

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 1461  
**Version:** First engrossment

**DATE:** April 28, 2011

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**Subject:** DHS licensing

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### Article 1: Data Practices

#### Overview

This article clarifies that the identity of an applicant or license holder who is found to be responsible for maltreatment of a child or vulnerable adult is public data.

- Licensing data.** Amends § 13.46, subd. 4. Makes formatting changes in paragraph (b) and clarifies that when a license holder or applicant is found to be responsible for maltreatment of a child or a vulnerable adult and a license is denied or a sanction is imposed, the identity of the license holder or applicant is public data. Additionally, this section clarifies that when a license is denied or a sanction is imposed due to disqualification under chapter 245C (Background studies), the identity of the disqualified individual and the reason for disqualification are public data. Provides that if reconsideration of the disqualification is requested and the disqualification is affirmed, the reason for disqualification and the reason the disqualification was not set aside are public data.

Adds that data on individuals collected during licensing activities and during investigations may be shared with regulatory boards when the information may be relevant to the board's regulatory jurisdiction.

### Article 2: Licensing

#### Overview

This article clarifies the hearing and appeal process for individuals who have been disqualified from employment. Under specified conditions, it allows a set-aside granted for one program to apply when the individual whose disqualification has been set aside is employed by a new program. It modifies various background study requirements.

- Conservator.** Amends § 245A.02, by adding subd. 3a. Defines "conservator" as having the meaning given in the probate code.
- Guardian.** Amends § 245A.02, by adding subd. 7c. Defines "guardian" as having the meaning given in the probate code.

- 3 Primary residence.** Amends § 245A.02, by adding subd. 11a. Defines "primary residence" as the place where the license holder physically resides on an ongoing basis. States that a license holder may have only one primary residence and lists the types of verification that can be used as evidence of primary residence.
- 4 Application for licensure.** Amends § 245A.04, subd. 1. Requires the commissioner to provide written notice to an applicant when an application is incomplete due to failure to submit the required documents or because the documents submitted do not meet licensing requirements. Provides that the commissioner must identify the missing or deficient documents and allow the applicant 45 days to resubmit a complete application. States that the applicant's failure to comply is the basis for a license denial.
- Adds paragraph (e). Requires an applicant to demonstrate knowledge of licensing statutes and rules that are applicable to the program for which the applicant is seeking licensure. Beginning January 1, 2012, allows the commissioner to administer a written examination.
- Adds paragraph (f), which requires an individual who is an applicant to provide the applicant's Social Security number and a copy of the applicant's Minnesota driver's license or identification card, or a valid U.S. passport.
- Adds paragraph (g). Requires an applicant, not an individual, to provide the applicant's Minnesota tax identification number, the name, address, and Social Security number of all controlling individuals, and the date the background study was initiated for each. Also requires specific identification from the authorized agent.
- 5 Grant of license; license extension.** Amends § 245A.04, subd. 7. Prohibits the commissioner from issuing or reissuing a license if the applicant, license holder, or controlling individual has failed to submit the identification information required in section 4.
- 6 Education program; permitted ages, additional requirement.** Amends § 245A.04, subd. 11. Provides that the commissioner cannot grant a license to a residential program for the placement of children until the commissioner receives documentation of approval of the educational program from the commissioner of education. Exempts foster homes from this requirement.
- 7 Denial of application.** Amends § 245A.05. Provides that the commissioner may deny a license to an individual who fails to submit a complete application after notice of deficiencies, or fails to provide the identification information required in section 4.
- 8 License suspension, revocation, or fine.** Amends § 245A.07, subd. 3. Allows the commissioner, after July 1, 2012, to suspend or revoke a license, or impose a fine on a license holder who fails to submit the identification information required in section 4.
- Adds paragraph (d) which provides that if a license holder self-corrects a background study violation before the commissioner discovers the violation, the commissioner cannot assess a fine. States that this provision to avoid a fine can be used by a license holder only once during a consecutive 365-day period. This provision does not apply to situations where a license holder fails to comply with an order to immediately remove an individual from contact or provide direct, continuous supervision.
- 9 Consolidated contested case hearings.** Amends § 245A.08, subd. 2a. Adds that the scope of a consolidated hearing related to a disqualification does not include the issue of whether the commissioner was required to seal agency records. Also adds that if a license holder continues to operate pending an appeal of a sanction and has subsequent substantiated violations before the contested case hearing, the additional violations will automatically be included in the hearing.
- 10 License or certification fee for other programs.** Amends § 245A.10, subd. 5. Changes the due date

of the annual license fee for residential programs for persons with developmental disabilities from the first day of August to the first day of July.

- 11 Admission.** Amends § 245A.22, subd. 2. Allows the commissioner to grant variances to independent living programs so that individuals who have chemical use or mental health problems can be served by the program.
- 12 Licensed programs.** Amends § 245C.03, subd. 1. Clarifies that a foster child living in the home is not required to undergo a background study.
- 13 Licensed programs.** Amends § 245C.04, subd. 1. Provides that a license holder must initiate a new background study on an individual who returns to a position after a 90-day absence or when the program that discontinued service provision for 90 or more days begins providing services again. Current law requires new background studies after 45 days.
- Adds that if an individual's disqualification was previously set aside for this program and the new background study shows no new information, the previous set aside remains in effect.
- 14 Privacy notice to background study subject.** Amends § 245C.05, by adding subdivision 2c. Requires the commissioner for every background study to notify the subject that any previous background studies that received a set-aside will be reviewed, and without further contact with the subject, the commissioner may notify the agency requesting the background study of the disqualification that has been set aside, the reason for the disqualification, and that information about the set-aside is available to the license holder without the consent of the subject.
- 15 Electronic transmission.** Amends § 245C.05, subd. 4. Requires license holders and applicants to use the electronic transmission system to request background studies unless a hardship variance has been granted. Allows a variance when high-speed Internet access is inaccessible to the applicant or license holder.
- 16 Applicant, license holder, other entities, and agencies.** Amends § 245C.05, subd. 6. Adds law enforcement agencies to the list of entities that must provide the commissioner with criminal conviction data on individuals who have committed maltreatment of a child or vulnerable adult.
- 17 Probation officer and corrections agent.** Amends § 245C.05, subd. 7. Requires probation and corrections officers to notify the commissioner of an individual's conviction of a disqualifying crime if the individual has been affiliated with a regulated program within the previous year.
- 18 Study subject affiliated with multiple facilities.** Amends § 245C.07. Provides that when a license holder owns multiple programs or services licensed by DHS, MDH, or DOC, if a background study was completed on an individual relating to a child foster care program, then the background study is transferable to all programs. If the background study was completed on an individual under a license other than child foster care, then the background study is transferable to all programs except child foster care.
- States that this provision for a single background study is not applicable to adoption agencies, supplemental nursing services agencies, personnel agencies, professional services agencies, or unlicensed personal care provider organizations.
- 19 Background studies conducted by Department of Human Services.** Amends § 245C.08, subd. 1. Provides that a court order for expungement is not effective against the commissioner unless the court order explicitly orders the commissioner to seal the commissioner's records. Adds that the commissioner can request the subject of a background study to submit fingerprints for a national criminal information check when the commissioner has reasonable cause to believe that the identity of the background study subject is uncertain.

- 20 Background studies conducted by a county agency.** Amends § 245C.08, subd. 2. Provides that a court order for expungement is not effective against the commissioner unless the court order explicitly orders the commissioner to seal the commissioner's records.
- 21 Arrest and investigative information.** Amends § 245C.08, subd. 3. Clarifies that the commissioner must review arrest and investigative information if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual. Current law states this is discretionary.
- 22 Disqualification from access.** Amends § 245C.14, subd. 2. Provides that an individual who is disqualified under this chapter is disqualified from direct contact and access.
- 23 Disqualifying crimes or conduct.** Amends § 245C.15. Provides, in all subdivisions, that when a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of dismissal or the date of the incident, whichever occurs last.
- Subd. 1. Permanent disqualification.** Adds interference with privacy against a minor to the list of permanent disqualifications.
- Subd. 2. 15-year disqualification.** Adds interference with privacy to the list of disqualifications.
- Subd. 3. Ten-year disqualification.** Adds that if an individual is disqualified because of a crime listed in this subdivision, but the sentence or level of offense is a felony disposition, then the disqualification look back period is the period applicable to that felony offense.
- Subd. 4. Seven-year disqualification.** Adds that if an individual is disqualified because of a crime listed in this subdivision, but the sentence or level of offense is a gross misdemeanor or a felony, then the look back period is the period applicable to that gross misdemeanor or felony offense.
- 24 Determining immediate risk of harm.** Amends § 245C.16, subdivision 1. Provides that this section does not apply to background studies on personal care assistants and qualified professionals who are required to have background studies under section 256B.0959.
- 25 Disqualification notice sent to subject.** Amends § 245C.17, subdivision 2. Adds that the commissioner must disclose to the disqualified individual that if the individual's disqualification is set aside, the person or entity that initiated the background study will be provided with the reason for the disqualification and an explanation of why the disqualification was set aside without the consent of the disqualified individual.
- Adds that when a subsequent background study is initiated, and the commissioner determines that the previous set-aside applies to the subsequent background study, then the commissioner, without the subject's consent, can inform the agency that initiated the subsequent study of the reason for the disqualification and the reasons the set-aside was granted.
- 26 Scope of set-aside.** Amends § 245C.22, subd. 5. Adds that when a new background study is required, if an individual's disqualification was previously set aside for the license holder's program and no new information is discovered by the new background study to show the individual poses a risk of harm, then the previous set aside remains in effect.
- 27 Permanent bar to set aside a disqualification.** Amends § 245C.24, subdivision 2. Adds paragraph (d) which allows the commissioner to consider granting a variance for an individual with a disqualification under section 245C.15, subdivision 1, when the individual seeks to become a foster care provider for a specific child or children related to the individual

Paragraph (e) provides that when a background study is required on a former foster child because the child returns for occasional overnight visits or temporarily resides with the former foster parents, the commissioner can consider granting a variance to the former foster child who has a disqualification under section 245C.15, subdivision 1.

- 28 License holder.** Amends § 245C.28, subd. 1. Adds paragraph (e) which provides that the scope of a consolidated case hearing under this section does not include whether or not the commissioner was to seal agency records pursuant to a district court order or other law.
- 29 Employees of public employer.** Amends § 245C.28, subd. 3. Adds paragraph (f), which provides that the scope of a consolidated case hearing under this section does not include whether or not the commissioner was to seal agency records pursuant to a district court order or other law.
- 30 Conclusive disqualification determination.** Amends § 245C.29, subd.2. Paragraph (a) provides that unless otherwise specified, a disqualification is conclusive for current and future background studies when the disqualification meets one of the specified criteria.

Paragraph (b) has no changes.

Paragraph (c) makes clarifying changes.

- 31 Standard of evidence for maltreatment and disqualification hearings.** Amends § 256.045, subd. 3b. Adds paragraph (c), which states that if a disqualification is based on a conviction or is conclusive under section 245C.29, then the individual is not entitled to a hearing under this section.

Adds paragraph (d) which provides that the scope of review for disqualification hearings under this section does not include whether or not the commissioner was to seal agency records pursuant to a district court order or other law.

### **Article 3: Social Worker Licensing Overview**

This article removes the exception from licensure for city and state agency employees and specified employees of private nonprofit organizations with a primary client population of ethnic minorities. It provides grandparenting provisions so these individuals can become licensed. The bill also makes changes to temporary licensure provisions.

- 1 License required.** Amends § 148E.055, subd. 1. Adds that an individual newly employed by a city or state agency on or after July 1, 2015, must be licensed if the individual provides social work services and is presented to the public with a title using the term "social work" or "social worker." Provides an effective date of August 1, 2011.
- 2 License requirements; grandparenting.** Creates § 148E.0555.

**Subd. 1. Grandparenting period.** Requires the board to issue a license to an applicant who meets the requirements of this section and submits a completed, signed application and the required fee between January 1, 2012, and December 31, 2013. Provides that if the applicant does not submit all information requested by the board by December 31, 2014, the applicant is ineligible.

**Subd. 2. Eligible agency personnel.** Applicants employed by a city or state agency, or individuals employed by a private nonprofit, nontribal agency who were previously exempt from licensure must provide evidence to the board that at any time within three years of date of application the individual had the title of "social worker" or a title incorporating the words "social work," or was engaged in the practice of social work while employed by that agency

for at least six months.

**Subd. 3. Qualifications during grandparenting for licensure as LSW.** Paragraph (a) lists the educational requirements.

Paragraph (b) requires the applicant to submit a completed, signed application and fee, submit to a criminal background check, pay the license fee, and not have engaged in conduct that would violate professional standards.

Paragraph (c) provides that an incomplete application will be returned.

Paragraph (d) states that by submitting an application, the applicant authorizes the board to investigate any information provided on the application. Allows the board to request additional information.

Paragraph (e) requires the applicant to comply with all requirements and requests for information within one year of the time the board receives the application.

Paragraph (f) allows prelicensure supervised practice hours to be applied to meet the supervision requirements of this section.

Paragraph (g) provides that an alternate supervisor may be used. Identifies the qualifications of an alternative supervisor.

Paragraph (h) requires a licensee to complete all supervised practice requirements, unless the requirements were completed prior to licensure.

**Subd. 4. Qualifications during grandparenting for licensure as LGSW.** Same as subdivision 3.

**Subd. 5. Qualifications during grandparenting for licensure as LISW.** Same as subdivision 3.

**Subd. 6. Qualifications during grandparenting for licensure as LICSW.** Paragraph (a) provides the educational requirements.

Paragraph (b) requires the applicant to submit a completed, signed application and fee, submit to a criminal background check, pay the license fee, and not have engaged in conduct that would violate professional standards.

Paragraph (c) provides that an incomplete application will be returned.

Paragraph (d) states that by submitting an application, the applicant authorizes the board to investigate any information provided on the application. Allows the board to request additional information.

Paragraph (e) requires the applicant to comply with all requirements and request for information within one year of the time the board receives the application.

Provides an effective date of August 1, 2011.

- 3 LISW transition period exception.** Creates § 148E.0556. Provides that between January 1, 2012, and December 31, 2016, to qualify to be an LISW an applicant must submit an application and must be a currently licensed graduate social worker under section 148E.0555, and meet all specified

requirements, or hold a current licensed graduate social work license issued through grandparenting prior to July 1, 1996, and meet the specified requirements.

Provides an effective date of August 1, 2011.

- 4 LICSW transition period exception.** Creates § 148E.0557. Provides that between January 1, 2012, and December 31, 2016, to qualify to be an LICSW an applicant must submit an application and must be a currently licensed graduate social worker or licensed independent social worker under section 148E.0555, and meet all specified requirements, or hold a current licensed graduate social work license or licensed independent social worker license issued through grandparenting prior to July 1, 1996, and meet the specified requirements.

Provides an effective date of August 1, 2011.

- 5 Students and other persons not currently licensed in another jurisdiction.** Amends § 148E.060, subd. 1. Adds that a temporary license issued under this section expires after six months.

Provides an effective date of August 1, 2011.

- 6 Emergency situations and persons currently licensed in another jurisdiction.** Amends § 148E.060, subd. 2. Adds that a temporary license issued under this section expires after six months.

Provides an effective date of August 1, 2011.

- 7 Programs in candidacy status.** Amends § 148E.060, by adding subd. 2a. Allows the board to issue a temporary license to practice to a graduate from a social work program in candidacy status when the applicant meets the specified requirements. Provides that a temporary license under this subdivision expires after 12 months, but may extend at the board's discretion if the social work program remains in good standing with the accrediting board.

Provides an effective date of August 1, 2011.

- 8 Teachers.** Amends § 148E.060, subd. 3. Adds that a temporary license issued under this section expires after 12 months.

Provides an effective date of August 1, 2011.

- 9 Temporary license term.** Amends § 148E.060, subd. 5. Strikes obsolete language.

Provides an effective date of August 1, 2011.

- 10 Students.** Amends § 148E.065, subd. 2. Allows students to use the title "social work intern."

Provides an effective date of August 1, 2011.

- 11 City, county, and state agency workers.** Amends § 148E.065, subd. 4. Provides that the licensure of city, county, and state workers is voluntary, except an individual who is newly hired by a city or state agency on or after July 1, 2015, must be licensed if the individual provides social work services and is held out to the public with a title using the term "social work" or "social worker." Provides an effective date of August 1, 2015.

- 12 Tribes and nonprofit agencies; voluntary licensure.** Amends § 148E.065, subd. 5. Provides for voluntary licensure of social workers who are employed by tribes. Adds that an employee of a private nonprofit agency whose primary focus is ethnic minorities and who is an ethnic minority of the population served, is exempt from licensure until July 1, 2015, when employees who practice social work must be licensed. Provides an effective date of August 1, 2015.
- 13 Requirements of supervisors.** Amends § 148E.120. Lists the new criteria and requirements for alternate supervisors.
- Provides an effective date of August 1, 2011.
- 14 Representations.** Amends § 148E.195, subd. 2. Makes technical changes to conform with the amendments to exclusion from licensure.
- Provides an effective date of August 1, 2015.
- 15 Use of titles.** Amends § 148E.280. Makes technical changes to conform with the amendments to exclusion from licensure.
- Provides an effective date of August 1, 2015.
- 16 Repealer.** Repeals § 148E.065, subd. 3, which allows for a geographic waiver from licensure requirements.

#### **Article 4: Alcohol and Drug Counselors**

##### **Overview**

This article 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 postdegree 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. 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 five 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

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

**8 Supervised postdegree 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 Report; Board of Behavioral Health and Therapy.** Requires the board to convene a working group to evaluate the feasibility of a tiered licensing system for drug and alcohol counselors. Requires the board to issue a written report to the legislature, including proposed legislation, by December 15, 2014.
- 43 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.