the board.

(j) A temporary license is valid for six months, or until the board issues or denies a license, or until the board revokes the temporary license, whichever comes first, and is nonrenewable. An individual holding a temporary license may not practice social work for more than six months without a license under section 148B.24.

*[For text of subds 8 and 9, see M.S.2002]*

**History:** 2003 c 111 s 5

**148B.22 LICENSE RENEWAL REQUIREMENTS.***[For text of subd 1, see M.S.2002]*

Subd. 1a. **Reinstatement of expired licenses.** (a) The board must reinstate an expired license under either of the following conditions:

(1) hardship cases in which the applicant has:

(i) demonstrated to the board's satisfaction that the applicant was unable to comply with the board's license renewal requirements due to a mental or physical condition;

(ii) submitted an application for reinstatement on a form provided by the board;

(iii) paid the applicable hardship reinstatement fee described in section 148B.226, subdivision 2, paragraph (j);

(iv) demonstrated to the board's satisfaction that the applicant was in compliance with the board's continuing education requirements at the time the license expired; and

(v) if applicable, demonstrated to the board's satisfaction that the licensee is in compliance with the supervised practice requirements established by the board in rule and statute; or

(2) nonhardship cases in which the applicant has:

(i) submitted an application for reinstatement on a form provided by the board within one year of the date the license expired;

(ii) paid the applicable nonhardship reinstatement fee described in section 148B.226, subdivision 2, paragraph (k);

(iii) demonstrated to the board's satisfaction that the applicant was in compliance with the board's continuing education requirements at the time the license expired; and

(iv) if applicable, demonstrated to the board's satisfaction that the licensee is in compliance with the supervised practice requirements established by the board in rule and statute.

(b) When an applicant's expired license has been reinstated under paragraph (a), clause (1) or (2), the reinstated license is effective the day following the day the license expired.

(c) A licensee whose license expired on or after August 1, 2001, may apply for reinstatement of an expired license pursuant to paragraph (a), clause (2). The application must be submitted no later than July 31, 2004.

*[For text of subds 2 and 3, see M.S.2002]***History:** 2003 c 111 s 6**148B.224 ALTERNATIVE LICENSE STATUS.**

Subdivision 1. **Defined; qualifications.** A license may be placed on inactive status if a licensee is not practicing social work in Minnesota and the licensee does not wish to meet license renewal requirements every two years. A licensee qualifies for inactive status if the licensee demonstrates to the board that the licensee is not practicing social work, as defined by section 148B.18, in any setting in Minnesota.

Subd. 2. **Application.** (a) A licensee may apply for inactive status: (1) at any time by submitting a written application for inactive status; or (2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal form and submitting the completed, signed form. The application for inactive status must be accompanied by the nonrefundable inactive status fee specified in section 148B.226, payable to the Board of Social Work. An application that is not completed or signed, or which is not accompanied by the correct inactive status fee, shall be returned to the licensee and is void. If the application for inactive status is received after the expiration date, the licensee shall pay a late fee as specified in section 148B.226, payable to the Board of Social Work, in addition to the inactive status fee, before the application for inactive status will be considered by the board.

(b) The licensee shall attest on a form provided by the board that the applicant will not use the title social worker and will not engage in social work practice in any setting in Minnesota after the date of the board's approval of the application for inactive status.

**Subd. 3. Approval.** The board shall approve an application for inactive status if the qualifications and application requirements have been met.

**Subd. 4. Practice prohibited.** Licensees on inactive status shall not practice, attempt to practice, offer to practice, or advertise or hold themselves out as authorized to practice social work in any setting in Minnesota and shall use only the title "Social Worker - Inactive Status."

**Subd. 5. Time limit on inactive status.** A licensee may maintain a license on inactive status for up to ten consecutive years. Within 30 days after the end of this ten-year period, the licensee must apply for reactivation of the license pursuant to subdivision 7 or the license expires. The board shall mail an application for reactivation to a licensee at least 45 days before the expiration date of the license. Placing the application for license reactivation in first class United States mail, addressed to the licensee at the licensee's last known mailing address with postage prepaid, constitutes valid mailing. Failure to receive the reactivation application does not release a license holder from the requirements of this section.

**Subd. 6. Continuing education requirement.** A licensee whose license is on inactive status must continue to obtain the continuing education hours required by rule that would be required if the licensee's license were on active status.

**Subd. 7. Reactivating a license.** (a) To reactivate a license, a licensee must complete an application for reactivation of a license, in a form specified by the board; document compliance with the continuing education hours required by subdivision 6 and any continuing education hours not reported by the last expiration date of the license; submit a supervision plan under rules of the board, if required; pay a prorated license renewal fee for the balance of the biennial renewal cycle; and pay the duplicate license certificate fee specified in section 148B.226, if the licensee needs a license in order to meet the requirements of Minnesota Rules, part 8740.0340, subpart 4.

(b) If a licensee who reactivates a license has been on inactive status for five or more consecutive years and has not practiced social work during this period, the licensee must receive at least 38 hours of supervision for the first year of full-time practice or 2,000 hours of part-time practice, in accordance with the supervised practice requirements in rules of the board, for application to the licensee's current level. A licensee must submit a supervision plan before beginning practice, in accordance with rules of the board. A licensee must have the supervisor submit verification of the supervised practice in a form specified by the board within 30 days of completing this supervised practice requirement. This supervision requirement must be waived if the licensee can document at least two years of social work practice, outside of Minnesota, within the previous five-year period.

(c) For licensed social workers, the completed hours of supervised practice required under this subdivision apply toward any remaining hours required by Minnesota Rules, part 8740.0130, subpart 3.

(d) Licensed graduate social workers and licensed independent social workers shall complete this supervised practice requirement before applying for another social work license. Supervised practice hours obtained to meet this requirement may be applied toward the supervised practice requirement for another social work license.

**Subd. 8. License or renewal fee.** A licensee who is approved for inactive status before the end of the renewal cycle may not receive a refund for any portion of the license fee or renewal fee.

**Subd. 9. Disciplinary or corrective action.** The board shall retain jurisdiction over a license on inactive status and may take disciplinary or corrective action against the

license based on conduct occurring before inactive status was granted or during the inactive status period.

**History:** 2003 c 111 s 7

#### 148B.225 EMERITUS STATUS.

**Subdivision 1. Defined; qualifications.** A licensee may apply for an emeritus license if the licensee is retired from social work practice and does not intend to practice social work in any setting in Minnesota. A licensee shall qualify for an emeritus license if the licensee demonstrates to the board that the licensee is not practicing social work, as defined in section 148B.18, and verifies that the licensee is retired from social work practice.

**Subd. 2. Application.** (a) A licensee may apply for an emeritus license: (1) at any time by submitting a written application for an emeritus license; or (2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal form and submitting a completed, signed form. The application for an emeritus license must be accompanied by the onetime, nonrefundable emeritus license fee specified in section 148B.226, payable to the Board of Social Work. An application which is not completed or signed, or which is not accompanied by the correct emeritus license fee, must be returned to the licensee and is void.

(b) An applicant for an emeritus license shall attest on a form provided by the board that the licensee will not use the title "social worker" and will not engage in social work practice in any setting in Minnesota after the date of the board's approval of the application for an emeritus license.

**Subd. 3. Approval.** The board shall approve an application for an emeritus license if the qualifications and application requirements have been met. Upon approval of an application for an emeritus license, the board shall issue an emeritus license certificate.

**Subd. 4. Practice prohibited.** A licensee with an emeritus license shall not practice, attempt to practice, offer to practice, or advertise or hold out as authorized to practice social work in any setting in Minnesota, and shall use only the title "social worker emeritus."

**Subd. 5. Reactivating a license.** A licensee with an emeritus license may reactivate a license by meeting the requirements of section 148B.224, subdivision 7.

**Subd. 6. License or renewal fee.** A licensee who applies for and is approved for an emeritus license before the end of the renewal cycle may not receive a refund for any portion of the license fee or renewal fee.

**Subd. 7. Disciplinary action.** (a) The board may resolve any pending complaints against a licensee before approving an application for an emeritus license.

(b) The board shall retain jurisdiction and may take disciplinary action against a licensee holding an emeritus license based on conduct occurring before issuance of the emeritus license.

**History:** 2003 c 111 s 8

#### 148B.226 FEES.

**Subdivision 1. How payable.** The fees in subdivision 2 must be paid by personal check, bank draft, cashier's check, or money order payable to the Board of Social Work. All fees are nonrefundable.

**Subd. 2. Fee amounts.** (a) Application fees for licensure are as follows:

- (1) for a licensed social worker or a licensed graduate social worker, \$45;
- (2) for a licensed independent social worker or a licensed independent clinical social worker, \$90;
- (3) for a reciprocity application for licensure at all levels, \$150; and
- (4) for a temporary license application, \$50.

(b) A criminal background check fee must be paid in the amount determined by the Bureau of Criminal Apprehension.

(c) License fees payable in addition to application fees for licensure are as follows:

- (1) licensed social worker, \$115.20;
- (2) licensed graduate social worker, \$201.60;
- (3) licensed independent social worker, \$302.40; and
- (4) licensed independent clinical social worker, \$331.20.

(d) License renewal fees are as follows:

- (1) licensed social worker, \$115.20;
- (2) licensed graduate social worker, \$201.60;
- (3) licensed independent social worker, \$302.40; and
- (4) licensed independent clinical social worker, \$331.20.

(e) An emeritus license fee is \$43.20.

(f) A duplicate license wall certificate is \$30.

(g) Inactive status fees are as follows:

- (1) licensed social worker, \$115.20;
- (2) licensed graduate social worker, \$201.60;
- (3) licensed independent social worker, \$302.40; and
- (4) licensed independent clinical social worker, \$331.20.

(h) A duplicate license card is \$10.

(i) A late fee is one-half of the applicable license renewal fee or inactive status fee.

(j) Hardship reinstatement fees are as follows:

- (1) licensed social worker, \$172.80;
- (2) licensed graduate social worker, \$302.40;
- (3) licensed independent social worker, \$453.60; and
- (4) licensed independent clinical social worker, \$496.80.

(k) Nonhardship reinstatement fees are as follows:

- (1) licensed social worker, \$230.40;
- (2) licensed graduate social worker, \$403.20;
- (3) licensed independent social worker, \$604.80; and
- (4) licensed independent clinical social worker, \$662.40.

**History:** 2003 c 111 s 9

#### **148B.26 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.**

Subdivision 1. **Grounds.** The following conduct is grounds for the board to deny the application for or the renewal of a temporary license, to take disciplinary or other action against a license as provided for in section 148B.281, or to take corrective action against a licensee as provided for in chapter 214:

(1) engaging in any conduct which violates any statute or rule enforced by the board, or any other law that is related to the practice of social work;

(2) violating any order issued by the board;

(3) practicing outside the scope of practice authorized by this chapter for each level of licensure;

(4) failing to demonstrate the qualifications or satisfy the requirements for licensure, with the burden of proof on the applicant to demonstrate the qualifications or the satisfaction of the requirements;

(5) obtaining a temporary license or license renewal by fraud, bribery, or cheating, or attempting to subvert the examination process;

(6) making a false statement or misrepresentation to the board;

(7) having been the subject of revocation, suspension, or surrender of a social work or related license or of other adverse action related to a social work or related license in another jurisdiction or country;

(8) failing to report the revocation, suspension, or surrender of a social work or related license or other adverse action related to a social work or related license in another jurisdiction or country, failing to report that a complaint or other charges regarding the person's license have been brought in this or another jurisdiction or country, or having been refused a license by any other jurisdiction or country;

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

(10) engaging in unethical conduct or conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a client, or engaging in a practice which is professionally incompetent with proof of actual injury not having to be established;

(11) being adjudicated by a court of competent jurisdiction, within or without this state, as incapacitated, mentally incompetent or mentally ill, chemically dependent, mentally ill and dangerous to the public, or a psychopathic personality;

(12) being unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals or any other materials, or as a result of any mental or physical condition;

(13) engaging in improper or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(14) obtaining money, property, or services from a client through the use of undue influence, harassment, duress, deception, or fraud or through the improper use of a professional position;

(15) engaging in sexual contact, as defined in section 148A.01, with a client or conduct that is or may reasonably be interpreted by the client as sexual, engaging in verbal behavior that is or may reasonably be interpreted as sexually seductive or sexually demeaning to a client, or engaging in conduct that violates section 617.23;

(16) being convicted, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea, of a crime against a minor;

(17) being convicted, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea of a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work, as evidenced by a certified copy of the conviction;

(18) engaging in an unfair discriminatory practice prohibited by chapter 363A of an employee of the applicant, licensee, or facility in which the applicant or licensee practices;

(19) engaging in false, fraudulent, deceptive, or misleading advertising; or

(20) revealing a privileged communication from or relating to a client except when otherwise required or permitted by law.

*[For text of subs 2 to 4, see M.S.2002]*

**History:** 2003 c 111 s 10

#### **148B.27 PROHIBITION AGAINST UNLICENSED PRACTICE OR USE OF TITLES; PENALTY.**

**Subdivision 1. Practice.** No individual shall engage in social work practice unless that individual holds a valid temporary license or a license as a licensed social worker, licensed graduate social worker, licensed independent social worker, or licensed independent clinical social worker.

**Subd. 2. Use of titles.** No individual shall be presented to the public by any title incorporating the words "social work" or "social worker" unless that individual holds a valid temporary license or a license issued under sections 148B.18 to 148B.289. City, county, and state agency social workers who are not licensed under sections 148B.18 to

148B.289 may use only the title city agency social worker or county agency social worker or state agency social worker.

*[For text of subds 2a to 3, see M.S.2002]*

**History:** 2003 c 111 s 11,12

#### 148B.50 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 148B.50 to 148B.593, the following terms have the meanings given.

Subd. 2. **Approved supervisor.** "Approved supervisor" means a licensed professional counselor, licensed psychologist, or other qualified supervisor as determined by the board, who has four years of professional counseling experience and documents to the board the completion of a training in counseling supervision that included content and experiences relevant to the supervision of professional counselors.

Subd. 3. **Board.** "Board" means the Board of Behavioral Health and Therapy established by section 148B.51.

Subd. 4. **Licensed professional counseling.** "Licensed professional counseling" means the application of counseling, human development, and mental health research, principles, and procedures to maintain and enhance the mental health, development, personal and interpersonal effectiveness, and adjustment to work and life of individuals and families.

Subd. 5. **Scope of practice.** (a) The scope of practice of a licensed professional counselor includes, but is not limited to:

- (1) the implementation of professional counseling treatment interventions including evaluation, treatment planning, assessment, and referral;
- (2) direct counseling services to individuals, groups, and families;
- (3) counseling strategies that effectively respond to multicultural populations;
- (4) knowledge of relevant laws and ethics impacting practice;
- (5) crisis intervention;
- (6) consultation; and
- (7) program evaluation and applied research.

(b) For the purposes of paragraph (a), clause (1), "professional counseling treatment interventions" means the application of cognitive, affective, behavioral, systemic, and community counseling strategies which include principles of human development, wellness, and pathology. Counselors provide mental health services for clients whose symptoms significantly interfere with daily functioning and would most likely not improve in a reasonable time period without intervention.

(c) Licensed professional counseling does not include activities or services undertaken by persons listed in section 148B.592, or the performance of any act that licensed professional counselors are not educated and trained to perform.

(d) In order to evaluate and treat mental illness, a licensed professional counselor must complete the postgraduate training specified in section 245.462, subdivision 18, clause (6), or 245.4871, subdivision 27, clause (6).

**History:** 2003 c 118 s 4

#### 148B.51 BOARD OF BEHAVIORAL HEALTH AND THERAPY.

The Board of Behavioral Health and Therapy consists of 13 members appointed by the governor. Five of the members shall be professional counselors licensed or eligible for licensure under sections 148B.50 to 148B.593. Five of the members shall be alcohol and drug counselors licensed under chapter 148C. Three of the members shall be public members as defined in section 214.02. The board shall annually elect from its membership a chair and vice-chair. The board shall appoint and employ an executive



director who is not a member of the board. Chapter 214 applies to the Board of Behavioral Health and Therapy unless superseded by sections 148B.50 to 148B.593.

**History:** 2003 c 118 s 5

#### **148B.52 DUTIES OF THE BOARD.**

(a) The Board of Behavioral Health and Therapy shall:

(1) establish by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified under sections 148B.50 to 148B.593;

(2) establish by rule standards for professional conduct, including adoption of a Code of Professional Ethics and requirements for continuing education and supervision;

(3) issue licenses to individuals qualified under sections 148B.50 to 148B.593;

(4) establish by rule standards for initial education including coursework for licensure and content of professional education;

(5) establish by rule procedures, including a standard disciplinary process, to assess whether individuals licensed as licensed professional counselors comply with the board's rules;

(6) establish, maintain, and publish annually a register of current licensees and approved supervisors;

(7) establish initial and renewal application and examination fees sufficient to cover operating expenses of the board and its agents;

(8) educate the public about the existence and content of the laws and rules for licensed professional counselors to enable consumers to file complaints against licensees who may have violated the rules;

(9) establish rules and regulations pertaining to treatment for impaired practitioners; and

(10) periodically evaluate its rules in order to refine the standards for licensing professional counselors and to improve the methods used to enforce the board's standards.

(b) The board may appoint a professional discipline committee for each occupational licensure regulated by the board, and may appoint a board member as chair. The professional discipline committee shall consist of five members representative of the licensed occupation and shall provide recommendations to the board with regard to rule techniques, standards, procedures, and related issues specific to the licensed occupation.

**History:** 2003 c 118 s 6

#### **148B.53 REQUIREMENTS FOR LICENSURE.**

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

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's degree program in counseling that includes a minimum of 48 semester hours and a supervised field experience of not fewer than 700 hours that is counseling in nature;

(4) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice;

(5) has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) including obtaining a passing score on the examination accepted by the board based on the determinations made by the NBCC and oral and situational examinations if prescribed by the board;

(6) will conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the rules of the board; and

(7) has declared to the board and agrees to continue to declare areas of professional competencies through a statement of professional disclosure, describing the intended use of the license and the population to be served.

(b) The degree described in paragraph (a), clause (3), must be 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). Specific academic course content and training must meet standards established by the CACREP, including course work in the following subject areas:

- (1) the helping relationship, including counseling theory and practice;
- (2) human growth and development;
- (3) lifestyle and career development;
- (4) group dynamics, processes, counseling, and consulting;
- (5) assessment and appraisal;
- (6) social and cultural foundations, including multicultural issues;
- (7) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
- (8) family counseling and therapy;
- (9) research and evaluation; and
- (10) professional counseling orientation and ethics.

(c) To be licensed as a professional counselor, a psychological practitioner licensed under section 148.908 need only show evidence of licensure under that section and is not required to comply with paragraph (a) or (b).

Subd. 2. **Minimum hour effective date.** The minimum semester hour requirement imposed by subdivision 1, paragraph (a), clause (3), is not effective until July 1, 2004. This subdivision expires July 1, 2005.

Subd. 3. **Fee.** Each applicant shall pay a nonrefundable fee set by the board.

**History:** 2003 c 118 s 7

#### 148B.54 LICENSE RENEWAL REQUIREMENTS.

Subdivision 1. **Renewal.** Licensees shall renew licenses at the time and in the manner established by the rules of the board.

Subd. 2. **Continuing education.** At the completion of the first two years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours in counseling as determined by the board. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

**History:** 2003 c 118 s 8

#### 148B.55 LICENSES; TRANSITION PERIOD.

For two years beginning July 1, 2003, the board shall issue a license without examination to an applicant if the board determines that the applicant satisfies the requirements in section 148B.53, subdivision 1, if the applicant is a licensed psychological practitioner, a licensed marriage and family therapist, or a licensed alcohol and drug counselor, or is in the process of being so licensed. An applicant licensed under this section must also agree to conduct all professional activities as a licensed

professional counselor in accordance with standards for professional conduct established by the board by rule. This section expires July 1, 2005.

**History:** 2003 c 118 s 9

#### **148B.56 RECIPROCITY.**

The board may issue a license to an individual who holds a current license or other credential from another jurisdiction if the board finds that the requirements for that credential are substantially similar to the requirements in sections 148B.50 to 148B.593.

**History:** 2003 c 118 s 10

#### **148B.58 NONTRANSFERABILITY OF LICENSES.**

A professional counseling license is not transferable.

**History:** 2003 c 118 s 11

#### **148B.59 GROUNDS FOR DISCIPLINARY ACTION; FORMS OF DISCIPLINARY ACTION; RESTORATION OF LICENSE.**

(a) The board may impose disciplinary action as described in paragraph (b) against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

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

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

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

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

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

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

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

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

(9) has demonstrated an inability to practice professional counseling with reasonable skill and safety to clients due to any mental or physical illness or condition; or

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

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

(ii) referring a client to any health care provider as defined in section 144.335 in which the referring licensee has a significant financial interest, unless the licensee has disclosed in advance to the client the licensee's own financial interest.

(b) If grounds for disciplinary action exist under paragraph (a), the board may take one or more of the following actions:

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

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

(5) censure or reprimand the licensee;

(6) refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination grade if the board finds that it is in the public interest; or

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

(c) In lieu of or in addition to paragraph (b), the board may require, as a condition of continued licensure, termination of suspension, reinstatement of license, examination, or release of examination grades, that the applicant or licensee:

(1) submit to a quality review, as specified by the board, of the applicant's or licensee's ability, skills, or quality of work; and

(2) complete to the satisfaction of the board educational courses specified by the board.

(d) Service of the order is effective if the order is served on the applicant, licensee, or counsel of record personally or by mail to the most recent address provided to the board for the licensee, applicant, or counsel of record. The order shall state the reasons for the entry of the order.

**History:** 2003 c 118 s 12

#### **148B.591 PROHIBITION AGAINST UNLICENSED PRACTICE OR USE OF TITLES.**

Subdivision 1. **Practice.** After the effective date of rules adopted by the board, no individual may engage in the practice of licensed professional counseling unless that individual holds a valid license or is exempt from licensure under section 148B.592.

Subd. 2. **Use of titles.** After the board adopts rules, no individual may be presented to the public by any title or practice incorporating the words "licensed professional counselor" or "LPC" unless that individual holds a valid license issued under sections 148B.50 to 148B.593.

**History:** 2003 c 118 s 13

#### **148B.592 EXCEPTIONS TO LICENSE REQUIREMENT.**

Subdivision 1. **Other professionals.** Nothing in sections 148B.50 to 148B.593 prevents members of other professions or occupations from performing functions for

which they are qualified or licensed. This exception includes, but is not limited to, licensed physicians, registered nurses, licensed practical nurses, licensed psychologists, 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 sections 148B.50 to 148B.593.

**Subd. 2. Students.** Nothing in sections 148B.50 to 148B.593 prevents a student, intern, or trainee enrolled in an accredited program of professional counseling from engaging in professional counseling as part of the supervised course of study if the person is identified as a "counselor intern."

**Subd. 3. Government agencies; educational institutions.** Nothing in sections 148B.50 to 148B.593 limits the activities and services of, or use of, an official title by a person employed as a counselor by a federal, state, county, or municipal agency, or public or private educational institution if the person is performing the activities within the scope of the person's employment.

**Subd. 4. Unlicensed practitioners.** (a) Nothing in sections 148B.50 to 148B.593 prohibits the provision of mental health services by an unlicensed mental health practitioner as defined in section 148B.60, subdivision 3. This paragraph expires July 1, 2004.

(b) Nothing in this section limits the authority of unlicensed complementary and alternative health care practitioners to perform services under chapter 146A.

**Subd. 5. Nonresidents.** A nonresident may engage in the practice of professional counseling within the state without a license for up to 30 days during any calendar year if the nonresident is authorized to provide the services under the law of the state or country of residence and the nonresident has provided proof of credentials to the board, been found qualified to render services in the state, and been granted permission by the board to practice.

**Subd. 6. Clergy.** Nothing in sections 148B.50 to 148B.593 limits the activities and services of a rabbi, priest, minister, or clergyperson of any religious denomination or sect, provided such activities and services are within the scope of the performance of regular or specialized ministerial duties.

**Subd. 7. Nonprofit organizations and charities.** Nothing in sections 148B.50 to 148B.593 limits the activities, services, and descriptions of persons offering volunteer or professional services for public or private nonprofit organizations or charities.

**History:** 2003 c 118 s 14

#### **148B.593 DISCLOSURE OF INFORMATION.**

(a) A person licensed under sections 148B.50 to 148B.593 may not disclose without written consent of the client any communication made by the client to the licensee in the course of the practice of professional counseling, nor may any employee of the licensee reveal the information without the consent of the employer or client except as provided under section 626.556 or 626.557.

(b) For purposes of sections 148B.50 to 148B.593, the confidential relations and communications between the licensee and a client are placed upon the same basis as those that exist between a licensed psychologist and client. Nothing in sections 148B.50 to 148B.593 may be construed to require any communications to be disclosed except by court order.

**History:** 2003 c 118 s 15

**148B.60 DEFINITIONS.**

*[For text of subds 1 and 2, see M.S.2002]*

Subd. 3: **Unlicensed mental health practitioner or practitioner.** "Unlicensed mental health practitioner" or "practitioner" means a person who provides or purports to provide, for remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the Board of Medical Practice under chapter 147 or registered by the Board of Medical Practice under chapter 147A; the Board of Nursing under sections 148.171 to 148.285; the Board of Psychology under sections 148.88 to 148.98; the Board of Social Work under sections 148B.18 to 148B.289; the Board of Marriage and Family Therapy under sections 148B.29 to 148B.39; the Board of Behavioral Health and Therapy under sections 148B.50 to 148B.593; or another licensing board if the person is practicing within the scope of the license; members of the clergy who are providing pastoral services in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by a religious congregation; American Indian medicine men and women; licensed attorneys; probation officers; school counselors employed by a school district while acting within the scope of employment as school counselors; registered occupational therapists; or occupational therapy assistants. For the purposes of complaint investigation or disciplinary action relating to an individual practitioner, the term includes:

(1) persons employed by a program licensed by the commissioner of human services who are acting as mental health practitioners within the scope of their employment;

(2) persons employed by a program licensed by the commissioner of human services who are providing chemical dependency counseling services; persons who are providing chemical dependency counseling services in private practice; and

(3) clergy who are providing mental health services that are equivalent to those defined in subdivision 4.

*[For text of subds 4 to 8, see M.S.2002]*

**History: 2003 c 118 s 16**

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), effective July 1, 2004. Laws 2003, chapter 118, section 29, paragraph (a), the effective date.