

CHAPTER 148C

ALCOHOL AND DRUG COUNSELORS, LICENSING

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148C.01 DEFINITIONS.

[For text of subd 1, see M.S.2004]

Subd. 1a. **Accrediting association.** "Accrediting association" means an organization recognized by the board that evaluates schools and education programs of alcohol and drug counseling or is listed in Nationally Recognized Accrediting Agencies and Associations, Criteria and Procedures for Listing by the U.S. Secretary of Education and Current List (1996), which is incorporated by reference.

[For text of subds 2 to 18, see M.S.2004]

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.02 [Repealed, 2005 c 147 art 5 s 26]**148C.03 DUTIES OF BOARD.**

Subdivision 1. **General.** The board shall:

(a) adopt and enforce rules for licensure of alcohol and drug counselors, including establishing standards and methods of determining whether applicants and licensees are qualified under section 148C.04. The rules must provide for examinations and establish standards for the regulation of professional conduct. The rules must be designed to protect the public;

(b) issue licenses to individuals qualified under sections 148C.01 to 148C.11;

(c) issue copies of the rules for licensure to all applicants;

(d) adopt rules to establish and implement procedures, including a standard disciplinary process and rules of professional conduct;

(e) carry out disciplinary actions against licensees;

(f) establish written internal operating procedures for receiving and investigating complaints and for taking disciplinary actions as appropriate;

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

(h) evaluate the rules in order to refine and improve the methods used to enforce the commissioner's standards; and

(i) collect license fees for alcohol and drug counselors.

Subd. 4. **Professional accountability.** The board shall maintain and keep current a file containing the reports and complaints filed against alcohol and drug counselors within the board's jurisdiction.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9; 2005 c 147 art 5 s 11

148C.0351 PROCEDURES FOR ADMISSION TO LICENSURE.

Subdivision 1. **Application forms.** Unless exempted under section 148C.11, a person who practices alcohol and drug counseling in Minnesota must:

(1) apply to the board for a license to practice alcohol and drug counseling on forms provided by the board;

(2) include with the application a statement that the statements in the application are true and correct to the best of the applicant's knowledge and belief;

(3) include with the application a nonrefundable application fee specified in section 148C.12;

(4) include with the application information describing the applicant's experience, including the number of years and months the applicant has practiced alcohol and drug counseling as defined in section 148C.01;

(5) include with the application the applicant's business address and telephone number, or home address and telephone number if the applicant conducts business out of the home, and if applicable, the name of the applicant's supervisor, manager, and employer;

(6) include with the application a written and signed authorization for the board to make inquiries to appropriate state regulatory agencies and private credentialing organizations in this or any other state where the applicant has practiced alcohol and drug counseling; and

(7) complete the application in sufficient detail for the board to determine whether the applicant meets the requirements for filing. The board may ask the applicant to provide additional information necessary to clarify incomplete or ambiguous information submitted in the application.

Subd. 3. **Requirement to maintain current information.** An alcohol and drug counselor must notify the board within 30 days of the occurrence of any of the following:

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

(2) a settlement or award based on negligent or intentional acts committed in providing alcohol and drug counseling services.

Subd. 4. **Initial license; term.** (a) An initial license is effective on the date the board indicates on the license certificate, with the license number, sent to the applicant upon approval of the application.

(b) An initial license is valid for a period beginning with the effective date in paragraph (a) and ending on the date specified by the board on the license certificate placing the applicant in an existing two-year renewal cycle, as established under section 148C.05, subdivision 1.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.0355 BOARD ACTION ON APPLICATIONS FOR LICENSURE.

The board shall act on each application for licensure within 90 days from the date the completed application and all required information is received by the board. The board shall determine if the applicant meets the requirements for licensure and whether there are grounds for denial of licensure under this chapter. If the board denies an application on grounds other than the applicant's failure of an examination, the board shall:

(1) notify the applicant, in writing, of the denial and the reason for the denial and provide the applicant 30 days from the date of the letter informing the applicant of the denial in which the applicant may provide additional information to address the reasons for the denial. If the applicant does not respond in writing to the board within the 30-day period, the denial is final. If the board receives additional information, the board shall review it and make a final determination thereafter;

(2) notify the applicant that an application submitted following denial is a new application and must be accompanied by the appropriate fee as specified in section 148C.12; and

(3) notify the applicant of the right to request a hearing under chapter 14.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.04 REQUIREMENTS FOR LICENSURE.

Subdivision 1. General requirements. The board shall issue licenses to the individuals qualified under this chapter to practice alcohol and drug counseling.

Subd. 2. Fee. Each applicant shall pay a nonrefundable fee as specified in section 148C.12. Fees paid to the board shall be deposited in the special revenue fund.

Subd. 3. Requirements for licensure before July 1, 2008. An applicant for a license must furnish evidence satisfactory to the board that the applicant has met all the requirements in clauses (1) to (3). The applicant must have:

(1) received an associate degree, or an equivalent number of credit hours, and a certificate in alcohol and drug counseling, including 18 semester credits or 270 clock hours of academic course work in accordance with subdivision 5a, paragraph (a), from an accredited school or educational program and 880 clock hours of supervised alcohol and drug counseling practicum;

(2) completed one of the following:

(i) a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions as determined by the board; or

(ii) satisfactorily completed 2,000 hours of supervised postdegree equivalent professional practice in accordance with section 148C.044; and

(3) satisfactorily passed written examinations for licensure as determined by the board.

Subd. 4. Requirements for licensure after July 1, 2008. An applicant for a license must submit evidence to the board that the applicant has met one of the following requirements:

(1) the applicant must have:

(i) received a bachelor's degree from an accredited school or educational program, including 18 semester credits or 270 clock hours of academic course work in accordance with subdivision 5a, paragraph (a), from an accredited school or educational program and 880 clock hours of supervised alcohol and drug counseling practicum;

(ii) completed a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions as determined by the board; or submitted to the board a plan for supervision during the first 2,000 hours of professional practice, or submitted proof of supervised professional practice that is acceptable to the board; and

(iii) satisfactorily passed written examinations as determined by the board established by the board; or

(2) the applicant must meet the requirements of section 148C.07.

[For text of subd 5a, see M.S.2004]

Subd. 6. Temporary permit requirements. (a) The board shall issue a temporary permit to practice alcohol and drug counseling prior to being licensed under this chapter if the person:

(1) either:

(i) submits verification of a current and unrestricted credential for the practice of alcohol and drug counseling from a national certification body or a certification or licensing body from another state, United States territory, or federally recognized tribal authority;

(ii) submits verification of the completion of at least 64 semester credits, including 270 clock hours or 18 semester credits of formal classroom education in alcohol and

drug counseling and at least 880 clock hours of alcohol and drug counseling practicum from an accredited school or educational program;

(iii) applies to renew a lapsed license according to the requirements of section 148C.055, subdivision 3, clauses (1) and (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

(iv) meets the requirements of section 148C.11, subdivision 1, paragraph (c), or 6, clauses (1), (2), and (5);

(2) applies, in writing, on an application form provided by the board, which includes the nonrefundable temporary permit fee as specified in section 148C.12 and an affirmation by the person's supervisor, as defined in paragraph (c), clause (1), which is signed and dated by the person and the person's supervisor; and

(3) has not been disqualified to practice temporarily on the basis of a background investigation under section 148C.09, subdivision 1a.

(b) The board must notify the person in writing within 90 days from the date the completed application and all required information is received by the board whether the person is qualified to practice under this subdivision.

(c) A person practicing under this subdivision:

(1) may practice under tribal jurisdiction or under the direct supervision of a person who is licensed under this chapter;

(2) is subject to the Rules of Professional Conduct set by rule; and

(3) is not subject to the continuing education requirements of section 148C.075.

(d) A person practicing under this subdivision must use the title or description stating or implying that the person is a trainee engaged in the practice of alcohol and drug counseling.

(e) A person practicing under this subdivision must annually submit a renewal application on forms provided by the board with the renewal fee required in section 148C.12, subdivision 3, and the board may renew the temporary permit if the trainee meets the requirements of this subdivision. A trainee may renew a practice permit no more than five times.

(f) A temporary permit expires if not renewed, upon a change of employment of the trainee or upon a change in supervision, or upon the granting or denial by the board of a license.

Subd. 7. Effect and suspension of temporary permit. Approval of a person's application for temporary permit creates no rights to or expectation of approval from the commissioner for licensure as an alcohol and drug counselor. The board may suspend or restrict a person's temporary permit status according to section 148C.09.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9; 2005 c 147 art 5 s 12-14

148C.044 SUPERVISED POSTDEGREE PROFESSIONAL PRACTICE.

Subdivision 1. Supervision. For the purpose of this section, "supervision" means documented interactive consultation, which, subject to the limitations in subdivision 4, paragraph (a), clause (2), may be conducted in person, by telephone, or by audio or audiovisual electronic device, with a supervisor as defined in subdivision 2. 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.

Subd. 2. Postdegree professional practice. "Postdegree professional practice" means required postdegree paid or volunteer work experience and training that involves the professional oversight by a supervisor approved by the board and that satisfies the supervision requirements in subdivision 4.

Subd. 3. Supervisor requirements. For purposes of this section, a supervisor shall:

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

(2) have four years of experience in providing alcohol and drug counseling; and

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

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

(1) knowledge, skills, values, and ethics with specific application to the practice issues faced by the supervisee, including the core functions as described in section 148C.01, subdivision 9;

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

(3) the supervisee's permissible scope of practice, as defined by section 148C.01, subdivision 10.

(b) The supervision must be obtained at the rate of one hour of supervision per 40 hours of professional practice, for a total of 50 hours of supervision. The supervision must be evenly distributed over the course of the supervised professional practice. At least 75 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.

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

(d) The applicant shall include with an application for licensure verification of completion of the 2,000 hours of supervised professional practice. Verification must be on a form specified by the board. The supervisor shall verify that the supervisee has completed the required hours of supervision in accordance with this section. The supervised practice required under this section 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.

History: 2005 c 147 art 5 s 15

148C.05 LICENSE RENEWAL REQUIREMENTS; LAPSE.

[For text of subd 1, see M.S.2004]

Subd. 1a. Renewal requirements. To renew a license, an applicant must submit to the board:

(1) a completed and signed application for license renewal, including a signed consent authorizing the board to obtain information about the applicant from third parties, including, but not limited to, employers, former employers, and law enforcement agencies;

(2) the renewal fee required under section 148C.12; and

(3) additional information as requested by the board to clarify information presented in the renewal application. The licensee must submit information within 30 days of the date of the board's request.

Subd. 5. License renewal notice. At least 60 calendar days before the renewal deadline date in subdivision 6, the board shall mail a renewal notice to the licensee's last known address on file with the board. The notice must include an application for license renewal, the renewal deadline, and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for license renewal.

Subd. 6. Renewal deadline and lapse of licensure. (a) Licensees must comply with paragraphs (b) to (d).

(b) Each license certificate must state an expiration date. An application for license renewal must be received by the board or postmarked at least 30 calendar days before the expiration date. If the postmark is illegible, the application must be considered timely if received at least 21 calendar days before the expiration date.

(c) An application for license renewal not received within the time required under paragraph (b) must be accompanied by a late fee in addition to the renewal fee required in section 148C.12.

(d) A licensee's license lapses if the licensee fails to submit to the board a license renewal application by the licensure expiration date. A licensee shall not engage in the practice of alcohol and drug counseling while the license is lapsed. A licensee whose license has lapsed may renew the license by complying with section 148C.055.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.055 INACTIVE OR LAPSED LICENSE.

Subdivision 1. **Inactive license status.** Unless a complaint is pending against the licensee, a licensee whose license is in good standing may request, in writing, that the license be placed on the inactive list. If a complaint is pending against a licensee, a license may not be placed on the inactive list until action relating to the complaint is concluded. The board must receive the request for inactive status before expiration of the license. A request for inactive status received after the license expiration date must be denied. A licensee may renew a license that is inactive under this subdivision by meeting the renewal requirements of subdivision 2, except that payment of a late renewal fee is not required. A licensee must not practice alcohol and drug counseling while the license is inactive.

Subd. 2. **Renewal of inactive license.** A licensee whose license is inactive shall renew the inactive status by the inactive status expiration date determined by the board or the license will lapse. An application for renewal of inactive status must include evidence satisfactory to the board that the licensee has completed 40 clock hours of continuing professional education required in section 148C.075, and be received by the board at least 30 calendar days before the expiration date. If the postmark is illegible, the application must be considered timely if received at least 21 calendar days before the expiration date. Late renewal of inactive status must be accompanied by a late fee as required in section 148C.12.

[For text of subd 3, see M.S.2004]

Subd. 4. **License renewal for two years or more after license expiration date.** An individual who submitted a license renewal two years or more after the license expiration date must submit the following:

(1) a completed and signed application for licensure, as required by section 148C.0351;

(2) the initial license fee as required in section 148C.12; and

(3) verified documentation of having achieved a passing score within the past year on an examination required by the board.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.07 RECIPROCITY.

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

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

(c) The board shall issue a license if the board finds that the requirements, which the applicant had to meet to obtain the credential from the other jurisdiction were substantially similar to the current requirements for licensure in this chapter, and the applicant is not otherwise disqualified under section 148C.09.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.075 CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. **General requirements.** The board shall establish a two-year continuing education reporting schedule requiring licensees to report completion of the requirements of this section. Licensees must document completion of a minimum of 40 clock hours of continuing education activities each reporting period. A licensee may be given credit only for activities that directly relate to the practice of alcohol and drug counseling, the core functions, or the Rules of Professional Conduct in Minnesota Rules, part 4747.1400. The continuing education reporting form must require reporting of the following information:

- (1) the continuing education activity title;
- (2) a brief description of the continuing education activity;
- (3) the sponsor, presenter, or author;
- (4) the location and attendance dates;
- (5) the number of clock hours; and
- (6) a statement that the information is true and correct to the best knowledge of the licensee.

Only continuing education obtained during the previous two-year reporting period may be considered at the time of reporting. Clock hours must be earned and reported in increments of one-half clock hour with a minimum of one clock hour for each continuing education activity.

[For text of subds 2 to 5, see M.S.2004]

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.09 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

Subdivision 1. **Grounds.** The board may refuse to grant a license to, or may suspend, revoke, or restrict the license of an individual if the board determines that a licensee or applicant:

- (1) is incompetent to engage in alcohol and drug counseling practice or is found to be engaged in alcohol and drug counseling practice in a manner harmful or dangerous to a client or the public;
- (2) has violated the rules of the board or the statutes the board is empowered to enforce; or any law, rule order, stipulation and consent order, agreement, or settlement;
- (3) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent misrepresentation;
- (4) has knowingly made a false statement on the form required to be submitted to the board for licensing or license renewal;
- (5) has failed to obtain continuing education credits required by the board;
- (6) has failed to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to demonstrate qualifications or satisfaction of requirements;
- (7) has been convicted of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of alcohol and drug counseling services. Conviction, as used in this subdivision, includes conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding

where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered;

(8) has been convicted of a crime against another person. For purposes of this chapter, a crime against another person means an offense listed in section 148B.68, subdivision 1, paragraph (b);

(9) has failed to comply with the self-reporting requirements of section 148C.095, subdivision 7;

(10) has engaged in sexual contact with a client, or a former client, as defined in section 148A.01, or has engaged in conduct that may be reasonably interpreted by a client as sexual, or has engaged in any verbal behavior that is seductive or sexually demeaning to the client, or has engaged in sexual exploitation of a client or former client;

(11) has engaged in false, fraudulent, deceptive, or misleading advertising;

(12) has engaged in conduct likely to deceive, defraud, or harm the public; or has demonstrated a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(13) has been adjudicated as mentally incompetent, or as a person who has a psychopathic personality, or who is dangerous to self, or has been adjudicated as a person who is chemically dependent, mentally ill, mentally retarded, or mentally ill and dangerous to the public pursuant to chapter 253B;

(14) is unable to provide alcohol and drug counseling services with reasonable safety to clients;

(15) has habitually overindulged in the use of or the dependence on alcohol within the past two years;

(16) has engaged in the improper or unauthorized personal or other use of any legend drugs as defined in section 151.01, any chemicals as defined in section 151.01, or any controlled substance as defined in section 152.01 within the past two years;

(17) reveals a communication from, or relating to, a client except when required or permitted by law;

(18) fails to comply with a client's request for health records made under section 144.335, or to furnish a client record or report required by law;

(19) has engaged in fee splitting or promises to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client;

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

(21) fails to make reports as required by section 148C.095, or cooperate with an investigation of the board;

(22) obtains money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud;

(23) undertakes or continues a professional relationship with a client in which the objectivity of the alcohol and drug counselor may be impaired;

(24) engages in conduct that constitutes grounds for discipline as established by the board in rule; or

(25) engages in bartering for services with a client.

Subd. 1a. Background investigation. The applicant must sign a release authorizing the board to obtain information from the Bureau of Criminal Apprehension, the Federal Bureau of Investigation, the Office of Mental Health Practice, the Department of Human Services, the Office of Health Facilities Complaints, and other agencies specified in the rules. After the board has given written notice to an individual who is the subject of a background investigation, the agencies shall assist the board with the investigation by giving the board criminal conviction data, reports about substantiated maltreatment of minors and vulnerable adults, and other information specified in the

rules. The board may contract with the commissioner of human services to obtain criminal history data from the Bureau of Criminal Apprehension.

Subd. 2. Appeal; restoring a license. If a license is denied, suspended, restricted, or revoked, an applicant or licensee may request a hearing under the contested case provisions of chapter 14. The board may, for good cause demonstrated by the applicant or counselor, grant a license previously refused, restore a license that has been revoked, or reduce a period of suspension or restriction of a license. The board may impose any conditions or limitations as the board deems reasonable.

[For text of subd 4, see M.S.2004]

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.091 DISCIPLINARY ACTIONS.

Subdivision 1. Forms of disciplinary action. When the board finds that an applicant or a licensed alcohol and drug counselor has violated a provision or provisions of sections 148C.01 to 148C.11, or rules promulgated under this chapter, the board may take one or more of the following actions:

- (1) refuse to grant a license;
- (2) revoke the license;
- (3) suspend the license;
- (4) impose limitations or conditions;

(5) 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 counselor of any economic advantage gained by reason of the violation charged or to reimburse the board for all costs of the investigation and proceeding; including, but not limited to, the amount paid by the board for services from the Office of Administrative Hearings, attorney fees, court reports, witnesses, reproduction of records, staff time, and expense incurred by staff of the department;

(6) order the counselor to provide uncompensated professional service under supervision at a designated public hospital, clinic, or other health care institution;

(7) censure or reprimand the counselor; or

(8) any other action justified by the case.

Subd. 2. Discovery; subpoenas. In all matters relating to the board's investigation and enforcement activities related to alcohol and drug counselors, the board of behavioral health and therapy may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary materials. Any person failing or refusing to appear or testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so may, upon application by the board to the district court in any district, be ordered to comply with the order or subpoena. The board may administer oaths to witnesses or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 3. Temporary suspension. In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the right of an alcohol and drug counselor to practice if the board finds that the counselor has violated a statute or rule that the board has authority to enforce and that continued practice by the practitioner would create a serious risk of harm to others. The suspension takes effect upon service of a written order on the practitioner specifying the statute or rule violated. The order remains in effect until the board issues a final order in the matter after a hearing or

upon agreement between the board and the counselor. Service of the order is effective if the order is served on the counselor or the counselor's attorney either personally or by first class mail. Within ten days of service of the order, the board shall hold a hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board or counselor must be by affidavit only. The counselor or the counselor's attorney of record may appear for oral argument. Within five working days after the hearing, the board shall issue an order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of that report, the hearing record, and any exceptions to the report filed by the parties.

Subd. 4. Automatic suspension. The right to practice is automatically suspended if (1) a guardian of an alcohol and drug counselor is appointed by order of a district court under sections 524.5-101 to 524.5-502, or (2) the counselor is committed by order of a district court under chapter 253B. The right to practice remains suspended until the counselor is restored to capacity by a court and, upon petition by the counselor, the suspension is terminated by the board after a hearing or upon agreement between the board and the counselor.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9; 2005 c 147 art 5 s 16

148C.093 ADDITIONAL REMEDIES.

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

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

When a request for a stay accompanies a timely hearing request, the board may, in the board's discretion, grant the stay. If the board does not grant a requested stay, the board shall refer the request to the Office of Administrative Hearings within three working days of receipt of the request. Within ten days after receiving the request from the board, an administrative law judge shall issue a recommendation to grant or deny the stay. The board shall grant or deny the stay within five working days of receiving the administrative law judge's recommendation.

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

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

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

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.095 REPORTING OBLIGATIONS.

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct constituting grounds for disciplinary action relating to the practice of alcohol and drug counseling under this chapter may report the violation to the board.

Subd. 2. **Institutions.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an alcohol and drug counselor's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the board under this chapter. The institution, organization, or governmental entity shall also report the resignation of any alcohol and drug counselors before the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or before the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.

Subd. 3. **Professional societies.** A state or local professional society for alcohol and drug counselors shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against an alcohol and drug counselor. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board.

Subd. 4. **Licensed professionals.** A licensed health professional shall report to the board personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by an alcohol and drug counselor, including conduct indicating that the individual may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is an alcohol and drug counselor, and the treating individual successfully counsels the alcohol and drug counselor to limit or withdraw from practice to the extent required by the impairment, the board may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

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

- (1) the total number of malpractice settlements or awards made;
- (2) the date the malpractice settlements or awards were made;
- (3) the allegations contained in the claim or complaint leading to the settlements or awards made;
- (4) the dollar amount of each settlement or award;
- (5) the address of the practice of the alcohol and drug counselor against whom an award was made or with whom a settlement was made; and
- (6) the name of the alcohol and drug counselor against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, submit to the board any information, records, and files, including clients' charts and records, it possesses that tend to substantiate a charge that a licensed alcohol and drug counselor may have engaged in conduct violating this chapter.

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

person, health care facility, business, or organization under subdivisions 2 to 5. The alcohol and drug counselor shall also report the revocation, suspension, restriction, limitation, or other disciplinary action in this state and report the filing of charges regarding the practitioner's license or right of practice in another state or jurisdiction.

Subd. 7. **Deadlines; forms.** Reports required by subdivisions 2 to 6 must be submitted no later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The board may provide forms for the submission of the reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.099 INVESTIGATIONS; PROFESSIONAL COOPERATION; EXCHANGING INFORMATION.

Subdivision 1. **Cooperation.** An alcohol and drug counselor who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the board, shall cooperate fully with the investigation. Cooperation includes responding fully to any question raised by or on behalf of the board relating to the subject of the investigation whether tape recorded or not. Challenges to requests of the board may be brought before the appropriate agency or court.

Subd. 2. **Exchanging information.** (a) The board shall establish internal operating procedures for:

(1) exchanging information with state boards; agencies, including the Office of Ombudsman for Mental Health and Mental Retardation; health-related and law enforcement facilities; departments responsible for licensing health-related occupations, facilities, and programs; and law enforcement personnel in this and other states; and

(2) coordinating investigations involving matters within the jurisdiction of more than one regulatory agency.

(b) The procedures for exchanging information must provide for forwarding to an entity described in paragraph (a), clause (1), any information or evidence, including the results of investigations, that is relevant to matters within the regulatory jurisdiction of that entity. The data have the same classification in the possession of the agency receiving the data as they have in the possession of the agency providing the data.

(c) The board shall establish procedures for exchanging information with other states regarding disciplinary action against alcohol and drug counselors.

(d) The board shall forward to another governmental agency any complaints received by the board that do not relate to the board's jurisdiction but that relate to matters within the jurisdiction of the other governmental agency. The agency to which a complaint is forwarded shall advise the board of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule that the board is empowered to enforce must be forwarded to the board to be processed according to this section.

(e) The board shall furnish to a person who made a complaint a description of the actions of the board relating to the complaint.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9

148C.10 PROHIBITION AGAINST UNLICENSED PRACTICE OR USE OF TITLES; PENALTY.

[For text of subd 1, see M.S.2004]

Subd. 2. **Use of titles.** No person shall present themselves or any other individual to the public by any title incorporating the words "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are licensed or otherwise qualified to practice alcohol and drug counseling unless that individual holds a valid license. Persons issued a temporary permit must use titles consistent with section 148C.04, subdivision 6, paragraph (d).

[For text of subd 3, see M.S.2004]

History: 2005 c 147 art 5 s 17

148C.11 EXCEPTIONS TO LICENSE REQUIREMENT.

Subdivision 1. Other professionals. (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to: licensed physicians; registered nurses; licensed practical nurses; licensed psychological practitioners; members of the clergy; American Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and until July 1, 2007, individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

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

(c) Any person who is exempt under this subdivision but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees. The board shall issue a license without examination to an applicant who is licensed or registered in a profession identified in paragraph (a) if the applicant:

(1) shows evidence of current licensure or registration; and

(2) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board.

(d) Any person who is exempt from licensure under this section must not use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling unless that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice of alcohol and drug counseling are not exempt from the commissioner's jurisdiction solely by the use of one of the above titles.

[For text of subd 2, see M.S.2004]

Subd. 3. Federally recognized tribes; ethnic minorities. (a) Alcohol and drug counselors practicing alcohol and drug counseling according to standards established by federally recognized tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals practicing under that authority shall be afforded the same rights, responsibilities, and recognition as persons licensed pursuant to this chapter.

(b) The board shall develop special licensing criteria for issuance of a license to alcohol and drug counselors who: (1) practice alcohol and drug counseling with a member of an ethnic minority population or with a person with a disability as defined by rule; or (2) are employed by agencies whose primary agency service focus addresses ethnic minority populations or persons with a disability as defined by rule. These licensing criteria may differ from the licensing requirements specified in section 148C.04. To develop, implement, and evaluate the effect of these criteria, the commissioner shall establish a committee comprised of, but not limited to, representatives from the Minnesota Commission Serving Deaf and Hard-of-Hearing People, the Council on Affairs of Chicano/Latino People, the Council on Asian-Pacific Minnesotans, the Council on Black Minnesotans, the Council on Disability, and the Indian Affairs Council. The committee does not expire.

(c) MS 2002 (Expired, 2002 c 354 s 1)

Subd. 4. **Hospital alcohol and drug counselors.** Effective January 1, 2007, hospitals employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol or drug counselor employed by a hospital must be licensed as an alcohol and drug counselor in accordance with this chapter.

Subd. 5. **City, county, and state agency alcohol and drug counselors.** Effective January 1, 2007, city, county, and state agencies employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol and drug counselor employed by a city, county, or state agency must be licensed as an alcohol and drug counselor in accordance with this chapter.

Subd. 6. **Transition period for hospital and city, county, and state agency alcohol and drug counselors.** For the period between July 1, 2003, and January 1, 2007, the board shall grant a license to an individual who is employed as an alcohol and drug counselor at a Minnesota school district or hospital, or a city, county, or state agency in Minnesota, if the individual meets the requirements in section 148C.0351 and:

(1) was employed as an alcohol and drug counselor at a school district, a hospital, or a city, county, or state agency before August 1, 2002; has 8,000 hours of alcohol and drug counselor work experience; has satisfactorily completed 2,000 hours of supervised postdegree equivalent professional practice according to section 148C.04, subdivision 4; or has completed a written case presentation and satisfactorily passed an oral examination established by the board; and has satisfactorily passed a written examination as established by the board; or

(2) is credentialed as a board certified counselor (BCC) or board certified counselor reciprocal (BCCR) by the Minnesota Certification Board; or

(3) has 14,000 hours of supervised alcohol and drug counselor work experience as documented by the employer.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9; 2005 c 147 art 5 s 18-21; 2005 c 165 art 1 s 1

148C.12 FEES.

[For text of subd 1, see M.S.2004]

Subd. 2. **Biennial renewal fee.** The license renewal fee is \$295. If the board establishes the renewal schedule and the expiration date is less than two years, the fee must be prorated.

Subd. 3. **Temporary permit fee.** The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), is \$100. The fee for annual renewal of a temporary permit is \$150, but when the first expiration date occurs in less or more than one year, the fee must be prorated.

Subd. 4. [Repealed, 2005 c 147 art 5 s 26]

[For text of subds 5 to 10, see M.S.2004]

Subd. 11. **Penalty fees.** (a) The penalty fee for practicing alcohol and drug counseling without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of alcohol and drug counseling before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of alcohol and drug counseling.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus

\$20 for each missing clock hour. The licensee must obtain the correct number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding 12 months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

History: 2003 c 118 s 28; 2004 c 279 art 5 s 9; 2005 c 147 art 5 s 22; art 9 s 3