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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.
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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:



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

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