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2 **STATE OF MINNESOTA**  
3 **COUNTY OF RAMSEY**  
4

**MINNESOTA BOARD OF**  
**MARRIAGE AND FAMILY**  
**THERAPY**

5 **In the Matter of the Proposed**  
6 **Adoption of Rules Relating to**  
7 **the Licensure of Marriage and**  
8 **Family Therapists**

**STATEMENT OF NEED**  
**AND REASONABLENESS**

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10 **I. Introduction.**  
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12 The purpose of the Board of Marriage and Family Therapy is  
13 to protect the public by setting standards of qualifications,  
14 training, experience and ethics for those who seek to represent  
15 themselves as Marriage and/or Family Therapists.

16 The Minnesota Board of Marriage and Family Therapy is  
17 proposing rules relating to the licensure of marriage and family  
18 therapists, (Minnesota Rules pt. 5300.0100 to 5300.0360).

19 Minnesota Statutes 148B.29 - 148B.39 established the  
20 Minnesota Board of Marriage and Family Therapy. Authority for  
21 the Board to develop the details of its programs (most  
22 importantly the licensing of Marriage and Family Therapists)  
23 through rulemaking is contained under Minnesota Statutes, 148B.31  
24 (1), (2), (4), (6), (7), 148B.33 Subd.2, 148B.37 Subd. 1(3), and  
25 214.06 (1988).

26

27 **II. SMALL BUSINESS CONSIDERATIONS**

28 Under Minnesota Statutes, section 14.115 a state agency is  
29 required to consider ways to reduce the impact of rules on small  
30 businesses. It is the Board's position that the rules will not  
31 affect small businesses since the licensure is for individuals,

1 not businesses. The licensure authorizes providers to practice  
2 marriage and family therapy independent of whether or not the  
3 services are performed as part of a small business.

4 Should the proposed rules be construed, in some way, as  
5 affecting small businesses, the Board, in its development of the  
6 rules has attempted to minimize any impact. The proposed rules  
7 address the definition of terms, clarify ambiguities in the law,  
8 define a code of ethics and establish procedures for the process  
9 of licensing. The Board believes that any perceived impact on  
10 small businesses would be in the areas of compliance, reporting  
11 requirements, and performance standards. These areas are  
12 established by statutory objectives and not by rule and are  
13 therefore, not subject to the Board's alteration or amendment.

14 Further, reducing the impact of the rules on small  
15 businesses would be contrary to the statutory objectives that are  
16 the basis for requiring the Board to license marriage and family  
17 therapists and enforce the requirements for marriage and family  
18 practice. It would also result in placing greater burden on  
19 those persons not considered "small businesses" when the work of  
20 the Board applies equally to all licensees without regard to  
21 their small business classification. Such a distinction, if  
22 reflected in renewal fees, for example, would be difficult to  
23 justify.

24 Potential licensees, regardless of whether they are  
25 considered as individuals or small businesses, will have  
26 participated in the rulemaking process and will continue to have  
27 the opportunity to participate throughout the permanent  
28 rulemaking process.

#### 29 5300.0100 DEFINITIONS

30 Scope, under subpart 1, and the definitions beginning  
31 with subpart 2, are needed to provide consistent terminology for  
32 use by persons affected by the rules; to provide a basis for  
33 evaluating compliance with Minnesota Statutes and other rules  
34 promulgated by the State of Minnesota; and to identify and

1 clarify terms used in parts 5300.0110 through 5300.0360. Words or  
2 phrases used in a manner consistent with common usage are not  
3 defined.

4 **Subp. 1. Scope.** This subpart is necessary and reasonable  
5 for purposes of clarification only.

6 **Subp. 2. Advertising.** This definition is needed for  
7 clarification as to various forms of advertising. The Board  
8 attempted to be as inclusive as possible in an effort to avoid  
9 confusion. The Board holds this definition as reasonable in  
10 accordance to the title protection authority granted by the  
11 Legislature in Minn. Statute 148B.32.

12 **Subp. 3. Applicant.** This definition is needed to  
13 identify, with a single term, the individuals who are regulated  
14 by these rules.

15 **Subp. 4. Board.** This definition is reasonable because it  
16 refers to the law that created the Board of Marriage and Family  
17 Therapy and is necessary to avoid confusing verbiage.

18 **Subp. 5. Certified professions or occupations.** This  
19 definition relates to the Board's understanding of what fields of  
20 endeavor are comprised under Minn. Stat. 148.38 subd. 1 for  
21 exception from the licensure requirement. The Board believes  
22 that those professionals excepted from licensure but not excluded  
23 from practice, should be expected to demonstrate to a certifying,  
24 overseeing body, the professional's education, experience,  
25 competencies and assurance of continuing education. These are  
26 the same measures the Board seeks to use to regulate its  
27 licensees in an attempt to address the need for the protection of  
28 the public. The Board holds that the definition reasonably  
29 defines these exceptions while providing for sufficient  
30 safeguards for the public.

31 **Subp. 6. Dual Relationship.** This is needed for  
32 clarification of what constitutes a dual relationship. It is  
33 reasonable to identify any relationship that carries with it an  
34 imbalance of power since exploitation can only occur if an  
35 imbalance of power exists.

1           **Subp. 7. Fee Splitting.** This definition is necessary and  
2 reasonable for clarification purposes only.

3           **Subp. 8. Licensee.** This definition is necessary and  
4 reasonable as it is for clarification purposes only.

5           **Subp. 9. LMFT.** This definition is needed to clarify how  
6 licensees should hold themselves out to the public in a manner  
7 which differs from that of which are excluded from licensure but  
8 which may also deliver and advertise the delivery of marriage and  
9 family therapy services. The definition is reasonable because  
10 the title distinction denoting licensure will offer guidance to  
11 the public regarding a provider's accountability and  
12 achievements.

13           **Subp. 10. Marriage and Family Therapy.** This definition  
14 stands without further rationale as it is consistent to Minn.  
15 Stat. section 1488.29, subd.3.

16           **Subp. 11. Postgraduate supervised experience.** This  
17 definition is needed to further clarify this term as referenced  
18 in Minn. Stat. 148B.33. The definition is reasonable as the  
19 granting of a degree by an educational institution offers  
20 physical evidence of completion of graduate studies i.e. a  
21 transcript or diploma.

22           **Subp. 12. Regionally accredited.** This definition is  
23 needed to clarify what standards need to be met to qualify for  
24 regional accreditation. The Board holds this reasonable after  
25 carefully reviewing accreditation standards from several  
26 accrediting bodies, such as the North Central Association of  
27 Schools and Colleges and the Commission on Accreditation for  
28 Marriage and Family Therapy Education, and finding that  
29 procedures used by these bodies are viewed as national standards  
30 for accreditation.

31           **Subp. 13. Sexual Contact.** This definition is needed for  
32 clarification of the phrase sexual contact. It is reasonable  
33 because it is consistent with the definition in Minnesota  
34 Statutes 148A which is the statute that addresses action against  
35 psychotherapists, for sexual exploitation.

1           **Subp. 14. Sexual Harassment.** This definition is needed  
( for clarification of the phrase sexual harassment. This is  
3 reasonable since it is consistent with the definition used in the  
4 Minnesota Human Rights Act, Minnesota Statutes Section 363.01  
5 Subd. 10a.[1988]

6           **Subp. 15. Supervisee.** This definition is needed to  
7 abbreviate references in the rules to individuals being  
8 supervised or who have received supervision as required by  
9 Minnesota Statutes, section 148B.33 subd.1 (4). This definition  
10 is reasonable because it is consistent with the supervision  
11 requirements under Subp.10.

12           **Subp. 16. Supervision.** This definition is needed to  
13 clarify the full importance of the supervision relationship. It  
14 is defined according to national standards, as established by the  
15 American Association of Marriage and Family Therapy, that a  
16 supervisor is fully responsible professionally to insure ongoing  
17 auditing of the supervisee's practice. The Board holds  
18 reasonable that only face-to-face contact affords the supervisor  
1 and supervisee an opportunity for evaluation of such issues as  
20 transference and counter-transference, family of origin issues  
21 and other personal and professional issues that may have a  
22 bearing on the supervisees practice with clients.

23           **Subp. 17. Supervisor.** This definition is necessary and  
24 reasonable as it is for identification and clarification purposes  
25 only.

26           **Subp. 18. Therapeutic deception.** This definition is  
27 needed for clarification of the phrase therapeutic deception. It  
28 is reasonable because it is consistent with the definition set  
29 forth at Minnesota Statutes 148A.01, subdivision 8 (1988).

30           **Subp. 19. Therapist.** This definition is needed and  
31 reasonable because it is used interchangeably with licensee both  
32 in rule and in Minnesota Statutes 148B.29 through 148B.39.

33           **Subp. 20. Variance.** This definition is necessary and  
34 reasonable because it is for identification and clarification  
35 purposes only.

1       **5300.0110 License requirement.**

2           **Subp. 1. License required.**     The Legislature has  
3 established, by statute, a framework for the regulation and  
4 supervision of marriage and family therapists. In Minnesota  
5 Statute 148B.29 through 148B.39, a particular scheme for the  
6 regulation of these professionals was enacted. The Board submits  
7 that the license requirement is authorized by statute and is  
8 demonstrably necessary and reasonable to regulate the profession  
9 of marriage and family therapy for the protection of the public.

10          **Subp. 2. Engaging in marriage and family therapy practice.**  
11 This provision is reasonable because it is for identification and  
12 clarification purposes only.

13  
14       **5300.0120 EXCEPTIONS TO LICENSE REQUIREMENTS.**

15 This provision is reasonable because it is consistent with the  
16 definition of exceptions under Minnesota Statute 148B.38.  
17 Persons excepted from the licensure requirement are not prevented  
18 from doing the work of a marriage and family therapy nature, but  
19 are prevented from using the title marriage and family therapist  
20 or licensed marriage and family therapist. This is consistent  
21 with Minnesota Statutes 148B.32, subd. 2.

22  
23       **5300.0130 REQUIREMENTS FOR LICENSURE.**

24          **Subp. 1.A. Requirements.**     This requirement is reasonable  
25 because it is for clarification purposes.

26           **B.**     This provision is for clarification purposes. It is  
27 reasonable to require that a licensee must have reached the age  
28 of majority in order to demonstrate, chronologically, an  
29 acceptable level of maturity. The age of majority is 18 years as  
30 established in Minnesota Statute Section 645.451 subd. 5 [1988].

31           **C.**     This is reasonable because it is consistent with  
32 Minnesota Statute 148B.33 subd. 1(4).

33           **D.**     This is reasonable because the most efficient way for  
34 the Board to determine moral character is through the

1 testimonials of people who are presumed to understand the serious  
2 nature of the Board's duties.

3 E. This is reasonable to insure that a licensee  
4 commits themselves to upholding the Code of Ethics and Standards  
5 of Practice as prescribed by the Board.

6 F. This is reasonable because it is consistent with  
7 Minnesota Statute 148B.33 subd. 1(7).

8 Subp. 2. This is needed for clarification. The Board holds  
9 this reasonable because the Board does not have the authority to  
10 vary or disregard the statutory requirements to issue a license.

11 **5300.0140 EDUCATIONAL REQUIREMENTS; DETERMINATION OF EQUIVALENT**  
12 **DEGREE.**

13 The educational requirements set by the Board were modeled  
14 after the requirements of the Commission on Accreditation for  
15 Marriage and Family Therapy Education (CAMFTE) which is the only  
16 accreditation body for marriage and family therapy educational  
17 programs nationally.

18 Subp. 1. Evaluation by board. This is needed to verify  
19 the educational requirements for licensure. It is reasonable to  
20 require that such transcripts be sent directly from the  
21 institution granting the degree because institutions granting the  
22 degrees can readily prepare such documentation and because it  
23 prevents the opportunity for applicants to tamper with the  
24 record. The requirement for verification of accreditation of the  
25 educational institution is consistent with Minn. Stat.148B.33  
26 subd. 1 (5).

27 Subp. 2. Degrees; course work requirements. This is  
28 needed to resolve the dilemma of the shortage of doctoral and  
29 graduate degrees that are specific to marriage and family  
30 therapy. The Board used the categories that are required by the  
31 Commission on Accreditation for Marriage and Family Therapy  
32 Education (CAMFTE) along with the recommended number of courses  
33 to be required in each category. The number of course  
34 requirements was established by adopting either the minimum or

1 the mean of the recommended number of courses in the same  
2 categories required by CAMFTE.

3 The practicum requirement of 300 hours is reasonable since  
4 it is found to be standard to existing graduate programs around  
5 Minnesota even though CAMFTE requires 500 hours. Since most  
6 graduate programs in Minnesota are not specific to marriage and  
7 family therapy the Board found it reasonable to accept no more  
8 than 150 hours of that practicum to be in working with  
9 individuals. This 50% formula is the formula used by CAMFTE  
10 also. The Board also holds it reasonable to require that no less  
11 than 150 hours be with couples and families in recognition that  
12 marital and family therapy requires specialized skill and  
13 practice that cannot be gained in working with individuals.

14 **Subp. 3. Proof of equivalency.** It is necessary and  
15 reasonable to clarify that the burden is on the applicant to  
16 prove coursework equivalency since the applicant would have more  
17 ready access to their educational institution's course outlines  
18 and content statement. It would pose an overwhelming volume of  
19 work for the Board to be so responsible and could interfere with  
20 duties assigned to the Board through Minnesota Statute.

21 **5300.0150 EXPERIENCE REQUIREMENTS.**

22 **Subp. 1. Supervised experience required.** This provision is  
23 reasonable because it is consistent with Minnesota Statutes  
24 148B.33 subd. 1 (4).

25 **Subp. 2. Years of experience; computation.** This  
26 definition was needed to clarify Minnesota Statutes 148B.33  
27 subd.1 (4). The computation of 1000 hours is reasonable since it  
28 represents approximately half-time work. The Board holds this  
29 reasonable as this would not be punitive to doctoral students who  
30 may be spending time in the classroom, nor is it punitive to  
31 someone who wishes less than full time work. The Board also  
32 considers this reasonable for practitioners who spend half of  
33 their time working with individuals. The Board holds reasonable  
34 that requiring half-time is an acceptable national standard as



1 required for clinical membership in the American Association of  
2 Marriage and Family Therapy. To allow for less than that may not  
3 offer the practitioner the quality of experience necessary to  
4 become skilled in the practice of marriage and family therapy.

5 The statement "over a period of not less than 24 months." is  
6 reasonable as it is for clarification purposes only.

7 **Subp. 3 Clinical client contact; requirements.** This  
8 requirement is needed to assure that a practitioner has had  
9 experience in working with the dynamics that present when doing  
10 therapy with couples and families. This is reasonable that a  
11 practitioner must have clinical experience with the dynamics  
12 of dyads and families to fully understand the field of marriage  
13 and family therapy. The Board also holds this reasonable as it  
14 allows one-half of a person's practice to be with individuals and  
15 still be counted. This is representative of the Board's  
16 understanding that assignment of caseload may not be fully under  
17 the individual's control. The 500 hours of clinical client  
18 contact is reasonable because it is the same as is required for  
19 internship through the Commission on Accreditation for Marriage  
20 and Family Therapy Education.

21 **Subp. 4. Supervision; setting.** This is needed for  
22 clarification of the supervisory reference in Minnesota Statute  
23 148B.33 (4).

24 **A.** This provision is needed for clarification. It is  
25 reasonable because it is widely recognized in the field of  
26 marriage and family therapy that a practitioner's own personal  
27 issues may affect their effectiveness in a therapy relationship.  
28 The Board believes that the setting where these issues may be  
29 most effectively realized and dealt with is in an individual  
30 setting. The Board holds it reasonable that this setting may  
31 include two supervisees without compromising the opportunity for  
32 the aforementioned issues to be addressed.

33 **B.** This provision is needed to distinguish between group  
34 and individual supervision. It is reasonable as it recognizes  
35 that it is an accepted standard of practice to use group

1 supervision, and that this form of supervision offers supervisees  
2 an opportunity to avail themselves of feedback from more than one  
3 source. The limitation of no more than six supervisees is also  
4 reasonable as this is consistent with the national standard  
5 established by the Commission on Accreditation for Marriage and  
6 Family Therapy Education.

7 **Subp. 5. Supervision requirements.** This provision is  
8 needed to establish the minimum requirements for supervision.

9 **A. and B.** This is reasonable since it requires one hour  
10 of supervision per week, allowing for a standard two week  
11 vacation time per year. Requiring face-to-face contact is  
12 reasonable since this allows for feedback of non-verbal  
13 communication which is necessary to recognize the full impact on  
14 the supervisee. It is reasonable to require at least 100 hours  
15 of individual contact to provide a more secure setting for a  
16 supervisee to discuss personal issues that may have an impact on  
17 their practice.

18 **C.** This provision is reasonable since it allows the  
19 supervisor to more fully experience the supervisee's methods and  
20 does not rely solely on the supervisee's interpretation.

21 **Subp. 6. Verifying supervised experience.** This provision  
22 is reasonable since it is a procedure to verify that all  
23 requirements have been met to the satisfaction of the rule.

24 **5300.0160 REQUIREMENTS FOR THE SUPERVISOR.**

25 This is needed to establish the basic expectations the  
26 Board holds for the role of a supervisor.

27 **A.** This provision is reasonable since the supervisor must  
28 have a competency in marriage and family therapy in order to  
29 understand the unique body of knowledge required and to be able  
30 to teach those theories and skills.

31 **B.** This provision is reasonable since it insures that the  
32 supervisor has skills that are above that expected of the  
33 licensee. The requirement of 3 years and 3000 hours of  
34 experience were modeled after the requirements of that of a

1 clinical supervisor status for the American Association of  
2 Marriage and Family Therapy yet are not quite as stringent as  
3 those.

4 C. This provision is reasonable since it recognizes the  
5 special skill required in supervising and is consistent with the  
6 requirements of the Commission on Accreditation for Marriage and  
7 Family Therapy Education.

8 **5300.0170. RESPONSIBILITIES OF SUPERVISOR.**

9 This provision is needed to give minimal guidance to the  
10 responsibilities of a supervisor. The Board holds this  
11 reasonable because a supervisor must be in a position to offer  
12 enhancement of the supervisees knowledge and skills. Therefore  
13 it is a minimal expectation that a supervisor be knowledgeable of  
14 effective skills and important literature with which to direct  
15 the supervisee.

16 **5300.0180 LICENSURE PROCESS.**

17 Authority for the Board to develop this process is granted  
18 under Minnesota Statute 148B.31(2).

19 **5300.0190 PROCEDURES FOR ADMISSION TO WRITTEN EXAMINATION.**

20 **Subp. 1. Information Required.** This provision is needed  
21 and reasonable to identify and clarify the administrative process  
22 the Board has established for written examination admission.

23 **Subp. 2. Verification of information; Board's powers.**  
24 This provision is reasonable to clarify the Board's authority and  
25 responsibility to guard against fraudulent attempts at admission.

26 **Subp. 3. Time requirements.** This provision is needed for  
27 clarification. It is reasonable to allow six months to complete  
28 an application since the information required should be readily  
29 available to the applicant upon their request. This would allow  
30 for more streamlined office procedures necessary to assure  
31 competent functioning of the office.

1           **Subp. 4. Admission to written examination.** This  
2 provision is needed for clarification. It is reasonable to allow  
3 60 days since this is the time line the Board must follow to  
4 order the proper number of exams.

5           **Subp. 5. Denial of admission to written examination.**  
6 This provision is needed for clarification of reasons for denial.  
7 It is reasonable since it must be established that an applicant  
8 is eligible for licensure upon successful completion of the  
9 examinations. Due to the sensitivity of the testing security  
10 only eligible candidates are allowed to sit for the examination  
11 under the presumption that they fully intend to be licensed after  
12 successful completion of all requirements. It is also reasonable  
13 to treat applications submitted after a denial as new  
14 applications because it is assumed that this means the  
15 introduction of new information to meet basic requirements.  
16 Since the information required is clarified and made available to  
17 the applicant, no one should expect to make application unless  
18 they are confident they meet requirements. It is reasonable  
19 since the Board cannot be expected to keep open applications  
20 while the applicants complete requirements. This would not be in  
21 the interest of fairness to applicants who strove to complete all  
22 requirements in good faith.

23 **5300.0200 PROCEDURES FOR ADMISSION TO LICENSURE.**

24           **Subp. 1. A. Information required.** This provision is  
25 needed for clarification purposes. It is reasonable to require  
26 documentation of successful completion of the exam since it is a  
27 requirement of licensure.

28           **B.** This is reasonable as it proves, in a formal  
29 fashion, that an applicant has read and is willing to practice  
30 within the rules and Code of Ethics as written by the Board.

31           **C.** This provision is needed for clarification only.

32           **D.** This provision is needed for clarification and is held  
33 reasonable as it is consistent with Minnesota Statute 148B.33  
34 Subd. 1. (4).

1           E. This provision is needed to clarify Minnesota Statute.  
2 148B.33 Subd. 1. (2). It is reasonable to leave the burden on  
3 the applicant to supply two endorsers. In order to place the  
4 Board in a more formal verification stance with endorsers, it is  
5 reasonable that a form be supplied by the Board and that it be  
6 notarized to guard against fraud.

7           **Subp. 2. Verification of information; board's powers.**

8 This provision is needed to identify and clarify. It is  
9 reasonable that the Board may request to verify information  
10 submitted to attempt to insure that licensees are qualified and  
11 reputable, in an effort to protect the public from fraudulent  
12 licensees.

13           **Subp. 3. Denial of admission to licensure.** This provision  
14 is reasonable. The Board has been granted the authority to issue  
15 licenses to those who meet the requirements. Conversely, it is  
16 the Board's responsibility to deny licensure to those who do not  
17 meet all the requirements. New applications will contain new  
18 information and, therefore, it is reasonable to treat them as a  
19 new application to minimize any bias on the part of the Board.  
20 It is also reasonable to have the applicant bear the cost of  
21 reapplying since it is clearly their duty to get, to the Board,  
22 all the proper documentation. Failure on their part to do so  
23 would, logically, then be the applicant's responsibility to repay  
24 the administrative costs to process another application.

25           **5300.0210 CONCURRENT APPLICATIONS FOR EXAMINATION AND LICENSURE.**

26           This provision is needed for identification and  
27 clarification purposes only.

28           **5300.0230. REQUIREMENTS FOR ENDORSEMENT.**

29           **Subp. 1. Endorser; requirements. (A and B)** This provision  
30 is reasonable as endorsers are a recognized avenue to attest to  
31 good moral character required in 148B.33 (2). The Board also  
32 holds it reasonable because requiring the endorser to be licensed  
33 by the Board of Marriage and Family Therapy attempts to insure

1 that the endorser is aware of the Board's serious attitude in  
2 regard to protection of the public by their own reading of the  
3 rules and licensure process.

4 **Subp. 2. Limitations.** This provision is reasonable since  
5 the applicant should have no power or coercive effect over an  
6 endorser so that endorsements are given with sincere regard.

7 **5300.0240. EXAMINATION METHODS; SUBJECTS AND PROCEDURES.**

8 **Subp. 1. Written and oral examination required.** This  
9 provision is needed to clarify reference to examinations in  
10 Minnesota Statutes 148B.31(2). The authority to establish exam  
11 procedures was granted to the Board by the Legislature in  
12 Minnesota Statutes 148B.33 subd. 1 (7). It is held reasonable  
13 that the Board should use the examination approved by the  
14 American Association of Marriage and Family Therapy Regulatory  
15 Boards since most states that license marriage and family  
16 therapists use this examination. This will allow for the  
17 licensee to transfer their examination scores to most other  
18 states and will help to prevent them from having to retest in the  
19 case of reciprocity. It is also reasonable since the AAMFTRB  
20 bore the financial burden to locate and contract with a reputable  
21 testing service. To have the Board do their own search would  
22 unfairly financially impact on the licensees. The American  
23 Association of Marriage and Family Therapy Regulatory Boards is  
24 an association of all states (if members) who license marriage  
25 and family therapists. The Minnesota Board is a member of that  
26 Association and has representation on its board.

27 **B.** This provision is reasonable since oral examinations  
28 are a widely accepted and utilized form of examination giving the  
29 Board the opportunity to meet the applicant and examine the  
30 applicant more closely on such areas as are listed in Subp. 4  
31 below.

32 **Subp. 2. Examination Fee.** This provision is needed to  
33 clarify the expectation of the applicant. It is reasonable  
34 because the Board pays for each exam it orders to administer.

1 The Board may assess a small fee to help defray the costs of the  
2 direct administration of this examination.

3 **Subp. 3. Written part of examination.** This provision was  
4 analyzed in 5300.0240 Subp. 1. It is reasonable to offer the  
5 test twice as year according to national procedure. The  
6 examination, by contract, is not available at other times during  
7 the year.

8 **Subp. 4. Oral part of examination.** This is needed to  
9 further define the oral examination part of the licensure  
10 requirements. Subp. 4. (A), (B), and (C). are reasonable because  
11 it tests the licensee's knowledge of laws and ethics that are  
12 more germane to the Minnesota Board of Marriage and Family  
13 Therapy than a national written exam would be expected to be.  
14 Since protection of the public is the Board's main focus, it is  
15 reasonable to assure that licensee's have full knowledge and  
16 understanding of the laws and ethics that are established to  
17 protect the public.

18 **D.** This is needed to allow the Board flexibility in the  
19 rule to establish examination questions that stay abreast with  
20 the field of practice. This is reasonable since the Board has a  
21 responsibility to establish a licensee's knowledge of the field  
22 of marriage and family therapy as defined in Minnesota Statutes,  
23 section 148B.29, subd. 3.

24 **Subp. 5. Notification procedures.** This is needed for  
25 clarification purposes. The thirty day notification requirement  
26 is reasonable as it should allow a licensee ample time to prepare  
27 and schedule time. For preparation purposes an applicant will  
28 receive the rules upon making application and will be apprised  
29 through Rule 5300.0240 as to the requirement of examination and  
30 generalized areas of examination.

31 **Subp. 6. Passing score required on examination.** This is  
32 needed to clarify the establishment of passing scores on each  
33 part of the licensure examination. The Board contracts with the  
34 American Association of Marriage and Family Therapy Regulatory  
35 Boards, who in turn, contracts with Professional Examination

1 Service to devise a testing instrument. Part of those contracts  
2 is the establishment of a passing (cut) score. The Board holds  
3 it reasonable to use that score to enable the licensees to more  
4 easily take advantage of reciprocity agreements.

5 For the purposes of the oral examination the Board feels it  
6 reasonable and within their authority as granted in Minnesota  
7 Statute 148B.31 to establish a passing score since the Board will  
8 be the creators of this exam.

9 **Subp. 7. Reexamination permitted.** This is needed to let  
10 an applicant know of reexamination opportunities. It is  
11 reasonable to allow an applicant an opportunity to retest to  
12 allow for increased preparation time. Since the Board must pay  
13 for each test instrument individually, it is reasonable to expect  
14 the licensee to bear the cost of that instrument. It would not  
15 be reasonable for the Board to bear the cost, as those expenses,  
16 through license fees would need to be borne by all licensees  
17 equally, which is not their responsibility. It is also  
18 reasonable for the Board to establish a maximum amount of  
19 attempts since this may indicate the need for an applicant to  
20 receive further formal education before pursuing licensure. An  
21 applicant may apply for variance to prove to the Board good cause  
22 to be allowed to continue attempts to pass the exam. Allowing  
23 five times is reasonable since it reflects the maximum amount of  
24 times that the exam could be administered during an applicant's  
25 supervision time.

26 **5300.0250 RECIPROCITY.**

27 **Subp. 1. Other states recognized.** This is needed to  
28 clarify the requirements of reciprocity. It is reasonable to  
29 require that the other state's standard are equal to or exceed  
30 those of Minnesota to make the requirements equitable for all  
31 licensees, and to maintain practice standards in Minnesota. This  
32 is consistent with the requirement in 148B.35.

33 **Subp. 2. Application required.** This is needed to clarify  
34 the procedure for application for reciprocity. It is reasonable



1 to require the same data gathering for all licensees so that the  
2 Board can ascertain the qualifications of all applicants.  
3 Reciprocity candidates should be expected to produce the same  
4 evidence as a Minnesota applicant to receive the same license and  
5 the same right to practice. The fee reasonableness will be  
6 addressed in the reciprocity fee section.

7 **Subp. 3. Verification from other state required.** This is  
8 needed to clarify the procedure for verifying present licenses  
9 held. It is reasonable that the Board is able to examine license  
10 documents to verify that there is a current license and that  
11 there are no disciplinary measures pending or restrictions on a  
12 practice. This is meant to discourage a therapist from  
13 establishing practice in this state to avoid sanctions in another  
14 state. The requirement that the documents be sent directly is  
15 reasonable to minimize the opportunity for fraud. Both of these  
16 requirements were established for the protection of the public.

17 **Subp. 4. Discipline action in another jurisdiction; effect**  
18 **on licensing.** This provision is needed to clarify the Board's  
19 position on discipline action by other states. The authority for  
20 this provision is given in Minnesota Statute 148B.12 and 148B.37.

21 **Subp. 5. Proof of equivalency.** This is to clarify the  
22 responsibility of the applicant and the Board. It is reasonable  
23 since an applicant is making a request of the Board and therefore  
24 should bear the responsibility of fully informing the Board of  
25 all requirements. This information should be readily available  
26 to the licensee.

27 **5300.0260 TERM OF LICENSE.**

28 **Subp. 1. Effective date.** This is reasonable as it is for  
29 identification and clarification purposes only.

30 **Subp. 2. Initial licensure period; term of license.**  
31 This is needed for clarification of the initial term. The Board  
32 holds this reasonable because it is designed to assist in the  
33 orderly issuance of renewals. This will allow for all renewals

1 to be processed at the same time each year. The initial year  
2 license fee is pro-rated.  
3

4 **5300.0270 DISPLAY OF LICENSE.**

5 This is needed to set a policy of uniform display of  
6 licenses so that the public may have the opportunity to inspect  
7 the licenses. This is held reasonable since the prominent  
8 display of certificates makes it more convenient for the public  
9 to inform themselves of a therapist's credentials. It is also  
10 reasonable to require a fee for a duplicate license since the  
11 Board bears the cost of the design of each individual licensee.  
12 It is also reasonable to issue duplicate licenses that are  
13 clearly denoted as duplicate in order to minimize the ability to  
14 counterfeit licenses.

15 **5300.0280 RENEWAL OF LICENSE.**

16 **Subp. 1. Renewal every year.** This is needed to clarify  
17 the renewal term and process. The Board holds it reasonable to  
18 require yearly renewals to insure the on-going commitment to  
19 continuing education and to keep records on licensees reasonably  
20 up-to-date.

21 **Subp. 2. Notice of renewal.** This is needed to clarify  
22 the responsibilities and roles of the Board and the licensee in  
23 the renewal process. The Board holds it reasonable to leave the  
24 responsibility of renewal, ultimately, with the licensee as the  
25 licensee should be aware and committed to the licensure process  
26 to be knowledgeable of their renewal responsibility without need  
27 of reminder. It is reasonable to require that a licensee submit  
28 updated addresses to the Board within 45 days to insure the Board  
29 may contact a licensee within a short period of time should the  
30 need arise.

31 **Subp. 3. Renewal application required.** This is  
32 necessary to clarify the time process for renewals. The Board  
33 holds it reasonable to require renewal application be in by the

1 final day of the licensure period to clearly identify the  
2 licensure period. This attempts to avoid licensees from  
3 practicing, without penalty, on an expired license.

4 **Subp. 4. Fee.** It is reasonable for the Board to assess a  
5 renewal fee to cover the administrative costs of processing the  
6 information and issuing the renewal. Discussion of this document  
7 will be contained in part 5300.0360.

8 **Subp. 5. Affirmation.** This is for clarification purposes  
9 only.

10 **Subp. 6. Late fee.** This is needed to explain the  
11 penalties for late renewal. This is reasonable because the  
12 burden is on the licensee to renew in a timely fashion. The late  
13 fee establishes an incentive to renew on time. Since the Board  
14 has set one renewal date for all licensees and that date is the  
15 logical date of the last day of the year it is also arguable that  
16 any failure to renew is due to licensee neglect of  
17 responsibilities. Assessing a fee gives a clear sanction against  
18 practicing with a lapsed license. Discussion of the fee amount  
19 will occur in 5300.0360.

20 **5300.0290 FAILURE TO RENEW.**

21 **Subp. 1. Procedures.** This is for identification and  
22 clarification purposes only.

23 **Subp. 2. Expiration of license.** This provision is to  
24 needed to give notice of the consequences of failing to renew.  
25 This is reasonable since the it is the responsibility of the  
26 licensee to insure that they have renewed before December 31 of  
27 each year.

28 **5300.0300 REINSTATEMENT OF LICENSE.**

29 **Subp. 1. Requirements for reinstatement.** This is needed  
30 to identify the conditions under which a license may or may not  
31 be reinstated.

1           A. This provision is reasonable because considers the  
2 Board's authority in regard to disciplinary actions as granted in  
3 Minnesota Statutes 148B.37. and 214.06.

4           B. This is reasonable to protect the public against the  
5 unlicensed practice of marriage and family therapy.

6           C.,D.,E.,F. are reasonable to clarify the process necessary  
7 for reinstatement.

8           **Subp. 2. Expiration of less than five years.** This is  
9 needed and reasonable to make a reinstatement provision for those  
10 licensees, who for up to five years, wish to leave practice in  
11 Minnesota with intent to return. This makes a provision for  
12 those people that would allow them to reinstate their license  
13 without retaking the required exams. It is reasonable to expect  
14 these licensees to continue with the required education in order  
15 to keep abreast of trends in the field. It is also reasonable to  
16 assess the fees prescribed so that the decision to allow a  
17 license to expire is made with serious contemplation and not  
18 simply through neglect of a licensees responsibility to the  
19 Board. This also reflects a protection to the public issue  
20 whereby this discourages therapists from attempting to be out of  
21 the jurisdiction of the Board to engage in activities that may  
22 otherwise be seen in violation of the rules.

23           **Subp. 3. Expiration of five years or more.** This is needed  
24 to clarify the consequences of allowing a license to expire for  
25 over five years.

26           A. The Board holds this as reasonable because after that  
27 length of time out of the field of practice an applicant needs to  
28 be able to demonstrate through formalized testing that they have  
29 kept up to trends and laws in the field. Therefore, they should  
30 be able to demonstrate that they are able to pass an exam with  
31 the same body of knowledge as new licensees.

32           B. and C. These provisions are reasonable because they  
33 impose no more burden on the licensee than the reinstatement for  
34 less than five years provision holds.

1           **Subp. 4. Practice without a license.** This is needed to  
2 identify the statutory violations of practicing without a  
3 license. It is reasonable for the Board to seek disciplinary  
4 action against someone who may be practicing without a license.

5           **Subp. 5. Effect of reinstatement.** This is for  
6 identification and clarification purposes only.

7  
8           **5300.0310 VOLUNTARY TERMINATION OF LICENSE.**

9           This is needed for clarification of a voluntary surrender  
10 of license process. The Board holds this rule reasonable since  
11 it is the right of the licensee to surrender a license at any  
12 time. It is also reasonable for the Board to deny voluntary  
13 surrender if a complaint is pending to prevent licensees from  
14 attempting to avoid regulation or disciplinary action by moving  
15 beyond the jurisdiction of the Board. This is reasonable to  
16 further ensure the protection of the public.

17           It is also reasonable to allow reinstatement of a voluntary  
18 termination status without the late fees, as a voluntary  
19 reinstatement does not represent a neglect of a licensee's  
20 responsibility to the Board. Rather, voluntarily terminating  
21 according to rule demonstrates a clear sense of responsibility,  
22 to the Board, on the part of the licensee.

23           **5300.0320 CONTINUING EDUCATION REQUIREMENTS.**

24           **Subp. 1. Continuing education required.** This is  
25 reasonable because it is consistent with Minnesota Statutes  
26 148B.31 (7).

27           **Subp. 2. Number of hours required.** This is needed to  
28 clarify the number of hours required. It is reasonable to  
29 require 15 hours since this allows for two one-day sessions of  
30 seven and one-half hours each (The Board does not credit lunch or  
31 break hours). The standard for license professions, in  
32 Minnesota, is for 15-16 hours yearly as evidenced by review of  
33 other permanent rules of regulatory boards.

1 It is reasonable to wave the continuing education  
2 requirement for the initial licensure period. Since this period  
3 is pro-rated from the date of licensure, it is conceivable that a  
4 licensee may not have adequate time to acquire these credits.

5 **Subp. 3. Documentation of courses.** This is needed to  
6 identify the verification of credit procedure. It is reasonable  
7 to ask for documentation other than registration materials as the  
8 Board needs evidence of actual attendance and completion of the  
9 required hours. The requirement of forms supplied by the Board  
10 is reasonable as it minimizes the opportunity to submit  
11 fraudulent documentation by requiring more specific knowledge and  
12 documentation of the course.

13 **Subp. 4. Courses; board approval required.**

14 **A.** This is reasonable because the Board can only  
15 recognize education that is related to marriage and family  
16 therapy, or psychotherapeutic practice. Other types of education  
17 may be for personal enhancement but would hold no relevance to  
18 the licensure.

19 **B.** This is reasonable since the Board only recognizes  
20 structured educational experiences for continuing education. The  
21 evidence of sound educational principles would distinguish the  
22 course from something more social or self-directed in nature.

23 **C.** This is reasonable since clinical time is traditionally  
24 measured in 50 minute hours.

25 **D.** This is reasonable since it is a clarification of  
26 topics required in the core requirements of the Commission on  
27 Accreditation for Marriage and Family Therapy Education.

28 **E.** This is reasonable since an instructor who lacks the  
29 proper credentials could possibly negate the educational  
30 experience.

31 **Subp. 5. Committee evaluation.** This is for clarification  
32 of the course evaluation procedure. The Board holds this  
33 reasonable as a committee determination will allow the full Board  
34 to address more emergent issues. It is reasonable for the Board  
35 to utilize non-board members who have expertise in education and

1 training to help the Committee make more informed decisions. It  
2 is implicit that the Board retains final decision-making that can  
3 supersede committee recommendations since the Board always  
4 retains responsibility and accountability for decisions within  
5 its jurisdiction.

6 **Subp. 6. Sponsor's application for course approval.** This  
7 is needed for clarification of requirements and procedure. The  
8 Board finds it reasonable to request detailed information from a  
9 sponsor to enable the Board or its committee to make a more  
10 informed decision of approval.

11 **A.** This provision is for clarification only.

12 **B.** This is reasonable since it is the same information  
13 required from sponsor's for course approval. It is reasonable to  
14 require a certificate of attendance to verify a licensee's actual  
15 attendance.

16 **C.** This provision is needed to address the expectations  
17 the Board has for on-going courses and identifies the Board's  
18 role in the issue. It is reasonable to set a one-year approval  
19 term because less than that would prove too cumbersome for the  
20 sponsor yet over one year may not account for a change in  
21 instructor and, therefore format, that may naturally occur with  
22 the onset of a new school year. It is reasonable to require an  
23 approval fee with each application to attempt to let the sponsor  
24 bear the financial burden of the administrative processing of the  
25 application.

26 **C. 1.** This is for identification purposes only.

27 **C. 2.** This provision is reasonable since any substantive  
28 changes could result in the course not meeting the requirements  
29 for approval as established in 5300.0320 Subp. 4. (A through E).

30 **D.** It is reasonable that the Board should give formal  
31 notice for a sponsor so that they may assure registrants of Board  
32 approval or apprise them of a disapproved status.

33 **E.** This is reasonable since the process of approval  
34 implies the inverse decision of denial. It is reasonable since

1 the denial will be based on the same criteria as any approval  
2 granted.

3 F. This is necessary and reasonable since the Board must  
4 be able to take action against fraudulent claims since this may  
5 render a course of no useful value to the licensee's professional  
6 enhancement. This ensuring of professional enhancement is one  
7 way for the Board to attempt to carry out its mission of  
8 protecting the public.

9 Subp. 7. A licensee's application for course approval. It  
10 is reasonable to expect a licensee to get individual approval for  
11 a course before renewal period since it would be administratively  
12 cumbersome to review all continuing education at the renewal  
13 time. It is reasonable to require the submission of the  
14 information requested in order to assist the Board or its  
15 committee to hold the request up to the same criteria required of  
16 sponsors. The information required in Subp. 7. (A. 1 through 4)  
17 is information standard to most promotional brochures so should  
18 be readily available to the licensee.

19 B. This is needed to indicate the Board's direction  
20 regarding course approval.

21 C. This is needed for clarification of procedures only.

22 Subp. 8. Sources of credit. This is needed to identify  
23 the type of continuing education mediums acceptable to the Board.  
24 The Board holds this reasonable because these are the only  
25 settings which afford the Board the information required in Rule  
26 5300.0320 Subp. 3., 4. (A through C), 6. (A and B) and Subp. 7.  
27 The Board holds to be reasonable not to allow for self-study or  
28 undirected study because there would be no secondary validation  
29 source to determine completion, relevance or time spent. The  
30 Board cannot put itself in a position of reviewing all printed  
31 materials in the field and then making value judgements as to  
32 whether they meet criteria. The Board also holds it reasonable  
33 to exclude publications or presentations made as this only  
34 reflects a licensee's current body of knowledge, not an  
35 enhancement thereof. The mediums set forth in Rule are more



1 formalized, therefore verifiable means of fulfilling the  
2 continuing education.

3 **Subp. 9. Hours of credit.** This is for clarification  
4 purposes only.

5 **Subp. 10. Exemption from continuing education**  
6 **requirements.** This is needed to identify exemptions from  
7 continuing education criteria. The Board holds it reasonable to  
8 exempt a retiree or someone permanently disabled, who does not,  
9 in any way, engage in practice. Licensees may wish to keep their  
10 licensee status in order to continue to identify themselves as  
11 marriage and family therapists after employment. The Board feels  
12 that, in recognition to their contribution to the field, they  
13 should be allowed to do so without being forced to bear the  
14 financial burden of continuing education. The Board also sees it  
15 reasonable, in the case of a disabled person, to require a  
16 doctor's notarized statement of disability in efforts to prevent  
17 fraudulent exemptions from continuing education.

18 **Subp. 11. Discontinuance of exemption from continuing**  
19 **education requirements.** This is needed to provide for someone  
20 resuming practice after an absence that meets the criteria of  
21 Rule 5300.0320 Subp. 10. This is reasonable because the Board  
22 feels that meeting the criteria of 15 hours per year for up to  
23 five years would serve to acquaint the licensee with changes and  
24 trends in the field. Since 15 hours only reflects two days of  
25 study, the Board believes this to be a minimal criteria because  
26 of the inherent limitations on the volume or depth of information  
27 that can be presented in that time period.

28 **5300.0330 REFUSAL TO GRANT LICENSE, SUSPENSION, OR REVOCATION OF**  
29 **LICENSE.**

30 **Subp. 1. Board authority.** This is reasonable because  
31 it is consistent with Minnesota Statutes 148B.05 and 148B.37  
32 Subd. 1.

33 **Subp. 2. Conviction of crime.** This is needed to identify  
34 the statutes identified as "of a nature to render the convicted

1 person unfit to practice marriage and family therapy." Minn.  
2 Stat.148B.37(2).

3 **Subp. 3. Probation.** This is for identification and  
4 clarification. The Board is granted this authority in Minnesota  
5 Statute 148B.05 Subd. 1. by the language "In its discretion, a  
6 board may restore and reissue permission to provide services, but  
7 as a condition thereof may impose any discipline or corrective  
8 measure that it might originally have imposed."

9 **Subp. 4. Suspended or revoked license; return to the**  
10 **Board.**

11 This is needed to identify the expectation of the licensee after  
12 suspension or revocation of a license. It is held reasonable  
13 since a license certificate is the document used for public  
14 declaration and verification of licensure status, the immediate  
15 return requirement is designed to make more difficult the  
16 fraudulent declaration of licensure status. This is a reasonable  
17 step toward the protection of the public.

18 **Subp. 5. Restoring a license.** This is reasonable because  
19 it is consistent with Minnesota Statute 148B.37 Subd. 2. It is  
20 reasonable to apply applicable parts of Rule 5300.0300 to insure  
21 the applicant has not been practicing marriage and family therapy  
22 while under revocation and to insure the person has continued  
23 their education and is up-to-date with the trends in the field.  
24 It is reasonable to assess a fee to cover the administrative cost  
25 of the processing of this application and entire file as it would  
26 be an unfair expense to leave to the burden of all licensees  
27 since this situation came about solely by the actions of the  
28 named licensee.

29 **5300.0340 VARIANCE.**

30 **Subp. 1. Variance; when allowed.** This is needed to  
31 identify and clarify the opportunity for variance from the rules.  
32 It is reasonable to allow for variances since in the rule-making

1 process it is impossible for the Board to consider all situations  
{ that may arise. It is not within the Board's ability to vary  
3 from any statutory requirements. Minnesota Statutes 514.05 subd.  
4 4 [1988].

5 A. The Board holds that it is reasonable to expect that  
6 any variance should meet or exceed to impact of the Rules since  
7 the Rules reflect the Board's minimum expectations.

8 B. This provision clarifies the basic rationale for filing  
9 for a variance. Evidence that the Rule imposes an undue hardship  
10 would be a necessary condition of consideration of the request to  
11 depart from the rules.

12 C. This provision is reasonable since the protection of  
13 the public is the Board's most serious charge.

14 Subp. 2. Petition; requirements. This is needed to  
15 clarify the information needed in a request for variance.

16 Subp. 3. Alternatives must be followed. This is needed to  
17 identify a licensees responsibility upon the granting of a  
18 variance. It is reasonable to expect completion of the  
19 alternatives since the request for variance was upon request of  
20 the licensee and reflected a willingness to perform the  
21 alternatives.

22 Subp. 4. Renewal; notice of change; revocation. This is  
23 needed to identify the types of changes that could occur with the  
24 variance. It is reasonable to consider the renewal of a variance  
25 if the same conditions exist that precipitated the granting of  
26 the variance as long as these conditions are not continuing  
27 because of a failure of the licensee to make corrective measures,  
28 if possible. It is also reasonable to require a licensee to  
29 apprise the Board of any change in conditions that affect the  
30 substance of the variance. This attempts to safeguard against  
31 misrepresentation of facts to the Board. Should the Board  
32 receive information that there has been a change in the  
33 circumstances that either changes the variance conditions in a  
34 way to violate Rule 5300.0340 Subp.1. (A through C) or may show  
35 to the Board an attempt to defraud or misrepresent to the Board,

1 it is reasonable for the Boards to retain revocation powers.  
2

3 **Subp. 5. Burden of proof.** This is reasonable to place the  
4 burden of proof on the licensee since the request and completion  
5 of variance conditions is initiated by the licensee and  
6 constitutes a request to the Board to depart from the Rules only  
7 for that licensee.

8 **Subp. 6. Notice of variance; denial; revocation.** This is  
9 for identification and clarification purposes only.

10 **5300.0350 CODE OF ETHICS.**

11 This is needed to provide guidelines for standards of  
12 practice that are acceptable to the Board and to the public.  
13 This code of ethics was modeled after the Code of Ethics of the  
14 American Association of Marriage and Family Therapists and the  
15 Minnesota Board of Psychology. The authority to adopt a code of  
16 professional ethics was granted in Minnesota Statutes 148B.31(6).

17 **Subp. 1. Scope.** This is for identification purposes only.

18 **Subp. 2. Purpose.** This is for clarification purposes  
19 only.

20 **Subp. 3. Violations.** This definition is needed for  
21 identification and to clarify what constitutes a violation.

22 **Subp. 4. Integrity.** This definition is needed for the  
23 clarification of integrity as it applies to this code of ethics.  
24 It is reasonable to expect that a licensee of the Board should  
25 practice with the utmost integrity to personally reflect the  
26 Board's commitment to protect the public.

27 **A.** It is reasonable to expect that a therapist makes a  
28 full and honest disclosure to the public about their skills and  
29 admits their limitation. A therapist who practices outside of  
30 their fields of competence could be placing their clients in a  
31 potentially dangerous position. The therapist should only  
32 practice within their training and acquired skill level to assure  
33 the safe delivery of their techniques and to place the client in

1 a position of receiving the maximum benefit of a therapeutic  
2 experience.

3 B. This is a reasonable since a therapist who supervises  
4 a trainee or intern takes responsibility for the practice of that  
5 trainee or intern to "see that all supervised work is  
6 conducted..., with adequate administrative and clerical controls"  
7 as detailed in Rules 5300.0170 (C).

8 C. This ethic is reasonable since the influence inherent  
9 in a teacher or mentor position may result in the student,  
10 intern, employee or supervisee being placed in a very  
11 psychologically vulnerable position. This presents an  
12 opportunity for exploitation by the teacher, supervisor or mentor  
13 to the detriment of the student. Also, the supervisor is  
14 expected, in part, to teach by example and is therefore expected  
15 to conduct themselves with the utmost respect and  
16 professionalism. It is reasonable to forbid sexual intimacy for  
17 two years after the termination of the teacher/student,  
18 supervisor/supervisee relationship because this is consistent  
19 with Minnesota Statute 148A. The Board holds it reasonable to  
20 compare the student/teacher, supervisor/supervisee relationship  
21 to be similar in its imbalance of power and to some degree the  
22 emotional dependence that is recognized in Minnesota Statute 148A  
23 between therapist and client.

24 D. This is needed to address the issue of sexual  
25 harassment of this category of relationship. This is reasonable  
26 since it is consistent with the prohibition of that behavior as  
27 cited in the Minnesota Human Rights Act Chapter 363.

28 E. This is needed to warn against other types of  
29 exploitative actions on the part of the therapist in a power  
30 position. Any activity that is designed to enhance the  
31 therapist's interests at the expense of a person mentioned in  
32 this rule would be unethical as it could be potentially harmful  
33 to the person of lesser position and would be modeling behaviors  
34 that could be harmful to the public if carried to that arena.

1 Since a supervisor or teacher is responsible to model the highest  
2 of professional behavior this would be opposed to that premise.

3 F. This is needed to clarify a therapist's responsibility  
4 to utilize the best available resources for a client and to  
5 assist the client accessing those resources. The Board holds  
6 this reasonable since a therapist should recognize their own  
7 limitations and the need for a client to receive services from a  
8 source not bound by those same limitations. It is also  
9 reasonable to require that a therapist make a referral to another  
10 professional upon request of the client. This represents respect  
11 for a client's freedom of choice and acknowledgement of their  
12 ability to be in charge of their own mental health. The Board  
13 does not hold it to be an acceptable argument that a client's  
14 third-party payor limits referrals since it is first, and  
15 foremost, the responsibility of the therapist to insure that the  
16 client is getting the services they require to assist them with  
17 their difficulties. Declaring immunity from this ethic is  
18 clearly promoting the therapist and payor ahead of the client and  
19 may also be seen as a violation of Rule 5300.0350 Subp. 8.(G).

20 G. This is needed to warn against accepting or offering  
21 payment for referrals. This is reasonable since this practice,  
22 commonly known as fee splitting, can result in the fraudulent  
23 representation of referral on the basis of need and  
24 service quality when, in fact, it is more designed to further the  
25 therapists financial interests. This is consistent with Rule  
26 5300.0350 Subp. 4. (E) and Subp. 5. (F).

27 H. This is needed to clarify the responsibility of a  
28 therapist who knowingly receives another therapist's client into  
29 therapy. It is reasonable to expect immediate coordination of  
30 the case between therapists so that the chances of exploitation  
31 of the client is minimized. The Board holds that it would be  
32 harmful to the client to willingly engage in any deception or  
33 "secret keeping" with the client against another professional.  
34 It would be reasonable for a therapist to withhold their delivery  
35 of service from a client who refuses to allow consultation

1 between involved therapists, until the client further clarifies  
2 or terminates their relationship with the other professional or  
3 allows for consultation. It is also reasonable to waive the  
4 expectation for a brief period of time if the client is seeking  
5 assistance with a therapist who is allegedly exploiting the  
6 client in some way. In this case the second therapist may  
7 continue to see the client to assist them in terminating the  
8 relationship and in preparing reports to the proper disciplinary  
9 channels.

10 I. This is needed to set guidelines for interaction with  
11 and about other professionals. It is reasonable to expect that a  
12 therapist would be acquainted with a variety of treatment options

13 and programs in their immediate area and with methods to secure  
14 more knowledge of options if necessary. It is also reasonable to  
15 prohibit disparaging comments about other professionals as this  
16 is poor modeling for the client and may be legally defamatory to  
17 the other therapist. Should the therapist have knowledge of  
18 unethical behavior of another professional a more appropriate  
19 vehicle for addressing that would be to make formal complaint to  
20 the professional's regulatory board.

21 J. This is needed to give the therapist some direction  
22 should they find themselves in a difficult life position that may  
23 have impact upon their performance and judgement. It is  
24 reasonable to expect a therapist to seek the same type of  
25 assistance that they are encouraging for their clients. It is  
26 also reasonable to expect that a therapist recognizes the  
27 potential influence their problems might have on their  
28 performance and judgement and the potential for inadvertent harm  
29 to the client. This rule clearly reflects the spirit of  
30 protection of the public.

31 K. This is needed to make a clear statement on the use of  
32 mood altering chemicals during practice or affecting practice  
33 hours. It is reasonable to expect that a therapist not engage in  
34 the use of mood altering chemicals whose affects would still be

1 present during their hours of practice since the risk of mental  
2 and or physical impairment is high during usage and  
3 detoxification time. This potential for impairment poses an  
4 clear danger for the client in being treated by someone who is  
5 not in full control of themselves as a result of usage of  
6 chemicals.

7 L. This is needed to make clear a therapist's relationship  
8 with a third-party payor. The Board holds it reasonable to  
9 expect that a therapist will still see the client as the  
10 person(s) they are responsible to and not to any third-party  
11 payor. Allowing the payor to exert undue pressure removes the  
12 objectivity from the therapist and therefore taints the  
13 therapeutic process. Allowing undue pressure on the part of a  
14 third-party payor is also in violation of Rule 5300.0350 Subp. 5  
15 "A marriage and family therapist's primary professional  
16 responsibility is to the client."

17 M. This is needed to clarify a licensee's responsibility  
18 to the Board in the event of knowledge of unethical conduct of  
19 another therapist. It is reasonable to require reporting to the  
20 Board of suspected unethical conduct as the Board is reliant on  
21 outside reports to proceed with any corrective or disciplinary  
22 measures against errant therapists. It is also reasonable to  
23 expect that licensee's of the Board commit themselves to the  
24 protection of the public as reporting agents of the Board.

25 N. This is needed to establish a more generalized  
26 statement of misrepresentation and fraudulent action against the  
27 public or the Board. It is reasonable to expect that no  
28 misrepresentations or fraudulent activity be directed to the  
29 Board or the public. This reflects the Board's charge of  
30 protection of the public. It is also reasonable to assume that  
31 the Board must guard itself against these actions in order to  
32 more fully protect the public.

33 O. This is needed to prohibit improper advertising. It is  
34 reasonable to require that the public be truthfully apprised of  
35 therapist's circumstances so that they may make an informed



1 decision for themselves about the services they will seek and the  
2 therapists they will employ.

3 P. This is needed to clarify a therapist's role in the  
4 misrepresentation by others. It is reasonable to expect that the  
5 therapist take responsibility to correct any misinformation  
6 disseminated by other people as the therapist is responsible to  
7 see that they practice within the Rule and Code of Ethics  
8 established by the Board. This responsibility for  
9 misrepresentation is clearly stated in 5300.0350 Subp. 4.(O), and  
10 Subp. 5. (B). The Board also holds it reasonable to make the  
11 therapist responsible to correct other's misrepresentation in an  
12 effort to reduce the opportunity of purposely defrauding the  
13 public by using another agent to disseminate misinformation.

14 Q. This is needed to clarify the role of a therapist who  
15 is also an employer, in the proper representation of or by their  
16 employees. It is reasonable to hold a therapist responsible for  
17 the misrepresentation of their employee, student or intern since  
18 the position of employer or supervisor is inherent in taking  
19 responsibility for that person's professional conduct and the  
20 disciplining or educating of any unethical acts. This is not to  
21 be construed as releasing the employer or supervisor from their  
22 duty of reporting to the Board despite disciplinary actions  
23 already utilized by the employer or supervisor.

24 R. This is needed to define unprofessional conduct and to  
25 hold the therapist responsible to the Board upon engaging in such  
26 conduct. It is reasonable for the Board to have an opportunity  
27 to examine documentation of unprofessional conduct as defined by  
28 such organizations as, but not limited to the American  
29 Association of Marriage and Family Therapy or American  
30 Psychological Association. It would not be possible for the  
31 Board to create specific rules in a code of ethics that reflect  
32 every situation that might arise. Therefore, allowing the Board  
33 to examine complaints of unprofessional conduct that is not rule  
34 specific affords the Board greater ability to protect the public.  
35 It is also reasonable to expect that the suspected behavior be

1 recognized by some other professional body as not meeting  
2 professional standards so that the Board may not be seen as  
3 arbitrary in their evaluation of related complaints.

4 **Subp. 5. Relations to clients.** This is needed to clarify  
5 the therapist's first and foremost party of responsibility. This  
6 is reasonable as a therapist's position is to assist a client and  
7 to provide services for them, not to have any other agent  
8 supersede that. It is reasonable because a therapist is  
9 responsible for their own practice and their conduct within that  
10 practice. Violating these rules to comply with an agency or  
11 employer's policy or directives in no way releases a therapist  
12 from responsibility. The Board shall hold a therapist  
13 responsible for their actions despite any claim of undue  
14 influence.

15 **A.** This subpart is needed to clarify the expectation that  
16 once a therapist has accepted someone for treatment they should  
17 be free from discrimination. This does not presume to force a  
18 therapist to accept someone into treatment when the therapist  
19 recognized their own biases and actively refers someone somewhere  
20 else for services. This provision is reasonable because age, sex,  
21 race, national origin, religion, physical handicap, political  
22 affiliation, social or economic status, affectional preference,  
23 and choice of lifestyle should not affect an individual's rights  
24 to receive marriage and family therapy. It is also consistent  
25 with state and federal discrimination laws.

26 **B.** This is needed to clarify a therapist's responsibility  
27 to clients in regard to dual relationships. It is reasonable to  
28 prohibit dual relationships since they hold the opportunity for  
29 exploitation of the client. Dual relationships also blur the  
30 professional boundaries between client and therapist leading to  
31 increasing confusion for the client and providing for a non-  
32 therapeutic environment.

33 **C.** This is needed to clarify the responsibility of  
34 the therapist in the delivery of services to the client. It is  
35 reasonable to require a truthful disclosure of facts regarding

1 services rendered so that the client may make an informed  
2 decision as to the acceptance and involvement in such services.  
3 Non-truthful disclosure would be seen as purposefully fraudulent  
4 and exploitative of the client.

5 D. This provision is needed to establish procedures for  
6 full disclosure of fees. This is reasonable since a client may  
7 make a different decision based on the financial considerations  
8 of the therapy services offered. This is necessary to protect  
9 the public from fraudulent misrepresentation of cost of services.

10 E. and F. This is needed for client protection purposes.  
11 It is reasonable because it is consistent with Minnesota Statutes  
12 of the Criminal Code Chapter 148A.

13 G. This provision is needed for the protection of the  
14 client. It is reasonable to require that a therapist recognize  
15 their influence on a client and not exploit the client in any  
16 way.

17 H. This is needed for the protection of the privacy of the  
18 client. It is reasonable because it is consistent with the  
19 Minnesota Government Data Practices Act Minnesota Statutes  
20 Chapter 13.01 through 13.90. The Board holds it reasonable to  
21 require that all practitioners follow the Minnesota Government  
22 Data Practices Act since these principles were established  
23 clearly as a protection of the public.

24 I. This is needed for the protection of the client. It is  
25 reasonable to place the burden on the therapist to terminate a  
26 relationship that is no longer beneficial to the client. This is  
27 to attempt to prevent the exploitation of a client who may be  
28 subjected to unnecessary therapy for the personal or financial  
29 gain of the therapist.

30 J. This provision is needed to define and clarify  
31 impaired objectivity. It is reasonable to hold the therapist  
32 responsible to recognize when their objectivity has become  
33 impaired and to make provisions for the client to receive  
34 services elsewhere where that impairment does not exist. The

1 Board holds it reasonable to assume that any impaired objectivity  
2 could directly affect the client in a negative or harmful way.  
3 It is reasonable to require that the client be notified both  
4 verbally and in writing in order to minimize the sense of  
5 rejection that may accompany this type of situation. The  
6 client's clinical file should clearly reflect in writing the  
7 situation and reason for referral.

8 K. This is needed to clarify a therapist's role in a  
9 client's decision-making process. It is reasonable to provide  
10 that a therapist not make specific decisions or recommendations  
11 to a client. Due to the imbalance of power and the influential  
12 position of a therapist, any direct decision may seem like a  
13 mandate to the client and the relationship between therapist and  
14 client may well color their decisions about other issues. This  
15 influence is noted in Rule 5300.0350 Subp. 4.(B).

16 L. This is needed to raise the issue of impasses occurring  
17 in therapy due to personal beliefs of the therapist and the  
18 client. It is reasonable to hold the therapist responsible for  
19 the acknowledgement and discussion of those issues when they  
20 arise. Not coming forward with those issues may present the  
21 possibility of misplaced emotions being acted out destructively  
22 in the session to the detriment of the client. This concept was  
23 formalized by Dr. Sigmund Freud and is commonly referred to as  
24 transference and counter-transference.

25 M. This is needed for clarification purposes.  
26 It is reasonable since it is consistent with Minnesota Statue  
27 Chapter 626.556 (minor abuse reporting statute) and Minnesota  
28 Statute 626.557 (vulnerable adult reporting statute).

29 N. This provision is needed to clarify what information  
30 should be given to the client upon their first visit to the  
31 therapist. It is reasonable to include all of this information  
32 since it is consistent with applicable Minnesota Statutes as  
33 described in Rule and the Minnesota Board of Marriage and Family  
34 Therapy permanent rules (1990).

1 O. This is needed to identify a therapist's responsibility  
2 to the client and to the Board. This is reasonable since the  
3 client's only reasonable access to the reporting function of the  
4 Board may be the therapist. This further protects the public by  
5 dissemination of the information of the Board's regulatory  
6 function over the therapist.

7 Subp. 6. Confidentiality and keeping of records. This is  
8 needed for clarification purposes. Subp. 6. (A and B) are  
9 reasonable because they are consistent with the Minnesota Data  
10 Practices Act.

11 C. This is needed for process clarification. Since the  
12 practice of marriage and family therapy is different than  
13 individual therapy there may exist a confusion as to who the  
14 identified client is. This should be clarified by the therapist  
15 as soon as possible with the applicable confidentiality  
16 safeguards and record keeping implications.

17 D. This is needed to clarify the therapist's  
18 responsibilities to delineate their procedure in couple's  
19 therapy. It is reasonable to require that a therapist do so as  
20 there are many ways to address this issue as long as a therapist  
21 stays within the statutory limits and a client should be fully  
22 informed of those procedures so that they can make an informed  
23 decision about their involvement with that therapist.

24 E. This provision is needed for clarification and is  
25 reasonable because it is consistent with Rule 5300.0350 Subp. 4.  
26 (L).

27 F. and G. This provision is needed for clarification of  
28 record keeping procedures in order to protect the client's  
29 privacy. It is reasonable because it is consistent with  
30 Minnesota Data Practices Act.

31 H. This is needed for clarification purposes only. It is  
32 reasonable to require this as the Board must have access to  
33 client file for some violations in order to conduct a complete  
34 and thorough investigation of alleged violations. The

1 disciplinary process of the Board is one of its chief vehicles  
2 for the protection of the public.

3 I. This provision is needed to clarify the procedure for  
4 electronically recording sessions or using observers. It is  
5 reasonable to require written, informed consent as both of these  
6 constitute a violation of privacy and therefore should only be  
7 done with a signed consent. The electronically recorded  
8 instruments should be recorded only after a client has been fully  
9 informed as to its future use and audience. This is reasonable  
10 to protect the privacy rights of the clients.

11 J. This provision is needed and reasonable to insure  
12 protection of the privacy rights of the client.

13 **Subp. 7. Research.** Is needed to protect the rights and  
14 dignity of human research subject. It is reasonable to refer to  
15 the general principles of the Code of Ethics for the Minnesota  
16 Board of Psychology since the American Psychological Association  
17 sets the national standards for research with human subjects.  
18 These standards are revisited and updated every two years.

19 **5300.0360 FEES.**

20 This part is needed because Minnesota Statutes, section  
21 148B.17 requires that the Board establish fees by rule, including  
22 late fees, for licenses or filings or renewals. The amount of  
23 fees collected must, as closely as possible, equal anticipated  
24 expenditures during the fiscal biennium (Minnesota Statutes,  
25 sections 214.06, and 16A.128, subdivision 1a, and 148B.17),  
26 including the prorated costs of the office of social work and  
27 mental health boards.

28 It is reasonable to make fees non-refundable because,  
29 regardless of the outcome of an application, the Board still must  
30 cover the cost of administering the application, verifications,  
31 and examinations.

32 The amount of the fees are reasonable because they are  
33 consistent with the number of license applications received, the  
34 number of applications approved for licensure, the anticipated

1 renewal cycle for licensees and the resources needed to process  
2 those applications.

3 The examination fee is set by the examination service and  
4 therefore is a matter of contract negotiations between the  
5 American Association of Marriage and Family Therapy Regulatory  
6 Boards, the Board and the exam service. The Board assesses a  
7 small fee to offset the administration costs.

8 It is reasonable to have a separate application fee and  
9 license fee because the costs of licensure should not be imposed  
10 on individuals whose application does not result in licensure of  
11 that applicant. An application that does not result in licensure  
12 does not result in additional expenditures by the Board.

13 The "fee review" statement, which is required to accompany  
14 this statement of need and reasonableness, is attached as  
15 Appendix B.

16 **EXPERT WITNESSES:**

17 The Board of Marriage and Family Therapy plans to have  
18 expert witnesses, who are not members of or employees of the  
19 Board, testify on behalf of the Board should a public hearing be  
20 required. All of the individuals will testify regarding the  
21 rules in total, respond to questions, and summarize why, from  
22 their perspective, that the rules in total are necessary and  
23 reasonable. The names and addresses of the expert witnesses can  
24 be found in Appendix A.

25 Date:



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26 Sharon Davern-Fecker, Chair  
27 Board of Marriage and Family  
28 Therapy

1947



1 APPENDIX A

2 EXPERT WITNESSES

3 Michael Metz, PhD.

4 Program in Human Sexuality

5 Department of Family Practice and Community Health

6 University of Minnesota Medical School

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8 Minneapolis, MN 55414

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15