

CHAPTER 9000
OFFICE OF MENTAL HEALTH PRACTICE
MENTAL HEALTH PRACTICE

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NOTE: Laws 1991, chapter 292, article 2, section 70, subdivision 2, transferred rules adopted by the Board of Unlicensed Mental Health Service Providers to the Commissioner of Health to be used by the Office of Mental Health Practice until the commissioner adopts new rules.

9000.0050 PURPOSE.

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0100 DEFINITIONS.

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

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

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

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

A. "Mental health services" means the provision of any assessment; diagnosis; treatment; counseling; therapy, including guidance, pastoral mental health counseling, treatment or therapy for addiction, abuse, or abusive behavior exhibited or received by an individual; psychotherapy; hypnotherapy or hypnoanalysis; personal analysis; or other mental health services for remuneration. Mental health services are services that are designed to alleviate symptoms, change or reduce disturbed patterns of behavior, enhance intrapsychic awareness, and increase the ability of the individual to adapt to and cope with internal and external stress. Mental health services must use interpersonal, intrapsychic, or behavioral methods. Mental health services may be provided to individuals, couples, families, or groups who are experiencing a problem behavior; have social, interpersonal, or intrapersonal dysfunction; or have cognitive or emotional distress, unwanted anxiety, or other mental, psycho-physiological, or psycho-social conditions that they seek to alleviate.

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

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

C. "Mental health services" does not include the following areas of practice unless the primary focus is the provision of services as defined in item A: educational, vocational, or career guidance; and spiritual counseling or pastoral care of a congrega-

tion, or a congregation member, by clergy when the care is not related to the provision of mental health services in item A.

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

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

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

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

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

E. a therapist in an area related to child care, education, new age therapy, holistic therapy, dance, music, or recreation, if the therapist is providing mental health services as defined in subpart 4;

F. a hypnotist or hypnotherapist;

G. a behavior modification practitioner or analyst; and

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

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

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0110 REQUIREMENT TO FILE.

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

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

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

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

B. a person not providing mental health services as defined in part 9000.0100, subpart 4.

Subp. 3. **Requirement to file.** A provider who wishes to provide mental health services after May 29, 1990, must apply to the board and receive acknowledgment of the filing as provided in part 9000.0130 before providing services.

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

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0120 PROCEDURE FOR FILING.

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

- A. be made to the board on the forms provided by the board;
- B. include an affirmation from the applicant that the statements are true and correct to the best of the applicant's knowledge and belief;
- C. be accompanied by a nonrefundable application fee according to part 9000.0200;
- D. be accompanied by a written authorization for the board to make inquiries to the appropriate regulatory agency in this state or any other state where the applicant has provided mental health service, about the applicant's malpractice history, if any;
- E. be accompanied by a written authorization for the board to inquire about the malpractice history, if any, of the applicant at the National Clearing House for Licensure, Enforcement, and Regulation; and
- F. be completed in sufficient detail for the board to determine if the applicant meets the requirements for filing. The board may ask the applicant to provide additional information necessary to clarify incomplete or ambiguous information submitted in the application.

Subp. 2. **Requirements to maintain current information.** A provider must notify the board within 30 days of occurrence of the following:

- A. a change of name, address, or phone number (home and business);
- B. a conviction of a crime against persons, or of a crime reasonably related to the provision of mental health service;
- C. a settlement or award based on alleged malpractice by the provider;
- D. a physical or mental disability that may affect a provider's ability to practice; and
- E. other activities that are specifically prohibited under Minnesota Statutes, section 148B.44.

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0130 ACKNOWLEDGMENT OF FILING.

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0140 DENIAL OF FILING.

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

A. the application does not contain the information necessary for filing as determined by Minnesota Statutes, sections 148B.06, subdivisions 1 to 3, and 148B.42, subdivision 1, and the information required by part 9000.0120, subpart 1, and the applicant has not provided the required information within 60 days of application;

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

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

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

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

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

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

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0150 TERM OF FILING.

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0160 RENEWAL OF FILING.

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

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

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

The late fee must accompany applications of practicing mental health service providers not made by May 29, 1990.

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

Subp. 5. **Reduction of first renewal fee.** A provider who had a valid "Acknowledgment of Filing" before December 5, 1989, upon the first renewal under subpart 2, shall pay the current renewal fee minus a portion of the fee that is equal to 1/12th of the fee for each month from the date of initial acknowledgment to December 5, 1989.

For example, if the provider received a valid "Acknowledgment of Filing" in September of 1989, and the current filing fee is \$50 upon renewal of filing, the provider would have three months credit and would pay only \$37.50 for the next yearly filing fee, calculated as follows: $\$50 - (\text{three months} \times 1/12\text{th of } \$50) = \$37.50$.

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0170 BILL OF RIGHTS.

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0190 VARIANCES.

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

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

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

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

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

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

B. the reason for the request;

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

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

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

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

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

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

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

Statutory Authority: *MS s 148B.41; 148B.47*

History: *14 SR 2713*

9000.0200 [Renumbered 2885.0200]

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9000.0800 [Renumbered 2885.0800]