

**CHAPTER 148B**  
**SOCIAL WORK, MARRIAGE AND FAMILY THERAPY,**  
**MENTAL HEALTH**

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**148B.001** MS 2006 [Renumbered 15.001]

### **148B.01 DEFINITIONS.**

Subdivision 1. **Terms.** For the purposes of this chapter, the following terms have the meanings given.

Subd. 2. [Repealed, 1991 c 292 art 2 s 75]

Subd. 3. [Repealed, 1997 c 193 s 48]

Subd. 4. **Board.** "Board" means the Board of Marriage and Family Therapy established in section 148B.30.

Subd. 5. [Repealed, 1991 c 292 art 2 s 75]

Subd. 6. [Repealed, 1991 c 292 art 2 s 75]

Subd. 7. **Licensee.** "Licensee" means a person licensed by the Board of Marriage and Family Therapy.

**History:** 1987 c 347 art 1 s 1; 1991 c 292 art 2 s 33; 1997 c 193 s 2,3

**148B.02** [Repealed, 1991 c 292 art 2 s 75]

**148B.03 APPLICABILITY.**

Sections 148B.04 to 148B.17 apply to the Board of Marriage and Family Therapy, and the licensees within its jurisdiction, unless superseded by an inconsistent law that relates specifically to it.

**History:** 1987 c 347 art 1 s 3; 1991 c 292 art 2 s 34; 1997 c 193 s 4

**148B.04 DISCLOSURE.**

Subdivision 1. [Repealed, 1988 c 689 art 2 s 269]

Subd. 2. **Contested case proceedings.** Upon application of a party in a contested case proceeding before the board, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with rule 34, Minnesota Rules of Civil Procedure.

Subd. 3. **Information on disciplinary actions.** If the board imposes disciplinary measures or takes disciplinary action of any kind, the name and business address of the licensee, the nature of the misconduct, and the action taken by the board, including all settlement agreements and other board orders, are public data.

Subd. 4. **Exchange of information.** The board shall exchange information with other boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (c).

Subd. 5. **Information to the complainant.** The board shall furnish to a person who made a complaint a statement of the result of an investigation of the complaint and a description of the activities and actions of the board relating to the complaint.

Subd. 6. **Classification of certain residence addresses and telephone numbers.** Notwithstanding section 13.41, subdivision 2 or 5, the residence address and telephone number of an applicant or licensee are private data on individuals as defined in section 13.02, subdivision 12, if the applicant or licensee so requests and provides an alternative address and telephone number.

**History:** 1987 c 347 art 1 s 4; 1991 c 292 art 2 s 35,36; 1992 c 460 s 1,2; 1993 c 240 s 2; 1994 c 618 art 1 s 23; 1997 c 193 s 5-7; 2000 c 284 s 4

**148B.05 RIGHT TO PRACTICE.**

Subdivision 1. **Disciplinary action by a board.** A suspension, revocation, condition, limitation, qualification, or restriction of an individual's license or right to practice is in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise.

Subd. 2. [Repealed, 1992 c 460 s 20]

**History:** 1987 c 347 art 1 s 5; 1989 c 209 art 2 s 1; 1991 c 292 art 2 s 37; 1992 c 460 s 3

#### **148B.06 TAX CLEARANCE CERTIFICATE.**

Subdivision 1. **Certificate required.** A board may not issue or renew a license if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. A board may issue or renew a license or filing only if the commissioner of revenue issues a tax clearance certificate and the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes. For purposes of this section, "taxes" means all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes. "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

Subd. 2. **Hearing.** In lieu of the notice and hearing requirements of section 148B.175, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice required in subdivision 1. The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any other law, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

Subd. 3. **Information required.** The board shall require all licensees or applicants to provide their Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, Social Security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

**History:** 1987 c 347 art 1 s 6; 1989 c 184 art 2 s 5; 1991 c 292 art 2 s 38,39,74; 1993 c 13 art 2 s 6; 1997 c 193 s 8

#### **148B.07 REPORTING OBLIGATIONS.**

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct constituting grounds for disciplinary action relating to licensure or unlicensed practice 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 a licensee'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 or organization shall also report the resignation of any licensees prior to the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or prior to the commencement of formal charges but after the licensee had knowledge that formal charges were contemplated or in preparation.

Subd. 3. **Professional societies or associations.** A state or local professional society or association for licensees shall forward to the board any complaint received concerning the ethics or conduct of the practice which the board regulates. The society or association shall forward a complaint to the board upon receipt of the complaint. The society or association shall also report to the appropriate board any disciplinary action taken against a member.

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 any licensee, including conduct indicating that the licensee 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 another licensee, and the treating individual successfully counsels the other individual 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.** Four times each year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to licensees, or the Medical Joint Underwriting Association under chapter 62F, shall submit to the board a report concerning the licensees against whom malpractice settlements or awards have been made to the plaintiff. 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 malpractice settlement or award;

(5) the regular address of the practice of the licensee against whom an award was made or with whom a settlement was made; and

(6) the name of the licensee against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, report to the board any information it possesses that tends to substantiate a charge that a licensee may have engaged in conduct violating this chapter.

Subd. 6. **Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a licensee is a person who is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the licensee pursuant to sections 524.5-101 to 524.5-502 or commits a licensee pursuant to chapter 253B.

Subd. 7. **Self-reporting.** A licensee shall report to the board or to the Office of Mental Health Practice any personal action that would require that a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. **Deadlines; forms.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board and the Office of Mental Health Practice may provide forms for the submission of 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.

Subd. 9. **Subpoenas.** The board and the Office of Mental Health Practice may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.

**History:** 1987 c 347 art 1 s 7; 1991 c 292 art 2 s 40; 1992 c 460 s 4; 1Sp1994 c 1 art 2 s 12; 1997 c 193 s 9; 2002 c 221 s 3; 2004 c 146 art 3 s 47

## **148B.08 IMMUNITY.**

Subdivision 1. **Reporting.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting in good faith a report under section 148B.07 or for otherwise reporting violations or alleged violations of this chapter. The reports are classified under section 13.41.

Subd. 2. **Investigation.** Members of the board and persons employed by the board or engaged in the investigation of violations and in the preparation and management of charges of

violations of this chapter on behalf of the board, are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

**History:** 1987 c 347 art 1 s 8; 1991 c 292 art 2 s 41; 1992 c 460 s 5; 1993 c 240 s 3; 1997 c 193 s 10

#### **148B.09 PROFESSIONAL COOPERATION.**

A licensee who is the subject of an investigation by or on behalf of a board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation and providing copies of client records, as reasonably requested by the board, to assist the board in its investigation. The board shall pay for copies requested. If the board does not have a written consent from a client permitting access to the client's records, the licensee shall delete any data in the record that identifies the client before providing it to the board. The board shall maintain any records obtained pursuant to this section as investigative data pursuant to chapter 13.

**History:** 1987 c 347 art 1 s 9; 1991 c 292 art 2 s 74

#### **148B.10 DISCIPLINARY RECORD ON JUDICIAL REVIEW.**

Upon judicial review of any board disciplinary or adverse action taken under this chapter, the reviewing court shall seal the administrative record, except for the board's final decision, and shall not make the administrative record available to the public.

**History:** 1987 c 347 art 1 s 10

#### **148B.11 PROFESSIONAL ACCOUNTABILITY.**

Subdivision 1. **Investigation.** Each board shall maintain and keep current a file containing the reports and complaints filed against licensees within the board's jurisdiction. Each complaint filed with a board pursuant to section 214.10, subdivision 1, must be investigated according to section 214.10, subdivision 2. If the files maintained by a board show that a malpractice settlement or award to the plaintiff has been made against a licensee as reported by insurers under section 148B.07, the executive director of the board shall notify the board and the board may authorize a review of the provider's practice.

Subd. 2. **Attorney general investigates.** When a board initiates a review of a licensee's practice it shall notify the attorney general who shall investigate the matter in the same manner as provided in section 214.10. If an investigation is to be made, the attorney general shall notify the licensee, and, if the incident being investigated occurred there, the administrator and chief of staff at the health care facilities or clinics in which the professional serves, if applicable.

Subd. 3. **Access to records.** The board shall be allowed access to records of a client treated

by the licensee under review if the client signs a written consent permitting access. If no consent form has been signed, the hospital, clinic, or licensee shall first delete data in the record that identifies the client before providing it to the board.

**History:** 1987 c 347 art 1 s 11; 1991 c 292 art 2 s 74

#### **148B.12 MALPRACTICE HISTORY.**

Subdivision 1. **Submission.** Licensees or applicants for licensure who have previously practiced in another state shall submit with their application the following information:

(1) number, date, and disposition of any malpractice settlement or award made relating to the quality of services provided by the licensee or applicant; and

(2) number, date, and disposition of any civil litigations or arbitrations relating to the quality of services provided by the licensee or applicant in which the party complaining against the licensee or applicant prevailed or otherwise received a favorable decision or order.

Subd. 2. **Board action.** The board shall give due consideration to the information submitted under this section. A licensee or applicant for licensure who willfully submits incorrect information is subject to disciplinary action under this chapter.

**History:** 1987 c 347 art 1 s 12; 1991 c 292 art 2 s 42

#### **148B.13 PUBLICATION OF DISCIPLINARY ACTIONS.**

At least annually, each board shall publish and release to the public a description of all disciplinary measures or actions taken by the board. The publication must include, for each disciplinary measure or action taken, the name and business address of the licensee, the nature of the misconduct, and the measure or action taken by the board.

**History:** 1987 c 347 art 1 s 13; 1991 c 292 art 2 s 43

#### **148B.14 EVIDENCE OF PAST SEXUAL CONDUCT.**

In a proceeding for the suspension or revocation of the right to practice or other disciplinary or adverse action involving sexual contact with a client or former client, the board or administrative law judge shall not consider evidence of the client's previous sexual conduct nor shall any reference to this conduct be made during the proceedings or in the findings, except by motion of the complainant, unless the evidence would be admissible under the applicable provisions of section 609.347, subdivision 3.

**History:** 1987 c 347 art 1 s 14

#### **148B.15 DISPUTE RESOLUTION.**

Subdivision 1. **Arbitration.** Each board shall encourage licensees to submit all fee disputes with clients to binding arbitration.



Subd. 2. **Mediation.** Each board shall encourage licensees to submit all disputes with clients that are not related to violations of a code of professional conduct to voluntary mediation.

**History:** 1987 c 347 art 1 s 15; 1992 c 292 art 2 s 74; 1992 c 460 s 6

**148B.16** [Repealed, 1991 c 292 art 2 s 75]

**148B.17 FEES.**

Each board shall by rule 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:** 1987 c 347 art 1 s 17; 1989 c 335 art 4 s 61; 1991 c 292 art 2 s 44; 1996 c 305 art 3 s 22

**148B.171** [Repealed, 1991 c 292 art 2 s 75]

**148B.175 COMPLAINTS; INVESTIGATION AND HEARING.**

Subdivision 1. **Discovery; subpoenas.** In all matters relating to its lawful regulatory activities, a board may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to 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 to the district court in any district, be ordered to comply with the subpoena or order. Any board member 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. 2. **Classification of data.** The board shall maintain any records, other than client records, obtained as part of an investigation, as investigative data under section 13.41. Client records are classified as private under chapter 13, and must be protected as such in the records of the board and in administrative or judicial proceeding unless the client authorizes the board in writing to make public the identity of the client or a portion or all of the client's records.

Subd. 3. **Examination.** If a board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by section 214.10, or statute or rule enforced by the board, it may issue an order directing the applicant or licensee to submit to a mental or physical

examination or chemical dependency evaluation. For the purpose of this section, every applicant or licensee is considered to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication.

Subd. 4. **Failure to submit to an examination.** Failure to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the control of the applicant or licensee, constitutes an admission that the applicant or licensee violated section 214.10, or statute or rule enforced by the board, based on the factual specifications in the examination or evaluation order, and may result in an application being denied or a default and final disciplinary order being entered after a contested case hearing. The only issues to be determined at the hearing are whether the designated board member had probable cause to issue the examination or evaluation order and whether the failure to submit was due to circumstances beyond the control of the applicant or licensee. Neither the record of a proceeding under this subdivision nor the orders entered by the board are admissible, subject to subpoena, or to be used against the applicant or licensee in a proceeding in which the board is not a party or decision maker. Information obtained under this subdivision is classified as private under chapter 13 and the orders issued by a board as the result of an applicant or licensee to submit to an examination or evaluation are classified as public.

Subd. 5. **Access to data and records.** In addition to ordering a physical or mental examination or chemical dependency evaluation and notwithstanding section 13.384, 144.651, 595.02, or any other law limiting access to medical or other health records, a board may obtain data and health records relating to an applicant or licensee without the applicant's or licensee's consent if the board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by section 214.10, or statute or rule enforced by the board. An applicant, licensee, insurance company, health care facility, provider as defined in section 144.291, subdivision 2, paragraph (h), or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released in accordance with a written request made under this subdivision, unless the information is false and the person or entity giving the information knew or had reason to know that the information was false. Information on individuals obtained under this section is investigative data under section 13.41.

Subd. 6. **Forms of disciplinary action.** When grounds for disciplinary action exist under section 214.10, or statute or rule enforced by the board, it may take one or more of the following disciplinary actions:

- (1) deny the right to practice;

- (2) revoke the right to practice;
- (3) suspend the right to practice;
- (4) impose limitations on the practice of the licensee;
- (5) impose conditions on the practice of the licensee;

(6) 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 licensee of any economic advantage gained by reason of the violation charged, or to discourage repeated violations;

(7) impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the board for services from the Office of Administrative Hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff;

- (8) censure or reprimand the licensee; or
- (9) take any other action justified by the facts of the case.

Subd. 7. **Temporary suspension.** In addition to any other remedy provided by law, the board may, acting through its designated board member and without a hearing, temporarily suspend the right of a licensee to practice if the board member finds that the licensee has violated a statute or rule that the board is empowered to enforce and that continued practice by the licensee would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the licensee 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 licensee. Service of the order is effective if the order is served on the licensee or counsel of record personally or by first class mail to the most recent address provided to the board for the licensee or the counsel of record. Within ten days of service of the order, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board or licensee may be in affidavit form only. The licensee or the counsel of record may appear for oral argument. Within five working days after the hearing, the board shall issue its 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.

Subd. 8. **Automatic suspension; restoration.** The right to practice is automatically suspended if (1) a guardian of a licensee is appointed by order of a court under sections 524.5-101 to 524.5-502, or (2) the licensee is committed by order of a court pursuant to chapter 253B. The right to practice remains suspended until the licensee is restored to capacity by a court and,

upon petition by the licensee, the suspension is terminated by the board after a hearing or upon agreement between the board and the licensee. In its discretion, a board may restore and reissue permission to provide services, but as a condition of the permission may impose a disciplinary or corrective measure that it might originally have imposed.

Subd. 9. **Additional remedies.** The board may in its own name issue a cease and desist order to stop a person from engaging in an unauthorized practice or violating or threatening to violate a statute, rule, or order which the board has issued or is empowered 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, 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 its discretion, grant the stay. If the board does not grant a requested stay, it 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 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 Ramsey County 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. 10. **Injunctive relief.** In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, a board may in its own name bring an action in Ramsey County District Court for injunctive relief to restrain any unauthorized practice or violation or threatened violation of any statute, rule, or order which the board is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a licensee would create a serious risk of harm to others. The board need not show irreparable harm.

Subd. 11. **Additional powers.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a licensee from criminal prosecution by a competent authority or from disciplinary action by the board. Nothing in this section limits the board's

authority to seek injunctive relief under section 214.11.

**History:** *1991 c 292 art 2 s 45; 1992 c 460 s 7-10; 1Sp1994 c 1 art 2 s 13; 1999 c 227 s 22; 2004 c 146 art 3 s 47; 2007 c 147 art 10 s 15*

**148B.1751 DUTY TO WARN.**

A licensee must comply with the duty to warn established in section 148.975.

**History:** *2008 c 189 s 20*

**148B.18** Subdivision 1. [Repealed, 2005 c 147 art 1 s 71]

Subd. 2. [Repealed, 2005 c 147 art 1 s 71]

Subd. 2a. [Repealed, 2005 c 147 art 1 s 71]

Subd. 3. [Repealed, 2005 c 147 art 1 s 71]

Subd. 3a. [Repealed, 2005 c 147 art 1 s 71]

Subd. 4. [Repealed, 2005 c 147 art 1 s 71]

Subd. 4a. [Repealed, 2005 c 147 art 1 s 71]

Subd. 5. [Repealed, 2005 c 147 art 1 s 71]

Subd. 6. [Repealed, 1997 c 193 s 48]

Subd. 7. [Repealed, 1997 c 193 s 48]

Subd. 8. [Repealed, 2005 c 147 art 1 s 71]

Subd. 9. [Repealed, 2005 c 147 art 1 s 71]

Subd. 10. [Repealed, 2005 c 147 art 1 s 71]

Subd. 11. [Repealed, 2005 c 147 art 1 s 71]

Subd. 12. [Repealed, 2005 c 147 art 1 s 71]

Subd. 13. [Repealed, 2005 c 147 art 1 s 71]

**148B.185** [Repealed, 2005 c 147 art 1 s 71]

**148B.19** Subdivision 1. [Repealed, 2005 c 147 art 1 s 71]

Subd. 2. [Repealed, 2005 c 147 art 1 s 71]

Subd. 3. [Repealed, 1997 c 193 s 48]

Subd. 4. [Repealed, 2005 c 147 art 1 s 71]

Subd. 5. [Repealed, 2005 c 147 art 1 s 71]

**148B.195** MS 2006 [Renumbered 148B.1751]

**148B.20** Subdivision 1. [Repealed, 2005 c 147 art 1 s 71]

Subd. 2. [Repealed, 1993 c 337 s 20]

Subd. 3. [Repealed, 2005 c 147 art 1 s 71]

**148B.21** [Repealed, 2005 c 147 art 1 s 71]

**148B.215** [Repealed, 2005 c 147 art 1 s 71]

**148B.22** [Repealed, 2005 c 147 art 1 s 71]

**148B.224** [Repealed, 2005 c 147 art 1 s 71]

**148B.225** [Repealed, 2005 c 147 art 1 s 71]

**148B.226** [Repealed, 2005 c 147 art 1 s 71]

**148B.23** [Repealed, 1997 c 193 s 48]

**148B.24** [Repealed, 2005 c 147 art 1 s 71]

**148B.25** [Repealed, 2005 c 147 art 1 s 71]

**148B.26** [Repealed, 2005 c 147 art 1 s 71]

**148B.27** [Repealed, 2005 c 147 art 1 s 71]

**148B.28** Subdivision 1. [Repealed, 2005 c 147 art 1 s 71]

Subd. 2. [Repealed, 2005 c 147 art 1 s 71]

Subd. 3. [Repealed, 2005 c 147 art 1 s 71]

Subd. 4. [Repealed, 2005 c 147 art 1 s 71]

Subd. 5. [Repealed, 2005 c 147 art 1 s 71]

Subd. 6. [Repealed, 1995 c 63 s 9]

**148B.281** [Repealed, 2005 c 147 art 1 s 71]

**148B.282** [Repealed, 2005 c 147 art 1 s 71]

**148B.283** [Repealed, 2005 c 147 art 1 s 71]

**148B.284** [Repealed, 2005 c 147 art 1 s 71]

**148B.285** [Repealed, 2005 c 147 art 1 s 71]

**148B.286** [Repealed, 2005 c 147 art 1 s 71]

**148B.287** [Repealed, 2005 c 147 art 1 s 71]

**148B.288** [Repealed, 2005 c 147 art 1 s 71]

**148B.289** [Repealed, 2005 c 147 art 1 s 71]

### **148B.29 DEFINITIONS.**

Subdivision 1. **Applicability.** For the purposes of sections 148B.29 to 148B.39, the following terms have the meanings given.

Subd. 2. **Board.** "Board" means the Board of Marriage and Family Therapy created in section 148B.30.

Subd. 3. **Marriage and family therapy.** "Marriage and family therapy" means the process of providing professional marriage and family psychotherapy to individuals, married couples, and family groups, either singly or in groups. The practice of marriage and family therapy utilizes established principles that recognize the interrelated nature of the individual problems and dysfunctions in family members to assess, understand, and treat emotional and mental problems. Marriage and family therapy includes premarital, marital, divorce, and family therapy, and is a specialized mode of treatment for the purpose of resolving emotional problems and modifying intrapersonal and interpersonal dysfunction.

**History:** 1987 c 347 art 3 s 1

### **148B.30 BOARD OF MARRIAGE AND FAMILY THERAPY.**

Subdivision 1. **Creation.** There is created a Board of Marriage and Family Therapy that consists of seven members appointed by the governor. Four members shall be licensed, practicing marriage and family therapists, each of whom shall for at least five years immediately preceding appointment, have been actively engaged as a marriage and family therapist, rendering professional services in marriage and family therapy. One member shall be engaged in the professional teaching and research of marriage and family therapy. Two members shall be representatives of the general public who have no direct affiliation with the practice of marriage and family therapy. All members shall have been a resident of the state two years preceding their appointment. Of the first board members appointed, three shall continue in office for two years, two members for three years, and two members, including the chair, for terms of four years respectively. Their successors shall be appointed for terms of four years each, except that a person

chosen to fill a vacancy shall be appointed only for the unexpired term of the board member whom the newly appointed member succeeds. Upon the expiration of a board member's term of office, the board member shall continue to serve until a successor is appointed and qualified.

Subd. 2. **Transition provision.** Notwithstanding subdivision 1, members of the first board appointed need not be licensed under sections 148B.29 to 148B.39, but shall meet all qualifications, other than payments of fees, so as to be eligible for licensure under sections 148B.29 to 148B.39.

Subd. 3. **Officers; staff.** The board shall annually elect from its membership a chair, a vice-chair, and secretary-treasurer, and shall adopt rules to govern its proceedings. The board shall appoint and employ an executive secretary who shall not be a member of the board.

Subd. 4. **Membership terms; compensation and removal.** The membership terms, compensation, and removal of board members is governed by section 15.0575, unless superseded by this section.

**History:** 1987 c 347 art 3 s 2

#### **148B.31 DUTIES OF THE BOARD.**

The board shall:

- (1) adopt and enforce rules for marriage and family therapy licensing, which shall be designed to protect the public;
- (2) develop by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified under sections 148B.29 to 148B.39;
- (3) issue licenses to individuals who are qualified under sections 148B.29 to 148B.39;
- (4) establish and implement procedures designed to assure that licensed marriage and family therapists will comply with the board's rules;
- (5) study and investigate the practice of marriage and family therapy within the state in order to improve the standards imposed for the licensing of marriage and family therapists and to improve the procedures and methods used for enforcement of the board's standards;
- (6) formulate and implement a code of ethics for all licensed marriage and family therapists; and
- (7) establish continuing education requirements for marriage and family therapists.

**History:** 1987 c 347 art 3 s 3

#### **148B.32 PROHIBITIONS AND PENALTY.**

Subdivision 1. **Unlicensed practice prohibited.** After adoption of rules by the board implementing sections 148B.29 to 148B.39, no individual shall engage in marriage and family



therapy practice unless that individual holds a valid license issued under sections 148B.29 to 148B.39.

Subd. 2. **Appearance as licensee prohibited.** After adoption of rules by the board implementing sections 148B.29 to 148B.39, no individual shall be held out to be a marriage and family therapist unless that individual holds a valid license issued under sections 148B.29 to 148B.39, is a psychologist licensed by the Board of Psychology with a competency in marriage and family therapy, or is a person providing marriage and family therapy who is employed by a hospital licensed under chapter 144 and who is acting within the scope of the person's employment.

Subd. 3. **Penalty.** A person who violates a provision of sections 148B.29 to 148B.39 is guilty of a gross misdemeanor.

**History:** 1987 c 347 art 3 s 4; 1988 c 689 art 2 s 268; 1989 c 282 art 2 s 42; 1995 c 234 art 8 s 46; 2000 c 488 art 9 s 4

### 148B.33 REQUIREMENTS FOR LICENSURE.

Subdivision 1. **Documentary evidence of qualifications.** An applicant for a license shall furnish evidence that the applicant:

- (1) has attained the age of majority;
- (2) is of good moral character;
- (3) is a citizen of the United States, or is lawfully entitled to remain and work in the United States;
- (4) has at least two years of supervised postgraduate experience in marriage and family therapy satisfactory to the board;
- (5)(i) has completed a master's or doctoral degree in marriage and family therapy from a program in a regionally accredited educational institution or from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education of the American Association for Marriage and Family Therapy; or (ii) has completed a master's or doctoral degree from a regionally accredited educational institution in a related field for which the course work is considered by the board to be equivalent to that provided in clause (5)(i);
- (6) will agree to conduct all professional activities as a licensed marriage and family therapist in accordance with a code of ethics for marriage and family therapists to be adopted by the board; and
- (7) has passed an examination approved by the board by rule.

Subd. 2. **Fee.** Each applicant shall pay a nonrefundable application fee set by the board.

**History:** 1987 c 347 art 3 s 5; 1991 c 292 art 2 s 48

**148B.34** [Repealed, 1996 c 310 s 1]

**148B.35 RECIPROCITY WITH OTHER STATES.**

The board shall issue a marriage and family therapist's license to an individual who holds a current license as a marriage and family therapist from another jurisdiction if the board determines that the standards for licensure in the other jurisdiction are at least equivalent to or exceed the requirements of sections 148B.29 to 148B.39 and the rules of the board.

**History:** 1987 c 347 art 3 s 7

**148B.36 NONTRANSFERABILITY OF LICENSES.**

A marriage and family therapy license is not transferable.

**History:** 1987 c 347 art 3 s 8

**148B.37 REFUSAL TO GRANT LICENSE; SUSPENSION OR REVOCATION OF LICENSE.**

Subdivision 1. **Grounds for action.** The board may refuse to grant a license to, or may suspend, revoke, condition, limit, qualify, or restrict the license of any individual who the board, after a hearing under the contested case provisions of chapter 14, determines:

(1) is incompetent to practice marriage and family therapy, or is found to engage in the practice of marriage and family therapy in a manner harmful or dangerous to a client or to the public;

(2) is convicted by a court of competent jurisdiction of a crime that the board determines is of a nature to render the convicted person unfit to practice marriage and family therapy. The board should compile, maintain, and publish a list of such crimes;

(3) has violated a provision of sections 148B.29 to 148B.39 or one or more of the rules of the board;

(4) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(5) has knowingly made a false statement on a form required by the board for licensing or license renewal; or

(6) has failed to obtain continuing education credits required by the board.

Subd. 2. **Restoring a license.** For reasons it considers sufficient and upon a vote of five of its members, the board may restore a license that has been revoked, reduce a period of suspension, or withdraw a reprimand.

**History:** 1987 c 347 art 3 s 9

**148B.38 EXCEPTIONS FROM LICENSE REQUIREMENT.**

Subdivision 1. **Other professionals.** Nothing in sections 148B.29 to 148B.39 shall be construed to prevent qualified members of other licensed or certified professions or occupations, such as licensed physicians, registered nurses, licensed practical nurses, psychologists licensed by the board of psychology, social workers, probation officers, members of the clergy, attorneys, school counselors who are employed by an accredited educational institution while performing those duties for which they are employed, registered occupational therapists or certified occupational therapist assistants who are certified by the American Occupational Therapy Association, from doing work of a marriage and family therapy nature.

Subd. 2. **Students.** Nothing in sections 148B.29 to 148B.39 shall be construed to prevent marriage and family therapy practice by students or interns or individuals preparing for marriage and family therapy to practice under qualified supervision of a licensed professional, recognized and approved by the board in a recognized educational institution or agency so long as they are designated by titles such as "student," "trainee," "intern," or other titles clearly indicating training status.

Subd. 3. **Federally recognized tribes and private nonprofit agencies with a minority focus.** The licensure of marriage and family therapists who are employed by federally recognized tribes and private nonprofit agency marriage and family therapists, whose primary service focus addresses ethnic minority populations and who are themselves members of ethnic minority populations within said agencies, shall be voluntary for a period of five years at which time the legislature will review the need for mandatory licensure for all marriage and family therapists under this subdivision.

**History:** 1987 c 347 art 3 s 10; 1991 c 292 art 2 s 49

**148B.39 PRIVILEGED COMMUNICATIONS; EXCEPTIONS.**

A person licensed under sections 148B.29 to 148B.39 and employees and professional associates of the person cannot be required to disclose any information that the person, employee, or associate may have acquired in rendering marriage and family therapy services, unless:

- (1) disclosure is required by other state laws;
- (2) failure to disclose the information presents a clear and present danger to the health or safety of an individual;
- (3) the person, employee, or associate is a party defendant to a civil, criminal, or disciplinary action arising from the therapy, in which case a waiver of the privilege accorded by this section is limited to that action;

(4) the patient is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to a compulsory process or the right to present testimony and witnesses in that person's behalf; and

(5) a patient agrees to a waiver of the privilege accorded by this section, and in circumstances where more than one person in a family is receiving therapy, each such family member agrees to the waiver. Absent a waiver from each family member, a marital and family therapist cannot disclose information received by a family member.

**History:** 1987 c 347 art 3 s 11

**148B.40** [Repealed, 1987 c 347 art 4 s 11; 1991 c 292 art 2 s 75]

**148B.41** [Repealed, 1987 c 347 art 4 s 11; 1991 c 292 art 2 s 75]

**148B.42** [Repealed, 1987 c 347 art 4 s 11; 1991 c 292 art 2 s 75]

**148B.43** [Repealed, 1987 c 347 art 4 s 11; 1991 c 292 art 2 s 75]

**148B.44** [Repealed, 1987 c 347 art 4 s 11; 1991 c 292 art 2 s 75]

**148B.45** [Repealed, 1987 c 347 art 4 s 11; 1991 c 292 art 2 s 75]

**148B.46** [Repealed, 1987 c 347 art 4 s 11; 1991 c 292 art 2 s 75]

**148B.47** [Repealed, 1987 c 347 art 4 s 11; 1991 c 292 art 2 s 75]

**148B.48** [Repealed, 1991 c 292 art 2 s 75]

#### **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.

**History:** 2003 c 118 s 4; 2007 c 123 s 37

#### **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. The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a. 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; 2004 c 279 art 11 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, maintain, and publish annually a register of current licensees and approved supervisors;

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

(7) 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; and

(8) 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; 2004 c 279 art 5 s 1

### **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 or doctoral degree program in counseling or a related field, as determined by the board based on the criteria in paragraph (b), that includes a minimum of 48 semester hours or 72 quarter 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 or has submitted proof of supervised professional practice that is acceptable to the board; and

(5) has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) or an equivalent national examination as determined by the board, and ethical, oral, and situational examinations if prescribed by the board.

(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 include course work in each of 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), clauses (1) to (3) and (5), or paragraph (b).

(d) To be licensed as a professional counselor, a Minnesota licensed psychologist need only show evidence of licensure from the Minnesota Board of Psychology and is not required to comply with paragraph (a) or (b).

Subd. 2. MS 2004 [Expired, 2003 c 118 s 7]

Subd. 3. **Fee.** Nonrefundable fees are as follows:

- (1) initial license application fee for licensed professional counseling (LPC) - \$150;
- (2) initial license fee for LPC - \$250;
- (3) annual active license renewal fee for LPC - \$250 or equivalent;
- (4) annual inactive license renewal fee for LPC - \$125;

- (5) initial license application fee for licensed professional clinical counseling (LPCC) - \$150;
- (6) initial license fee for LPCC - \$250;
- (7) annual active license renewal fee for LPCC - \$250 or equivalent;
- (8) annual inactive license renewal fee for LPCC - \$125;
- (9) license renewal late fee - \$100 per month or portion thereof;
- (10) copy of board order or stipulation - \$10;
- (11) certificate of good standing or license verification - \$25;
- (12) duplicate certificate fee - \$25;
- (13) professional firm renewal fee - \$25;
- (14) sponsor application for approval of a continuing education course - \$60;
- (15) initial registration fee - \$50;
- (16) annual registration renewal fee - \$25; and
- (17) approved supervisor application processing fee - \$30.

**History:** 2003 c 118 s 7; 2004 c 279 art 5 s 2,3; 2005 c 147 art 5 s 1,2; 2007 c 123 s 38,39; 2007 c 147 art 9 s 30

### **148B.5301 LICENSED PROFESSIONAL CLINICAL COUNSELOR.**

Subdivision 1. **General requirements.** (a) To be licensed as a licensed professional clinical counselor (LPCC), an applicant must provide satisfactory evidence 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 or doctoral degree program in counseling or a related field, as determined by the board based on the criteria in items (i) to (x), that includes a minimum of 48 semester hours or 72 quarter hours and a supervised field experience in counseling that is not fewer than 700 hours. The degree 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 include coursework in each of the following subject areas:
  - (i) helping relationship, including counseling theory and practice;
  - (ii) human growth and development;
  - (iii) lifestyle and career development;



- (iv) group dynamics, processes, counseling, and consulting;
- (v) assessment and appraisal;
- (vi) social and cultural foundations, including multicultural issues;
- (vii) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
- (viii) family counseling and therapy;
- (ix) research and evaluation; and
- (x) professional counseling orientation and ethics;

(4) has demonstrated competence in professional counseling by passing the National Clinical Mental Health Counseling Examination (NCMHCE), administered by the National Board for Certified Counselors, Inc. (NBCC) and ethical, oral, and situational examinations as prescribed by the board. In lieu of the NCMHCE, applicants who have taken and passed the National Counselor Examination (NCE) administered by the NBCC, or another board-approved examination, need only take and pass the Examination of Clinical Counseling Practice (ECCP) administered by the NBCC;

(5) has earned graduate-level semester credits or quarter-credit equivalents in the following clinical content areas as follows:

- (i) six credits in diagnostic assessment for child or adult mental disorders; normative development; and psychopathology, including developmental psychopathology;
- (ii) three credits in clinical treatment planning, with measurable goals;
- (iii) six credits in clinical intervention methods informed by research evidence and community standards of practice;
- (iv) three credits in evaluation methodologies regarding the effectiveness of interventions;
- (v) three credits in professional ethics applied to clinical practice; and
- (vi) three credits in cultural diversity; and

(6) has demonstrated successful completion of 4,000 hours of supervised, post-master's degree professional practice in the delivery of clinical services in the diagnosis and treatment of child and adult mental illnesses and disorders, conducted according to subdivision 2.

(b) If coursework in paragraph (a) was not completed as part of the degree program required by paragraph (a), clause (3), the coursework must be taken and passed for credit, and must be earned from a counseling program or institution that meets the requirements of paragraph (a), clause (3).

Subd. 2. **Supervision.** (a) To qualify as a LPCC, an applicant must have completed 4,000

hours of post-master's degree supervised professional practice in the delivery of clinical services in the diagnosis and treatment of mental illnesses and disorders in both children and adults. The supervised practice shall be conducted according to the requirements in paragraphs (b) to (e).

(b) The supervision must have been received under a contract that defines clinical practice and supervision from a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6), or 245.4871, subdivision 27, clauses (1) to (6), or by a board-approved supervisor, who has at least two years of postlicensure experience in the delivery of clinical services in the diagnosis and treatment of mental illnesses and disorders.

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

(d) The supervised practice must include at least 1,800 hours of clinical client contact.

(e) The supervised practice must be clinical practice. Supervision includes the observation by the supervisor of the successful application of professional counseling knowledge, skills, and values in the differential diagnosis and treatment of psychosocial function, disability, or impairment, including addictions and emotional, mental, and behavioral disorders.

**Subd. 3. Conversion from licensed professional counselor to licensed professional clinical counselor.** (a) Until August 1, 2011, an individual currently licensed in the state of Minnesota as a licensed professional counselor may convert to a LPCC by providing evidence satisfactory to the board that the applicant has met the following requirements:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has a license that is active and in good standing;

(4) has no complaints pending, uncompleted disciplinary orders, or corrective action agreements;

(5) has completed a master's or doctoral degree program in counseling or a related field, as determined by the board, and whose degree was from a counseling program recognized by CACREP or from an institution of higher education that is accredited by a regional accrediting organization recognized by CHEA;

(6) has earned 24 graduate-level semester credits or quarter-credit equivalents in clinical coursework which includes content in the following clinical areas:

(i) diagnostic assessment for child and adult mental disorders; normative development; and psychopathology, including developmental psychopathology;

(ii) clinical treatment planning, with measurable goals;

(iii) clinical intervention methods informed by research evidence and community standards of practice;

(iv) evaluation methodologies regarding the effectiveness of interventions;

(v) professional ethics applied to clinical practice; and

(vi) cultural diversity;

(7) has demonstrated, to the satisfaction of the board, successful completion of 4,000 hours of supervised, post-master's degree professional practice in the delivery of clinical services in the diagnosis and treatment of child and adult mental illnesses and disorders; and

(8) has paid the LPCC application and licensure fees required in section 148B.53, subdivision 3.

(b) If the coursework in paragraph (a) was not completed as part of the degree program required by paragraph (a), clause (5), the coursework must be taken and passed for credit, and must be earned from a counseling program or institution that meets the requirements in paragraph (a), clause (5).

(c) This subdivision expires August 1, 2011.

**Subd. 4. Conversion to licensed professional clinical counselor after August 1, 2011.** An individual licensed in the state of Minnesota as a licensed professional counselor may convert to a LPCC by providing evidence satisfactory to the board that the applicant has met the requirements of subdivisions 1 and 2, subject to the following:

(1) the individual's license must be active and in good standing;

(2) the individual must not have any complaints pending, uncompleted disciplinary orders, or corrective action agreements; and

(3) the individual has paid the LPCC application and licensure fees required in section 148B.53, subdivision 3.

**Subd. 5. Scope of practice.** The scope of practice of a LPCC shall include all those services provided by mental health professionals as defined in sections 245.462, subdivision 18, and 245.4871, subdivision 27.

**Subd. 6. Jurisdiction.** LPCC's are subject to the board's statutes and rules to the same extent as licensed professional counselors.

**History:** 2007 c 123 s 40

**148B.531 POSTDEGREE COMPLETION OF DEGREE REQUIREMENTS FOR LICENSURE.**

An individual whose degree upon which licensure is to be based included less than 48 semester hours or 72 quarter hours, who did not complete 700 hours of supervised professional practice as part of the degree program, or who did not complete course work in all of the content areas required by section 148B.53, subdivision 1, paragraph (b), may complete these requirements postdegree in order to obtain licensure, if:

(1) all course work and field experiences are completed through an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA) or through a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP);

(2) all course work and field experiences are taken and passed for credit; and

(3) no more than 20 semester credits or 30 quarter credits are completed postdegree for purposes of licensure unless the credits are earned as part of an organized sequence of study.

**History:** 2005 c 147 art 5 s 3

**148B.532 DEGREES FROM FOREIGN INSTITUTIONS.**

Subdivision 1. **Scope and documentation.** In addition to meeting all other licensure requirements, an applicant for licensure whose degree was received from a foreign degree program that is not recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from a foreign institution of higher education that is not accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA) must fulfill the requirements of this section, providing certified English translations of board-required relevant documentation.

Subd. 2. **Education evaluation.** An applicant for licensure as a licensed professional counselor must present evidence of completion of a degree equivalent to that required in section 148B.53, subdivision 1, paragraphs (a), clause (3), and (b). An applicant for licensure as a licensed professional clinical counselor must present evidence of completion of a degree equivalent to that required in section 148B.5301, subdivision 1, paragraph (a), clause (3). This evidence must be evaluated by the board with the assistance of a credentials evaluation service familiar with educational standards and professional qualification. The evaluation must be sent directly to the board from the evaluating agency. Agencies providing evaluation services must be accepted by the National Board for Certified Counselors, Inc. The applicant shall be responsible for the expenses incurred as a result of the evaluation.

**History:** 2007 c 123 s 41

**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 four years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. 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; 2004 c 279 art 5 s 4; 2005 c 147 art 5 s 4

**148B.55** [Repealed, 2007 c 13 art 2 s 10]

**148B.555** MS 2007 Supp [Expired, 2005 c 147 art 5 s 5; 2007 c 123 s 42]

**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.561 RETALIATORY PROVISIONS.**

If by the laws of any state or the rulings or decisions of the appropriate officers or boards thereof, any burden, obligation, requirement, disqualification, or disability is put upon licensed professional counselors licensed and in good standing in this state, affecting the right of these licensed professional counselors to be registered or licensed in that state, then the same or like burden, obligation, requirement, disqualification, or disability may be put upon the licensure in this state of licensed professional counselors registered in that state.

**History:** 2005 c 147 art 5 s 6

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

A professional counseling license is not transferable.

**History:** 2003 c 118 s 11

**148B.59 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 or has surrendered or voluntarily terminated a license or certificate during a board investigation of a complaint, as part of a disciplinary order, or while under a disciplinary order;
- (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;
- (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;

(ii) referring a client to any health care provider as defined in sections 144.291 to 144.298 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; and

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

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

(12) has been subject to a corrective action or similar action in another jurisdiction or by another regulatory authority; or

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

(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 applicant or licensee 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.

The board may also refer a licensee, if appropriate, to the health professionals services program described in sections 214.31 to 214.37.

(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; 2004 c 279 art 5 s 6; 2005 c 56 s 1; 2005 c 147 art 5 s 7; 2007 c 147 art 10 s 15

#### **148B.5901 TEMPORARY SUSPENSION OF LICENSE.**

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

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

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

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

(e) At the time the board issues a temporary suspension order, the board shall schedule a hearing to be held before its own members. The hearing shall begin no later than 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for hearing by a licensee, on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. The hearing is not subject to chapter 14. Evidence presented by the board or the licensee shall be in affidavit form only. The licensee or counsel of record may appear for oral argument.



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

**History:** 2005 c 147 art 5 s 8

**148B.5905 MENTAL, PHYSICAL, OR CHEMICAL DEPENDENCY EXAMINATION OR EVALUATION; ACCESS TO MEDICAL DATA.**

(a) If the board has probable cause to believe section 148B.59, paragraph (a), clause (9), applies to a licensee or applicant, the board may direct the person to submit to a mental, physical, or chemical dependency examination or evaluation. For the purpose of this section, every licensee and applicant is deemed to have consented to submit to a mental, physical, or chemical dependency examination or evaluation when directed in writing by the board and to have waived all objections to the admissibility of the examining professionals' testimony or examination reports on the grounds that the testimony or examination reports constitute a privileged communication. Failure of a licensee or applicant to submit to an examination when directed by the board constitutes an admission of the allegations against the person, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A licensee or applicant affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the person can resume the competent practice of licensed professional counseling with reasonable skill and safety to the public. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a licensee or applicant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that section 148B.59, paragraph (a), clause (9), applies to the licensee or applicant. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h); an insurance company; or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the

information was false. Information obtained under this subdivision is classified as private under sections 13.01 to 13.87.

**History:** 2005 c 147 art 5 s 9; 2007 c 147 art 10 s 15

#### **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.5915 PROFESSIONAL COOPERATION; APPLICANT OR LICENSEE.**

An applicant or a licensee 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 and promptly to any question raised by or on behalf of the board relating to the subject of the investigation, executing all releases requested by the board, providing copies of client and other records in the applicant's or licensee's possession relating to the matter under investigation and executing releases for records, as reasonably requested by the board, and appearing at conferences or hearings scheduled by the board. The board shall pay for copies requested. The board shall be allowed access to any records of a client provided services by the applicant or licensee under review. If the client has not signed a consent permitting access to the client's records, the applicant or licensee shall delete any data in the record that identifies the client before providing them to the board. The board shall maintain any records obtained under this section as investigative data pursuant to chapter 13.

**History:** 2004 c 279 art 5 s 7

#### **148B.5916 IMMUNITY.**

Subdivision 1. **Reporting.** A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for reporting to the board violations or alleged violations of sections 148B.50 to 148B.593. All such reports are classified under section 13.41.

Subd. 2. **Investigation.** Members of the board, persons employed by the board, and consultants retained by the board for the purpose of investigation of violations or the preparation and management of charges of violations of this chapter on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the

execution of, or relating to, their duties under sections 148B.50 to 148B.593.

**History:** 2004 c 279 art 5 s 8

### **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) MS 2002 [Expired, 2003 c 118 s 14 subd 4 para (a)]

(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.5925 ASSESSMENT TOOL SECURITY.**

Notwithstanding section 144.292, subdivisions 2 and 5, a provider shall not be required to provide copies of assessment tools, assessment tool materials, or scoring keys to any individual who has completed an assessment tool or to an individual not qualified to administer, score, and interpret the assessment tool, if the provider reasonably determines that access would compromise the objectivity, fairness, or integrity of the testing process for the individual or others. If the provider makes this determination, the provider shall, at the discretion of the individual who has completed the assessment tool, release the information either to another provider who is qualified to administer, score, and interpret the assessment tool or furnish a summary of the assessment tool results to the individual or to a third party designated by the individual.

**History:** 2005 c 147 art 5 s 10; 2007 c 147 art 10 s 15

#### **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.**

Subdivision 1. **Terms.** As used in sections 148B.60 to 148B.71, the following terms have the meanings given them in this section.

Subd. 2. **Office of Mental Health Practice or office.** "Office of Mental Health Practice" or "office" means the Office of Mental Health Practice authorized in section 148B.61.

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 chapter 148D; 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 and chapter 148C; 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; licensed occupational therapists; or licensed 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.

Subd. 4. **Mental health services.** "Mental health services" means psychotherapy, behavioral health care, spiritual counseling, hypnosis when not for entertainment, and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions. The term does not include pastoral services provided by members of the clergy to members of a religious congregation in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by that religious congregation or services provided by Christian Scientist practitioners.

Subd. 5. **Mental health client or client.** "Mental health client" or "client" means a person who receives or pays for the services of a mental health practitioner.

Subd. 5a. **Mental-health-related licensing boards.** "Mental-health-related licensing boards" means the Boards of Medical Practice, Nursing, Psychology, Social Work, Marriage and Family Therapy, and Behavioral Health and Therapy.

Subd. 6. [Repealed, 1996 c 305 art 1 s 38]

Subd. 7. [Repealed by amendment, 2005 c 147 art 8 s 1]

Subd. 7a. **Committee.** "Committee" means the Office of Mental Health Practices Committee, consisting of one person appointed by each of the following licensing boards: the

Board of Medical Practice; the Board of Nursing; the Board of Psychology; the Board of Social Work; the Board of Marriage and Family Therapy; and the Board of Behavioral Health and Therapy.

Subd. 8. **Disciplinary action.** "Disciplinary action" means an adverse action taken by the commissioner against an unlicensed mental health practitioner relating to the person's right to provide mental health services.

**History:** 1991 c 106 s 6; 1991 c 292 art 2 s 50; 1995 c 63 s 6; 1995 c 205 art 2 s 4; 1997 c 193 s 47; 2000 c 460 s 32; 2003 c 118 s 16; 2005 c 147 art 8 s 1; 2006 c 212 art 3 s 14

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

#### **148B.61 OFFICE OF MENTAL HEALTH PRACTICE.**

Subdivision 1. **Authority.** (a) The Office of Mental Health Practice is transferred to the mental-health-related licensing boards. The mental-health-related licensing boards shall convene an Office of Mental Health Practices Committee to investigate complaints and take and enforce disciplinary actions against all unlicensed mental health practitioners for violations of prohibited conduct, as defined in section 148B.68.

(b) The committee shall publish a complaint telephone number, provide an informational Web site, and also serve as a referral point and clearinghouse on complaints against mental health practitioners. The committee shall disseminate objective information to consumers through the development and performance of public education activities, including outreach, regarding the provision of mental health services and both licensed and unlicensed mental health professionals who provide these services.

Subd. 2. [Repealed by amendment, 2005 c 147 art 8 s 2]

Subd. 3. [Deleted, 1995 c 233 art 2 s 57]

Subd. 4. **Management, report, and sunset of the office.** (a) The committee shall:

- (1) designate one board to provide administrative management of the committee;
- (2) set the program budget; and
- (3) ensure that the committee's direction is in accord with its authority.

(b) If the participating boards change which board is designated to provide administrative management of the committee, any appropriation remaining for the committee shall transfer

to the newly designated board on the effective date of the change. The participating boards must inform the appropriate legislative committees and the commissioner of management and budget of any change in the designated board and the amount of any appropriation transferred under this provision.

(c) The designated board shall hire the office employees and pay expenses of the committee from funds appropriated for that purpose.

(d) After July 1, 2008, the committee shall prepare and submit a report to the legislature by January 15, 2009, evaluating the activity of the office and making recommendations concerning the regulation of unlicensed mental health practitioners. In the absence of legislative action to continue the committee, the committee expires on June 30, 2009.

**History:** 1991 c 292 art 2 s 51; 1996 c 305 art 1 s 39; art 2 s 32; 2005 c 147 art 8 s 2; 2009 c 101 art 2 s 109

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

**148B.62** [Repealed, 1995 c 164 s 35]

### **148B.63 REPORTING OBLIGATIONS.**

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct constituting grounds for disciplinary action relating to unlicensed practice under this chapter may report the violation to the Office of Mental Health Practice.

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 Office of Mental Health Practice 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 unlicensed mental health practitioner'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 office under this chapter. The institution, organization, or governmental entity shall also report the resignation of any unlicensed mental health practitioners prior to the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or prior to 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 unlicensed mental health practitioners shall report to the Office of Mental Health Practice any termination, revocation, or suspension of membership or any other disciplinary action taken against an unlicensed practitioner. 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 Office of Mental Health Practice.

Subd. 4. **Licensed professionals.** A licensed health professional shall report to the Office of Mental Health Practice personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by any unlicensed mental health practitioner, 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 unlicensed mental health practitioner, and the treating individual successfully counsels the other practitioner to limit or withdraw from practice to the extent required by the impairment, the office may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

Subd. 5. **Insurers.** Four times each year as prescribed by the committee, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to unlicensed mental health practitioners or the Medical Joint Underwriting Association under chapter 62F, shall submit to the Office of Mental Health Practice a report concerning the unlicensed mental health practitioners against whom malpractice settlements or awards have been made. The response 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 malpractice settlement or award;
- (5) the regular address of the practice of the unlicensed practitioner against whom an award was made or with whom a settlement was made; and
- (6) the name of the unlicensed practitioner 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 Office of Mental Health Practice any information, records, and files, including clients' charts and records, it possesses that tend to substantiate a charge that an unlicensed mental health practitioner may have engaged in conduct violating this chapter.



Subd. 6. **Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the Office of Mental Health Practice any judgment or other determination of the court that adjudges or includes a finding that an unlicensed mental health practitioner is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the unlicensed mental health practitioner under sections 524.5-101 to 524.5-502 or commits an unlicensed mental practitioner under chapter 253B.

Subd. 7. **Self-reporting.** An unlicensed mental health practitioner shall report to the Office of Mental Health Practice any personal action that would require that a report be filed with the office by any person, health care facility, business, or organization pursuant to subdivisions 2 to 5. The practitioner shall also report the revocation, suspension, restriction, limitation, or other disciplinary action against the mental health practitioner's license, certificate, registration, or right of practice in another state or jurisdiction, for offenses that would be subject to disciplinary action in this state and also report the filing of charges regarding the practitioner's license, certificate, registration, or right of practice in another state or jurisdiction.

Subd. 8. **Deadlines; forms.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The Office of Mental Health Practice may provide forms for the submission of 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:** 1991 c 292 art 2 s 53; 1Sp1994 c 1 art 2 s 14; 2004 c 146 art 3 s 47; 2005 c 147 art 8 s 4

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

#### **148B.64 IMMUNITY.**

Subdivision 1. **Reporting.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the Office of Mental Health Practice, for otherwise reporting to the office violations or alleged violations of this chapter, or for cooperating with an investigation of a report, except as provided in this subdivision. Any person who knowingly or recklessly makes a false report is liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive

damages set by the court or jury. An action requires clear and convincing evidence that the defendant made the statement with knowledge of falsity or with reckless disregard for its truth or falsity. The report or statement or any statement made in cooperation with an investigation or as part of a disciplinary proceeding is privileged except in an action brought under this subdivision.

Subd. 2. **Investigation.** The committee and employees of the Department of Health and other persons engaged in the investigation of violations and in the preparation, presentation, and management of and testimony pertaining to charges of violations of this chapter are absolutely immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

**History:** 1991 c 292 art 2 s 54; 1996 c 305 art 1 s 40; 2005 c 147 art 8 s 4

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

#### **148B.65 DISCIPLINARY RECORD ON JUDICIAL REVIEW.**

Upon judicial review of any disciplinary action taken by the committee under this chapter, the reviewing court shall seal the administrative record, except for the committee's final decision, and shall not make the administrative record available to the public.

**History:** 1991 c 292 art 2 s 55; 2005 c 147 art 8 s 4

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

#### **148B.66 PROFESSIONAL COOPERATION; UNLICENSED PRACTITIONER.**

Subdivision 1. **Cooperation.** An unlicensed mental health practitioner who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the Office of Mental Health Practice shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the office relating to the subject of the investigation, whether tape recorded or not, and providing copies of client records, as reasonably requested by the office, to assist the office in its investigation, and appearing at conferences or hearings scheduled by the committee. If the office does not have a

written consent from a client permitting access to the client's records, the unlicensed mental health practitioner shall delete any data in the record that identifies the client before providing it to the office. The office shall maintain any records obtained pursuant to this section as investigative data pursuant to section 13.41. If an unlicensed mental health practitioner refuses to give testimony or produce any documents, books, records, or correspondence on the basis of the fifth amendment to the Constitution of the United States, the committee may compel the unlicensed mental health practitioner to provide the testimony or information; however, the testimony or evidence may not be used against the practitioner in any criminal proceeding. Challenges to requests of the office may be brought before the appropriate agency or court.

Subd. 2. **Classification of data.** The committee shall maintain any records, other than client records, obtained as part of an investigation, as investigative data under section 13.41. Client records are classified as private under chapter 13 and must be protected as such in the records of the office and in any administrative or judicial proceeding unless the client authorizes the office in writing to make public the identity of the client or a portion or all of the client's records.

Subd. 3. **Exchanging information.** (a) The Office of Mental Health Practice shall establish internal operating procedures for:

(1) exchanging information with state boards; agencies, including the Office of Ombudsman for Mental Health and Developmental Disabilities; 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 the forwarding to the entities described in paragraph (a), clause (1), of information and evidence, including the results of investigations, that are relevant to matters within the regulatory jurisdiction of the organizations in paragraph (a). The data have the same classification in the hands of the agency receiving the data as they have in the hands of the agency providing the data.

(c) The Office of Mental Health Practice shall establish procedures for exchanging information with other states regarding disciplinary action against licensed and unlicensed mental health practitioners.

(d) The Office of Mental Health Practice shall forward to another governmental agency any complaints received by the office that do not relate to the office'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 Office of Mental Health Practice of the disposition of the complaint. A complaint or other information received by another governmental agency relating

to a statute or rule that the Office of Mental Health Practice is empowered to enforce must be forwarded to the office to be processed in accordance with this section.

(e) The Office of Mental Health Practice shall furnish to a person who made a complaint a description of the actions of the office relating to the complaint.

**History:** *1991 c 292 art 2 s 56; 1995 c 164 s 1; 1996 c 440 art 1 s 38; 1997 c 187 art 2 s 5; 2005 c 56 s 1; 2005 c 147 art 8 s 4*

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

#### **148B.67 PROFESSIONAL ACCOUNTABILITY.**

The Office of Mental Health Practice shall maintain and keep current a file containing the reports and complaints filed against unlicensed mental health practitioners within the committee's jurisdiction. Each complaint filed with the office must be investigated. If the files maintained by the office show that a malpractice settlement or award has been made against an unlicensed mental health practitioner, as reported by insurers under section 148B.63, subdivision 5, the committee may authorize a review of the practitioner's practice by the staff of the Office of Mental Health Practice.

**History:** *1991 c 292 art 2 s 57; 2005 c 147 art 8 s 4*

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

#### **148B.68 PROHIBITED CONDUCT.**

Subdivision 1. **Prohibited conduct.** The committee may impose disciplinary action as described in section 148B.69 against any unlicensed mental health practitioner. The following conduct is prohibited and is grounds for disciplinary action:

(a) Conviction 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 mental health services. Conviction, as used in this

subdivision, includes a 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.

(b) Conviction of crimes against persons. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.2242; 609.23; 609.231; 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; 609.595; and 609.72, subdivision 3.

(c) Failure to comply with the self-reporting requirements of section 148B.63, subdivision 7.

(d) Engaging in sexual contact with a client or former client as defined in section 148A.01, or engaging in contact that may be reasonably interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public; or demonstrating 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.

(g) Adjudication as mentally incompetent, or as a person who is dangerous to self, or adjudication pursuant to chapter 253B, as chemically dependent, mentally ill, developmentally disabled, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.

(h) Inability to provide mental health services with reasonable safety to clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a client except when otherwise required or permitted by law.

(l) Failure to comply with a client's request made under sections 144.291 to 144.298, or to furnish a client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client.

(n) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(o) Failure to make reports as required by section 148B.63, or cooperate with an investigation of the office.

(p) Obtaining 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.

(q) Undertaking or continuing a professional relationship with a client in which the objectivity of the professional would be impaired.

(r) Failure to provide the client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the committee.

(t) Failure to comply with sections 148B.60 to 148B.71, and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

(v) Revocation, suspension, restriction, limitation, or other disciplinary action against the mental health practitioner's license, certificate, registration, or right of practice in this or another state or jurisdiction, for offenses that would be subject to disciplinary action in this state, or failure to report to the Office of Mental Health Practice that charges regarding the practitioner's license, certificate, registration, or right of practice have been brought in this or another state or jurisdiction.

(w) Bartering for services with a client.

Subd. 2. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, paragraph (a), (b), (c), or (g), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the same is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.

Subd. 3. **Examination; access to medical data.** (a) If the committee has probable cause to believe that an unlicensed mental health practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j), the committee may issue an order directing the practitioner to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, every unlicensed mental health practitioner is deemed to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the committee and further to have waived all objections to the admissibility of the testimony or examination reports of the health care provider performing the

examination or evaluation on the grounds that the same constitute a privileged communication. Failure of an unlicensed mental health practitioner to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the practitioner's control, constitutes an admission that the unlicensed mental health practitioner violated subdivision 1, paragraph (g), (h), (i), or (j), based on the factual specifications in the examination or evaluation order and may result in a default and final disciplinary order being entered after a contested case hearing. An unlicensed mental health practitioner affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the practitioner can resume the provision of mental health services with reasonable safety to clients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the committee shall be used against a mental health practitioner in any other proceeding.

(b) In addition to ordering a physical or mental examination or chemical dependency evaluation, the committee may, notwithstanding section 13.384, 144.651, 595.02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to an unlicensed mental health practitioner without the practitioner's consent if the committee has probable cause to believe that a practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j). The medical data may be requested from a health care professional, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A health care professional, insurance company, or government agency shall comply with any written request of the committee under this subdivision and is not liable in any action for damages for releasing the data requested by the committee if the data are released pursuant to a written request under this subdivision, unless the information is false and the person or organization giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is private data under section 13.41.

**History:** 1991 c 292 art 2 s 58; 1Sp1994 c 1 art 2 s 15; 1995 c 164 s 2; 1995 c 229 art 4 s 9; 1995 c 259 art 3 s 1; 1999 c 227 s 22; 2000 c 460 s 33; 2005 c 56 s 1; 2005 c 147 art 8 s 4; 2007 c 147 art 10 s 15

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

#### **148B.69 DISCIPLINARY ACTIONS.**

Subdivision 1. **Forms of disciplinary action.** When the committee finds that an unlicensed

mental health practitioner has violated a provision or provisions of this chapter, the committee may take one or more of the following actions, only against the individual practitioner:

- (1) revoke the right to practice;
- (2) suspend the right to practice;
- (3) impose limitations or conditions on the practitioner's provision of mental health services, the imposition of rehabilitation requirements, or the requirement of practice under supervision;
- (4) 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 practitioner of any economic advantage gained by reason of the violation charged or to reimburse the Office of Mental Health Practice for all costs of the investigation and proceeding;
- (5) order the practitioner to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution;
- (6) censure or reprimand the practitioner;
- (7) impose a fee on the practitioner to reimburse the office for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the office for services from the Office of Administrative Hearings, attorney fees, court reports, witnesses, reproduction of records, staff time, and expense incurred by the staff of the Office of Mental Health Practice; or
- (8) any other action justified by the case.

Subd. 2. **Discovery; subpoenas.** In all matters relating to the lawful activities of the Office of Mental Health Practice, the committee may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. 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 committee or by a subpoena of the committee to do so may, upon application to the district court in any district, be ordered to comply with the order or subpoena. The committee 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. 2a. **Hearings.** If the committee proposes to take action against the practitioner as described in subdivision 1, the committee must first notify the person against whom the action is proposed to be taken and provide the person with an opportunity to request a hearing under



the contested case provisions of chapter 14. If the person does not request a hearing by notifying the committee within 30 days after service of the notice of the proposed action, the committee may proceed with the action without a hearing.

Subd. 3. **Reinstatement.** The committee may at the committee's discretion reinstate the right to practice and may impose any disciplinary measure listed under subdivision 1.

Subd. 4. **Temporary suspension.** In addition to any other remedy provided by law, the committee may, acting through a person to whom the committee has delegated this authority and without a hearing, temporarily suspend the right of an unlicensed mental health practitioner to practice if the committee's delegate finds that the practitioner has violated a statute or rule that the committee is empowered to enforce and continued practice by the practitioner would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the practitioner specifying the statute or rule violated. The order remains in effect until the committee issues a final order in the matter after a hearing or upon agreement between the committee and the practitioner. Service of the order is effective if the order is served on the practitioner or counsel of record personally or by first class mail. Within ten days of service of the order, the committee 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 office or practitioner shall be in affidavit form only. The practitioner or the counsel of record may appear for oral argument. Within five working days after the hearing, the committee shall issue the committee's 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 committee shall issue a final order within 30 days after receipt of that report.

Subd. 5. **Automatic suspension.** The right to practice is automatically suspended if (1) a guardian of an unlicensed mental health practitioner is appointed by order of a court under sections 524.5-101 to 524.5-502, or (2) the practitioner is committed by order of a court pursuant to chapter 253B. The right to practice remains suspended until the practitioner is restored to capacity by a court and, upon petition by the practitioner, the suspension is terminated by the committee after a hearing or upon agreement between the committee and the practitioner.

Subd. 6. **Public employees.** Notwithstanding subdivision 1, the committee must not take disciplinary action against an employee of the state or a political subdivision of the state. If, after an investigation conducted in compliance with and with the authority granted under sections 148B.60 to 148B.71, the committee determines that the employee violated a provision or provisions of this chapter, the committee shall report to the employee's employer the committee's findings and the actions the committee recommends that the employer take. The committee's recommendations are not binding on the employer.

Subd. 7. **Release to obtain nonpublic data.** An unlicensed mental health practitioner who

is the subject of an investigation must sign a release authorizing the committee to obtain criminal conviction data, reports about abuse or neglect of clients, and other information pertaining to investigations of violations of statutes or rules from the Bureau of Criminal Apprehension, the Federal Bureau of Investigation, the Department of Human Services, the Office of Health Facilities Complaints, private certification organizations, county social service agencies, the Division of Driver and Vehicle Services in the Department of Public Safety, adult protection services, child protection services, and other agencies that regulate provision of health care services. After the committee gives written notice to an individual who is the subject of an investigation, the agencies shall assist the committee with the investigation by giving the committee the requested data.

**History:** 1991 c 292 art 2 s 59; 1Sp1994 c 1 art 2 s 16; 1996 c 305 art 1 s 41; 1998 c 317 s 11; 2000 c 460 s 34; 2004 c 146 art 3 s 47; 2005 c 147 art 8 s 4

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

#### **148B.70 ADDITIONAL REMEDIES.**

Subdivision 1. **Cease and desist.** The committee may issue a cease and desist order to stop a person from violating or threatening to violate a statute, rule, or order which the Office of Mental Health Practice has issued or is empowered 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 committee and is not reviewable by a court or agency.

A hearing must be initiated by the Office of Mental Health Practice not later than 30 days from the date of the office's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, the committee 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 committee.

When a request for a stay accompanies a timely hearing request, the committee may, in the committee's discretion, grant the stay. If the committee does not grant a requested stay, the committee 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 committee, an administrative law judge shall issue a recommendation to grant or deny the stay.

The committee shall grant or deny the stay within five days of receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the committee may institute a proceeding in Hennepin County District Court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the Office of Mental Health Practice 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 committee may in the committee's own name bring an action in Hennepin County District Court for injunctive relief to restrain an unlicensed mental health practitioner from a violation or threatened violation of any statute, rule, or order which the committee is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a practitioner would create a serious risk of harm to others. The committee need not show irreparable harm.

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

**History:** 1991 c 292 art 2 s 60; 2005 c 147 art 8 s 4

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

## **148B.71 MENTAL HEALTH CLIENT BILL OF RIGHTS.**

Subdivision 1. **Scope.** All unlicensed mental health practitioners, other than those providing services in a facility or program licensed by the committee or the commissioner of human services, shall provide to each client prior to providing treatment a written copy of the mental health client bill of rights. A copy must also be posted in a prominent location in the office of the mental health practitioner. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English. The mental health client bill of rights shall include the following:

(a) the name, title, business address, and telephone number of the practitioner;

(b) the degrees, training, experience, or other qualifications of the practitioner, followed by the following statement in bold print:

"THE STATE OF MINNESOTA HAS NOT ADOPTED UNIFORM EDUCATIONAL AND TRAINING STANDARDS FOR ALL MENTAL HEALTH PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY."

- (c) the name, business address, and telephone number of the practitioner's supervisor, if any;
- (d) notice that a client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;
- (e) the name, address, and telephone number of the Office of Mental Health Practice and notice that a client may file complaints with the office;
- (f) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;
- (g) a statement that the client has a right to reasonable notice of changes in services or charges;
- (h) a brief summary, in plain language, of the theoretical approach used by the practitioner in treating patients;
- (i) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended course of treatment, including the expected duration of treatment;
- (j) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;
- (k) a statement that client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;
- (l) a statement of the client's right to be allowed access to records and written information from records in accordance with sections 144.291 to 144.298;
- (m) a statement that other services may be available in the community, including where information concerning services is available;
- (n) a statement that the client has the right to choose freely among available practitioners, and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;
- (o) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;

(p) a statement that the client may refuse services or treatment, unless otherwise provided by law; and

(q) a statement that the client may assert the client's rights without retaliation.

Subd. 2. **Acknowledgment by client.** Prior to the provision of any service, the client must sign a written statement attesting that the client has received the client bill of rights.

**History:** *1991 c 292 art 2 s 61; 2000 c 460 s 35; 2005 c 147 art 8 s 4; 2007 c 147 art 10 s 15*

**NOTE:** This section is repealed by Laws 2003, chapter 118, section 29, paragraph (a), as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3, effective July 1, 2009. Laws 2003, chapter 118, section 29, paragraph (a), the effective date, as amended by Laws 2004, chapter 279, article 5, section 10, and Laws 2005, chapter 147, article 8, section 3.

**148B.72** [Repealed, 1Sp1993 c 1 art 9 s 75]