

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill creates a new chapter of law regulating alcohol and drug counselors. Alcohol and drug counselors are licensed and regulated by the Board of Behavioral Health and Therapy. This bill consolidates existing alcohol and drug counselor statutes and rules, and adapts various statutes and rules related to professional counselors for the new alcohol and drug counselor chapter. Existing laws and rules that are used as the base for the proposed laws are noted in each section of the summary.

- 1**     **Scope.** Creates § 148F.001. States that this chapter applies to all applicants, licensees, people using the title alcohol and drug counselor, and all people in and outside the state who provide alcohol and drug counseling services to clients who reside in the state unless there is an exemption provided by law.
- 2**     **Definitions.** Creates § 148F.010. Provides definitions of "abuse," "accredited school or educational program," "alcohol and drug counseling practicum," alcohol and drug counselor, "applicant," "board," "client," "competence," "core functions," "credential," "dependent on the provider," "familial," "family member or member of the family," "group clients," "human diversity," "informed consent," "licensee," "practice of alcohol and drug counseling," "practice foundation," "private information," "provider," "public statement," "report," "significant risks and benefits," "student," "supervisee," "supervisor," "test," "unprofessional conduct," and "variance." (Sources: §148C.01, Minnesota Rules, parts 4747.0030 and 2150.7505)
- 3**     **Duties of the board.** Creates § 148F.015. Instructs the board to adopt and enforce rules, issue licenses and permits, carry out disciplinary actions, educate the public, and collect fees. (Source: §148C.03)
- 4**     **Duty to maintain current information.** Creates § 148F.020. Requires all applicants, licensees, and temporary permit holders to notify the board with any change of name, address, place of employment, and home or business telephone number. (Source: 148C.0351, subd. 3)
- 5**     **Requirements for licensure.** Creates § 148F.025.

**Subd. 1. Form; fee.** Requires applicants to complete and submit a notarized written

application and the fee amount set by the board.

**Subd. 2. Education requirements for licensure.** Provides that an applicant must have received a bachelor's degree from an accredited school or program, and received the specified amount of academic coursework and supervised practicum. States that neither the coursework nor the practicum need to be completed as part of the bachelor's degree requirements. Lists the required coursework topics.

**Subd. 3. Examination requirements for licensure.** Requires an applicant for licensure to complete the specified professional examination, or pass a written examination as determined by the board and either complete a written case presentation and oral examination, or complete 2,000 hours of post degree supervised professional practice.

**Subd. 4. Background investigation.** Requires an applicant to sign a release authorizing the board to complete a criminal history and background study investigation.

(Source: §148C.04)

**6 Reciprocity.** Creates § 148F.030. This section is identical to existing § 148C.07.

**7 Temporary permit.** Creates § 148F.035.

**Subd. 1. Eligibility; temporary permit requirements between August 1, 2011, and August 1, 2015.** Paragraph (a) allows the board to issue a temporary permit to practice to an individual prior to being licensed if the person has an associate degree, or an equivalent number of credit hours, and has completed the specified number of course hours and supervised practicum, and has completed coursework in specified areas.

Paragraph (b) requires the applicant to complete and submit the notarized application and pay the nonrefundable fee.

Paragraph (c) requires the individual to be supervised by a licensed professional; abide by all statutes and rules, except continuing education; and use the title "Alcohol and Drug Counselor-Trainee."

Paragraph (d) requires the individual to renew the permit annually, but no more than three times. Provides that the permit is automatically terminated if not renewed, if there is a change in supervision, or upon the granting or denial of a license.

**Subd. 2. Eligibility; temporary permit requirements after August 1, 2015.**

Paragraph (a) allows the board to issue a temporary permit to practice to an individual prior to being licensed if the individual has applied for a license and meets the educational requirements in section 148F.025, subdivision 2.

Paragraph (b) requires the applicant to complete and submit the notarized application and pay the nonrefundable fee.

Paragraph (c) requires the individual to be employed or contracted by an entity that employs or contracts with a licensed professional practicing alcohol and drug counselor, or a licensed ADC, to comply with all statutes and rules, and to use the title "Alcohol and Drug Counselor-Trainee."

Paragraph (d) requires the individual to renew the permit annually, but no more than three times. Provides that the permit is automatically terminated if not renewed or upon the granting or denial of a license.

Paragraph (e) allows an individual who received the permit prior to August 1, 2011, to renew the permit no more than 5 times, and is not required to meet the educational requirements in section 148F.025, subdivision 2.

(Source: § 148C.04, subdivision 6, and stakeholder meetings)

- 8 Supervised post degree professional practice.** Creates § 148F.040. This section is substantially similar to section 148C.044 in current law. There are a few differences in sentence structure and form, but there are no practical differences.
- 9 Alcohol and drug counselor technician.** Creates § 148F.045. This section is substantially the same as section 148C.045 in current law.
- 10 License renewal requirements.** Creates § 148F.050.

**Subd. 1. Biennial renewal.** Requires renewal every two years.

**Subd. 2. License renewal notice.** Instructs the board to mail a renewal notice to the licensee at least 60 calendar days before the renewal deadline. Provides that the licensee is not relieved of renewing the license if the licensee fails to receive the notice.

**Subd. 3. Renewal requirements.** Paragraph (a) lists the information that must be submitted to the board.

Paragraph (b) states that the completed application, including the required fee, must be postmarked or received by the board by the end of the day on which the license expires or the following business day if the expiration date is on a weekend or holiday.

**Subd. 4. Pending renewal.** Allows the licensee to continue to practice if the renewal was timely received by the board.

**Subd. 5. Late renewal fee.** Requires a late fee if the license renewal is late.

(Source: § 148C.05)

- 11 Expired license.** Creates § 148F.055.

**Subd. 1. Expiration of license.** Provides that a licensee is not authorized to practice after license expiration if the licensee fails to renew the license or fails to submit the renewal forms on time. Allows the board to initiate disciplinary action.

**Subd. 2. Termination for nonrenewal.** Paragraph (a) requires the board to send notification to the licensee within 30 days after the renewal date, that the renewal is overdue, and that failure to pay the current fee and the late fee within 60 days of the renewal date will result in license termination.

Paragraph (b) instructs the board to terminate the license of a licensee whose renewal is more than 60 days overdue. Requires the board to notify the former licensee by letter.

(Source: Minn. Rules, parts 2150.0100 and 2150.0110)

- 12 Voluntary termination.** Creates § 148F.060. Allows a licensee to voluntarily terminate the license upon written notification to the board unless a complaint is pending. Notification must be received by the board before the license is terminated for nonrenewal. Provides that the board retains jurisdiction over a licensee whose license has been voluntarily terminated and against whom a complaint has been made for conduct during the period of licensure.

(Source: Minn. Rules for licensed professional counselors, part 2150.0120)

**13 Relicensure following termination.** Creates § 148F.065.

**Subd. 1. Relicensure.** Sets out the procedure and requirements for a former licensee to be relicensed.

**Subd. 2. Continuing education for relicensure.** Requires a former licensee to provide evidence of completing at least 20 hours of continuing education for each year, or portion thereof, that the former licensee did not hold a license.

**Subd. 3. Cancellation of license.** Requires a former licensee seeking relicensure after two years to seek a new license.

(Source: Minn. Rules for licensed professional counselors, part 2150.0130)

**14 Inactive license status.** Creates § 148F.070.

**Subd. 1. Request for inactive status.** Sets out the procedure and requirements for a licensee to request the board place the license on inactive status.

**Subd. 2. Renewal of inactive license.** Sets out the requirements to reactivate the license.

(Source: § 148.055, subdivisions 1 and 2; Minn. Rules, part 2150.0160)

**15 Continuing education requirements.** Creates § 148F.075.

**Subd. 1. Purpose.** Provides the purpose statement and rationale for continuing education requirements.

**Subd. 2. Requirement.** Requires a minimum of 40 hours of continuing education to be completed every two years. At least 9 hours must be on human diversity and 3 hours on professional ethics.

**Subd. 3. Standards for approval.** Lists the requirements a program must meet in order to be approved.

**Subd. 4. Qualifying activities.** Lists the types of activities, and imposes limitations on types of activities, that can be used to meet continuing education requirements.

**Subd. 5. Activities not qualifying for continuing education hours.** Provides the list of activities that do not constitute continuing education.

**Subd. 6. Documentation of reporting compliance.** Requires licensees at the time of license renewal to file an affidavit of continuing education compliance. Requires licensees to retain original documentation of completion for five years. Lists the types of documentation the board will consider as original documentation.

**Subd. 7. Continuing education audit.** Permits the board to randomly audit a percentage of licensees for compliance.

**Subd. 8. Variance of continuing education requirements.** Sets out the requirements for a licensee who is seeking a time-limited variance.

(Sources: § 148C.075; Minn. Rules, parts 4747.1110, 2150.2580, 2150.2590, 2150.2650, and 2150.2660)

- 16 Sponsor's application for approval.** Creates § 148F.080.
- Subd. 1. Content.** Lists the requirements a sponsor must meet before the board will give approval for a continuing education activity.
- Subd. 2. Approval expiration.** Requires the board to assign an activity number to approved continuing education activities; provides the number will remain active for one year.
- Subd. 3. Statement of board approval.** Requires each sponsor to include a statement in promotional literature that the activity is approved by the board.
- Subd. 4. Changes.** Requires the sponsor to submit proposed changes to the board for approval.
- Subd. 5. Denial of approval.** Prohibits the board from approving an activity that doesn't meet continuing education requirements.
- Subd. 6. Revocation of approval.** Requires the board to revoke its approval of an activity if the board learns the sponsor falsified information on its application.
- (Source: Minn. Rules, part 2150.2560)
- 17 Nontransferability of licenses.** Creates § 148F.085. Identical to § 148C.08 in current law.
- 18 Denial, suspension, or revocation of license.** Creates § 148F.090.
- Subd. 1. Grounds.** Lists the types of conducts and offenses which, if proven by a preponderance of the evidence, could result in disciplinary action by the board.
- Subd. 2. Forms of disciplinary action.** Lists the possible disciplinary actions that can be imposed by the board.
- Subd. 3. Evidence.** In cases involving criminal acts, medical assistance or Medicare fraud, or adjudication as mentally ill or chemically dependent, a copy of the judgment or proceedings is admissible and is prima facie evidence of its contents.
- Subd. 4. Temporary suspension.** Allows the board to temporarily suspend the credential of a licensee whose continued practice would create an imminent risk of harm. Provides details of the notice and hearing requirements.
- Subd. 5. Automatic suspension.** Provides that a license is automatically suspended if a licensee has been appointed a guardian under the probate act or has been committed under the civil commitment act.
- Subd. 6. Mental, physical, or chemical health evaluation.** Sets out the requirements for the board to direct a licensee to submit to a mental, physical, or chemical dependency evaluation.
- (Sources: §§ 148C.09, 148C.091, 148B.59, 148B.5901, and 148B.5905)
- 19 Additional remedies.** Creates § 148F.095. Identical to § 148C.093, except for formatting differences.
- 20 Cooperation.** Creates § 148F.100. Identical to § 148.099, subdivision 1.
- 21 Prohibited practice or use of titles; penalty.** Creates § 148F.105.
- Subd. 1. Practice.** Requires anyone who performs alcohol and drug counseling to be licensed as an alcohol and drug counselor.

**Subd. 2. Use of titles.** Paragraph (a) prohibits the use of a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or holding oneself out as an alcohol and drug counselor unless licensed.

Paragraph (b) provides that an individual working under a temporary permit must use titles consistent with the section on temporary permits.

Paragraph (c) allows a practicum student to use the title "alcohol and drug counselor intern."

Paragraph (d) provides that individuals trained in alcohol and drug counseling and employed by an educational institution, a federal, state, county, or local government, or research facilities, cannot use a title that indicates they are licensed by the board.

**Subd. 3. Penalty.** States that violation of this chapter is a misdemeanor.

(Source: § 148C.10)

**22 Exceptions to license requirement.** Creates § 148F.110. This section is substantially identical to current statutory section 148C.11, subdivisions 1 to 3. The existing statute has a provision requiring the board to establish special licensing criteria for counselors who work with ethnic minority and disabled populations. That provision is not included in the proposed language in this bill.

**23 Fees.** Creates § 148F.115. This section is substantially similar to current statutory section 148C.12. There is no increase in the fees.

**24 Conduct.** Creates § 148F.120.

**Subd. 1. Scope.** Provides that the professional code of conduct applies to all licensees and applicants during their period of education, training, and employment.

**Subd. 2. Purpose.** Establishes sections 148F.120 to 148F.205 as the code of professional conduct for alcohol and drug counselors.

**Subd. 3. Violations.** States that violation of these sections is unprofessional conduct and constitutes grounds for disciplinary action.

**Subd. 4. Conflict with organizational demands.** Provides the mechanism for resolving conflict between work policies and the code of professional conduct.

(Sources: Minn. Rules, parts 4747.1400, 2150.7500, 2150.7610)

**25 Competent provision of services.** Creates § 148F.125. Substantially identical to Minnesota Rules, part 2150.7510, related to licensed professional counselors.

**26 Protecting client privacy.** Creates § 148F.130. Subdivisions 1 and 3 to 13 are substantially identical to the protecting client privacy rules, (Minn. Rules, part 2150.7515), for licensed professional counselors, and include areas such as services to group clients, access to client records, billing statements, and reporting abuse.

Subdivision 2 regarding the duty to warn is an adaptation of the duty to warn section found in the psychologists' practice act, section 148.975.

**27 Private information; access and release.** Creates § 148F.135. Identical to Minnesota Rules, part 2150.7520, for licensed professional counselors. There are minor style and layout differences. This section address client right to access and release information, the process for release of information to others, and the board's access during an investigation of the counselor.

- 28 Informed consent.** Creates § 148F.140.
- Subd. 1. Obtaining informed consent for services.** Requires the provider to obtain written and signed informed consent from the client before initiating services. Lists the required information that must be disclosed in order for consent to be considered informed.
- Subd. 2. Updating informed consent.** Provides that new informed consent must be obtained when there is a substantial change in the service.
- Subd. 3. Emergency or crisis services.** Allows emergency services to be provided without obtaining informed consent, but once the emergency has been resolved, informed consent must be obtained.
- (Source: Minn. Rules, part 2150.7525, licensed professional counselors)
- 29 Termination of services.** Creates § 148F.145. Identical to Minnesota Rules, part 2150.7530, for licensed professional counselors, except for differences in the format of the statute, and in the subdivision on mandatory termination of services. The proposed language requires services to be terminated when the provider's objectivity or effectiveness is impaired or the client would be harmed by further services. The existing rule additionally requires services to be terminated if the services are not needed or the client would not benefit from the services.
- 30 Record keeping.** Creates § 148F.150. Identical to Minnesota Rules, part 2150.7530, for licensed professional counselors. Lists the information that must be provided in a client's records and record retention requirements.
- 31 Impaired objectivity or effectiveness.** Creates § 148F.155. Substantially similar to Minnesota Rules, part 2150.7540, for licensed professional counselors. Both provide that services must not be provided when the counselor's objectivity or effectiveness is impaired, if the services would create a multiple relationship with the client, when the client is the provider's student or supervisee, when the provider is biased against the client, or when there is a fundamental conflict of service goals. Both list mechanisms that may be used to resolve an impairment of objectivity or effectiveness.
- 32 Provider impairment.** Creates § 148F.160. Identical to Minnesota Rules, part 2150.7545, for licensed professional counselors. Both prohibit a counselor from providing services when the counselor is unable to provide services with reasonable skill and safety due to a physical or mental illness, including substance abuse or dependence.
- 33 Client welfare.** Creates § 148F.165. Substantially similar to Minnesota Rules, part 2150.7550, that requires counselors to explain the nature and purpose of the counseling and to provide clients with the required client's bill of rights. This section also prohibits exploitation of a client, sexual behavior with a client or former client, or misuse of the client relationship.
- 34 Welfare of students, supervisees, and research subjects.** Creates § 148F.170. Provides the same protections as found in Minnesota Rules, part 2150.7555, for licensed professional counselors. Prohibits discrimination, exploitation of the professional relationship, sexual behavior, fraudulent or deceptive behavior, or any unprofessional conduct.
- 35 Medical and other health care considerations.** Creates § 148F.175.
- Subd. 1. Coordinating services with other health care professionals.** Requires the counselor to ask whether the client has a preexisting relationship with another health care professional and if relevant to the provider's services, coordinate services with the other health care professional. Client consent is necessary.
- Subd. 2. Reviewing health care information.** Allows the counselor to review relevant

medical information with the treating health care professional to the extent possible and consistent with the client's wishes.

**Subd. 3. Relevant medical conditions.** Provides that if the counselor believes a client's condition may have a medical basis, then within the limits of the counselor's competence, the counselor can discuss this with the client and offer to identify medical resources for the client.

(Source: Minn. Rules, part 2150.7560)

- 36 Assessments; tests; reports.** Creates § 148F.180. Substantially similar to Minnesota Rules, part 2150.7565. Both require providers to base their assessments and reports on records and information, among other things, necessary to support their findings. Classifies test results and interpretations as private information.
- 37 Public statements.** Creates § 148F.185. Identical to Minnesota Rules, part 2150.7570. Both prohibit public statements that include false or misleading information, misrepresentation, or use of a specialty board designation, unless the counselor holds such a designation.
- 38 Fees; statements.** Creates § 148F.190. Identical to Minnesota Rules, part 2150.7580, for licensed professional counselors. Both require disclosure of fees before services are provided and itemized statements. Prohibits misrepresentation of billed services and accepting any form of compensation in exchange for making referrals.
- 39 Aiding and abetting unlicensed practice.** Creates § 148F.195. Prohibits providers from assisting unlicensed individuals to engage in practice. Provides that supervising a student is not a violation.
- (Source: Minn. Rules, part 2150.7585)
- 40 Violation of law.** Creates § 148F.200. Identical to Minnesota Rules, part 2150.7590. States that a provider shall not violate any laws that involve the alcohol and drug counselor practice act.
- 41 Complaints to the board.** Creates § 148F.205.
- Subd. 1. Mandatory reporting requirements.** Requires reports if a provider is unable to practice with reasonable skill and safety due to a physical or mental condition, is engaging in or has engaged in sexual activity with a client, has failed to report abuse of children or vulnerable adults, or has fraudulently obtained a license.
- Subd. 2. Optional reporting requirements.** Allows complaints to be made if an individual believes a provider has violated the practice act.
- Subd. 3. Institutions.** Requires agencies and institutions to notify the board if they have taken adverse action against a licensee for conduct that may constitute grounds for disciplinary action by the board.
- Subd. 4. Professional societies.** Requires professional societies to notify the board if they have taken adverse action against a licensee for conduct that may constitute grounds for disciplinary action by the board, or if the society has received information and not taken disciplinary action.
- Subd. 5. Insurers.** Requires insurers to submit quarterly reports to the board concerning counselors against whom malpractice settlements and awards have been made.
- Subd. 6. Self-reporting.** Lists the actions taken against the licensee that the licensee must report to the board.
- Subd. 7. Permission to report.** Allows any person with knowledge of a conduct that could



result in disciplinary action to make a report to the board.

**Subd. 8. Client complaints to the board.** Requires providers to give clients information on how to make a complaint to the board. States that a provider must not attempt to dissuade a client from making a complaint or force the client to waive the right to file a complaint.

**Subd. 9. Deadlines; forms.** Provides timelines for filing reports.

(Sources: Minn. Rules, part 2150.7605 and Minn. Stat. § 148C.095)

**42 Repealer.** Repeals the Minnesota Rules, chapter 4747, related to alcohol and drug counselors.

Repeals all sections of Minnesota Statutes, chapter 148C, related to alcohol and drug counselors.