

MINNESOTA BOARD OF PSYCHOLOGY

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July 26, 2012

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Re: **In The Matter of the Proposed Permanent Rules Relating to the Practice of Psychology: Definitions, Licensure, Continuing Education, and Rules of Conduct, Minnesota Rules 7200.0110 through 7200.6100, MN Board of Psychology, Governor's Tracking #AR-601**

Dear Librarian:

The Minnesota Board of Psychology intends to adopt rules relating to the Practice of Psychology: Definitions, Licensure, Continuing Education, and Rules of Conduct. We published a Dual Notice of Intent to Adopt Rules without a Public Hearing in the June 18, 2012 State Register.

The Board of Psychology has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Board is sending the Library an electronic copy of the Statement of Need and Reasonableness.

If you have questions, please contact me at 612-548-2100.

Yours very truly,

Angelina M. Barnes
DSB

Angelina M. Barnes
Executive Director

Attachment: Statement of Need and Reasonableness

MINNESOTA BOARD OF PSYCHOLOGY

STATEMENT OF NEED AND REASONABLENESS

Proposed Modifications to Permanent Rules Relating to Licensure, Continuing Education, Terminology, and Rules of Conduct for Licensed Psychologists Minnesota Rules 7200.0100 to 7200.6175.

I. INTRODUCTION

The Minnesota Board of Psychology is the regulatory agency empowered with the responsibility for licensing and regulating Licensed Psychologists in the State of Minnesota.

In order to adopt these proposed rules, the Board must demonstrate that it has complied with all procedural and substantive requirements for rulemaking. These requirements are as follows: 1) there is statutory authority to adopt rules; 2) the rules are necessary and reasonable; 3) all necessary procedural steps have been taken; and 4) any additional requirements imposed by law have been satisfied. This statement demonstrates that the Board has met these requirements.

II. ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness (hereinafter “SONAR”) can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact the Board at:

**Minnesota Board of Psychology
2829 University Ave. SE, Suite 320
Minneapolis, MN 55414-3227
Phone: 612-617-2230
Fax: 612-617-2240
TTY: 612-627-3539**

III. STATUTORY AUTHORITY

The statutory authority of the Board to adopt the proposed rules is set forth in the following Minnesota Statutes:

A. §148.905, subd. 1 (1), which states:

[The board shall] adopt and enforce rules for licensing psychologists and psychological practitioners and for regulating their professional conduct;

B. §148.905, subd. 1(2), which states:

[The board shall] adopt and enforce rules of conduct governing the practice of psychology;

C. §148.905, subd. 1(3), which states:

[The board shall] adopt and implement rules for examinations which shall be held at least once a year to assess applicants' knowledge and skills. The examinations may be written or oral or both, and may be administered by the board or by institutions or individuals designated by the board, and;

D. §148.905, subd. 1(9), which states:

[The board shall] adopt and implement requirements for continuing education and establish or approve programs that qualify for professional psychology continuing educational credit. The board may hire consultants, agencies, or professional psychological associations to establish and approve continuing education courses.

E. §148.98, which states:

The board shall adopt rules of conduct to govern an applicant's or licensee's practices or behavior. The board shall publish the rules in the State Register and file the rules with the secretary of state at least 30 days prior to the effective date of the rules. The rules of conduct shall include, but are not limited to, the principles in paragraphs (a) through (c).

- (a) Applicants or licensees shall recognize the boundaries of their competence and the limitations of their techniques and shall not offer services or use techniques that fail to meet usual and customary professional standards.
- (b) An applicant or licensee who engages in practice shall assist clients in obtaining professional help for all important boundaries of the applicant's or licensee's competence.
- (c) Applicants or licensees shall not claim either directly or by implication professional qualifications that differ from their actual qualifications, nor shall they misrepresent their affiliations with any institution, organization, or individual, nor lead others to assume affiliations that do not exist.

IV. REGULATORY ANALYSIS

A. Pursuant to Minnesota Statutes sections 14.131 and 14.23, the SONAR must contain a regulatory analysis on seven factors. Paragraphs (1) through (7) below quote these factors and give the Board's response.

“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”

The persons who will be most affected by the proposed modifications are Licensed Psychologists, applicants for licensure, persons completing required post-degree supervised practice, and consumers of psychological services.

The costs of the proposed rules for the most part will be borne by licensees and applicants for licensure. However, these rules, in and of themselves, do not create any additional costs or burdens on licensees or applicants beyond that already established by rule. Additionally, some cost will be borne by persons working in Minnesota to complete post-degree supervised practice. This is a requirement for licensure in the vast majority of states.

It is the position of the Board that licensees, applicants, clients and the Board itself will benefit from the proposed modifications to the rules. Licensees will benefit from the increased practice guidance provided by the rules, as well as the simplification of the continuing education requirements. Applicants will benefit from the simplification of the licensure process. Clients will similarly benefit from the increased guidance provided by the rules to practitioners, potentially resulting in decreased probability of practice that is harmful to the public. The Board's benefit will stem from the reduction in resources devoted to complaint resolution and licensure, and continuing education documentation and review.

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”

Beyond the costs associated with the Board's promulgation of these rules, it is not anticipated that implementation and enforcement of these rules will result in additional costs to the Board or any other state agency. Additionally, it is not anticipated that these rules will affect state revenues. The Board is entirely supported by application fees.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”

The purpose of the proposed modifications to the permanent rules is to bring the current rules into conformity with current standards of acceptable and prevailing practice. This purpose cannot be achieved by less costly or intrusive methods, by voluntary means, or by relying merely upon the statutory language. Without the specificity and guidance provided by the rules, it would be difficult, if not impossible, for the Board to enforce its current statutes, rendering them almost useless. In addition, these modifications are simply a means of the Board's carrying out its statutory responsibility to promulgate rules to govern the practice of psychology, as noted above.

“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”

No alternatives to rulemaking were available for consideration. A comprehensive review of the rules governing the practice of psychology has not been completed in over 20 years.

During that time, the standards for acceptable and prevailing practice in the field have changed considerably. Therefore, a complete rewriting of the rules was necessary.

“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”

The probable costs of the proposed rules will be borne by Licensed Psychologists, and applicants for licensure. These costs are estimated to be no greater than compliance with current statutory requirements. In many instances the expected standards of practice are clarified in the proposed rules, the cost of adjudication of complaints can be expected to be decreased, as both the expectations of the Board and the basis for adjudication are clearer.

“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”

The current rules reflect outdated standards of practice and regulation. There are a number of probable consequences for not adopting the proposed rules. First, the Board is already seeing an increase in inadvertent professional misconduct due to the absence of updated rules of conduct. This has and will continue to result in harm to the public. Additionally, this increase in misconduct will most likely result in increased expenses for the Board, both due to an increase in normal adjudication of complaints and due to the increased likelihood of contested cases, which in turn will result in increased licensure fees to licensees.

With respect to the licensure rules, the current rules, based on outmoded standards of education and training, allow inadequately trained people to become licensed, resulting in incompetent practice. This, in turn, results in harm to the public.

The changes to the continuing education rules are intended to reduce staff resources devoted to this program. Without the modifications, there will be no cost savings.

“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”

There are no federal rules pertaining to the licensure and regulation of Licensed Psychologists or Psychological Practitioners in Minnesota. Accordingly, no such analysis may be made.

B. The SONAR must describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in Minn. Stat. section 14.002.

In drafting its proposed modifications to its permanent rules, the Board attempted to provide guidance to its applicants and licensees in how to become licensed and conduct their

professional practices with enough specificity to reduce staff time devoted to responding to inquiries and allowing for the most clarity for applicants and licensees in complying with these requirements.

C. The statement must also describe the agency's efforts to provide additional notification under section 14.14 subdivision 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

The Board's Notice Plan includes publication in the *State Register* as required by Minnesota Statutes section 14.101 and addition notice by posting draft rules on the Board's web site, initiating direct mail to identified stakeholders and e-mail communication to stakeholders for whom the Board maintains a valid e-mail address.

D. The agency must consult with the commissioner of finance to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government. The agency must send a copy of the statement of need and reasonableness to the Legislative Reference Library when the notice of hearing is mailed under section [14.14](#), subdivision 1a.

ADDITIONAL NOTICE PLAN and NOTICE PLAN

Additional Notice Plan

Minnesota Statutes, sections 14.131 and 14.23, require that this statement contain a description of the Board of Psychology's efforts to provide additional notice to persons who may be affected by the proposed rules. Additional notice provided as follows:

1. Over the past 10 years, various standing committees, the Board and the Board's Rules Committee has held regular public meetings to develop these proposed rules on definitions, licensure, continuing education, and rules of conducting. Including the creation and use of a Public Advisory Committee (PAC). The Board has disseminated notice of these public meetings to regulated licensed psychologists and the general public. Drafts of the proposed rules have been distributed and reviewed during these public meetings to all individuals in attendance. Specifically, the Rules Committee held public meetings most recently on: March 31, April 21, May 5, May 19, June 2, June 16, 2011, and February 29, 2012.
2. On or around, March 7, 2012, the Board posted a draft copy of the proposed permanent rules on the Board's website at www.psychologyboard.state.mn.us making it accessible to the following individuals: all licensed psychologists, applicants, state legislators, other health boards, and members of the general public. This draft copy indicated the Board rules that would be affected by the Board's proposed changes.
3. On Monday, March 7, 2011, the Board opened its Request for Comments Period, which closed on May 9, 2011. The Request for Comments was mailed to all persons on the Board's rulemaking list by sending a paper copy and e-mail copy to all persons on the

list. The Board also mailed paper copies of the Request for Comments to all licensed psychologists, applicants, verification vendors, professional associations, etc.

4. On Monday, March 7, 2011 the Board posted a copy of the Request for Comments for publication in the State Register on the Board's website at www.psychologyboard.mn.us. This website is accessible to the following individuals: all licensed psychologists, state legislators, other health boards, and members of the general public.
5. On May 23, 2012, the Board posted a draft of the Statement of Need and Reasonableness on the Board's website at www.psychologyboard.mn.us. All future notices involving these proposed rules shall be posted on the Board of Psychology's website.
6. On Monday, March 7, 2011 the Board's Request for Comments was published in the State Register.

Notice Plan

The Board of Psychology's Notice Plan includes the following mandated statutory actions:

1. A copy of the Dual Notice and proposed rules shall be mailed to all persons who have registered to be on the Board of Psychology's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. This mailing shall be accomplished by sending an electronic copy via e-mail to all persons on the list; and
2. A copy of the Dual Notice, proposed rules, and this Statement of Need and Reasonableness shall be mailed to the appropriate committee members of the Legislature according to the Minnesota Statutes, section 14.116. The following is a possible list of these legislative committees:
 - a. House: Health and Human Services reform Committee Chair and Lead; and Health and Human Services Finance Committee Chair and Lead; and
 - b. Senate: Health and Human Services Committee Chair and Ranking Minority Member.

CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Board of Psychology will consult with the Minnesota Management and Budget (MMB). We will do this by sending the MMB copies of the same documents we send to the Governor's Office for review and approval. These documents were sent on May 22, 2012. The documents included the SONAR, proposed rules, Governor's approval. The Board will submit a copy of the cover correspondence and any response received from MMB to the OAH at the hearing or with the documents it submits for ALJ review.

Specifically, the Board will send copies of the required documents to Michael Roelofs, the Board's Executive Budget Officer (EBO), at MMB and later provide Mr. Roelofs response to the OAH/ALJ.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board of Psychology has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Board of Psychology has determined that the local units of government would not be required to adopt or amend an ordinance or regulation because the proposed rules do not require local implementation. All of the Board's proposed rules are intended to provide guidelines and requirements limited to the individual licensed psychologist who must comply with these rules.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

As required by Minnesota Statutes, section 14.127, the Board of Psychology has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board of Psychology has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city. The Board of Psychology has made this determination based on the probable costs of complying with the proposed rules, as previously described in the Regulatory Analysis section of this SONAR.

LIST OF WITNESSES

If these rules go to a public hearing, the Board of Psychology anticipates having the following witnesses testify in support of the need for and reasonableness of the proposed rules:

1. Patricia Orud, MA, LP, Board Member—rules regarding definitions, professional development (continuing education);
2. Chris Bonnell, JD, Public Board Member—rules regarding rules of conduct (public impact);
3. Jeffrey Leichter, Ph.D., LP, Board Member—rules regarding rules of conduct, licensure, continuing education;
4. Jack Schaffer, Ph.D., LP, Former Board Member and Rules Committee member, Past ASPPB President—rules regarding rules of conduct, licensure, continuing education and definitions.
5. Counsel from the Attorney General's Office; and
6. Angelina M. Barnes, Executive Director

7. Leo Campero, Assistant Executive Director—regarding licensure rules.

V. DISCUSSION OF NEED AND REASONABLENESS.

Minnesota Rules part 7200 revision was last completed in 1991. The existing rules do not reflect current standards of regulation or practice. In order to improve the Board's performance, and give providers, clients and the public clear and relevant regulation, the Board proposes comprehensive revisions discussed below.

B. Detailed Analysis of Reasonableness and Necessity.

In order to facilitate discussion, the following section reproduces the proposed modifications section by section, followed by a discussion in bold print of the reasonableness and necessity of the modifications item by item, where appropriate.

GENERAL COMMENTS REGARDING PROPOSED MODIFICATIONS TO THE RULES OF CONDUCT:

Throughout this SONAR, certain amendments have been made that appear numerous times, always for the same reason. To make the SONAR more accessible to the reader, these changes and the reasons for them are noted here rather than repeated identically in each rule in which they appear. These amendments are:

1. Where the terms "licensee," "applicant," or "psychologist" have been amended to read "provider," it is because the rule in question is referring to all three groups. In addition, the current language does not include a reference to applicants, who are not licensed. Hence, reference only to "psychologist" is misleading, since all three groups are regulated by the Minnesota Board of Psychology. The term "provider" is statutorily defined in the Psychology Practice Act as "any individual who is regulated by the board, and includes a licensed psychologist, a licensed psychological practitioner, a licensee, or an applicant." (*See*, Minn. Stat., sec. 148.89, subd. 4a, "Provider").

2. Where the word "must" previously appeared, "shall" is now used. This is necessary and reasonable because it maintains consistency with Board's decision to use "shall" when it comprehensively revised the Psychology Practice Act in 1991.

3. Where the word "which" previously appeared, "that" is now used, except where there is a grammatical requirement not to use "that." This is necessary and reasonable to improve the clarity of the rules.

4. Where the phrase "informed written consent" previously appeared, "written informed consent" is now used. This is necessary and reasonable to correctly modify "informed consent" when the informed consent shall be in writing because informed consent is the general concept and "written" should modify the concept of informed consent, to specify when informed consent should be in writing.

5. Wherever the term "client" appears, it is implied that this includes the client's legally authorized representative. This is necessary and reasonable because the definition of "client" in Minnesota Statutes 148.89, subdivision 2a, states: "Client also means an individual's legally authorized representative, such as a parent or guardian."

Except where noted in the SONAR, below, none of the above amendments to previous rules

involves a change in their meaning, intention, or scope.

7200.0100 DEFINITIONS.

~~REPEALED. Subpart 1. **Scope.** For the purposes of parts 7200.0100 to 7200.6000, the following terms have the meanings given to them.~~

SONAR: The definitions applicable to this part are no longer provided by 7200.0100. Rather, definitions applicable to Board rules are now provided in 7200.0110. The definition of “Scope” has been repealed for organizational clarity and to promote functionality. The newly added 7200.0110, subpart 1, Scope addresses establishes the limitations of the proposed terminology and states:

Subpart 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given to them.

SONAR: The proposed definition of “scope,” limits the applicability of the definitions to Chapter 7200.

~~REPEALED. Subp. 2. Area of competence. “Area of competence” means a specific psychological service, technique, method, or procedure in which the psychologist through education, training or experience has gained sufficient proficiency to be able to provide it with little or no supervision.~~

SONAR: The definition of “area of competence” has been repealed. This is necessary and reasonable because the current revision of the rules has eliminated the need for this term by eliminating the requirement that areas of competence be listed with the Board or be made available to new clients. Board experience indicates that the concept of area of competence has been routinely confusing to licensees and has had questionable usefulness in protecting the public since there have been no practical procedures for the Board to validate a licensee’s self-described area of competence until a complaint has been filed. An additional problem with the current language is that when Board staff informs an inquirer about the listed competencies of a licensee, there is a risk that the inquirer incorrectly believes that that information constitutes the Board’s endorsement of such competencies of the licensee in question. Instead, the most critical aspect of the intent of this now-stricken definition is the issue of a licensee’s actual competence. Under the proposed rules, the emphasis will be on the licensee’s ability to demonstrate to the Board that she or he has competence in a particular area of practice, rather than on the requirement to have competencies listed with the Board. The newly added definition of “Competent practice” in 7200.0100, subp. 4, addresses this issue.

Subp. 5. **Competent practice.** “Competent practice” means the ability to provide services within the practice of psychology, as defined in the Psychology Practice Act, that:

SONAR: “Competent practice” is a new definition. This definition is necessary because being competent is essential to providing proper psychological services to clients and to the protection of the public’s health, safety, and welfare. It is necessary to clarify to licensees and

to the Board the specific elements of competence so that licensees are afforded a greater opportunity to self-correct incompetent services. It is also necessary to provide the Board with a definition of competence to assist it in addressing complaints alleging incompetence in a more uniform manner. Each of the included elements is necessary and reasonable based on the Board's experience with complaints against licensees. The definition begins by referring to "the ability to provide services within the practice of psychology," as defined in the Psychology Practice Act. This is necessary to clarify that all psychological services falling under the Psychology Practice Act are covered, including psychological treatment and assessment, consultation, supervision, teaching, and research.

A. are rendered with reasonable skill and safety;

SONAR: The definition refers to the ability to provide services "that are rendered with reasonable skill and safety." This is a universally recognized element of competence and fundamental to the statutory authority to regulate professional practice. The definition also refers to the ability to provide services "that are based upon current professional standards." This is a necessary element of competence because some professional standards change over time, and it is generally understood that licensed professionals must be familiar with and apply these changing standards to be competent.

B. meet minimum standards of acceptable and prevailing practice; and

SONAR: The definition includes "meet(ing) minimum standards of acceptable and prevailing practice." This element sets a floor for competence, that is, the minimum level of competence necessary for protection of the public that invokes the practice standards of peers. "Prevailing practice" indicates that competence is in part an evolving standard based on changes within the psychology profession that are manifested by the consensus of the community of providers.

C. take into account human diversity.

SONAR: Finally, the definition of competence refers to the ability to provide services "that take into account human diversity." This is another necessary element of competence because individual client differences that are associated with a particular client's diverse experiences and history, including cultural group, may affect that client's outcome when receiving psychological services. However, this does not mean that a licensee must or can be competent simultaneously in all aspects of individual client differences cited in the definition of "human diversity" in part 7200.0110, subpart 11. To expect such extensive competence by a licensee, given the wide range of client cultural groups, races, ethnic groups, nationalities, religious affiliations, languages, ages, and potential physical disabilities, as well as differences in gender, sexual orientation or identity, or socioeconomic status among clients, would be unreasonable and would severely restrict the ability of many members of the public to obtain needed psychological services from licensees. The intention of this rule is to require licensees to take into account such client differences when they are relevant to a particular client's outcome and to have competence based on training, supervision, or experience in

understanding and responding to the relevant issues, in order to ensure licensees practice competently with each individual client.

In some cases, a client's religion, age, gender, or other individual difference may not be relevant to the services being requested. However, if a particular area of individual difference significantly affects the services provided, and the licensee does not have the requisite competence, the licensee has the option of developing competence or referring the client to another provider (*See*, "Competent Provision of Services," part 7200.4600, subpart 3a, and "Developing new services.") It is expected that those licensees who do not currently have the necessary general skills needed to make such determinations will, as a result of the new rules regarding competence, obtain such skills. This situation regarding the ability to assess one's competence to deal with particular problem areas with respect to human diversity is identical to other areas that have traditionally been understood to be issues of competence. For example, the general training licensees receive enables them to assess whether a particular client has a need for specialized services that fall outside their competence, as when a client has a particular mental disorder or condition, or is in a particular age range, such as a young child, for which the licensee has no training; or when there is a need for specialized treatment for marital problems or substance abuse that the licensee is not competent to provide.

~~REPEALED. Subp. 3. **Board.** "Board" means the Minnesota Board of Psychology.~~

SONAR: The definition of "Board" in part 7200.0100 was repealed. The newly added definition of "Board" can be found in part 7200.0110, subpart 3, which states:

Subp. 3. **Board.** "Board" means the Minnesota Board of Psychology.

SONAR: This definition was included in 7200.0100, subpart 3 to establish the agency referenced as Board throughout the administrative rules.

~~REPEALED. Subp. 3a. **Client.** "Client" means an individual or entity who is the recipient of any of the psychological services described in Minnesota Statutes, section 148.89, subdivision 5.~~

SONAR: The term "client" is currently defined by Minnesota Statutes, section 148.89, subdivision 2a, and the rule has been repealed to eliminate inconsistencies and is restated as:

Subp. 4. **Client.** "Client" means an individual or entity that is the recipient of any of the psychological services described in Minnesota Statutes, section 148.89, subdivision 5.

~~REPEALED. Subp. 4a. **Continuing education.** "Continuing education" means a wide range of education and training post licensure activities designed to contribute to the development and enhancement of skills competence in associated with professional the practice in of psychology. These skills include assessment, intervention, consultation, supervision, teaching, scholarly activity, and the application of ethical, legal, and quality assurance standards of practice. Unless otherwise stated, one continuing education hour equals 60 minutes. Credit is given in one-half hour increments to the nearest one-half or full hour.~~

SONAR: The definition of “Continuing education,” was repealed to clarify and simplify the definition. Continuing education is defined by part 7200.0110, subpart 6 and states:

Subp. 6. Continuing education. “Continuing education” means postlicensure activities designed to contribute to competence in the practice of psychology.

SONAR: The use of the term competence was used in the definition because of the emphasis the new rules place on practicing competently, as opposed to simply listing one’s areas of competence with the Board. The definition of the practice of psychology is provided in statute, so the listing of areas of practice is not necessary. The other parts of the definition are rules rather than definitions, so have been moved to be addressed within the rules of continuing education.

~~REPEALED. Subp. 5. Informed written consent.~~ “Informed written consent” means a written statement signed by the individual making the statement that authorizes a psychologist to engage in activity which directly affects the individual signing the statement. The statement must include a declaration that the individual signing the statement has been told of and understands the purpose of the authorized activity.

SONAR: The definition of “Informed Written Consent,” has been repealed and replaced with part 7200.0110, subpart 38, “Written Informed Consent.” Which states:

Subp. 38. Written informed consent. “Written informed consent” means informed consent that is in writing and signed by the client.

SONAR: The new definition of “Written informed consent” simplifies the definition and makes clear that there needs to be a document that is signed by the client. It is reasonable to simplify the definition because the type of activity necessary for informed consent is provided in the definition of “informed consent.” The situations in which written informed consent is required are set forth in the rules of conduct.

~~REPEALED. Subp. 5a. Dual relationship.~~ “Dual relationship” means a relationship between a psychologist and a client that is both professional and one or more of the following: cohabitation, familial, or supervisory, or that includes significant personal involvement or financial involvement other than legitimate payment for psychological services rendered.

SONAR: The definition of “Dual relationship,” is repealed and replaced by the definition for “Multiple relationship,” in 7200.0110, subpart 15, which states:

Subp. 15. Multiple relationship. “Multiple relationship” means a relationship between a provider and a client that is both professional and one or more of the following:

- A. cohabitational;
- B. familial;

- C. one in which there is or has been personal involvement with the client or a family member of the client that is reasonably likely to adversely affect the client's welfare or ability to benefit from services; or
- D. one in which there is financial involvement, other than legitimate payment for professional services rendered, that is reasonably likely to adversely affect the client's welfare or ability to benefit from services.

SONAR: The term “dual” is changed to “multiple” to be consistent with the way the term is currently being used in the field of psychology and because more than two forms of relationship are possible. The other changes were made to make the rule clearer, easier to understand, and to clarify that personal involvement that would constitute a multiple relationship is one that would affect the client's welfare or ability to benefit from services (through bias on the part of the provider or any other means), whether the relationship is directly with the client or with a member of the client's family.

REPEALED. Subp. 5b. ~~**Familial.**~~ “Familial” means of, involving, related to, or common to a family member as defined in subpart 5c.

SONAR: The definition of “Familial” is repealed. This definition has been replaced with a new definition of “Familial,” in part 7200.0110, subpart 8, which states:

Subp. 8. **Familial.** “Familial” means of, involving, related to, or common to a family member as defined in subpart 9.

SONAR: This definition was repealed, renumbered and reintroduced into the proposed definitions for functionality and ease of use.

REPEALED. Subp. 5c. ~~**Family member, or member of the family.**~~ “Family member” or “member of the family” means a spouse, parent, offspring, or sibling, or an individual who serves in the role of one of the foregoing.

SONAR: The definition of “Family member, or member of the family,” was repealed. The definition was replaced by a new definition “Family member or member of the family,” in part 7200.0110, subpart 9, which states:

Subp. 9. **Family member or member of the family.** “Family member” or “member of the family” means a spouse, parent, offspring, sibling, grandparent, grandchild, uncle, aunt, niece, nephew, or an individual who serves in one of these roles.

SONAR: This new definition was necessary to expand the definition of family member to include those individuals with whom a relationship with a provider could reasonably be expected to affect the provision of psychological services to a client, whether through bias by the provider or perceptions of bias or mistrust by the client.

REPEALED. Subp. 5d. ~~**Field of practice.**~~ “Field of practice” means a broad area within the

profession of psychology that is commonly recognized by psychologists as requiring skills not necessarily required for practice in other broad areas. Examples of field of practice are clinical, counseling, educational, industrial/organizational, and school psychology.

SONAR: This definition was repealed as unnecessary because it is no longer used in the rules.

~~REPEALED. Subp. 6. **Licensee of the board or licensee.** "Licensee of the board" or "licensee" means either a licensed psychologist or a psychological practitioner.~~

SONAR: The term "licensee" is no longer used in the rules, having been replaced by the term "provider."

~~REPEALED. Subp. 7. **Private information.** "Private information" means any information, including client records, revealed during a professional relationship between a psychologist and a client.~~

SONAR: This definition was repealed. The definition was expanded by the new proposed definition "Private information," in part 7200.0110, subpart 19, which states:

Subp. 19. **Private information.** "Private information" means any information, including but not limited to, client records, test results, or test interpretations, developed during a professional relationship between a provider and a client.

SONAR: This definition was modified to clarify that information obtained during the course of engaging in psychological assessments are also considered private information. The term "revealed" does not reflect how assessment information is obtained, so is replaced by the term "developed."

~~REPEALED. Subp. 8. **Professional relationship.** "Professional relationship" means the relationship between a psychologist and a client.~~

SONAR: The definition of "Professional relationship" was repealed. The definition of "Professional relationship," is proposed as part 7200.0110, subpart 20, which states:

Subp. 20. **Professional relationship.** "Professional relationship" means the relationship between a provider and the provider's client.

SONAR: The new definition of "Professional relationship" was necessary to reflect the use of the term "provider" throughout the rules instead of "psychologist" or "licensee."

~~REPEALED. Subp. 9. **Psychologist.** "Psychologist" means a licensee of the board.~~

SONAR: The definition of "Psychologist" was repealed. The proposed rules replace this definition with "Psychologist or licensed psychologist," part 7200.0110, subpart 22, which states:

Subp. 22. **Psychologist or licensed psychologist.** "Psychologist" or "licensed psychologist" means an individual who is licensed by the board to engage in the independent practice of psychology, or an

individual exempted by statute.

SONAR: This new term was necessary to clarify the term and to be consistent with statute.

~~REPEALED. Subp. 9a. **Sponsor.** "Sponsor" means a person or entity who organizes a continuing education activity. A sponsor may charge a fee for attendance at an activity and may be a licensee.~~

SONAR: The definition of the term "Sponsor," was repealed. The definition of "Sponsor" has been included in part 7200.0110, subpart 30, and states:

Subp. 30. **Sponsor.** "Sponsor" means an individual or entity that organizes a sponsored continuing education activity.

SONAR: The definition of "Sponsor" was modified for consistency throughout the rules and for clarity and because as used in these rules, "sponsor" refers only to "sponsored continuing educational activities" not to any and all continuing educational activities. The term "person" is changed throughout the rules to "individual." The second sentence is not part of a definition and is not a rule covering providers so was deleted.

~~REPEALED. Subp. 9b. **Sponsored continuing education activity or sponsored activity.** "Sponsored continuing education activity" or "sponsored activity" means a continuing education activity organized for presentation to others.~~

SONAR: The definition of "Sponsored continuing education activity or sponsored activity," was repealed. This modification was made to provide further clarification to the current definition, which has caused confusion among licensees and sponsors of continuing education activities.

~~REPEALED. Subp. 11. **Test.** "Test" means any instrument, device, survey, questionnaire, technique, scale, inventory, or other process which is designed or constructed for the purpose of measuring, evaluating, assessing, or describing personality, behavior, traits, cognitive functioning, aptitudes, attitudes, skills, values, interests, ability, or other psychological or emotional characteristics of individuals.~~

SONAR: The definition of "Test" was repealed and replaced with "Test," part 7200.0110, subpart 34, which states:

Subp. 34. **Test.** "Test" means any instrument, device, survey, questionnaire, technique, scale, inventory, or other process which is designed or constructed for the purpose of measuring, evaluating, assessing, describing, or predicting personality, behavior, traits, cognitive functioning, aptitudes, attitudes, values, interests, abilities, or other psychological characteristics of individuals.

SONAR: The additions to the definition of "Test" were made to expand the definition of the term to be consistent with its use within the psychological community and to be consistent with Minnesota Statutes, section 148.89, subpart 5. The term "emotional" is unnecessary because it is subsumed under the term "psychological."

REPEALED. Subp. 12. **Variance.** “Variance” means board authorized permission to comply with a rule in a manner other than that generally specified in the rule.

SONAR: The definition of “Variance” was repealed for clarity in numbering and ease of use. It is now proposed part 7200.0110, subpart 36 with the exact same language.

REPEALED. Subp. 13. **Waiver.** “Waiver” means board authorized permission not to comply with a rule.

SONAR: The definition of “Waiver” was repealed for clarity in numbering and ease of use. It is now proposed part 7200.0110, subp. 37 with the exact same language.

Subp. 2. **Applicant.** “Applicant” means an individual who has submitted to the board an application for licensure, registration, or admission to an examination.

SONAR: This definition is necessary to make it clear that applicants for licensure at all stages of the process are also under the jurisdiction of the Board and responsible for following the rules of the Board. It should be clarified that, once individuals become applicants, the Board has jurisdiction retroactive to the beginning of their graduate studies in reviewing the applicant’s moral character. This enables the Board to have the authority to review all graduate educational experiences, not merely those subsequent to the filing of the application, and also allows the Board jurisdiction regarding the professional conduct of the applicant.

Subp. 7. **Dependent on the provider.** “Dependent on the provider” means that the nature of a former client’s emotional or cognitive condition and the nature of the services by the provider are such that the provider knows or should have known that the former client is unable to withhold consent to sexual or exploitative behavior by the provider.

SONAR: The addition of this definition is necessary in order to make clear the types of relationships that could result in limitations being placed on interactions allowed under the rules between a provider and another individual beyond the time when the individual is a current recipient of psychological services. Thus, in the case of exploitation and sexual interaction, the prohibition with individuals who meet this definition of dependence on the provider is indefinite. This prohibition is necessary because of the severe harm through exploitation or sexual interaction to which dependent individuals can be subject.

Subp. 10. **Forensic.** “Forensic” means services within the practice of psychology, of which the purpose is to address questions and issues relating to parties to legal proceedings and to law and the legal system, including the courts, correctional agencies and facilities, attorneys, and administrative, judicial, and legislative agencies acting in an adjudicative capacity.

SONAR: This definition was added to identify what the Board means by the use of the term “forensic” as it is used in these rules. The definition provided reflects the way in which this term is used in the psychological literature and community.

Subp. 11. **Human diversity.** “Human diversity” means individual client differences that are associated with the client’s cultural group, including race, ethnicity, national origin, religious affiliation, language, age, gender, gender identity, physical and mental capabilities, sexual orientation, or socioeconomic status.

SONAR: “Human diversity” is a new definition. It is necessary and reasonable to define this term because it is an important component in the definition of “competence,” and as such requires clarification of its meaning. The definition is reasonable because it draws upon the American Psychological Association’s most current version of its Ethical Principles and Standards of Conduct (2010). General Principle E, “Respect for People’s Rights and Dignity,” refers to “...age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, socioeconomic status...” (See also, Standard 2: competence (b).) in describing certain factors that can affect the competence of a psychologist’s services and it is consistent with federal law.

Subp. 12. **Informed consent.** “Informed consent” means an agreement between a provider and a client that authorizes the provider to engage in a professional activity affecting the client that was made after the client was given sufficient information to decide knowingly whether to agree to the proposed professional activity according to part 7200.4720. The information shall be discussed in language that the client can reasonably be expected to understand. The consent shall be given without undue influence by the provider.

SONAR: This definition is necessary to clarify the meaning of informed consent with respect to an effective agreement between client and provider for the provision of psychological services. It clarifies the type of discussion and agreement required in order for informed consent to be considered to have been obtained. It emphasizes that informed consent is not obtained merely by obtained acquiescence from a client, but rather through a process by which the client comes to have an in-depth understanding the nature of the services being proposed and agrees to those services. This is an important element in recognizing the autonomy of clients to make decisions, informed by understanding the options and risks, regarding the services they will receive from a provider.

Subp. 13. **Internship.** “Internship” means an advanced predoctoral or postdegree remediated supervised professional experience beyond beginning and advanced practicum experiences and following completion of all doctoral degree coursework, excluding credits awarded for completion of dissertation.

SONAR: “Internship” is a new definition. It is necessary and reasonable to define this term because it is separate and distinct from the post-degree supervised psychological employment experience required for licensure, as well as from the initial practice experiences (practicum – *see*, definition in Minnesota Rule 7200.0110, subpart 18) students obtain during the first years of their graduate school experience. The new definition is needed to clarify that the internship should be an advanced professional experience and to state clearly when it should occur, after the beginning and advanced practicum experiences and following the completion of all doctoral degree work.

Subp. 14. **Multiple clients.** “Multiple clients” means two or more individuals or entities that are each a corecipient of psychological services. Multiple clients may include, but are not limited to, two or more family members, when each is the direct recipient of services; each client receiving group psychological services; a court and a client under court order to receive a psychological service; or an employer and

employee when the employee receives services in order to provide the employer with information regarding an employment matter.

SONAR: This definition was added to clarify the situation where there is more than one client receiving a psychological service, with examples provided so that the reader knows what types of situations are intended. The definition and accompanying rule are necessary to provide responsibility for privacy, records, release of information, etc. when more than one individual is a recipient of a psychological service. Many people, both providers and members of the public, assume that such responsibilities do not apply to the direct recipient of the service, e.g., the individual being evaluated, in situations where one entity is requesting psychological information about another entity, such as when a court or an employer has requested and is paying for a psychological assessment. This rule makes clear that in such circumstances the provider also has a fiduciary and regulatory responsibility to the direct recipient of the service. Another situation that often creates confusion and, therefore, unethical behavior is family services where one family member is the primary recipient of the psychological service, but other family members are also involved in receiving such services, such as family therapy. This rule makes clear that there is a regulatory responsibility with regard to all of the family members who receive the psychological service.

Subp. 16. **Objective.** “Objective” means a manner of administering a test and recording, scoring, and interpreting responses that is independent, insofar as is possible, of the subjective judgment of the particular examiner.

SONAR: This definition was added to identify what is meant by the use of the term “objective” as it is used in rule 7200.4740. The definition provided is central to the notion of an unbiased and fair psychological assessment process and reflects the way in which this term is used in the psychological literature and community.

Subp. 17. **Practice foundation.** “Practice foundation” means that a continuing education activity is based upon observations, methods, procedures, or theories that are generally accepted by the professional community in psychology.

SONAR: “Practice foundation” is a new definition. It is necessary and reasonable to have a definition of practice foundation because this is one of the criteria for approving Board required continuing education activities, and its meaning should therefore be clarified both to providers and to the Board.

It refers to CE activities that are designed to describe, discuss, or analyze a psychological topic, or a topic in a related discipline, based upon generally accepted principles or practice within the professional community. Examples of professional communities, depending on the CE activity, include experienced clinicians, teachers of psychology, supervisors of applicants and students, forensic practitioners, researchers, or other established groups of professionals within the practice of psychology or within psychiatry, medicine, social work, or other related disciplines.

Practice foundation serves as one of three bases in these rules for an acceptable CE activity.

It is reasonable to allow for CE activities that are primarily based not only on a scientific foundation or an ethical or legal foundation, but on widely accepted practice procedures and approaches. A CE activity that has a practice foundation may, of course, also have a scientific foundation, but that need not be the primary qualifying standard. The essential feature of an acceptable CE activity based on a practice foundation is not its topic but the general acceptance of the observations, methods, procedures, or theories upon which it is based within the professional community. For example, if an intervention or assessment methodology is lacking in current scientific foundation, but it can be documented that it is used extensively in the clinical community and is taught in numerous graduate training programs in psychology, it is an acceptable CE activity.

It is the practice of the Board to consult with knowledgeable professionals as an aid when the validity of a CE activity is unclear.

Subp. 18. **Practicum.** “Practicum” means supervised professional experience that is pre-internship and provides the opportunity to develop initial competence in the provision of psychological services.

SONAR: This definition was added to identify what is meant by the use of the term “Practicum” as it is used in rule 7200.1300. It is necessary for purposes of determining whether an applicant qualifies for licensure to distinguish between the practicum and other forms of supervised practice experience, such as the internship.

Subp. 21. **Professional standards foundation.** “Professional standards foundation” means that a continuing education activity is based upon practice-related statutes, licensure rules, legal decisions, ethics codes, or practice guidelines in psychology or related disciplines.

SONAR: “Professional standards foundation” is a new definition. It is necessary and reasonable to have a definition of professional standards foundation because this is one of the criteria for approving Board required continuing education activities, and its meaning should therefore be clarified both to providers and the Board.

It refers to CE activities that are designed to describe, discuss, or analyze a psychological topic, or a topic in a related discipline, based upon legal, ethical, or generally accepted practice standards within the field of psychology. This refers to the body of constitutional, criminal, and civil statutes or case law, or ethics codes and practice guidelines that impinge directly or indirectly upon the practice of psychology. For example, it includes the statutes and rules of the Psychology Practice Act, case law in the areas of professional liability and malpractice, statutes regulating health records, mandatory reports, and confidentiality, and ethics codes and practice guidelines published or co-developed by professional associations.

The term “professional standards foundation” is not intended to be synonymous with or to include topics dealing exclusively with psychology as a business, such as often found within the hypothetical topic, “how to start or expand a private practice.” However, business-related topics are eligible for CE approval to the extent that they address rules of conduct or ethical standards such as those pertaining to advertising, third party billing, referral

limitations, statements to the public, or other rule- or ethics-related topics. It is reasonable to exclude topics that are not related to the rules of conduct or ethical standards, as described above, because they do not meet the intended purpose for mandatory continuing education described in part 7200.3810.

It is the practice of the Board to consult with knowledgeable professionals as an aid when the validity of a CE activity is unclear.

Subp. 23. **Public statements.** “Public statements” means any statements, communications, or representations by providers to the public regarding themselves or their professional services or products. Public statements include by are not limited to advertising, representations in reports or letters, descriptions of credentials and qualifications, brochures and other descriptions of services, directory listings, personal resumes or curricula vitae, comments for use in the media, Web sites, grant and credentialing applications, or product endorsements.

SONAR: This definition was added to clarify the meaning of rule 7200.5100. It is necessary because there has been confusion about what types of materials are considered public statements. The examples are intended to provide a broad definition of such public statements.

Subp. 24. **Report.** “Report” means any written or oral professional communication, including a letter, regarding a client or subject that includes one or more of the following: historical data, behavioral observations, test interpretations, opinions, diagnostic or evaluative statements, or recommendations. The testimony of a provider as an expert or fact witness in a legal proceeding also constitutes a report. For purposes of this chapter, letters of recommendation for academic or career purposes are not considered reports.

SONAR: This term is defined because confusion has often arisen within the psychological community about what constitutes a report, as the term is used in rule 7200.5010, leading to a violation of the Practice Act. The intent of the definition is to define broadly any activity that provides professional data or conclusions about an individual as a report, which then requires that such information conform to rule 7200.5010. This is necessary in order to protect the public from providers drawing conclusions or making recommendations without adequate information and then releasing such psychological information in a careless, incomplete, or inadequate manner, without reference to the requirements listed in 7200.5010. Such incomplete communications mislead the public about the nature of psychological information and can cause harm based on inadequate psychological procedures.

Subp. 25. **Research subject.** “Research subject” means an individual participating in a research study for the period of time during which the individual is providing data for the study.

SONAR: This definition was added to clarify what the Board means by the term, as it is used in the rules of conduct. The definition reflects the way the term is used in the scientific community and is intended to restrict the professional relationship only to that period of time during which an individual is providing research data.

Subp. 26. Rules of conduct. “Rules of conduct” means the rules contained in parts 7200.4500 through 7200.5750.

SONAR: This definition was added to clarify what parts of the Board’s rules constitute the rules of conduct.

Subp. 27. Scientific foundation. “Scientific foundation” means that a continuing education activity is based upon quantitative or qualitative research, such as, but not limited to, published peer-reviewed experiments or correlational, observational, or ethnographic studies, or upon research presented at professional meetings.

SONAR: “Scientific foundation” is a new definition. It is necessary and reasonable to have a definition of scientific foundation because this is one of the criteria for approving Board-required continuing education activities, and its meaning should therefore be clarified both to providers and the Board.

It refers to CE activities that are designed to describe, discuss, or analyze a psychological topic, or a topic in a related discipline, based upon its empirical foundation. This language is reasonable because it describes a commonly understood meaning of “scientific” but in a broad manner that does not limit the foundation exclusively to any particular scientific methodology. This allows latitude within the scientific community but does require some form of empirical evidence.

Other disciplines can be the source of a scientific foundation, for example, psychiatry, other medical specialties, social work, and anthropology.

The content of CE activities that have a scientific foundation are quite varied. They may include topics that could also have a practice foundation, such as those related to intervention methodologies or assessment of client problems, symptoms, or diagnoses. The essential feature of a CE activity that has a scientific foundation is not its topic but its scientific basis.

It is the practice of the Board to consult with knowledgeable professionals as an aid when the validity of a CE activity is unclear.

Subp. 28. Sexual contact. “Sexual contact” means any of the following, whether or not occurring with the consent of a client or former client:

- (1) sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, into the genital or anal openings of the client’s or former client’s body by any part of the provider’s body or by any object used by the provider for this purpose, or any intrusion, however slight, into the genital or anal openings of the provider’s body by any part of the client’s or former client’s body or by any object used by the client or former client for this purpose, if agreed to by the provider;
- (2) kissing of, or the intentional touching by the provider of the client’s or former client’s genital area, groin, inner thigh, buttocks, or breast or the clothing covering any of these body parts;

(3) kissing of, or the intentional touching by the client or former client of the provider's genital area, groin, inner thigh, buttocks, or breast or the clothing covering any of these body parts if the provider agrees to the kissing or intentional touching.

Sexual contact includes requests by the provider for conduct described in subitems (1) to (3).

SONAR: This definition was added to be clear about what is meant by sexual contact with a client or former client prohibited by these rules. The wording of the definition is taken directly from Minnesota Statutes, section 604.20, subdivision 7.

Subp. 29. Significant risks and benefits. "Significant risks and benefits" means those risks and benefits that are known or reasonably foreseeable by the provider, including the possible range and likelihood of outcomes, and that are necessary for the client to know in order to decide whether to give consent to proposed services or to reasonable alternative services.

SONAR: This definition was added to clarify the meaning of this term in order to spell out the nature of the informed consent process in rule 7200.4720, where this term is used. It is necessary to provide a definition for these terms because they serve as a central criterion for determining whether adequate informed consent has been obtained.

Subp. 31. Standardized test. "Standardized test" means a test that is administered, recorded, and scored in a uniform and objective manner, is interpreted by means of normative data, and includes a manual or other published information that fully describes its development, rationale, validity, reliability, and normative data.

SONAR: This definition was added to identify what the Board means by the use of the term "standardized test" as it is used in rule 7200.5010. The definition provided reflects the way in which this term is used in the psychological literature and community. It is necessary to define this term because it serves as an important criterion for determining whether a psychological assessment was conducted in a manner consistent with the Practice Act. There have been instances where licensees have used non-standardized tests and presented them as sufficient methods of assessment when there is no empirical support for that position.

Subp. 32. Student. "Student" means an individual over whom the provider has evaluative academic authority, including an individual who is enrolled in a graduate program in psychology at an educational institution or who is taking a psychology course for credit. This does not apply to an individual who is taking a psychology course to receive continuing education credit from a board or who is auditing a course.

SONAR: This definition was added to clarify the term as it is used in the rules of conduct. It is reasonable because it reflects the way the term is used in the psychological community and sets clear limits on who can be considered to be in the student role.

Subp. 33. Supervisee. "Supervisee" means an individual whose supervision is required to obtain credentialing by a board of psychology, to maintain licensure as a psychological practitioner, or to comply with a board order.

SONAR: This definition was added to clarify the term as it is used in the rules of conduct. The definition reflects the way this term is used in the rules and statutes. The definition is necessary, because the terms “supervisor” and “supervisee” are used somewhat more broadly within the field of psychology, resulting in confusion among licensees about how the Board uses the term.

Subp. 35. Unprofessional conduct. “Unprofessional conduct” means any conduct that fails to conform to the minimum standards of acceptable and prevailing practice.

SONAR: The previous rule in the rules of conduct included the definition of the term in the rule itself. It is reasonable for ease of use and clarity for the definition to be found in the definitions, rather than in the rules of conduct, so this definition was moved to the definition section. The definition was also simplified so that the current definition contains only its essential elements, i.e., whether the conduct conforms to minimum standards.

7200.0200 LICENSURE PROCESS.

The process of obtaining licensure by from the board is divided into two involves three separate parts: admission to examination and admission to licensure specified educational requirements, including academic and experiential training; specified board examinations; and specified postdegree supervised employment experiences for licensure.

SONAR: This modification is necessary to clarify requirements for licensure and to present them in one location in a systematic and simplified form. The rule in its current form has resulted in confusion on the part of licensees and the public.

REPEALED. 7200.0300 REQUIREMENTS FOR ADMISSION TO EXAMINATION.

~~In order to be admitted to examination an applicant must:~~

~~A. file with the board a completed notarized application for admission to examination which includes an affirmation that the statements made on the application are true and corrected to the best of the knowledge and belief of the applicant, and which is accompanied by the current nonrefundable examination application fee and a certified check or money order made payable to the national entity sponsoring the examination; made payable to the national entity sponsoring the examination;~~

~~B. provide for transcripts of all graduate work, including verification of the degree granted, to be certified directly to the board from the institution granting the degree; and~~

~~C. for an application based upon the equivalent of a master of arts or science degree in a doctoral program, provide for that equivalency to be verified in writing directly to the board by an official of the institution attended.~~

SONAR: It was necessary to repeal this rule in this location because it was moved in concept for purposes of clarification and continuity to 7200.0550, subpart 3.

REPEALED. 7200.0400 ADMISSION TO EXAMINATION.

~~Before July 1, 1991, an applicant who has met the requirements of parts 7200.0300,~~

~~7200.1300, subparts 1 to 3, 7200.1500, and 7200.1600 shall be admitted to the first regularly scheduled national standardized test specified in part 7200.3000, subpart 1, item A, occurring 40 days or more after the applicant has demonstrated that the requirements have been met. After June 30, 1991, an applicant who has met the requirements of parts 7200.0300, 7200.1300, subparts 1, 2, and 4, and 7200.1410 to 7200.1600, shall be admitted to the first regularly scheduled national standardized test occurring 60 days or more after the applicant has demonstrated that the requirements have been met.~~

~~An applicant who has met the requirements of 7200.0300; 7200.1300, subparts 1 through 3 and subpart 6;~~

SONAR: It was necessary to repeal this rule because it is no longer reflective of the examination process.

~~REPEALED. 7200.0500 DENIAL OF ADMISSION TO EXAMINATION.~~

~~An applicant who has failed to meet the education requirements in parts 7200.1300 to 7200.1600 shall be denied admission to the objective part of the examination and be informed in writing of the denial and the reasons for it. An application submitted after denial is a new application which must be accompanied by the current examination application fee.~~

SONAR: It was necessary to repeal this rule in this location because it was moved for purposes of clarification and continuity to 7200.0550, subpart 4.

7200.0600 REQUIREMENTS FOR LICENSURE

To be eligible for licensure, an applicant must:

A. meet the requirements for admission to the examinations specified in part 7200.0300 7200.0550, subp. 3;

SONAR: This modification is necessary to clarify the intent of this rule, which currently requires an individual to refer to several other rules to fully understand the requirements.

B. file with the board a notarized application for licensure, which includes an affirmation that the statements made in the application are true and correct to the best knowledge and belief of the applicant, ~~and which is accompanied by~~ includes the current nonrefundable licensure application fee;

SONAR: This rule was changed to simplify the language and is necessary to make clear to applicants that the application fee is not refundable.

C. ~~for licensure as a licensed psychologist only, have completed two years of postdegree supervised employment as stated in parts 7200.0800 and 7200.0200 to 7200.2600. have completed the supervised employment requirements in part 7200.2000, which is independently verified by the board.~~

SONAR: This modification was necessary to reflect the change in the statutory requirement for post-degree supervised employment from two years to one year and to reflect changes in the numbering of the rules.

~~D. for licensure as a licensed psychologist only, provide evidence of having met the supervision requirements of parts 7200.0800 and 7200.2000 to 7200.2600 and Minnesota Statutes, section 148.925, subdivisions 1 and 2, paragraph (b), by means of a signed, notarized statement from the supervisor of each employment that includes the time period during which the applicant was supervised, the number of hours of face to face supervision per week, and verification that the supervision meets the requirements of parts 7200.0800 and 7200.2000 to 7200.2600.~~

SONAR: It is reasonable to delete this section because it is redundant with other rules that state the same requirements, specifically, Minnesota Rules 7200.0200, 7200.0550, 7200.1300, subdivision 5, and 7200.2000. To have different language in different places referring to the same requirements has been confusing to applicants for licensure.

~~E. D. have performed satisfactorily on all parts of the examinations listed in part 7200.3000 7200.0550; and~~

SONAR: These changes are necessary to use language consistently and to reflect the change in numbering of the referenced rule.

~~F. E. provide evidence of having met the requirements of Minnesota Statutes, section 148.91, subdivision 4, and of not having engaged in conduct prohibited by parts 7200.4500 to 7200.5700, by means of endorsements names for endorsement from at least two individuals with meeting the qualifications stated in part 7200.0900 who can attest that the applicant has met the requirements of Minnesota Statutes, section 148.907, subdivision 2, clause (5).~~

SONAR: This modification is reasonable and necessary in that it allows for a more meaningful application of endorsers for licensure and requires that the endorsers attest that the applicant has met the statutory requirements of licensure. The previous language of this rule permitted endorsers to attest that the applicant has not engaged in conduct prohibited via 7200.4500 to 7200.5700, but did not address the statutory requirements for licensure. This change is meant to remedy that issue.

REPEALED. 7200.0650 REQUIREMENTS FOR LICENSURE AS A PSYCHOLOGICAL PRACTITIONER.

~~To be eligible for licensure as a psychological practitioner an applicant must meet the requirements of 7200.0600, items A, B, E, and F.~~

SONAR: This rule was repealed because the Board no longer issues licenses to psychological practitioners based on Minnesota Statutes, section 148.908, subdivision 3, which states: “[e]ffective December 31, 2011, the licensure of all licensed psychological

practitioners shall be terminated without further notice and licensure as a licensed psychological practitioner in Minnesota shall be eliminated.”

REPEALED. 7200.0700 CONCURRENT APPLICATIONS.

~~An applicant may file both the application for admission to examination and the application for licensure at the same time if all requirements for licensure other than passing the three parts of the examination have been met.~~

SONAR: This deletion saves Board resources by eliminating the requirement of processing licensure applications prematurely. That is, in the case where the applicant does not pass the examination, that individual is not eligible for licensure, so application for licensure is premature or inappropriate.

7200.0800 SUPERVISED EMPLOYMENT FOR LICENSED PSYCHOLOGISTS.

The application for licensure as a licensed psychologist must include for each postdegree supervised employment setting, nature, and extent, the time period involved, the number of hours per week engaged in professional duties, the number of hours ~~face to face~~ individual, in-person supervision which may include interactive, visual, or electronic communication, per week provided by the primary supervisor, the number of hours of delegated supervision per week, as defined by statute and the name address, and qualifications of the supervisor.

SONAR: The change regarding individual, in-person supervision is necessary to be consistent with the language in rule 7200.2000. The language regarding the form of such communication permitting electronic communication is reasonable to allow for using modern technology, especially in situations where the supervisor is at some physical distance from the supervisee, such as in some locations in greater Minnesota, as long as the electronic communication meets the essential elements of in-person interaction. The language regarding hours of delegated supervision is necessary to ensure that applicants understand the requirements for licensure and provide the necessary information.

REPEALED. 7200.0810. FIELD OF PRACTICE, AREAS OF COMPETENCE.

~~The application for licensure as a licensed psychologist or a psychological practitioner must include the field of practice and the area of competence in which proficiency has been gained. The application may include areas of competence in which proficiency has been gained through experience, such as internships or practica, which is not counted toward the employment requirements of Minnesota Statutes, section 148.91, subdivision 5. The application must include a least one field of practice.~~

SONAR: This change is necessary to be consistent with the elimination of the requirement that providers declare competence and field of practice.

7200.0900 REQUIREMENTS FOR ENDORSEMENT.

For endorsement to meet the requirements of part 7200.0600, items F ~~E~~, the endorser must be a licensee of the board, an individual who is licensed to practice psychology by another state whose licensure standards are similar to the standards of this state, jurisdiction, or an individual whose education and experience meet the licensure standards of Minnesota Statutes, section 148.91 and parts 7200.0100 to 7200.6000. In addition, with a doctoral degree in psychology. The endorser must have observed the applicant while the applicant was engaged in the practice of psychology within the previous three years. The endorser cannot be an employee or family member of the applicant, a current member of the board, or an individual who has not observed the work of the applicant in the professional environment of the applicant. An applicant who has not received sufficient endorsements may submit the names of additional endorsers.

SONAR: This change is necessary to clarify the intent of this rule and to be consistent with the use of terms, i.e., jurisdiction instead of state in recognition that some licensees are from territories or provinces rather than states. The change also reflects the Board's recognition of the validity of licensure standards in other jurisdictions, even when they differ somewhat from those in Minnesota, in order to support consistency in regulation across jurisdictions and to support mobility of licensees from jurisdiction to jurisdiction.

REPEALED. ~~7200.1000 ADDING AREAS OF COMPETENCE.~~

~~At any time, a licensee may add an area of competence in which proficiency has been gained by submitting to the board a written statement of the area of competence. The statement must be accompanied by a notarized affirmation that the statement is true and correct to the best knowledge and belief of the licensee.~~

SONAR: This language is no longer necessary because of other changes in the rules to delete the requirement of declaring areas of competence.

REPEALED. ~~7200.1100 INQUIRIES REGARDING APPLICANTS.~~

~~The board may make inquiries when there is a question as to whether an applicant meets the requirements of part 7200.0600, item E.~~

SONAR: The affirmative statement in the rules of the Board's statutory authority to make inquiries regarding applicants is unnecessary. Deletion of unnecessary rules is intended to make them more usable by licensees and the public and to improve regulatory performance.

REPEALED. ~~7200.1200 DENIAL OF LICENSURE.~~

~~An applicant who fails to meet all the requirements in parts 7200.0300 and 7200.0600 or 7300.0650 shall be denied licensure and informed in writing of the denial and the reasons for it. An application submitted following denial is a new application which must be accompanied by the current licensure application fee.~~

SONAR: This section is repealed and replaced with proposed Minnesota Rule 7200.2040, DENIAL OF LICENSURE, which reads:

7200.2040 DENIAL OF LICENSURE.

An applicant who fails to meet all requirements for licensure under the Minnesota Psychology Practice Act shall be denied licensure and informed in writing of the denial and the reasons for it. An application submitted following denial is a new application and must be accompanied by the current licensure application fee. An applicant who has been denied licensure may reapply and shall pay the current nonrefundable application fee with each application.

SONAR: This rule informs applicants about the circumstances under which a licensure application would be denied and the process for denial. It is also a necessary change because denial of application can occur if any of the requirements for licensure are not met, not only the specific ones stated in the previous rule.

7200.1300 EDUCATIONAL REQUIREMENT REQUIREMENTS FOR LICENSURE

Subpart 1. **Licensed psychologist.** The educational requirements for licensure as a licensed psychologist is a doctoral degree with a major in psychology. The degree shall be obtained in an institution accredited by a regional accrediting association to grant the doctoral degrees degree being submitted for licensure and shall meet the standards the board has established by rule.

SONAR: This modification is necessary to clarify the rule and to make specific its intent.

Subp. 2. ~~Licensed psychologist by waiver~~ Grandparenting provision.

Notwithstanding the provisions of subpart 1, the educational requirement for licensure as a licensed psychologist for any ~~person~~ applicant who has met the requirements of Minnesota Statutes, section ~~148.921~~ 148.907, subdivision ~~2~~ 3, paragraph (b), clause (1), is a ~~master of arts or science~~ master's degree, including a ~~master~~ master's equivalent in a doctoral program, with a major in psychology obtained in an institution accredited by a regional accrediting association. The applicant must have been accepted into the program by November 1, 1991, whether or not the applicant had enrolled in a class by that date. An applicant who entered the program by November 1, 1991, and who later transferred to another program leading to a degree in psychology is considered having met the admission requirements of Minnesota Statutes, section 148.907, subdivision 3, paragraph (b), clause (1).

SONAR: The changes in this rule are necessary to be consistent with current use of language, to reflect the changing in numbering of other rules and reflect consolidation of the rules such that the latter portion of this rule is moved to this location from 7200.1300, subp. 4B (7).

~~REPEALED. Subp. 2a. **Psychological practitioner.** The educational requirement for licensure as a psychological practitioner is the same as for licensure as a licensed psychologist by waiver as provided in subpart 2.~~

SONAR: This subpart is repealed based on Minnesota Statutes, section 148.908, subdivision 3, termination of psychological practitioner licensure in Minnesota.

~~REPEALED. Subp. 3. **Degrees earned before July 1, 1991.** For both types of licensure based on degrees earned before July 1, 1991, the major must be:~~

- ~~A. offered through a department of psychology;~~
- ~~B. a major in educational psychology, child psychology, counseling psychology, or industrial psychology; or~~
- ~~C. if the major is offered through an academic department or unit other than a department of psychology and its title is not listed in item B, the dissertation for the degree, or thesis if a degree requirement, must be psychological in topic and method according to the criteria in subitems (1) and (2), and the coursework leading to the degree must meet the criteria in subitem (3):~~
 - ~~(1) The topic must fall within the list of psychological topics included in the table of contents of all editions of the Annual Review of Psychology, up to and including the 1998 edition, and must have the potential to directly impact upon the body of knowledge in the field of psychology.~~
 - ~~(2) The method shall include at least one of the following: experimental manipulation of psychological variables; correlational or statistical method, using data collected by observations made by oneself or other persons; case study; creation of theory based on analysis of data obtained by oneself or other persons, including conceptual analysis; introspection; or psychohistory.~~
 - ~~(3) At least two thirds of the number of credits completed for the degree, excluding the dissertation or thesis credits, must have been successfully earned in graduate courses which are predominantly psychological in content. Credits for postdoctoral or post master course work earned within five years after receiving the degree may be used in part to meet this requirement.~~

~~REPEALED. Subp. 4. **Degrees earned after June 30, 1991.** For both types of licensure based on degrees earned after June 30, 1991, the major must meet the following requirements:~~

- ~~A. The program offering the major must be certified to the board by the dean of the graduate school of the institution to be an organized sequence of study.~~
- ~~B. The transcript of the applicant must indicate:~~
 - ~~(1) A minimum of three graduate quarter credits or their equivalent of course work earned in each of the core areas listed in units (a) to (g), or demonstrated equivalency as provided in part 7200.1410:~~
 - ~~(a) scientific methods;~~
 - ~~(b) theories of measurement;~~
 - ~~(c) biological bases of behavior;~~
 - ~~(d) cognitive-affective bases of behavior;~~
 - ~~(e) social bases of behavior;~~
 - ~~(f) personality theory and human development; and~~
 - ~~(g) professional ethics, standards of conduct, and issues of professional practice.~~
 - ~~(2) A minimum of six additional graduate quarter credits or their equivalent of course work earned in application of psychological principles to problem identification.~~

~~The course work must be in the areas of assessment, evaluation, or data collection, or any combination of these areas.~~

- ~~(3) A minimum of six additional graduate quarter credits or their equivalent of course work in the application of psychological principles to problem solution. The course work must be in the areas of psychological intervention or data analysis or a combination of the two areas.~~
- ~~(4) A minimum of 2,000 hours for a doctoral degree or 600 hours for a master's degree of supervised practical field or laboratory experience in psychology related to the program of the applicant. The experience must meet the following criteria:
 - ~~(a) Either the academic or the on-site supervisor must be a licensee of the board or an individual whose education and experience meet the standards imposed by Minnesota Statutes, section 148.91, and parts 7200.0100 to 7200.6000 and who is competent in the areas of practice in which supervision is provided.~~
 - ~~(b) Reports by the trainee to consumers must be cosigned by a supervisor of the trainee or issued with a cover letter stating that the report has been reviewed and approved by the supervisor.~~
 - ~~(c) The experience must include an average face to face individual supervision for a placement of 40 hours per week, 1 ½ hours for a placement of 30 hours per week, or one hour for a placement of 20 hours per week. The supervisor who is a licensee or licensable must provide an average of one hour per week of supervision, but may delegate other training to appropriate agency staff members.~~
 - ~~(d) The experience must be completed within 24 months in not more than three settings with at least 20 hours a week and no less than one-third of the total hours in each setting.~~~~
- ~~(5) A course offered as meeting any one requirement listed under subitems (1) to (4) may not be offered to meet any other requirement, except as provided in subitem (6).~~
- ~~(6) If the head of a department providing a graduate program submits to the board a list of courses in the program by title and number, which in the opinion of the department head meet one or more of the requirements of this subpart, the list will be used as an aid in determining whether the courses offered by the applicant meet the requirements of this subpart. The department head's list may subdivide course by core area listed in item B, subitem (1), provided that courses so subdivided collectively provide a minimum of three quarter credits or their equivalent in each core area addressed.~~
- ~~(7) An applicant for licensure as a licensed psychologist on the basis of a master's degree is considered as having met the requirements of Minnesota Statutes, section 148.921, subdivision 2, clause (1), if the applicant had been accepted into the program by November 1, 1991, whether the applicant enrolled in a class by that date. An applicant who entered the program by November 1, 1991, and who later transferred to another program is considered to have met the requirements of Minnesota Statutes, section 148.921, subdivision 2, clause (1).~~

SONAR: The deletion of these rules is necessary because the Board set a new standard and the old standards no longer apply. The current alternatives available to those whose educational requirements were met prior to the applicable date of the current rules are: 1. Graduation from an APA accredited academic programs, 2. application based on the rule 7200.2035 (mobility), 3. a request for the waiver or variance of rules, or 4. application based on rule 7200.1455 (incomplete educational requirements).

Subp. 5. Degree requirements. The doctoral degree must be from a program that is an organized sequence of study in psychology and must meet the requirements in items A and B.

SONAR: This change in language is reasonable to allow the Board to determine whether a program meets the requirements of this rule rather than requiring and relying on a letter from the dean of the school.

A. The degree must include the completion of graduate credits as specified in subitems (1) to (3).

(1) A minimum of the specified number of graduate semester or quarter credits of coursework earned in each of the foundational areas of psychology listed in units (a) to (g). Coursework relating to the application of psychological principles to the identification or solution of problems, as described in subitems (2) and (3), cannot be used to meet the requirements of units (a) to (g):

SONAR: This rule is necessary to clarify the intent of the educational requirements for licensure and to reflect the change in most universities in North America from quarter credits to semester credits, while allowing for applicants from universities that use the quarter system.

(a) research design, statistics, and psychological measurement theory, six semester credits or nine quarter credits required, of which at least one semester or 1-1/2 quarter credits must be in each of the following areas: research design, statistics, and psychological measurement theory.

SONAR: The new standard here is reasonable to allow applicants to meet the requirement of this rule in a more flexible manner since content overlaps in these courses. The standard curriculum in the field of psychology now incorporates measurement theory into other courses, rather than as a stand-alone course.

(b) biological bases of behavior, three semester credits or five quarter credits required;

(c) cognitive-affective bases of behavior, three semester credits or five quarter credits required;

(d) social bases of behavior, three semester credits or five quarter credits required;

(e) personality theory and human development, three semester credits or five quarter credits required;

(f) human diversity, three semester credits or five quarter credits required; and

(g) professional ethics and standards of conduct, three semester credits or five quarter credits required.

SONAR: The course requirement in these rules is the same as in the previous rules, with the exception of f. Human diversity is added as a course requirement because of the recognition in the field of psychology of how critical human diversity is to understanding and appreciating human behavior, particularly given the diversity of the demographics in North America. This addition is necessary not only to reflect this fact and to be consistent with standards in the field generally, including requirements for program accreditation by the APA, but also to adequately prepare applicants to provide psychological services to a diverse public in a safe, skillful, and appropriate manner.

(2) A minimum of six additional semester credits or nine quarter credits earned in the application of psychological principles to problem identification. The course work must be in the areas of assessment, evaluation, or data collection, or a combination of these areas. Graduate credits in the foundational areas of psychology, as described in subitem (1), cannot be used to meet this requirement.

(3) A minimum of six additional semester credits or nine quarter credits in the application of psychological principles to problem solution. The course work must be in the areas of psychological intervention or data analysis or a combination of these areas. Graduate credits in the foundational areas of psychology, as described in subitem (1), cannot be used to meet this requirement.

SONAR: The changes in these rules incorporates educational requirements based on semester credit hours, in addition to quarter hours, and clarify the intent of the rules regarding course content that can be used to meet these educational requirements.

B. A minimum of 24 semester credit hours or 384 clock hours must be earned in residence from the educational institution through in-person psychological instruction with multiple program faculty and students. Acceptable academic residency experience shall be accumulated over a period of 12 consecutive months.

SONAR: This is a new rule and requirement for licensure. The Board is adding a residency requirement that requires for the first time, a component of the doctoral program to be done “in residence,” that is via in-person study and observation of students being trained as psychologists. It is reasonable and necessary to add the residency requirement as stated above which requires a “minimum of 24 semester credit hours,” or “384 clock hours” earned in residence to ensure appropriate training of future psychologists in the practice of psychology, a human science.

Specifically according to the Commission on Accreditation, Implementing Regulations:

Residency has two primary purposes: student development and socialization, and student assessment. With regard to student development, residency allows students (1) to concentrate on course work, professional training and

scholarship; (2) to work closely with professors, supervisors and other students; and (3) to acquire the habits, skills, and insights necessary for attaining a doctoral degree in psychology. Full-time residence provides students other opportunities, including obtaining fluency in the language and vocabulary of psychology as enhanced by frequent and close association with, apprenticing to, and role modeling by faculty members and other students; obtaining valuable experience by attending and participating in both formal and informal seminars; colloquia; discussions led by visiting specialists from other campuses, laboratories, or governmental research and/or practice organizations; and, obtaining support in thesis, dissertation, or doctoral project work through frequent consultations with advisors.

An equally important purpose of the residency requirement is to permit faculty, training staff, supervisors, and administrators to execute their professional, ethical, and potentially legal obligations to assess all elements of student competence. Executing these obligations is an essential aspect of assuring quality and protecting the public. These elements include not only student-trainees' knowledge and skills, but also their emotional stability and well being, interpersonal competence, professional development, and personal fitness for practice....This capacity for managing relationships represents one of the competencies that define professional expertise.

See, C-2. Academic Residency for Doctoral Programs (From the Guidelines and Principles for Accreditation of Programs in Professional Psychology, Section III.A., Domain A.4; Commission on Accreditation, July 2007).

As written, this rule requires that applicants seeking to satisfy the requirement of one full year of residency based on “the equivalent thereof” must demonstrate to the Board how the proposed equivalence achieves all of the purposes of the residency requirement.

Noting that mentoring and regular contact with faculty and peer students is important in the training of psychologists, this rule requires one full year or the equivalent in hours, of study from the educational institution through “in-person psychological instruction with multiple program faculty and students,” ...“accumulated over a period of twelve consecutive months.”

The language of this rule strikes an appropriate balance between the need for mentoring and regular in-person contact with faculty, peers, and students during the training of psychologists at the doctoral level while acknowledging that prohibiting licensure of individuals obtaining doctoral degrees from distance education programs entirely, would not be necessary or reasonable.

Additionally, through the comment period the Board was made aware of the following information which demonstrates that this rule language is both necessary and reasonable as written:

- The U.S. Department of Education found in its study on distance education that entirely online or hybrid learning provides *more* interaction and collaboration between students and faculty;
- Negative impact is likely should rule language be implemented that eliminates licensure for distance education graduates for citizens of Minnesota in rural or underserved areas in relation to the reality of limited access to competent mental health care;
- Diverse technologies utilized in distance education modality provide specific and substantial opportunities for modeling by and apprenticing to faculty;
- “Students who took all or part of their class online performed better, on average, than those taking the same course through traditional face-to-face interaction” (*See, Evaluation of Evidence-Based Practices in Online Learning: A Meta-Analysis and Review of Online Learning Studies, U.S. Department of Education, Office of Planning, Evaluation, and Policy Development, Policy and Program Studies Services, prepared by Center for Technology Learning, 2009*).
- Higher Education Opportunity Act (HEOA) incorporated a definition of distance education into the Higher Education Act (HEA) to establish some consistency and an understanding about what distance education is and to specifically distinguish it from correspondence education, defining distance education as, “an education offered through technology that supports regular and substantive interaction between student and faculty.” Therefore, allowing an opportunity for graduates of distance education to become licensed, provided they meet established educational, training, and experience requirements is in alignment with the direction of education in the future, that is, an increased use of technology in educational institutions.
- Allowing for continued licensure of graduates of distance education programs is in line with the Board’s commitment to diversity, in that, the most significant populations of individuals enrolling in distance education include women, African-American students, veterans and students in the military.

It is also appropriate to implement this rule as the educational experience is only one piece of the preparation for the practice of psychology. Additional requirements for licensure include: practicum and internship experiences, post-doctoral supervised employment experience, examination requirements, including both the Professional Responsibility Examination (PRE) and the Examination on Professional Practice in Psychology (EPPP).

Finally, the Board acknowledges that decisions to support need and reasonableness should be evidence or data driven, thus the decision to implement a residency requirement is based upon evidence within the field as noted in the American Psychological Association’s (APA) Model Act for State Licensure of Psychologists, Adopted by Council as APA Policy 2/20/2010:

The curriculum shall encompass a minimum of three academic years of full time

graduate study and a minimum of one year's residency or the equivalent thereof at the educational institution granting the doctoral degree.....[emphasis added].

Finally, in determining that the above articulated rule is both reasonable and necessary, the Board considered the history of licensure within the State of Minnesota and its intended continued practice to license individuals who graduate from non-APA accredited doctoral programs. Given that the Board intends to license individuals who attend non-APA accredited doctoral programs, and has established educational requirements within Minnesota Rule 7200.1300, which allow it to successfully do that, the concern regarding exclusion of distance education programs from APA accreditation was not a persuasive argument that distance education programs should be eliminated from licensure consideration across the board.

C. The applicant shall complete a predegree supervised experience in psychology. The experience must meet the criteria in subitems (1) to (10).

(1) For licensure based on a doctoral degree, the internship shall be an organized training program subject to:

(a) a minimum of an 1,800-hour predoctoral internship in psychology;

(b) a minimum of 20 hours per week of supervised experience;

(c) completion in no fewer than 12, and within 30, consecutive months;

(d) a minimum of two hours of regularly scheduled supervision per week up to 40 hours worked;

(e) a minimum of one hour of supervision for each 20 hours, or portion of this, worked beyond 40 hours per week; and

(f) one hour per week of supervision provided by the primary supervisor on an individual, in-person basis. Supervision beyond the one hour per week may be conducted on an individual or group basis by the primary supervisor or designated supervisor.

SONAR: These rule changes are necessary to clarify the supervised experience requirements for licensure and to be consistent with current Board practice, as follows:

Under Minnesota Statutes, Section 148.907, subdivision 2 (7), in order to fulfill the supervised practice requirement for licensure as a licensed psychologist, the applicant must have “completed at least one full year or the equivalent in part time of postdoctoral supervised psychological employment.” Under current practice, in order to determine the method of calculation, the Board used existing Minnesota Rules 7200.2500 and 7200.2600. Minnesota Rule 7200.2500, which is intended to be repealed, states, “[t]o meet employment requirements, the applicant shall have completed 24 months of full-time employment, or their equivalent in part time employment, under supervision as described in part 7200.2000 and Minnesota Statutes, section 148.925, subdivisions 1 and 2, paragraph (b), with regularly scheduled vacation periods and holidays considered as days worked. Full-time employment consists of at least 1,800 hours during a 12-month period.”

This provision defined full-time employment, but the Board in application does not count hours towards the postdoctoral supervision requirement. Board staff currently counts

weeks. That is, a licensed psychologist applicant has to demonstrate that she or he has completed 52 full time weeks of supervised psychological employment, or the equivalent in part-time under the supervisory arrangement detailed in Minnesota Statute, section 148.925.

Minnesota Rule 7200.2600, another rule that is proposed to be repealed, states, “[p]art-time employment shall be credited by the board on a prorated basis, if the part-time employment consists of at least ten hours per week for a period of 12 consecutive weeks at the same agency or facility, and if the employment includes at least two hours of face-to-face supervision in a two-week period for employment of less than 25 hours per week, all with the supervisor as defined in 7200.0100, subpart 10.”

In current practice, part-time employment is prorated as follows:

Full time employment is considered to be employment consisting of 35 hours per week per the definition of Minnesota Rule 7200.2500 that states, “[f]ull-time employment consists of at least 1,800 hours during a 12-month period.” (Example: 35 hours per week x 52 weeks in a year = 1,820 hours; 34 hours per week x 52 weeks in a year = 1,768 hours). The 1,768 hours does not meet the rule requirement to qualify as full-time employment as it does not equate to 1,800 hours during a 12-month period. *See*, Minn. R. 7200.2500.

Thus, part-time employment consists of employment of 10-34 hours per week, and is currently credited on a prorated basis by the Board. The Board currently prorates part-time employment as follows:

Number of hours worked (12) divided by full-time employment (35 hours per week) = .34 credit. The most credit an applicant can obtain in any given week is 1.0 which equals one full-time week worked. Applicants are required to obtain 52 full-time weeks or their equivalent as determined under the above stated proration practice.

Prorating part-time supervised employment experience under the current rules is cumbersome, confusing and difficult to understand. In practice, the Board has observed many instances of misunderstanding or misinterpretation of the Board’s rules regarding calculation of supervised experience, which results in unnecessary and burdensome delays for applicants within the licensure process.

Therefore, it is reasonable to clarify this requirement and to align the practices of the Board with respect to calculation of postdoctoral supervised psychological employment with other jurisdictions in the effort to provide more consistency in a time of diminishing jurisdictional boundaries and increased desire for mobility.

In order to clarify the supervised experience requirement, to provide consistency, and to simplify the requirement to streamline the application process, the Board’s proposed rule moves to a standard “hours” requirement for completion of the postdoctoral supervised psychological employment experience of 1,800 hours, the equivalent of its former definition

of one full-time year.

(2) For licensure based on a master's degree or a master's equivalent in a doctoral program, the practicum must be an organized training program subject to:

(a) a 600-hour practicum in psychology;

(b) a minimum of 15 hours per week of supervised experience;

(c) completion in no fewer than six, and within 12, consecutive months;

(d) a minimum of one hour of regularly scheduled supervision for each 20 hours, or portion thereof, worked; and

(e) all supervision shall be provided by the primary supervisor on an individual, in-person basis.

SONAR: The language is necessary to provide specific regulations regarding Minnesota Statutes section 148.907, subdivision 3, which provides basic criteria for Master's level licensure.

(3) Hours that qualify as predegree supervised professional experience may include those spent in supervision, research, teaching, record keeping, report writing, staff meetings, client care conferences, and required training sessions, as well as hours spent in direct client contact.

SONAR: The above concept is moved to this location from 7200.2000 C and the activities covered were expanded slightly to include all activities involving in the practice of psychology, so that applicants would know that such activities can be counted under these rules.

(4) The primary supervisor may designate other master's or doctoral prepared mental health professionals to provide training and supervision in specific skills for all or part of the required supervision beyond one hour per week.

SONAR: This language, some of which was moved here from 7200.2200, is necessary to support and provide specificity to the requirements listed in Minnesota Statutes section 148.925, subdivision 5, which states that "[s]upervision of an applicant for licensure as a licensed psychologist shall include at least two hours of regularly scheduled in-person consultations per week for full-time employment, one hour which shall be with the supervisor on an individual basis. The remaining hour may be with a designated supervisor."

Under Minnesota Statutes, section 148.89, subdivision 2c, a "designated supervisor" means a qualified individual who is designated by the primary supervisor to provide additional supervision and training to...an individual who is obtaining...postdegree supervised employment."

(5) The primary supervisor shall establish procedures that adequately provide

communication with designated supervisors regarding the supervisee's training experiences. The primary supervisor shall retain supervisory responsibility for all of the supervised professional experience, which must include discussions that incorporate the applicable ethical and practice standards in psychology.

SONAR: This language is necessary to clarify the role of the primary supervisor in relation to the designated supervisor and delineate the supervisory responsibility for the experience. This proposed rule seeks to address confusion within the supervisory experience surrounding the primary and designated supervisors that can arise absent a clearly articulated supervision plan and guidance with respect to supervisor roles. This rule is also necessary to ensure that the training experience for the supervisee is coordinated and organized and that the scope and complexity of the experience fits the needs of the supervisee.

(6) All supervisors shall be readily available for supervision, including both regularly scheduled supervisory meetings with the supervisee and additional contacts as needed. All supervisors needed, shall know the rules, policies, and procedures at the supervisee's work site or agency, and shall personally review the work of the supervisee on a regular basis.

SONAR: The rule clarifies the process and responsibilities attendant to supervisors. It is necessary to ensure that supervised experienced that is used to meet licensure requirements receives adequate and, when necessary, immediate attention and that the content of the supervision meets the needs and the training experience of the supervisee.

(7) The primary supervisor shall be competent in supervision, including the areas supervised and the populations served, and shall know the prevailing ethical and practice standards of psychology.

SONAR: This proposed rule, which expands on the language in Minnesota Statutes, section 148.925, is reasonable and necessary to establish clear limitations on who is eligible to provide supervision to a supervisee in order 1) to ensure competence not only in the service being provided by the supervisee, but in the process of supervision itself, 2) to avoid conflicts of interest, and 3) to maintain objectivity within the supervisory relationship.

- (8) The primary supervisor shall be:
- (a) a Minnesota licensed psychologist;
 - (b) an individual who is credentialed as a psychologist in another jurisdiction;
 - or
 - (c) an individual who has a doctoral degree with a major in psychology and who is employed by a regionally accredited educational institution or by a federal, state, county, or local government, institution, agency, or research facility.

SONAR: This proposed rule, which expands on the language in Minnesota Statutes, section 148.925, is reasonable and necessary to establish one essential means of determining

competency in providing supervision.

(9) The supervisor shall not be in a multiple relationship with the supervisee as defined in part 7200.0110, subpart 15, such as being an employee of the supervisee or a member of the supervisee's family.

SONAR: This proposed rule is reasonable and necessary to establish clear limitations on who is eligible to provide supervision to a supervisee to avoid conflicts of interest and to maintain objectivity within the supervisory relationship. This rule regarding limitation is a paraphrase of the limitations on who can supervise that are stated in the previous rule 7200.2000.

(10) Reports by the supervisee shall be cosigned by the supervisor or issued with a cover letter stating that the report has been reviewed and approved by the supervisor.

SONAR: This rule is necessary and reasonable to ensure that any information or data regarding the supervised experience that is provided by the supervisee and that will be used to meet requirements for licensure has been reviewed and approved by the supervisor. This requirement ensures that the information the Board uses to determine eligibility for licensure is accurate and complete.

D. The requirement item C shall be considered met if the predegree internship completed by the applicant has been accredited by the American Psychological Association (APA) or the program is a member of the Association of Predoctoral Psychology Internship Centers (APPIC).

SONAR: This rule is reasonable because internships that are accredited by APA or members of APPIC have already been evaluated to ensure that all of the requirements included in item C will have been met. This saves Board staff time and saves licensees fees necessary to cover staff time.

E. The applicant's official transcript of the degree on which licensure is based shall document successful completion of the requirements of items A and C. If not documented by the transcript, the applicant shall document successful completion of the requirements described in subitem C by a letter sent directly to the board from the degree program director or equivalent that certifies successful completion of the 1,800-hour doctoral internship or the 600-hour master's practicum.

SONAR: This rule is necessary to specify how the licensure requirements in items A and C can be documented to the Board. It is also reasonable to make clear to graduate programs the information needed by the Board to ensure that applicants have met requirements for licensure. This decreases the burdensome and unnecessary delays that can occur when applicants have difficulty documenting how licensure requirements are met.

Subp. 6. Completion of APA or CPA accredited program. The requirements of subpart 5, items A and B, are considered met for applicants based on a doctoral degree if the applicant

provides acceptable evidence that the degree was earned in a doctoral program that was accredited by the APA or CPA at the time the degree was conferred.

SONAR: This rule is reasonable because graduate programs that are accredited by APA have already been evaluated to ensure that all of the requirements included in items A and B will have been met. This saves Board staff time, saves licensees fees necessary to cover staff time, and simplifies the application procedure, thereby decreasing unnecessary delays in licensure.

REPEALED. 7200.1410 CORE AREA CREDIT EQUIVALENCE

In lieu of credits earned in a core area listed in part 7200.1300, subpart 4, item B, an applicant may offer a certification to the board by the chair of the department that the applicant has passed an examination in that core area required for the master's degree or for admission to candidacy for a doctoral degree.

SONAR: Because the rules have been changed to create alternative methods of examination of application materials through the recognition of APA accredited programs, it is reasonable to eliminate this rule.

REPEALED. 7200.1450 POSTDEGREE PROGRAM COMPLETION.

An applicant with a doctoral or master's degree earned after June 30, 1991, may correct deficiencies in the graduate program by completing no more than two core area courses and all or part of the practical field or laboratory experience, provided the deficiencies are corrected within one year after the date upon which the application for admission to examination is submitted.

SONAR: This rule is repealed and replaced with proposed Minnesota Rule 7200.1455, "INCOMPLETE EDUCATIONAL REQUIREMENTS," which states:

7200.1455 INCOMPLETE EDUCATIONAL REQUIREMENTS.

- A. An applicant with a doctoral or a master's degree in psychology or a master's equivalent in a doctoral program in psychology whose degree program does not meet the educational requirements for licensure, may complete them postdegree as follows:
- (1) an applicant may earn up to 12 semester credits or equivalent toward the educational requirements for licensure that may be completed outside of an organized sequence of study; or
 - (2) an applicant who needs more than 12 semester credits or equivalent must complete them as part of an organized sequence of study.
- B. Acceptable documentation of item A, subitem (1), consists of an official transcript sent directly to the board documenting the successful completion of educational requirements and acceptable documentation for items A, subitem (2), consists of a letter from the degree program director or equivalent certifying that the program is an organized sequence of study.

SONAR: This rule constitutes a revision of rule 7200.1450 in the previous rules. It was

revised to provide additional specificity and limitations to the means by which educational deficiencies can be remediated. The revision is reasonable to provide increased flexibility for meeting licensure requirements to applicants whose training was in a non-applied area of psychology. The limitations are necessary to ensure that the training received is adequately sequential, cumulative, coordinated, and graded in complexity, such that an applicant needing more than 12 semester credits can make up missing course work, but it must be part of an organized sequence of study. Such organized and coordinated training is necessary to ensure safe and skillful practice of psychology.

7200.1500 INSTITUTIONAL ACCREDITATION.

For a degree to meet the standards for licensure, the institution granting the degree must be regionally accredited at the time the degree is granted.

SONAR: This regulation is consistent with existing rules requiring that applicants achieve a degree from a regionally accredited institution. The regulation provides guidance to potential applicants, protects the public by maintaining minimum program standards, and improves Board performance through cooperation with accrediting entities.

7200.1550 AMERICAN PSYCHOLOGICAL ASSOCIATION ACCREDITED PROGRAMS.

The requirements of part 7200.1300, subpart 4, ~~items A and B, subitems (1) through (4),~~ are met for an application based on a doctoral degree if the applicant provides ~~acceptable~~ evidence that the degree was earned in a doctoral program that was accredited by the American Psychological Association at the time of graduation. ~~Acceptable evidence consists of documentation provided directly to the board by the American Psychological Association or by certification by letter sent directly to the board from the applicant's degree program director or equivalent.~~

SONAR: The modifications to this rule simplify the rule and provide the Board with more discretion in determining how an applicant may prove that the degree earned in a doctoral program was accredited by the American Psychological Association (APA). The APA provides a listing of all accredited programs online and by removing the specific language that limits what the Board may accept as “acceptable evidence,” this modification will reduce the burden on licensees to provide documentation that the Board can easily obtain. This will also shorten the time frame for applicants to be admitted to both the national and state examinations for licensure, as time delay has been attributed to waiting on the applicant’s degree program to provide the “APA letter.”

7200.1600 DEGREES FROM FOREIGN INSTITUTIONS.

Subpart 1. **Canadian institutions.** A degree from a Canadian institution regulated by provincial government shall be accepted as ~~meeting standards required for accreditation of a~~ equivalent to a degree obtained from a regionally accredited domestic institution.

SONAR: This revision is necessary to improve the clarity and intent of the rule.

~~Subp. 2. **Other foreign institutions.** When a degree from a foreign institution other than a Canadian institution is offered as meeting the requirements of 7200.1300, at least two board members shall evaluate the institution granting the degree and recommend admission of the applicant to examination if: An applicant for licensure trained in an educational institution outside of the United States or Canada shall demonstrate to the satisfaction of the board that the applicant possesses a doctorate degree in psychology that meets the requirements of 7200.1300. The applicant shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) and any other documentation the board deems necessary. The applicant shall be responsible for the expenses incurred as a result of the evaluation.~~

- ~~A. the institution is chartered, authorized, or monitored by an agency of the central government of the country in which the institution is located;~~
- ~~B. the institution offers organized advanced degree programs leading to the equivalent of a master's or doctoral degree in psychology as specified in part 7200.1300, and the programs and courses are equivalent to programs and courses offered by regionally accredited domestic institutions as determined by a comparison of subject matter and number of hours necessary to receive credit for a program or course;~~
- ~~C. the program leading to the advanced degree must have been in existence for at least ten years and must be recognized by the central government of the country in which the institution is located as entitling the holder of the degree to practice psychology in that country; and~~
- ~~D. the major meets the requirements of part 7200.1300.~~

SONAR: This modification is reasonable and necessary as it improves the evaluation of other foreign institutions by vesting the evaluation of the degree program in a service with expertise in this area. The Board's expertise is in evaluating applicants for licensure, but not in evaluating graduate programs.

Subp. 3. **Translation costs services.** Upon board request, an applicant shall obtain translations of any documents relevant to licensure. The translator must be approved by the board. The cost of translating any transcript or other document shall be borne by the applicant.

SONAR: Translation services are necessary so that the Board can evaluate the documents as related to licensure that are in a language other than English.

REPEALED. 7200.1700 DEGREE MAJORS IN OTHER PROFESSIONS.

~~A degree major in any profession listed in Minnesota Statutes, section 148.97, subdivision 3, is not a major in psychology as defined in part 7200.1300, subparts 3, item C, and 4.~~

SONAR: This rule was deleted as not needed.

REPEALED. 7200.1800 BURDEN OF PROOF.

~~The burden of proof is on the applicant to demonstrate to the board that the degree program as evidenced by the transcript of the applicant meets the requirements of part 7200.1300.~~

SONAR: This rule was changed and moved to proposed Minnesota Rule 7200.2030, “APPLICANT’S RESPONSIBILITY,” which states:

7200.2030 APPLICANT’S RESPONSIBILITY

It is the applicant’s responsibility to demonstrate to the board that the applicant has met all the requirements for licensure under the Minnesota Psychology Practice Act.

SONAR: The Rule clarifies repealed Rule 7200.1800 and is renumbered for consistency with the comprehensive revisions.

REPEALED. 7200.1900 EMPLOYMENT REQUIREMENTS FOR LICENSURE AS LICENSED PSYCHOLOGIST.

~~Parts 7200.2000 to 7200.2600 apply to applicants for licensure as licensed psychologists.~~

SONAR: In light of the proposed rules, this provision is no longer necessary.

7200.2000 PROFESSIONAL SUPERVISED EMPLOYMENT REQUIREMENTS FOR LICENSURE AS A LICENSED PSYCHOLOGIST.

~~To meet the requirements for professional employment, the employment of the applicant, which may include voluntary service, must:~~

- ~~A. Involve the application of psychological principles as stated in the definition of “practice of psychology” in Minnesota Statutes, section 148.89, subdivision 5.~~
- ~~B. Be under supervision as provided in Minnesota Statutes, section 148.925, subdivisions 1, 2, paragraph (b), and 3. The supervisor must not be an employee or a member of the family of the applicant. The independent practice of psychology for a fee in this state is not allowed before licensure and shall not be credited toward the employment requirements for licensure.~~
- ~~C. Hours spent in supervision, research, charting, report writing, staff meetings, patient care conferences, and required training sessions, as well as hours spent in direct client contact, count as hours of employment for the purposes of part 7200.0600, item C.~~
- ~~D. Be performed competently as judged by the supervisor.~~

Subpart. 1. General. All applicants shall complete one full year of postdegree supervised employment or the equivalent in part-time employment. Employment shall consist of a minimum of 1,800 hours of actual work experience that are accrued in no less than 12 months and in no more than 30 months from the first date of employment. Postdegree employment for

licensure as a licensed psychologist shall comply with subparts 2 and 3.

SONAR: This rule is necessary to clarify the number of hours and allotted timeframe to meet post-degree work experience.

Subp. 2. **Supervision.** All postdegree employment shall be supervised. Supervision of postdegree employment for licensure shall meet the requirements in items A to I.

- A. The supervision shall be provided according to Minnesota Statutes, section 148.925, subdivisions 1 to 3, 5, and 6.
- B. A minimum of one hour of regularly scheduled supervision per week up to 20 hours worked and a minimum of one hour of supervision for each 20 hours, or a portion, worked beyond 20 hours per week. Hours worked beyond 50 in a week shall not count to the total required hours.
- C. One hour per week of supervision shall be provided by the primary supervisor on an individual, in-person basis. The primary supervisor may designate other master's or doctoral prepared mental health professionals to provide training and supervision in specific skills for the required supervision beyond one hour per week, which may be conducted on an individual or group basis.
- D. The primary supervisor shall establish procedures that adequately provide for communication with designated supervisors regarding the supervisee's training experiences. In complying with Minnesota Statutes, section 148.925, the primary supervisor shall retain supervisory responsibility for all supervised professional experience. Supervisory sessions with the primary supervisor shall include discussions that incorporate the applicable ethical and practice standards of psychology.
- E. Both primary and designated supervisors shall be readily available for supervision, including both regularly scheduled supervisory meetings with the supervisee and ad hoc contacts as needed, and shall know the rules, policies, procedures, and populations served at the supervisee's work site. Both supervisors shall personally review the work of the supervisee on a regular basis.
- F. Primary supervisors shall meet the competency and other requirements of supervision in Minnesota Statutes, section 148.925.
- G. The supervisor shall not be in a multiple relationship with the supervisee, as defined in part 7200.0110, subpart 15.
- H. The primary supervisor shall certify that the supervision requirements for licensure have been met.
- I. An applicant who completes the required amount of postdegree supervised employment shall continue to receive supervision for any professional services meeting the definition of the practice of psychology until notified of licensure by the board.

SONAR: This rule change is necessary and reasonable to consolidate language and to make the rule more specific. It is reasonable to provide applicants with the requirements before they undertake the supervised employment experience, which will help them ensure that their experiences are meeting licensure requirements. This will decrease the

burdensome delays in licensure that can occur. The rule also clarifies the supervision requirements of post-degree work experience, as well as the credentials of the supervisor. These rules are written to be consistent, where appropriate, with the supervised experience requirements of pre-degree training.

Subp. 3. **Eligible employment.** Employment may be paid or unpaid and shall consist of the practice of psychology as defined in Minnesota Statutes, section 148.89, subdivision 5.

- A. Employment that qualifies may include time spent in supervision, research, teaching, case management, program development, administration or evaluation, staff consultation, peer review, primary or secondary prevention, attendance at workshops, seminars, or other scientific or professional training activities, record keeping, report writing, staff meetings, client care conferences, required training sessions, and direct client contact.
- B. Employment that does not qualify includes employment required as preparation for the master's or doctoral degree, or a professional training program completed in association with earning a master's or doctoral degree, such as an internship, assistantship, associateship, clerkship, or practicum.
- C. Employment between the time all requirements for the degree were met and the time of the conferral of the degree may be credited toward the employment requirements for licensure if the date of completion of all degree requirements is verified directly to the board in writing by the degree program director or equivalent.
- D. The employment shall be performed competently as judged by the supervisor.

SONAR: This rule change clarifies and specifies the standards for post-degree employment that is eligible to meet licensure requirements and the types of employment that are not eligible. Such specification is necessary to avoid the unnecessary and burdensome situation where an applicant has completed post-degree employment thinking it would meet the licensure requirement when it does not.

~~REPEALED. **7200.2100 CRITERIA FOR PROFESSIONAL EMPLOYMENT.**~~

~~Employment shall include tasks and judgments which depend upon the application of skill or knowledge acquired during formal education in psychology.~~

SONAR: This change is reasonable because 7200.2000 now clearly defines the type of employment eligible for usage as post-degree employment, so this rule is no longer necessary.

~~REPEALED. **7200.2200 DELEGATION OF TRAINING.**~~

~~The supervisor may not transfer supervisory responsibility. The supervisor may delegate training in specific skills to specialists who need not be psychologists.~~

SONAR: This rule is deleted because 7200.2000, which consolidates all of the licensure requirements regarding post-degree employment, now addresses this issue in a more comprehensive manner.

REPEALED. ~~7200.2300 EXPERIENCES REQUIRED FOR A DEGREE.~~

~~Experiences which are required as preparation for the master or doctoral degree, such as internships, assistantships, associateships, clerkships, and practica, may not be offered to satisfy the employment requirements for licensure.~~

SONAR: This rule is deleted because 7200.2000, which consolidates all of the licensure requirements regarding post-degree employment, now addresses this issue in a more comprehensive manner.

REPEALED. ~~7200.2400. COMPLETION OF DEGREE REQUIREMENTS~~

~~Professional experience acquired by the applicant between the time all requirements for the degree were met and the time of conferral of the degree may be credited toward the employment requirements for licensure if the date of completion of all degree requirements is verified directly to the board in writing by a responsible academic or administrative official.~~

SONAR: This rule is deleted because 7200.2000, which consolidates all of the licensure requirements regarding post-degree employment, now addresses this issue in a more comprehensive manner.

REPEALED. ~~7200.2500. TIME REQUIREMENT.~~

~~To meet employment requirements, the applicant shall have completed 24 months of full-time employment, or their equivalent in part-time employment, under supervision described in part 7200.2000 and Minnesota Statutes, section 148.925, subdivisions 1 and 2, paragraph (b), with regularly scheduled vacation periods and holidays considered as days worked. Full-time employment consists of at least 1,800 hours during a 12-month period.~~

SONAR: This rule is deleted as unnecessary because this rule is subsumed under Minnesota Rules 7200.2000, subpart 1. The revisions in the rule are due to the change in Minnesota Statute §148.907 and to reflect the ways in which the Board tracks the time requirement.

REPEALED. ~~7200.2600 CREDITING PART-TIME EMPLOYMENT.~~

~~Part-time employment shall be credited by the board on a prorated basis, if the part-time employment consists of at least ten hours per week for a period of 12 consecutive weeks at the same agency or facility, and if the employment includes at least two hours of face-to-face supervision in a two-week period for employment of less than 25 hours per week, all with the supervisor as defined in part 7200.0100, subpart 10.~~

SONAR: Minnesota Rule 7200.2600 is deleted because as currently written, it applies a differential standard to full-time vs. part-time employment. This rule is also unnecessary because it is subsumed under rules 7200.2000 subpart 1.

REPEALED. ~~7200.3000 EXAMINATIONS.~~

~~Subpart 1. **Three parts to examination.** The examination is composed of three parts:
a. a national standardized test in psychology, the cost of which is determined by~~

- ~~the national entity sponsoring the examination;~~
- ~~b. a written objective part covering the rules of the Board of Psychology and Minnesota Statutes, sections 148.89 to 148.98, which may be taken after the education requirements for licensure have been met, and~~
 - ~~c. an oral part in the applicant's field of practice conducted by members of the board or its duly authorized representatives after the applicant for licensure has been accepted by the board, provided that the employment required by Minnesota Statutes, section 148.91, will have been completed before the next board meeting.~~

~~Subp. 1a. **Passing score.** The passing score for each part of the examination is the same for both levels of licensure.~~

~~Subp. 2. **Announcement of examination.** The date of the national standardized test shall be announced by the board. The announcement shall establish time, place, the amount of the examination application fees payable to the board and to the entity sponsoring the examination, and the date by which documentation for the application for admission to examination must be completed to qualify for the announced test.~~

~~Subp. 3. **Notification to admitted applicants.** The board shall notify in writing each applicant who has been admitted to a part of the examination. The notice shall state the date, time, and place where the applicant is scheduled to be examined. An applicant who fails to appear at the scheduled time for a part listed in subpart 1, item B or C, must submit a written request for deferment within 15 days after that date or forfeit the application fee. An applicant who fails to appear at the scheduled time for the part listed in subpart 1, item A, forfeits the application fee payable to the board.~~

~~Subp. 4. **Satisfactory performance on examination.** In order to qualify for licensure, the applicant must perform satisfactorily on all parts of the examination. An applicant for licensure who has performed satisfactorily on any part of the examination in another state or for another type of licensure is considered as having met the requirements of this rule with respect to that part of the examination.~~

~~Subp. 5. **Reexamination permitted.** An applicant determined not to have performed satisfactorily on a part of the examination may reapply and, upon payment of the current applicable fee, be reexamined on the part for which performance was not satisfactory.~~

SONAR: This rule has been repealed and replaced with proposed Minnesota Rule 7200.0550, EXAMINATION REQUIREMENTS FOR LICENSURE, which reads as follows:

7200.0550 EXAMINATION REQUIREMENTS FOR LICENSURE

Subpart 1. **Two examinations.** To qualify for licensure, an applicant is required to pass two examinations:

- A. a national standardized examination in psychology specified by the board; and

B. a professional responsibility examination specified by the board.

SONAR: The requirement for applicants to pass an oral examination in the applicant's field of practice conducted by a member of the Board is eliminated because the Board has never required such an examination. When this rule was written, the intent was to develop such an examination. Work was done on such development, but the examination was never implemented because of the difficulties inherent in reliability and predictive validity of oral examinations.

Subp. 2. **Passing scores.** The passing score for a national standardized examination is the recommended score defined by the Association of State and Provincial Psychology Boards for that examination. The passing score for the professional responsibility examination is specified by the board.

SONAR: This was modified to establish that the passing score will be the score recommended by the Association of State and Provincial Psychology Boards (ASPPB), the national entity that owns and develops the examination and to eliminate the prior reference in Minnesota Rule 7200.3000, subpart 1a that referenced two levels of licensure which no longer exist. The new rule also seeks to clarify the Board ultimately determines the passing score for which examination.

Subp. 3. **Requirements for admission to examination.** An applicant shall not apply for the national standardized examination or the professional responsibility examination until after the requirements for the degree have been completed. In order to be admitted to examination an applicant shall:

SONAR: In general, this subdivision replaces former Minnesota Rule 7200.0300, Requirements for Admission to Examination. It is reasonable to move it to this location in order to consolidate rules related to examinations. The rule in general clarifies the sequence and requirements in the process of application for licensure.

A. file with the board a completed application for admission to examination that includes an affirmation that the statements made on the application are true and correct to the best of the knowledge and belief of the applicant, and that is accompanied by payment in a manner specified by the board. This payment covers the current nonrefundable examination application fee;

SONAR: This modification eliminates the requirement that the application be notarized. The Board has observed difficulties for applicants in obtaining notarization of documents. This change also modifies the language pertaining to the form of payment submitted for examinations to allow more flexibility, as the previous rule required a "certified check or money order" made payable to the national entity sponsoring the examination. The national entity has modified the process for payment for the national examination and applicants deal directly with either ASPPB or the Professional Examination Service (PES) to submit payment for the national examination. Thus, this rule change is necessary and

reasonable because the change in the national examination process has changed so these rules are obsolete.

- B. provide transcripts of all graduate work, including verification of the degree granted, to be submitted directly to the board from the institution granting the degree. Official transcripts shall be received in the board office prior to processing the application;

SONAR: This proposed rule adds the language “Official transcripts shall be received in the Board office prior to processing the application.” This rule is to increase Board efficiency and to prevent the premature processing of applications absent all necessary documentation. This rule is also necessary and reasonable to make it clear that transcripts or verification of degree status have to be received in the Board office before the applicant can sit for the examination. This change is also reasonable to avoid unnecessary delays in the licensure process for applicants.

- C. for an application based upon the equivalent of a master’s degree in a doctoral program, provide for the equivalency to be verified in writing directly to the board by the degree program director or equivalent. Verification shall be received in the board office prior to processing the application; and

SONAR: This modification clarifies that the degree equivalency be verified by the degree program director or the equivalent rather than the broad language that stated that the degree equivalency be verified by the “institution granting the degree.” This is intended to improve the verification process, that is, to obtain verification from the individual most familiar with the coursework and the degree program and to streamline the application process for applicants by clarifying the requirement.

- D. have met the applicable requirements of part 7200.1300 and the requirements of part 7200.1500 or 7200.1600, if applicable.

SONAR: This language is added to clarify that applicants, as a condition of admission to examination, must demonstrate having met the educational requirements for licensure from a regionally accredited degree granting institution, or qualifying foreign institution.

Subp. 4. Denial of admission to examination. An applicant who has failed to meet the requirements in subpart 3, items A to C, shall be denied admission to the examination and informed in writing of the denial and the reasons for it. An applicant who has been denied admission to an examination may reapply and shall pay the current nonrefundable application fee with each application.

SONAR: This rule establishes and clarifies the conditions under which an applicant will be denied admission to examination and provides for adequate due process, notice of the denial, and the reasons supporting the denial. It restructures concepts from Minnesota Rule 7200.0500. It also delineates the right to reapply for examination and advises applicants that the fee is nonrefundable and must be paid again in connection with each

submission for admission to examination following a denial. These changes are necessary to communicate clearly to applicants the requirements for application for licensure.

Subp. 5. **Passing national examination while in another jurisdiction.** An applicant for licensure who has passed the national standardized examination required in subpart 1, item A, in another jurisdiction is considered to have met the requirements of this part with respect to that examination, provided performance on the examination in another jurisdiction is at least at the same level deemed satisfactory by Minnesota board standards at the time of the application.

SONAR: This is necessary and reasonable because the examination is given nationally and applicants may take the examination in other jurisdictions. This rule is also reasonable because it allows for licensed psychologists in other jurisdictions to move to Minnesota without having to retake the examination. The rule does make clear that applicants are required to meet the Minnesota state standards for passing the examination. This is not an unreasonable requirement, however, because the vast majority of jurisdictions in the United States and Canada use the same passing point on the examination.

Subp. 6. **Failure to pass or take examination.** An applicant who has failed an examination or failed to appear for an examination may reapply to take the examination subject to any limitations imposed by the Association of State and Provincial Psychology Boards or test vendor. The applicant shall pay the current nonrefundable application fee with each application.

SONAR: This language is similar to that contained in Minnesota Rule 7200.3000, subpart 5, and permits reexamination following failure to pass the examination, but is necessary because it clarifies Board policy that the nonrefundable application fee must be submitted separately with each application. It is also reasonable to include language advising applicants that the owner of the examination may impose its own restrictions.

7200.2035: LICENSURE BY MOBILITY:

Subpart 1. **General.** Applicants for licensure by mobility shall meet all the requirements for licensure under the Minnesota Psychology Practice Act.

Subp. 2. **Certificate or Diplomate.** The educational requirements of part 7200.1300, the national standardized examination requirement of 7200.0550, subpart 1, item A, and the postdegree employment requirements of part 7200.2000 shall be considered met if, at the time of application, the applicant provides acceptable evidence of certification as a current holder of the Certificate of Professional Qualification (CPO) issued by the Association of State and Provincial Psychology Boards (ASPPB) or of a diplomate from the American Board of Professional Psychology (ABPP). An applicant seeking to qualify for licensure under this part who is a graduate of a program that is not APA accredited and earned the degree after adoption of this rule, shall meet the human diversity requirement of part 7200.1300, subpart 5, item A, subitem (1), unit (f).

SONAR: These rules are necessary and reasonable to support national mobility and consistency in regulation and to decrease the redundant paperwork necessary for licensure. The requirements of

these two certificates are redundant with the educational and training requirements for licensure in Minnesota. The CPQ and ABPP are the highest level of credentialing available in the country, and require having passed the national examination, so an additional requirement regarding the examination is redundant. The diversity requirement is also necessary and reasonable because of the importance of that subject area in a diverse society and because a person from a non-APA approved graduate program may not have had training in human diversity.

7200.3100 DISPLAY OF LICENSE

~~A license shall be displayed on the premises of the primary location of the professional practice of the licensee. Upon request a provider shall present the license for review.~~

SONAR: This revision requires that providers be able to produce a valid license to clients and others for review, but does not impose the unnecessary requirement that the license be physically displayed in every office a provider has. The requirement is and should be that anyone practicing psychology must be licensed as a psychologist, not the display of the license.

7200.3200 TERM OF LICENSE.

A license is valid for the period beginning with the date on which the license is originally granted or granted after termination pursuant to part ~~7200.3600~~ or 7200.3700 and ending two years later on the last day of the month in which the license is granted. Thereafter the license is renewable for periods of two years, ending with the last day of the month in which the license is granted.

SONAR: Deletion of the automatic license expiration is consistent with revised rules regulating lapse of license and improved agency performance and responsiveness to licensees at the time of renewal, while continuing to protect the public by requiring that licensees have valid and current licensure and attendant continuing education. The essential public protection elements of this regulation are addressed elsewhere.

7200.3250 NOTIFYING BOARD OF ADDRESS CHANGE.

Licenseses and applicants shall designate to the board a public mailing address for all board correspondence. Licensees and applicants shall notify the board in writing within 30 days of a change of mailing address. Licensees shall also designate a public telephone number.

SONAR: The rule supports statutory requirements that licensee maintain current contact information with the Board. *See*, Minn. Stat. § 13.41, subd. 2(b). In addition to supporting the Board's performance, this public information improves the ability of clients and others to ascertain a provider's business address and contact information.

7200.3300 NOTICE OF LICENSE RENEWAL.

At least one month before the renewal date, a renewal notice identifying the renewal date and the amount of the current nonrefundable renewal fee shall be provided to each licensee. ~~sent to each licensee at the last known address of the licensee in the file of the board.~~ Failure to receive the notice shall not relieve the licensee of the obligation to pay the renewal fee ~~renew the license~~ according to part 7200.3400, subpart 1.

SONAR: This revision clarifies that it is the licensee's responsibility to complete all steps necessary to renew their license at appropriate intervals. This revision also allows the Board to operate more efficiently by eliminating the requirement that the renewal notification be sent via U.S. Mail to the licensee at their last known address, and allows for the sending of renewal notices utilizing the latest level of technology available.

7200.3400 RENEWAL DEADLINE; APPLICATION AND FEE.

Subpart 1. ~~**Payment of renewal date, information required fee.**~~ The biennial renewal fee shall ~~be remitted to the board.~~ Applications for renewal and fee must be received by the board or postmarked on or before the last day of the last month during which the license is valid.

~~The renewal fee shall accompany a completed notarized renewal application including a list of the continuing education activities since initial licensure or the preceding renewal, whichever applies, and an affirmation that the statements on the renewal application are true and correct to the best knowledge and belief of the licensee. The continuing education list must include the names of the sponsors, the dates and title of the activity, and the number of hours credited. The license renewal certificate shall not be issued unless the licensee has demonstrated that the requirements of parts 7200.3820 to 7200.3840 have been met. Each licensee is responsible for keeping the documentation of the licensee's attendance at sponsored continuing education activities or completion of individually designed activities for two years after the renewal date.~~

Subp. 2. ~~**Temporary renewal certificate.**~~ If the licensee is unable to meet the continuing education requirement by the renewal date, the licensee may request a time-limited variance to fulfill the requirement after the renewal date. The variance request must meet the requirements of part 7200.6000, subpart 1, and include a written plan listing the activities, including the dates and the number of hours for each, offered to meet the requirement. Hours completed after the renewal date pursuant to the written plan shall count toward meeting only requirements of the previous renewal period. A variance granted under this subpart expires six months after the renewal date. Upon board approval of the variance, the completion of all other requirements of subpart 1, the board shall issue a temporary renewal certificate that expires upon verification of completion of requirements or the end of the variance period, whichever comes first.

Subp. 3. ~~**Psychological practitioner requirements.**~~ The renewal application of a psychological practitioner must include the beginning and ending dates and hours worked per month for each position held during the preceding two years, the name of the supervising licensee and the number of hourly one-to-one supervisory consultation contacts per month for each position held,

~~and verification by each supervising licensee that the supervisory consultation met the requirements of Minnesota Statutes, section 148.925, subdivision 2, paragraph (a). If the supervising licensee is deceased or otherwise not available, verification may be provided by an agency director or clinical director who has knowledge of the supervisory consultations, or by affidavit or other acceptable documentation, such as a log.~~

~~Subp. 4. **Content of supervisory consultation.** The supervisory consultations between the supervising licensee and the psychological practitioner who is preparing for licensure as a licensed psychologist must meet the requirements of Minnesota Statutes, section 148.925, subdivision 2, paragraph (b), and be verified as provided in subpart 3 at the time of license renewal.~~

SONAR: This revision is necessary to clarify the renewal process for the Board and licensees. The rule regarding providing evidence of continuing education is deleted because of the change in how CE credits are processed by the Board. Subp 2 is deleted because of the change in how late renewal applications are processed in the new rules. Subps. 3 and 4 are deleted because of the statutory change in this licensure category.

7200.3500 LATE FEES.

An application for renewal postmarked or received after the last day of the last month during which the license is in effect is ~~valid only upon payment of~~ must be accompanied by both the ~~current~~ renewal fee and ~~current~~ the late fee.

SONAR: This revision is necessary to clarify the renewal process for the Board and licensees.

7200.3510 TERMINATION NOTICE FOR NONRENEWAL OF LICENSE.

Subpart 1. **Notice.** Within 30 days after the renewal date, a licensee who has not renewed the license, including submission of a completed application and affirmation of continuing education requirements, shall be notified by registered or certified letter sent to the last known address of the licensee in the file of the board that the renewal is overdue and that failure to pay the current renewal fee and current late fee within 60 days after the renewal date will result in termination of the license. A second notice shall be sent at least seven days before a board meeting occurring 60 days or more after the renewal date to each licensee who has failed to renew, ~~not remitted the renewal fee and late fee.~~

Subp. 2. **Termination of license.** The board shall terminate the license of a licensee whose license renewal is at least 60 days overdue and to whom notification has been sent as provided in subpart 1. Failure of a licensee to receive notification is not grounds for later challenge of the

termination. The former licensee shall be notified of the termination by registered or certified letter within seven days after the board action, in the same manner as provided in subpart 1.

SONAR: This revision clarifies the renewal process for the Board and licensees. Subpart 2 reincorporates the concepts of Minnesota Rule 7200.3605, Termination for Nonrenewal of License. This language also makes clear that additional requirements beyond paying the fee are necessary for renewal of licensure, and are essential for a licensee to avoid being subject to board termination of licensure for failure to renew proceedings.

REPEALED. ~~7200.3605 TERMINATION FOR NONRENEWAL OF LICENSE.~~

~~The Board by means of a roll call vote shall terminate the license of a licensee whose license renewal is at least 60 days overdue and to whom notification has been sent as provided in part 7200.3510. Failure of a licensee to receive notification is not ground for later challenge of the termination. The former licensee shall be notified of the termination by registered or certified letter within seven days after the board action, in the same manner as provided in part 7200.3510. Failure of the former licensee to receive notice of termination is not ground for challenging the termination.~~

SONAR: The deletion here and moving this rule to 7200.3510 is reasonable to be consistent with revised rules regulating license renewal and improved agency performance and to consolidate rules regarding licensure.

7200.3610 RELICENSURE FOLLOWING TERMINATION.

Subpart 1. **Relicensure requirements.** A former licensee whose license has been voluntarily terminated or terminated provided in part ~~7200.3605~~ 7200.3510, subpart 2, may be relicensed after complying with all laws and rules required of applicants for examination and licensure and verifying that the former licensee has not engaged in the ~~private~~ practice of psychology in this state since the date of termination, except according to the exemptions from licensure in Minnesota Statutes, section 148.96, subdivision 3. The verification must be accompanied by a notarized affirmation that the statement is true and correct to the best knowledge and belief of the former licensee. The fee for relicensure following termination is the licensure fee in effect at the time of application for relicensure, and statutes and rules governing relicensure are the statutes and rules in effect at the time the initial license was granted.

SONAR: These revisions are necessary to reflect statutory changes and to make clear that this rule applies to all practice of psychology. It is also reasonable and necessary to clarify that both the statutes and rules at the time of initial licensure will be applied in the event an applicant applies for relicensure following termination. Under current language ambiguity exists in that only the rules from the initial licensure were noted as applying and the statutes applicable were current statutes which created an impractical and often illogical result.

~~Subp. 2. Continuing education requirements for relicensure. A former licensee seeking relicensure who holds a license to practice in another state must provide verification from the other state that the licensee has met the continuing education requirements of the other state since termination of the Minnesota license. A former licensee seeking relicensure after license termination who has not held a license to practice in any state since termination of the Minnesota license must provide evidence of having completed at least 40 hours of continuing education activities that meet the requirements of parts 7200.3810 to 7200.3840.~~

SONAR: This revision clarifies and streamlines requirements for relicensure following termination and is necessary to be consistent with the revised continuing education rules.

7200.3620 PRACTICING WITHOUT A LICENSE.

A former licensee seeking relicensure following termination as provided in part ~~7200.3605~~ 7200.3510, subpart 2 who has engaged in the independent practice of psychology in this state since the date of termination is subject to disciplinary action at the time the new license is granted or to denial of licensure.

SONAR: This rule is modified as 7200.3605 will be repealed as it is contained now in 7200.3510, subpart 2.

7200.3700 VOLUNTARY TERMINATION.

A license may be voluntarily terminated at any time upon written notification to the board, unless a complaint is pending against the licensee. The notification must be received by the board prior to termination of the license for failure to renew. The board retains jurisdiction over a former licensee for complaints received after termination regarding conduct that occurred while licensed. A former licensee may be licensed again only after complying with all laws and rules, as provided in part 7200.3610, subpart 1, for relicensure ~~after~~ following termination.

SONAR: This rule is necessary to clarify the Board's jurisdiction to regulate the licensed practice of psychology, even in cases where the licensee has voluntarily terminated his or her license after engaging in regulated conduct.

7200.3810 PURPOSE OF CONTINUING EDUCATION.

SONAR: GENERAL STATEMENT. One major purpose of the current, comprehensive revision of the Rules of Continuing Education is to clarify them by means of reorganization and simplification where possible. For example, several changes to the continuing education rules simply involve the placement of an essentially unchanged rule in a different location, or involve combining parts of two or more rules into one rule. In other instances, minor but helpful grammatical changes were made. The second major purpose is to make substantive amendments to the rules where it has appeared to be necessary and reasonable to do so. Substantive changes are aimed not only at modifying existing rules and adding new rules where needed, but at eliminating unnecessary rules where possible.

The purpose of mandatory continuing education is to:

A. promote the health ~~and well-being~~, safety, and welfare of the residents of Minnesota who receive services from licensees; and

SONAR: These terms were changed to make the purpose of these rules clearer and more consistent with the goals of regulation as stated in Minnesota Statutes, section 148.881 and the goals of requiring continuing education.

B. promote the professional ~~development~~ competence of providers of these services.

SONAR: This change was necessary to make it clear that the purpose of CE is the promotion of continued competence and to make these rules more consistent with the emphasis on competent practice in the proposed rules of conduct, reflective of what has been referred to as the “culture of competence” in the field of psychology. The amendment is necessary to state the Board’s position that there is an explicit and primary connection between the level of a licensee’s competence and the protection of the public health, safety, and welfare.

The continued ~~professional growth~~ development and maintenance of competence ~~in providing psychological services, including the ability to address competently the psychological needs of individuals from culturally diverse populations,~~ are ongoing activities and are ethical responsibilities of each licensee.

SONAR: These rules emphasize first, the importance throughout the licensee’s career of the maintenance of competence in the provision of psychological services. Disciplinary data that suggest that providers who have held licenses for a long period of time have a higher probability of violating the rules of the Board make this emphasis necessary. Second, the proposed rule emphasizes the importance of considering issues of diversity, which is an emphasis contained throughout the proposed rules. The emphasis on diversity is reasonable and necessary because of our increasingly diverse society and the importance of the provision of psychological services to members of culturally diverse populations. It is also necessary to emphasize the Board’s inclusion of competence in responding to the needs of culturally diverse individuals in its conception of what it means to be competent more generally. Part 7200.3810 is additionally amended by deleting the phrase “in providing psychological services.” This is necessary and reasonable because the definition of competence (*See*, part 7200.0100, subpart 3a) already makes it clear that competence is in reference to the provision of psychological services.

7200.3820 CONTINUING EDUCATION REQUIREMENTS.

~~Except as provided in part 7200.3840,~~ As a requirement for license renewal, each licensee ~~must~~ shall have completed during the preceding renewal period a minimum of 40 hours of continuing education activities approved by the board according to part 7200.3830.

SONAR: It is necessary and reasonable to delete the exception referenced in part 7200.3820 because part 7200.3840, to which it refers, has been deleted. Language describing how a continuing education hour is computed has been transferred from part 7200.0100, subpart 4a. It is necessary to remove this language from the definition section because it does not properly belong in a definition. It is necessary to retain this language because it states the objective method by which continuing education hours are calculated.

It is reasonable to place this language in part 7200.3820 because it immediately precedes the continuing education activities in part 7200.3830, to which it refers.

7200.3825 CALCULATION OF CONTINUING EDUCATION CREDIT.

Unless otherwise stated, one continuing education hour equals 60 minutes. Credit is given in one-half hour increments to the nearest one-half or full hours.

SONAR: This rule was necessary to make clear to providers how hours for CE requirements are counted. This was made necessary by the number of telephone calls to Board staff regarding this issue.

7200.3830 APPROVAL OF ELIGIBLE CONTINUING EDUCATION ACTIVITIES.

SONAR: The rewrite of this rule is reasonable and necessary in that it simplifies the calculation of CE units, and results in a more balanced approach to credit earned. Furthermore, the means of necessary documentation of the activity is listed or clarified for each option in order that providers know what they must do to demonstrate appropriate activity for CE units. Fourth, where the number of hours of credit is not clarified by part 7200.3825, the means by which hours will be computed is listed. Fifth, some of the current rules were re-written to simplify the language, to make the rule more readable and understandable, and to make these rules consistent with other proposed rules. These amendments are necessary and reasonable in order to make the rules more understandable, clearer, and more easily usable by licensees and the public

Subpart 1. **Continuing education activities eligible for approval.** The activities in items A to G are ~~designated as sponsored activities that may be used to meet continuing education requirements eligible for approval,~~ provided they meet the definition and purpose of continuing education in part ~~7200.0110~~ parts 7200.0110, subpart 4a, and ~~pertain to psychology or enhance psychological skills 6, and 7200.3810.~~

- A. Developing and teaching an academic course in psychology at an institution accredited by a regional accrediting association. Continuing education hours may be earned only for the first time the licensee teaches the course. One academic credit, ~~unit or hour~~ equals ten continuing education hours. Acceptable documentation is verification from the ~~dean or head of the department of~~ degree program director or the equivalent at the institution that the licensee taught the course for the first time and ~~of the number of~~ academic credits, ~~units, or hours~~ assigned by the institution.

SONAR: It is reasonable to eliminate the use of the terms “unit or hour(s)” and to rely on academic credit awarded to clarify and simplify the calculation of continuing education credit.

Item A is further amended to require verification of the activity “from the degree program director or equivalent.” This is necessary to indicate the Board’s objective basis for determining whether this continuing education activity shall be approved. It is reasonable to use the degree program director or equivalent for this purpose because this individual is typically the one most likely to be familiar with the licensee’s academic work at the institution and can therefore best verify that the licensee taught the course content for the first time and provide the number of credits assigned by the institution.

- B. Attending presentations based on scientific, practice, or professional standards foundations. Attendance may include participation by means of audio or audio-visual electronic communication. Acceptable documentation of completion is a certificate of attendance. For activities that do not provide a certificate of attendance, acceptable documentation of completion is a registration receipt with a printed program or brochure.

SONAR: Item B is amended in several ways. Most significantly, it adds a new criterion for the content of continuing education activities; namely, that they have a scientific, practice, or professional standards foundation, as defined in part 7200.0110, subparts 17, 21, and 27. This standard replaces language formerly in deleted subpart 6, item D, that refers to the “relation of the proposed topics to the body of psychological knowledge.” The terms scientific foundation, practice foundation, and professional standards foundation are themselves newly and separately defined.

This change is necessary to strengthen the foundation out of which the amended purpose of continuing education described in part 7200.3810 is to be achieved. The health, safety, and welfare of consumers of psychological services, as well as the competence of providers, can in general be enhanced by requiring more rigorous criteria for mandatory continuing education activities. It is a reasonable approach to achieve this purpose by encouraging providers to apply scientific psychology and to refine their scientific, practice, and professional standards knowledge base. Instead of the more subjective or inexact criterion that there shall be a “relation of the proposed topics to the body of psychological knowledge,” there is now a more rigorous requirement that the continuing education activity shall have a generally recognized scientific, practice, or professional standards foundation in psychology or related disciplines. It is reasonable to require that mandatory continuing education activities be based upon generally recognized standards within the scientific and professional communities, as well as objective legal standards, rather than some other, more subjective, criteria. It is also reasonable to permit credit for continuing education activities to incorporate information from or be based on fields that clearly overlap with, relate to, or contribute to psychology; e.g., psychiatry or other medical specialties, social work, and anthropology. It is the intention of this rule that, if the majority (more than half) of a continuing education activity is based on one or more of these three bases, the entire activity shall be credited—provided, of course, that all other criteria for approval have also been met.

It is necessary and reasonable to replace “Attendance at” with “Attending” to conform to the same grammatical construction as the other items in subpart 1. The meaning of attendance is also expanded to include the possibility of “participation by means of visual and interactive electronic communication.” This is necessary in view of the increasing use of electronic communication technologies, including teleconferencing, that permit or enhance opportunities for continuing education.

It is necessary to reduce confusion regarding the term “seminar” because it can be potentially misunderstood to mean coursework at an educational institution, which this subitem is not intended to address (see instead item D). It is reasonable to accomplish this by deleting this term. For the same reason, the term “transcripts” is also deleted. It is also necessary and reasonable to remove the reference to audited graduate courses because this continuing education activity is addressed in item D.

This part is also amended to clarify that acceptable documentation refers only to evidence “of completion,” as distinct from the other documentation requirements. This is necessary and reasonable because it eliminates potential confusion regarding the entirety of documentation that is required. It is necessary and reasonable to clarify that documentation of completion “is,” rather than “includes,” a registration receipt, along with a printed program, because additional evidence is not needed. This item also allows a “brochure” to be substituted for a printed program as documentation of completion. It is necessary to provide an alternative form of documentation because at times there is no printed program. In such cases, a brochure is a reasonable alternative.

Finally, the former reference to scientific or professional programs “offered at meetings of local, state, regional, national, or international professional or scientific organizations” is deleted. This is necessary because to leave this qualifier in the rules could unnecessarily limit the potential forums qualifying for continuing education credit in which scientific or professional programs are presented.

- C. Completing home study or computer based courses offered by a vendor. Acceptable documentation of completion includes verification by the vendor that the licensee has passed all post-tests, or a completion certificate issued by the vendor. Hours of credit listed by the vendor shall be used in determining the hours to be credited by the board.

SONAR: Item C is a new sponsored continuing education activity. It is necessary and reasonable to add this activity because of the increasing importance of home study and computerized means of transmitting educational materials. The acceptable documentation is necessary and reasonable to allow the Board to objectively determine whether the continuing education activity serves a continuing education purpose and whether the licensee completed the course materials.

~~B-~~ D. Completing satisfactorily a graduate level course in psychology offered by an institution accredited by a regional accrediting association. ~~The course need not be submitted for prior approval by either the sponsor or the individual licensee.~~ Acceptable documentation is an academic transcript showing graduate credits earned. One academic credit ~~unit, or hour~~ equals 20 eight continuing education hours. Audited courses earn four continuing education hours per academic credit.

SONAR: Item D is amended as it is necessary to eliminate the existing parity between audited and unaudited courses, since less time is required to complete an audited course, and there are fewer ways to measure learning. For example, in an audited course, assignments need not be completed, nor is a grade issued. It is reasonable to achieve the goal of equivalence by allowing half the continuing education hours for completing an audited course versus one not audited.

Item D is also amended by deleting language pertaining to the opportunity for prior approval of the course by either the sponsor or the individual licensee. Regarding licensees, it is necessary and reasonable to delete this language because licensees are no longer permitted to request prior approval of any continuing education activities. Regarding the “sponsor” or host institution, it is necessary and reasonable to delete this language because there is sufficient assurance that the course is an appropriate continuing education activity due to the existing requirement that it shall be “a graduate level course in psychology offered by an institution accredited by a regional accrediting association.”

~~E. E. Developing a presentation for workshops, seminars, symposia, colloquia, invited speaker sessions, meetings of professional or scientific organizations, or postdoctoral institutes and presenting a presentation based on scientific, practice, or professional standards foundations. Acceptable documentation of completion is a printed program or agenda, or copies of the presentation materials or slides. One presentation hour of development equals one three continuing education hour and up to three hours of development time may be claimed hours for each hour of presentation. Continuing education hours may be earned only for development for the licensee’s first presentation on the subject developed of the content.~~

SONAR: This item is revised to eliminate the list of possible forms a presentation can take as both unnecessary and, potentially, not comprehensive, and replacing the list with the word “presentation.” It also creates the standard that presentations must be based on scientific, practice, or professional bases, as defined in rule 7200.0110. The revisions regarding documentation reflects the Board’s experience that a number of licensees have been confused as to whether development time or presentation time (or both) may be credited for continuing education hours. Therefore, it is reasonable to simplify the language and use only presentation but to allow three hours of CE credits for each hour of presentation to account for the time spent developing the presentation.

F. Developing taped or computerized materials based on scientific, practice, or professional standards foundations. Acceptable documentation of completion is a copy of the materials. Three continuing education hours may be claimed for each hour of published running time.

SONAR: Item F is a new continuing education activity. The addition of computer-based courses was added because of the prevalence and availability of such courses and the increasing importance of home study and computerized means of transmitting educational materials. Allowing up to three hours of development time for each hour of running time is necessary and reasonable because it parallels the credit allowed for the development of presentations at workshops and related meetings.

D. **G. Authoring, editing, or reviewing a psychological publication.** Continuing education hours may be earned only in the year of publication or first distribution. Acceptable documentation includes a publication cover sheet, masthead, table of contents, or marketing materials. The maximum hours earned are as follows:

- (1) author of a professional or scientific book, equals 40 hours, and acceptable documentation is a copy of the title page and other pages that document the date of publication;
- (2) author of a professional or scientific book chapter or peer-reviewed journal article, equals 20 hours, and acceptable documentation is the table of contents showing the title and author and other pages that document the date of publication;
- (3) author of a professional or scientific article in an edited newsletter of a professional association equals five hours, and acceptable documentation is a copy of the article and the publication cover sheet;
- ~~(3)~~(4) editor of a professional or scientific book, or peer-reviewed journal equals 30 hours, and acceptable documentation is a copy of the title page and any pages that document the date of publication;
- ~~(4)~~ editor of a professional or scientific journal, 30 hours;
- (5) editor-in-chief of a professional or scientific journal equals 40 hours, and acceptable documentation is a copy of the journal masthead and pages that document the dates that the licensee is the editor-in-chief;
- ~~(5)~~ (6) journal article review, one hour three hours per manuscript, and for this activity only, continuing education hours may be earned in the year the review is received by the editor, and acceptable documentation is a letter from the editor verifying the review has been provided; and
- ~~(6) other professional or scientific activities not covered in subitems (1) to (5), including preparation of products such as tests, videotaped materials, and computer programs. Up to 40 hours may be credited, the amount to be determined by the board using the amounts in subitems (1) to (4) as guidelines.~~
- (7) author of a test based on scientific foundations equals 30 hours, and acceptable documentation is a copy of the test and the test manual.

SONAR: Two general changes have been made to this rule. First, the term “peer-reviewed” was added in a number of subitems. This is a necessary and reasonable means of improving the quality of all these activities, consistent with the goal of the revised CE rules in general, such as those above requiring that presentations be based on scientific, practice, or professional bases. Second, language has been added to many of the subitems stating what acceptable documentation is. This is necessary to indicate the Board’s objective basis for determining whether a continuing education activity shall be approved, so that licensees will know exactly what information to submit. The documentation required for each subitem is the substantiation that is reasonable to indicate that the activity was completed and meets the requirements for CE credit, including having been completed within the license renewal period.

Subitem 3 is a new rule. It continues existing Board practice of allowing continuing education

credit for authoring “a professional or scientific article in an edited newsletter of a professional association.” Previously, the Board included such articles under part (2), because of their similarity to a “journal article.” However, edited newsletters of a professional association typically do not undergo the same stringent review policies found in professional or scientific journals, and do not require the same degree of scholarship. As a result, it is necessary to categorize such newsletter articles separately and reasonable to allot fewer hours of CE credit for this activity.

Adding newsletter articles is necessary because they can serve a valuable professional function and contribute meaningful information to their readership. A hypothetical example of an acceptable article within the meaning of part (3) would be one that is written for the edited newsletter of a professional psychological association that describes and analyses a scientific, practice, or professional standards issue or controversy. However, it is not the intent of this part to include, for example, articles written primarily for an in-house clinic newsletter or similar publication with no meaningful editorial process. It is also not the intent to include articles with minimal or no scientific, practice, or professional standards foundation, such as advertisements, material describing one’s professional services, or announcements.

Subitem 5 has been amended to refer to “editor-in-chief” rather than “editor” of a professional or scientific journal. This is necessary to clarify the rule’s intent. Editors other than the editor-in-chief are typically involved more peripherally in the overall responsibility for the professional quality and worthiness of all material appearing in a journal. As a result, it is reasonable to allow continuing education hours to be credited to the editor-in-chief only. (However, other editors may still earn continuing education hours as reviewers of individual journal articles—see part (6)).

Subitem 6 pertains to journal article reviews. It has been amended in three ways. First, because reviewing a journal article is a more labor-intensive activity than is reflected in the previous rule, it is necessary to change the amount of continuing education hours permitted for this activity in order to create a fairer crediting of continuing education hours. As compared to other continuing education activities, it is reasonable to allow up to three hours of continuing education hours per manuscript reviewed, rather than one hour.

Second, regarding documentation, it is necessary to recognize that many properly reviewed manuscripts are rejected for publication and thus their journal reviews will not meet the documentation criteria set forth in subitem 2, namely, that “continuing education hours for editing may be earned only in the year of publication or first distribution,” and that there be a “publication cover sheet, masthead, table of contents, or marketing materials.” Documentation requirements for journal reviews must also recognize that manuscript publication dates often occur much later than their review dates. Given these issues, it is also reasonable to require that, “continuing education hours may be earned in the year the review is received by the editor.”

Finally, the rule now requires that the licensee include “the editor’s letter of request for the review” along with the licensee’s request for Board approval. This is necessary because the Board requires evidence that the activity has been completed. Although a letter of request is not as desirable as a copy of the review, it is nevertheless reasonable because (a)

the Board's inquiries indicate that it would be unreasonably problematic to require that a journal editor write a letter to the Board verifying receipt of a journal review from a licensee, and, (b) because obtaining a copy of a review for the purpose of the Board's continuing education rules appears to be prohibited by many journals due to legal ownership questions.

Subitem 7 pertains to authorship of a scientific test. This unit has been significantly amended by no longer giving credit as a non-sponsored activity for "other professional or scientific activities...such as...videotaped materials, and computer programs." This is necessary and reasonable because it has been the Board's experience since the initial continuing education rules were written in 1991 that materials submitted under this subitem have often been of questionable professional merit, such as internal clinic newsletters. To remedy this problem, it is reasonable to delete most of this subitem. It is also reasonable because the impact of deleting the indicated continuing education activities is likely to be minimal as it has been used only infrequently by licensees.

Continuing education credit of up to 30 hours is permitted for authoring a scientific test. This amount is reasonable because, as compared to other continuing education activities, the amount of time appears to be roughly comparable to editing a professional or scientific book (30 hours), or midway between authoring a professional or scientific book chapter (20 hours) and authoring a professional or scientific book (40 hours).

Acceptable documentation of completion is "a copy of the test and the test manual." This is necessary and reasonable to allow the Board to objectively determine whether the test is scientifically based and whether the hours claimed appear reasonable.

~~E. Attendance at workshops, seminars, symposia, colloquia, invited speaker sessions, postdoctoral institutes, or scientific or professional programs offered at meetings of local, state, regional, national, or international professional or scientific organizations, or audited graduate courses at an institution accredited by a regional accrediting association. Acceptable documentation includes a certificate of attendance or a transcript. For activities which do not provide a certificate of attendance or transcript, documentation includes a registration receipt with a printed program.~~

~~F. Completion of audio-visual or other home study courses. Acceptable documentation includes transcripts, personal notes, or posttests. Three hours of activity equals one continuing education hour.~~

~~G. Service on board oral examination panels. One day of service equals eight continuing education hours. Continuing education hours may be credited once per renewal period.~~

SONAR: The entire list of acceptable CE options was re-written in order to accomplish group CE according to categories. There is an emphasis placed on scientific, practice, or professional standards foundations in order to set standards within the rules for the types of activities that will be approved by the Board for CE units. Fourth, the means of necessary documentation of the activity is listed or clarified for each option in order that providers know what they must do to demonstrate appropriate activity for CE units. Fourth, where the number of hours of credit is not clarified by part 7200.3825, the means by which hours

will be computed is listed. Fifth, some of the current rules were re-written to simplify the language, to make the rule more readable and understandable, and to make these rules consistent with other proposed rules.

Subp. 2. ~~Sponsor~~ Request for board approval.

A. A sponsor or licensee may request ~~in writing~~ board approval ~~at any time~~ for activities ~~intended to meet continuing education requirements~~ in subpart 1. The sponsor or licensee shall be notified within 45 days after receipt of a request ~~that includes the information required in subpart 4~~ whether the activity has been approved or denied. The board may approve all, a portion, or none of the submitted activity according to this part. The request shall be in writing, and in the case of a sponsor application for approval, it shall be accompanied by the applicable fee. Sponsor and licensee requests shall include the following:

SONAR: These changes are necessary to clarify and simplify the language of this rule and to clarify the procedure for board approval of the proposed CE activity. These changes are reasonable and necessary in that they only involve a reordering to make the rules more readable and additions to clarify the requirement that the activity contribute to the development or maintenance of competent practice, based on scientific, practice, or professional standards.

- (1) the name and address of the sponsor;
- (2) the names, academic degrees, and credentials of the presenters, if appropriate;

SONAR: Item A, subitem (2) adds the requirement that the “academic degree” of a presenter of a continuing education activity be included with the name and credentials. This is necessary to improve the Board’s ability to evaluate the presenter’s qualifications. It is reasonable to add this requirement because this information is usually available to the licensee and not burdensome for the licensee to provide. In addition, the term “instructor” is replaced with “presenters.” This is both necessary and reasonable because the former term, as commonly understood, could be mistakenly interpreted as referring to an individual providing coursework at an educational institution, which this subitem is not intended to address.

- (3) the title of the activity and an outline of topics covered;

SONAR: The language in Item A, subitem (3) is simplified. It also includes “the title of the activity” as an additional requirement. This is necessary because the Board must know the title of a continuing education activity to reference it, including when a licensee lists the activity as meeting a licensure renewal requirement. It is reasonable to make this requirement explicit to alert both sponsors and licensees that this requirement exists and to decrease the time Board staff must use to request such information when it is omitted.

- (4) an agenda that specifies the timetable of instruction and other didactic activities;

SONAR: Item A, subitem (4) replaces the requirement that the Board be informed about “the number of hours of actual instruction” with, instead, “an agenda that specifies the timetable of instruction and other didactic activities.” This information is necessary to help the Board make an independent determination about how many hours to credit a submitted continuing education activity. Currently, the Board needs to request a timetable if one has not been provided so that it can determine the actual hours of instruction to be approved; the amendment to subitem (4) makes this explicit. It is reasonable to require an agenda for this purpose to increase the efficiency of the approval process for licensees, sponsors, and the Board. “Other didactic activities” refers to the possibility that some of an activity’s time may be spent in learning modalities other than instruction, such as field or laboratory work. It is necessary and reasonable to clarify that such activities are eligible for continuing education credit and should be included in the agenda.

(5) the location and dates of the activity;

SONAR: Item A, subitem (5) simplifies and combines the previous rules to make them more readable.

(6) a statement of the educational objectives and targeted participants;

(7) the mechanism for monitoring and clarifying attendance;

SONAR: Item A, subitem (7) deletes the requirement that sponsors or licensees seeking continuing education approval include a statement of the “expected outcomes” of the continuing education activity. This is necessary because “expected outcomes” and “educational objectives,” which are routinely included in brochures regarding workshops, are largely duplicative and the expected outcomes may not be known by the licensee.

(8) upon request, an explanation of how the activity contributes to the development or maintenance of the licensee’s competence; and

SONAR: Item A, subitem (8) is a new subitem, added to reflect Part 7200.3810 Item B, which lists “promot(ing) the professional competence of providers” as one purpose of mandatory continuing education. To implement the intended purpose of continuing education stated in part 7200.3810, it is necessary and reasonable for the Board to require that the licensee provide information as to how the requested continuing education activity meets this purpose.

(9) upon request, documentation of the scientific, practice, or professional standards foundation for the topics covered.

SONAR: Item A, subitem (9) is a new subitem. This requirement is necessary and reasonable because it allows the Board administratively to implement the language in rule 7200.3830, subpart 1 that requires all continuing education activities to have “primarily a scientific, practice, or professional standards foundation.”

Regarding the application of subitem (9), it is required that the licensee who seeks

approval of a continuing education activity that has a scientific foundation shall, when requested, document this by citing empirical studies, such as, but not limited to, published peer-reviewed experiments, correlational studies, or observational studies. This is necessary and reasonable because the Board must determine whether the “scientific foundation,” as defined in part 7200.0110, subpart 27, has been met.

It is required that the licensee who seeks approval of a continuing education activity that has a practice foundation shall, when requested, document this by citing professional materials that contain observations, methods, procedures, or theories that are generally accepted by the professional community in psychology. This is necessary and reasonable because the Board must determine whether the “practice foundation,” as defined in Part 7200.0110, subpart 17, has been met.

It is required that the licensee who seeks approval of a continuing education activity that has a professional standards foundation shall, when requested, document this by citing practice-related statutes, licensure rules, legal decisions, ethics codes, and practice guidelines in psychology or related disciplines. This is necessary and reasonable because the Board must determine whether the professional standards foundation defined in 7200.0110, subpart 21, has been met.

B. When an activity is approved, the sponsor shall include the board’s approval log number on the activity’s brochure and certificate of attendance. The sponsor’s brochures advertising approved activities shall include the information required under item A, subitems (1) to (7).

SONAR: This rule is reasonable as a means of eliminating the need for duplicating this requirement throughout the CE rules.

Materials advertising approved activities may include the statement: “THIS PROGRAM HAS BEEN APPROVED BY THE MINNESOTA BOARD OF PSYCHOLOGY FOR (NUMBER) CONTINUING EDUCATION HOURS.” Materials advertising ~~nonapproved~~ activities that have not been approved may not include such a statement or otherwise imply board approval. ~~Violation of this subpart by a sponsor who is a licensee is grounds for disciplinary action.~~

SONAR: These changes are necessary to clarify the procedure for approval of a proposed CE rule and to require that potential recipients of CE activities be informed of those elements of an activity that qualify it for Board approval.

Subp. 3 [See repealer.]

Subp. 4 [See repealer.]

Subp. 5. [See repealer.]

SONAR: This rule is eliminated as unnecessary because individually designed CE is no longer an approved CE activity under these proposed rules.

Subp. 6. [See repealer.]

SONAR: This rule is no longer necessary because the criteria for approval are now included with each individual rule, for ease of usage.

REPEALED 7200.3840 CONTINUING EDUCATION HOURS FOR FIRST RENEWAL AFTER BEGINNING DATE.

~~Parts 7200.0100 to 7200.3840 are effective on the first day of the month following publication of their notice of adoption in the State Register. Continuing education requirements for the first renewal following the effective date are as follows:~~

~~A. for licensees whose renewal dates occur less than six months after the effective date, no continuing education hours;~~

~~B. for licensees whose renewal dates occur at least six months but less than one year after the effective date, ten continuing education hours;~~

~~C. for licensees whose renewal dates occur at least one year but less than 18 months after the effective date 20 continuing education hours; and~~

~~D. for licensees whose renewal dates occur at least 18 months but less than two years after the effective date, 30 continuing education hours.~~

SONAR: It is necessary and reasonable to delete part 7200.3840 in its entirety because it no longer applies. Because the date these rules took effect occurred in the midst of most license renewal periods, this part provided the means for phasing in initial continuing education rules during each licensee's first license renewal period following the adoption of the rules. Enough time has now elapsed such that no licensees are within the time period that was addressed in this part. There is also no need to write a corresponding rule regarding the initial phasing in of the current revised continuing education rules because the implementation date for each licensee will be at the start of the licensee's next full license renewal period.

7200.3845 AUTOMATIC APPROVAL.

Any activity approved for continuing education credit by the American Psychological Association (APA), the Association of State and Provincial Psychology Boards (ASPPB), or other national professional organization as determined by the board, shall automatically be approved for continuing education credit without further application by the sponsor or licensee.

SONAR: This rule has been added to be consistent with the general inclusion in the proposed rules of mobility options, to decrease duplicative efforts on the part of the Board, and to clarify current Board procedures for approval of CE activities.

7200.3850 DOCUMENTATION AND REPORTING COMPLIANCE.

Subpart 1. **Renewal Requirements.** Every two years, when the licensee applies for renewal of the license, the licensee must complete and submit an affidavit of continuing education compliance showing that the licensee has completed a minimum of 40 approved continuing

education hours since the last renewal. The licensee's renewal application shall be deemed incomplete and void upon failure to submit the affidavit when required.

SONAR: It is necessary for the Board to have an implementation date for the revised continuing education rules. It is reasonable to base this date on each licensee's individual license renewal period, rather than select the same date for all licensees, because renewal dates for licensees as a group occur throughout each of the 24 months of a renewal period. It is reasonable to begin the implementation date with the licensee's first full license renewal period following the publication of the notice of adoption of the continuing education rules in the State Register because this will not unduly disrupt the licensee's continuing education plans and activities under the previous rules.

Subp. 2. Record retention. All licensees shall retain original documentation of attendance and completion of continuing education hours for a period of eight years after the renewal date.

SONAR: Given that documentation will no longer accompany the renewal application, it is reasonable and necessary to require retention of records to allow the Board to verify completion of CE requirements, if there is a need. Additionally, the statute of limitations on complaints, in general, is 7 years, in the event that the Board needs to conduct an investigation or review documentation, a period of 8 years is reasonable, which is the statute of limitations plus one year.

7200.3860 CONTINUING EDUCATION AUDIT

The board shall randomly audit a percentage of renewing licensees each month for compliance with continuing education requirements.

A. During the first ten days of the month following the renewal date, the board shall send a notice to the licensee that the licensee has been selected for an audit of continuing education hours. The notice shall include the reporting period selected for audit.

B. Selected licensees shall submit copies of the original documentation of continuing education hours completed during the reporting period. Upon specific request, the licensee shall submit original documentation. Failure to submit required documentation shall result in the renewal application being considered incomplete and void and constitute grounds for termination for nonrenewal of the license and disciplinary action.

C. The continuing education list must include the names of the sponsors, the dates and titles of activity, and the number of hours credited. A license renewal certificate shall not be issued unless the licensee has demonstrated that the requirements in parts 7200.3820 to 7200.3830 have been met.

D. If the licensee fails to meet the continuing education requirements by the renewal date, the license renewal is deemed late and the licensee will not be permitted to renew electronically. The renewal application must then be submitted in writing along with all documentation, renewal

fee, and renewal late fee. The licensee may request a time-limited variance to fulfill the continuing education requirements after the renewal date. The variance request must meet the requirements of part 7200.6000, subpart 1, and must include a written plan listing the activities including the dates and the number of hours for each activity offered to meet the requirement. Continuing education activities completed after the renewal date pursuant to the written plan shall count toward meeting only the requirements of the previous renewal period. A variance granted under this part expires six months after the renewal date.

E. A provider who has submitted a request for a time-limited variance for continuing education requirements according to item D, or whose continuing education is under review by the board, may continue to practice until the board has taken action on the variance request, or the review is complete.

SONAR: Rules 7200.3850 and 7200.3860 are new rules and are necessary and reasonable to decrease the amount of staff time required for verification of approved CE activities, while retaining the Board’s function of protection of the public, by allowing for an audit system, whereby a certain percentage of renewal applications will be audited to make sure that reported CE activities were in fact completed.

7200.4500 RULES OF CONDUCT

Subpart 1. **Scope.** The rules of conduct ~~constitute the code of ethics~~ as required by Minnesota Statutes, section 148.98 and, apply to the conduct of all licensees and applicants providers, including conduct during the period of education, training and employment ~~which that~~ is required for licensure.

SONAR: This subpart has been amended to strike “constitute the code of ethics.” This is necessary and reasonable because the rules of conduct are not intended to be an ethical code of conduct. Ethical codes reflect aspirational goals that guide providers toward the highest ideals of their profession. On the other hand, while licensure statutes and their accompanying rules are often consistent with ethical codes, by their nature they are intended to reflect the minimum standards of conduct required of all providers under the jurisdiction of a licensing Board in order to protect the public.

Subp. 2. **Purpose.** The rules of conduct constitute the standards ~~against~~ by which the professional conduct of a ~~psychologist~~ the provider is measured.

SONAR: The only change to this rule is to replace “against” with “by.” This is necessary and reasonable to eliminate the unintended adversarial tone of the rule.

Subp. 3. **Violations.** A violation of the rules of conduct ~~constitutes unprofessional or unethical conduct and~~ is a sufficient reason for disciplinary, corrective action, or denial of licensure.

SONAR: There are two amendments to this rule. It is necessary and reasonable to strike

the reference to **“constitutes unprofessional or unethical conduct”** because the rules are not intended to constitute a code of ethics. **“Unprofessional conduct”** is defined and referenced in rule 7200.0110. It is necessary to add the term **“corrective action”** because statutory authority allowing the Board to utilize corrective actions in response to rule violations was enacted after this subpart was originally written.

~~REPEALED.—Subp. 4. Aid to interpretation. The Ethical Principles of Psychologists and Code of Conduct shall be used as an aid in resolving any ambiguity which may arise in the interpretation of the rules of conduct. However, in a conflict between the rules of conduct and the ethical principles, the rules of conduct shall prevail. The Ethical Principles of Psychologists and Code of Conduct, published in the American Psychologist by the American Psychological Association, December 1992, is incorporated by reference and is available at the state law library. It is not subject to frequent change.~~

SONAR: It is reasonable and necessary to delete this rule because current Board practice in resolving ambiguities does not rely on the APA Code and the rule is, therefore, misleading to providers and to the public. Instead, the Board relies on Minnesota statutes and rules in resolving any ambiguity in any specific rule or situation.

Subp. 5. Conflicts between rules and organizational demands. If the organizational requirements at the provider’s work setting conflict with the rules of conduct, the provider shall clarify to the employer the nature of the conflict, make known the requirement to comply with the rules of conduct, and resolve the conflict in a manner that results in compliance with the rules of conduct.

SONAR: It is the intention of this subpart to acknowledge that there may be atypical situations in which an employer’s policies conflict with a Board rule and a provider has limited ability to make the organizational change. Typically, this will involve policies in a large organization over which the provider has little or no influence. In such situations, the licensee is expected to resolve the situation in a manner that results in compliance with the Minnesota Psychology Practice Act, including the administrative rules.

7200.4600 ~~COMPETENCE~~ COMPETENT PROVISION OF SERVICES.

Subpart 1. ~~Limits on~~ **Competent practice.** ~~A psychologist Providers shall limit practice to the areas of competence in which proficiency has been gained through education and training or experience and which have been stated in writing to the board by the psychologist~~ services that they can provide competently as defined in part 7200.0110, subpart 5.

SONAR: It is reasonable to clarify the language of this section by requiring providers to limit practice to the services they can provide competently and to reference the new definition of competent services as contained in part 7200.0110, subpart 5.

~~REPEALED. Subp. 2. **Accurate representation.** A psychologist shall accurately represent areas of competence, education, training, experience, and professional affiliations of the psychologist to the board, the public and colleagues.~~

SONAR: It is necessary to strike this subpart because it is duplicated in 7200.5100, subp. 2. For usability and organization it is reasonable to place the topics covered by accurate representation with part 7200.5100, subp. 2, “Misrepresentation.”

~~REPEALED. Subp. 2a. **Burden of proof.** Whenever a complaint is submitted alleging a violation of subpart 1 or 2, the burden of proof is upon the psychologist to demonstrate the education and training that supports the psychologist’s claim of competence.~~

SONAR: This rule is unnecessary in light of the change to subpart 2. If there is a question about a licensee’s competence, a more complete description of how competencies are developed is now contained in part 7200.4600, subp. 3a.

~~REPEALED. Subp. 3. **Consultation with other professionals.** In cases in which a new service, technique, or specialty is developing, a psychologist shall engage in ongoing consultation with other psychologists or similar professionals as skills are developed in the new area and shall seek continuing education which corresponds to the new area. A client whose treatment involves the use of a newly developing service, technique, or specialty shall be informed of its innovative nature and of known risks associated with it.~~

SONAR: The intent of this rule originally was to ensure that providers did not practice outside the scope of their competence. However, that requirement is already subsumed in subpart 1, such that this rule is only educational in nature and, therefore, can be deleted.

Subp. 3a. **Developing new services.** While the provider is developing a new service, the provider shall obtain professional education, training, continuing education, consultation, supervision, experience, or a combination thereof necessary to ensure that the service is provided competently. If a complaint is submitted alleging a violation of this subpart, the provider has the

burden of proof to demonstrate that the provider took the necessary steps to ensure the competent provision of services during the period of development.

SONAR: This rule states clearly the expectation that the provider shall obtain appropriate skills to practice competently and has the burden of demonstrating that they did so. This eliminates the idea that the provider may practice independently while developing the skill, which has given rise to the concern that the skill may not be practiced competently while training is received.

Provider has responsibility to ensure competent provision through the training mechanisms cited in this rule, including appropriate supervision while attaining competence. This description is more consistent than the current rule with how the development of competence is seen in the field of psychology

~~REPEALED. Subp. 4. **Referrals.** A psychologist shall recognize that there are other professional, technical, and administrative resources available to clients and make referrals to those resources when it is in the best interests of clients to be provided with alternative or complementary services.~~

SONAR: It is reasonable to repeal this rule language in that it is covered in concept within Minnesota Rule 7200.4740, subpart 4, “TERMINATION OF SERVICES,” “Recommendation upon termination,” as well as under Minnesota Rule 7200.4950, “MEDICAL AND OTHER HEALTH CARE CONSIDERATIONS,” specifically, subpart 1, “Coordinating services,” which states: “[w]ith authorization from the client, the provider shall coordinate services for the client with other health care professionals, consistent with the best interests of the client.”

7200.4700. PROTECTING THE PRIVACY OF CLIENTS.

Subp. 1. ~~In general~~ **Safeguarding private information.** ~~A psychologist~~ The provider shall safeguard the private information obtained in the course of the practice, teaching, or research of psychology. ~~With the exceptions listed in subparts 2, 4, 5, 10, and 12,~~ Private information is may be disclosed to others only with the informed written consent of the client according to part 7200.4710 and with the exceptions in subparts 2 to 13.

SONAR: The heading of this subpart, “in general,” has been replaced with “Safeguarding private information.” This is necessary and reasonable to more accurately indicate the focus of the subpart. It is necessary to replace “practice, teaching, or research” with “the practice of psychology” to clarify that the intent of the rule has always been to apply to all psychological services provided under the Psychology Practice Act (*See*, Minn. Stat. sec.,

148.89, subd. 5, “Practice of psychology”), which defines teaching and research themselves as part of the practice of psychology. It is also necessary and reasonable to amend the references to the specific subparts in this rule that are exceptions to the requirements of part 7200.4710 because the current revisions to the Rules of Conduct have changed many of the previous numberings.

Subp. 2. **Limited disclosure to others without written consent.** Private information may be disclosed without the ~~informed written~~ consent of the client when disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another individual, including the provider. In such case the private information is to be disclosed only to ~~appropriate professional workers, public authorities~~ law enforcement agencies, the potential victim, ~~or~~ the family of the client, or appropriate third parties in a position to prevent or avert the harm.

SONAR: It is necessary to change the previous heading of this subpart, “Disclosure without written consent,” because it is misleading. Because consent in this limited circumstance can be oral or written, the previous heading could be read to mean that written, but not oral, consent is not required for disclosure to occur. However, the true intent of this subpart is to allow disclosure of private information without consent in the specific circumstance that there is a clear and substantial risk of imminent serious harm being inflicted by the client.

It is necessary and reasonable to strike the reference to disclosure to “appropriate professional workers, public authorities” because these terms are too vague. They are reasonably replaced with “law enforcement agencies,” which is clearer. It is also necessary and reasonable to add another group to whom disclosure of private information may be made “appropriate third parties in a position to prevent or avert the harm” because in some situations this will be the most effective way to address the goal of protecting the client or another individual from imminent serious harm, which is the intent of this subpart, third parties may potentially be either other professionals or lay persons. For example, there may be instances in which the most effective way to protect against a client’s clear and substantial risk of suicide is to contact the client’s roommate or significant other, who may know of the location of a lethal weapon that the client has reported owning.

Because the previous subpart was unclear regarding self-protective actions the provider can take in the case of a threat, including the provider as an example of “another individual” is reasonable to allow to provider to take such action without the consent of the client.

Subp. 3. **Dual Services to multiple clients.** Whenever psychological services are ~~requested or~~

paid for by one client for another provided to multiple clients, the psychologist must provider shall initially inform both clients each client of the psychologist's provider's responsibility to treat any information gained in the course of rendering the services as private information, including any limitations to each client's right to privacy.

SONAR: It is necessary and reasonable to amend the heading of this subpart to improve clarity regarding the intent the subpart. It is necessary and reasonable to delete the phrase "requested or paid for by one client for another" because this is not the relevant issue. The rule applies to all multiple client services. It is also necessary to amend the rule further to improve its clarity. It is reasonable to require that the provider "initially" inform "each" client of the requirement to treat any information gained during the rendering of services as private information because otherwise one or both clients might have the mistaken belief that the provider can release information without the consent of both clients. It is reasonable to add the phrase "including any limitations to each client's right to privacy" to help clarify that privacy rights are not unlimited or absolute and to provide full informed consent in order to assist each client in deciding whether to receive the psychological services.

Subp. 3a. **Obtaining collateral information.** Prior to obtaining collateral information about a client from other individuals, the provider shall inform the other individuals that the information obtained may become part of the client's records and may be accessed or released by the client, unless prohibited by law. A provider is not required to give prior informed consent to other individuals when those individuals are credentialed health care providers acting in their professional capacities.

SONAR: This new subpart is added because it is common in the provision of psychological services for collateral information to be sought by the provider, or, in some cases, to be given to the provider without solicitation, in situations where it is important that providers obtain sufficient information from collateral sources to assess, treat, or otherwise provide services to their clients. This rule is necessary and reasonable to specify what minimal standards should apply regarding such collateral information.

The particular requirement in this subpart is reasonable because individuals providing collateral information may not realize that their communications to the provider are not private; that is, the client, with a few exceptions, has the right of access to information in the client's records.

Sometimes unsolicited information is received by the provider concerning a client. This can occur, for example, through letters, telephone messages, emails, etc. The message may even be accompanied by a request to "keep this confidential." However, providers in such circumstances will typically not be able to keep the information confidential (that is,

not accessible to the client). The requirements of this subpart are not intended to apply in such situations because it would not be reasonable under these circumstances since the provider did not have a reasonable opportunity to inform the other individual about the possible inclusion of the information in the client's records.

Finally, the rule exempts providers from the requirement to inform "credentialed healthcare providers acting in their professional capacities." This is necessary and reasonable because credentialed healthcare providers should be familiar with the concept and rules of privacy regarding patients or clients and their health records.

Subp. 4. **Minor clients.** At the beginning of a professional relationship, ~~a psychologist must~~ the provider shall inform a minor client, to the extent that the client can understand, that the law imposes ~~a limit~~ limitations on the right of privacy of the minor with respect to the minor's communications with ~~a psychologist~~ the provider.

SONAR: The exclusion regarding the client's ability to understand is necessary and reasonable in the case of minor clients, because very young clients will not be able to understand the legal issues involved in this rule, such that with such clients this procedure would have no meaning or effect. It is necessary and reasonable to replace "a limit" with "limitations" because the latter is more correct. The law imposes a number of limitations to the right of privacy, not a single limit.

Subp. 5. **Limited access to client records.** ~~A psychologist~~ The provider shall limit access to client records ~~and~~. The provider shall make reasonable efforts to inform ~~every individual or~~ cause to be informed individuals associated with the provider's agency or facility ~~of the psychologist~~, such as a staff ~~member~~ members, ~~student~~ students, ~~volunteer~~ volunteers, or community ~~aide~~ aides, that access to client records shall be limited only to the ~~psychologist~~ provider with whom the client has a professional relationship, ~~an individual~~ individuals associated with the agency or facility whose duties require access, and ~~an individual~~ individuals authorized to have access by the ~~informed~~ written informed consent of the client.

SONAR: It is necessary to add language regarding reasonable efforts because sometimes a provider is employed by a large agency or facility that has a set of policies in place for regulating access to client records by employees. In such cases, it may be unreasonable to require the provider to personally communicate the rule's policy to each employee. It is reasonable instead to require the provider to either "make reasonable efforts" to inform others or make reasonable efforts to "cause (others) to be informed"; e.g., by requesting that management communicate with staff members, students, volunteers, etc., at the

provider's workplace. It is reasonable to use a "reasonable efforts" standard because the provider, as an employee, may have little or no influence over the employer's willingness to accommodate the requirements of this rule. It is necessary to change the language regarding included individuals to plural to make clear that all individuals in an agency who could have access to client records are covered.

REPEALED. Subp. 6. ~~Statements for services.~~ A psychologist shall instruct the staff to inquire of clients and to comply with the wishes of clients regarding to whom and where statements for services are to be sent.

SONAR: It is reasonable to repeal this provision as it is not necessary to address the administrative nature of how statements for services are handled within these rules. This rule addressed an issue that is within the business/administrative relationship between a patient and a provider, which relationship is not covered by these rules.

Subp. 7. **Case reports.** ~~Case reports or other clinical materials~~ All client information used in teaching, presentations, professional meetings, or publications shall be disguised so ~~that no~~ to prevent identification of the ~~individual occurs~~ client unless the provider has obtained a signed release of information.

SONAR: This rule is necessary in order to address releasing private information in the context of supervision, consultation, or teaching. This language change is intended to provide a more inclusive description of the type of client information covered by the rule and to improve its clarity. It is necessary to include presentations in this subpart in order to protect the privacy of clients when providers share case information during presentations to others.

It is necessary and reasonable to use the phrase "to prevent identification of the client," to make clearer that a provider will not be considered to be in violation of this rule if identification of the client unless the provider has obtained a signed release of information," which provides flexibility based upon informed client consent.

Subp. 7a. **Supervision and consultation.** When a provider shares private information about a client for purposes of consultation or supervision, all client information that might identify the client shall be disguised unless the provider has obtained a signed release of information.

Subp. 7b. External Supervision. When a provider shares private information about a client for the purposes of supervision, the provider shall obtain a signed release of information.

SONAR: Subpart 7a and 7b are necessary in order to address releasing private information in the context of supervision and consultation, as well as during external supervision, that is, supervision that occurs outside of an agency. These are new subparts that are necessary to clarify that private information about a client may be shared in supervision or consultation, although all client information that might identify the client shall be disguised to prevent identification, unless a signed release of information is obtained from the client. When supervision occurs outside of an agency, the client has a right to know that fact, so it is necessary to specify that no private information can be shared without a signed release of information.

Subp. 8. **Observation and recording.** Diagnostic interviews or therapeutic sessions with a client may be observed or electronically recorded only with ~~the informed~~ written informed consent of the client, except as otherwise provided by law or court order.

SONAR: It is reasonable to strike the redundant phrase “of the client” because the definition of “informed consent” includes reference to the client as the responsible party. (See also, part 7200.0110, subpart 38.) Adding the phrase regarding laws and court orders is necessary because there are circumstances in which a court might order that an interview or therapeutic session be electronically recorded.

Subp. 9. ~~Records to remain private~~ Continued privacy of client information. A ~~psychologist~~ provider shall continue to maintain as ~~private~~ the privacy of client information, including the records of a client, after the professional relationship between the ~~psychologist~~ provider and the client has ceased.

SONAR: It is necessary to change the heading to this subpart to more accurately reflect its scope and intent. It is not only client records, but any private information the provider may have about a client that shall continue to remain private after the professional relationship between the provider and client has ceased. The use of “including the records of the client” is reasonable because it clarifies that it is not only client records that continue to remain

private.

Subp. 10. ~~Release of private information~~ Court-ordered or other mandated disclosures. A ~~psychologist may release~~ The proper disclosure of private information upon a court order or to conform with state and federal law, rule or regulation, shall not be considered a violation of the Psychology Practice Act.

SONAR: It is necessary to rewrite this subpart to make its meaning clear. As previously written ("may release private information"), it might be interpreted mistakenly to mean that the Board was giving permission for a provider to obey the law or a court order regarding the release of private information. Permission to obey laws is not required. Rather, the rule's intent is to reassure providers that the proper disclosure of private information upon a court order or to conform with state or federal law, rule, or regulation shall not be considered by the Board to be a violation of the Psychology Practice Act. Clarifying this rule is reasonable due to the numerous communications the Board has received in the past by concerned providers who were served with subpoenas or court orders regarding the release of client records and were confused about what the rules stipulate.

Subp. 11. Abuse or neglect of children and minors or vulnerable adults. In the course of professional practice, a ~~psychologist~~ the provider shall ~~not violate any law~~ comply with all laws concerning the reporting of abuse or neglect of children and minors or vulnerable adults.

SONAR: It is necessary to make three changes to this subpart to improve its clarity. "Or neglect" is added to the rule and "minor" replaces "children" to be consistent with Minnesota Statutes sections 626.556 and 626.557. Third, "or" replaces "and" as a housekeeping amendment because "or," as used in rule-writing, means "and/or."

REPEALED. Subp. 12. ~~Disciplinary cases.~~ A ~~psychologist must disclose to the board and its agents client records that the board and its agents consider to be germane to a disciplinary proceeding.~~

SONAR: It is reasonable and necessary to repeal subpart 12, as it is replaced in concept by Minnesota Rule 7200.4710, subpart 4.

Subp. 13. Communication to initiate services. When the provider is initially contacted to

establish psychological services to a potential client, the provider or another individual designated by the provider may, with oral consent from the potential client, contact third-party payers or guarantors to determine payment or benefits information or to arrange for precertification of services when required by the individual's health plan.

SONAR: This is a new subpart. It is necessary because in an initial contact with an individual who is inquiring about possible psychological services, the matter of third-party benefits often arises before the individual can decide whether to become a client. It is reasonable to allow for such an individual to provide oral consent for the provider's representative to contact the third-party payer to inquire about the individual's benefits.

This rule is intended to permit oral consent only from the potential client or from a parent or legal guardian if the potential client is a minor or other individual not legally capable of giving consent. Thus, a wife calling on her husband's behalf would not be able to give the provider oral consent to contact a third party about the husband's benefits. (She could, however, give permission for the provider to obtain her benefits, which she could infer would be identical to that of her spouse.)

Similarly, it is sometimes necessary in conjunction with obtaining third party benefits to arrange beforehand for certification of benefits, since this is sometimes required by third party payers as a condition for coverage of psychological services. The rule reasonably allows for this as well.

In each of these permitted situations, it would be unreasonable for there to be a requirement for informed consent, since this would involve a more elaborate process than is minimally needed at this stage of contact with the would-be client. An individual who voluntarily provides a provider with third party benefits information or the name of the referring professional upon request and gives oral consent to make the appropriate contacts is adequately informed.

7200.4710 ACCESSING AND RELEASING PRIVATE INFORMATION.

Subpart 1. **Right to access and release private information.** A client has the right to access and release private information maintained by the provider, including client records as provided in Minnesota Statutes, sections 144.291 to 144.298, relating to the provider's psychological services to that client, except as otherwise provided by law or court order.

SONAR: This subpart was formerly part 7200.4900, subpart 1a, "Client records." It is necessary to move it here to improve the organization of the Rules of Conduct because it addresses one aspect of "Accessing and Releasing Private Information."

Subpart 1 has been amended in several respects. The former heading, "client records," has been replaced by "Right to access and release private information." This is necessary to provide a more specific description of the content of this subpart. This heading, as well as the addition of "and release" in the rule, clarifies that clients not only have the right to access their records, but to release them to others as well. The amended

language also strikes the former reference to “as provided in Minnesota Statutes, section 144.335, subdivision 2, provided the records are not classified as confidential under Minnesota Statutes, section 13.84.” This is necessary because the stricken language, although accurate, is too limiting. There are other exceptions to the right to access or release one’s client records, such as Federal laws, such as HIPPA, and a number of exceptions in Minnesota statute. Thus, the replacement language, “Except as otherwise provided by law or court order,” is intended to include the stricken language but be more broadly-based.

Subp. 2. Release of private information. When a client initiates a request for the release of private information, the provider shall comply with Minnesota Statutes, sections 144.291 to 144.298. However, if the provider initiates the release of private information to a third party, a written authorization for release of information must be obtained that minimally includes:

SONAR: Subpart 2 is a new subpart. It is necessary to state directly the requirement for releasing private information by the provider, based on whether the request is initiated by the client or by the provider. When a client initiates the release of private information, the provider is expected to comply with Minnesota Statutes, section 144.291 to 144.298, “Access to Health Records,” requires by law only that the request be in writing. It is necessary to make the rule conform to the statute and inform providers of this frequently misunderstood requirement. A more detailed procedure is required when the authorization is requested by the provider to more accurately demonstrate that the client’s welfare is protected by providing additional information than need be required when the client makes the request.

It is necessary for the rule also to clarify that, when the provider initiates the release of private information (e.g., asks the client for permission to obtain prior records), written informed consent is required. The specific elements of written informed consent to release private information are discussed in items A through K.

A. the name of the client;

SONAR: Item A. It is necessary and reasonable to require that the name of the client be included in a written informed consent document so that the responder will be able to provide the information on the appropriate individual.

B. the name of the individual or entity providing the information;

SONAR: Item B. It is necessary and reasonable to require that the name of the individual or entity providing the information be included in a written informed consent document so that the proper individual will be able to respond to the request.

C. the name of the individual or entity to which release is to be made;

SONAR: Item C. It is necessary and reasonable to require that the name of the individual or entity to which release is to be made be included in a written informed consent

document so that proper individual, and not anyone else, will receive the information requested.

D. the specific information to be released;

SONAR: Item D. It is necessary and reasonable to specify the types of information to be released in a written informed consent document so that the responder will provide the requested information, but nothing else.

E. the purpose of the release, such as whether the release is to coordinate professional care with another provider, to obtain insurance payments for services, or for other specified purposes;

SONAR: Item E. It is necessary and reasonable to require that the purpose of the release be included in a written informed consent document so that the responder will have reasonable general information that may improve the accuracy and completeness of the information provided. Item E is also reasonable because it clarifies the intent of the rule by providing common purposes for releases.

F. the time period covered by the release;

SONAR: Item F. It is necessary and reasonable to require that the time period covered by the consent be included in a written informed consent document so that the responder will provide only the information requested.

G. a statement that the release is valid for one year; except as otherwise allowed by law, or for a lesser period of time that is specified in the release;

SONAR: Item G. It is necessary and reasonable to require that the period of validity of the consent be included in a written informed consent document so that the client and others in possession of the document are aware of an expiration date for the consent in order to make the rule consistent with Minnesota Statutes, section 144.293, subdivision 4, which states, “[e]xcept as provided in this section, a consent is valid for one year or for a period specified in the consent or for a different period provided by law.”

H. a declaration that the individual signing the statement has been told of and understands the nature and purpose of the authorized release;

SONAR: Item H. Item H replaces former part 7200.0100, subpart 5, “Informed written consent.” It is necessary and reasonable to move this language here because it addresses one of the elements for the proper release of private information. Such a declaration is necessary and reasonable to require that there be “a declaration that the individual signing because this is a standard of practice and it protects the public by requiring that the client understands the authorization, not just sign it.

- I. a statement that the release may be rescinded, except to the extent that the release has already been acted upon or that the right to rescind consent has been waived separately in writing;

SONAR: Item I. It is necessary and reasonable to require a statement regarding rescission so the client is provided full informed consent regarding the release of information and can take action to rescind, if desired. However, it is also reasonable for the client to know that once a release has been acted upon, it is too late to rescind it.

- J. the signature of the client or the client's legally authorized representative, whose relationship to the client shall be stated; and

SONAR: Item J. It is necessary and reasonable to require that the signature be included in a written informed consent document so that the client has officially affirmed permission to release private information. In cases in which the client has a legally authorized representative, it is reasonable to require the relationship to the client to be stated on the document.

- K. the date on which the release is signed.

SONAR: Item K. It is necessary and reasonable to require that the date on which the consent is signed be included in a written informed consent document so that the beginning date and, by implication, the expiration date of the consent's validity is noted and so information is not released at a time when the release is not valid.

Subp. 3. Multiple client records. Whenever psychological services are provided to multiple psychotherapy clients, each client has a right to access only that part of the records that includes information provided directly by the client or authorized by the client to be part of the record, unless otherwise directed by law or court order. Upon a request by one client to access or release multiple client records, that part of the records that contains information that has not been provided directly or by authorization of the requesting client shall be redacted unless written authorization to disclose this information has been obtained from the other client. Alternatively, the provider may, at the beginning of the service, obtain written informed consent from the clients stating that each client has the right to access or authorize release of all information that is a part of the record.

SONAR: This is a new rule that is necessitated by confusion regarding how client records are to be treated in situations when there is more than one client. When more than one person receives psychological services, each person is a client and has the right of privacy.

For the purpose of informed consent and protection of the public, it is necessary to clarify at the beginning of the professional relationship how access to the record is to be determined. If there is to be a deviation from the Minnesota Health Records Act (Minnesota Statutes sections 144.291 through 144.298) regarding release of information, the clients must provide written authorization to release private information. It is

reasonable because it protects the legal right to privacy of each client in a multiple client situation.

Finally, it is necessary to specify that there is an exception to the right to privacy in instances where a law or court order requires release of information.

Subp. 4. Board investigations. The provider shall release to the board and its agents private information that the board and its agents consider to be germane to the investigation of all matters pending before the board that relate to its lawful regulation activities. Redacting identifying information of individuals in the record is not required when providing information to the board as part of a board investigation.

SONAR: This subpart was previously Part 7200.4700, subpart 12. It is reasonable to move it here because it more strongly addresses accessing and releasing private information than client welfare.

The main issue requiring amendment in this subpart is language previously referring to “a disciplinary proceeding.” It is necessary to change this subpart to be consistent with the investigatory powers authorized in Minnesota Statute section 214.10, making it clear that the Board has the statutory authority to obtain, and the provider has the responsibility to release, all requested private information regarding a client that is needed to aid in Board investigations. The rule also replaces “disclose” with “release” regarding the provider’s responsibility to provide information requested by the Board under its investigative authority. This is necessary and reasonable to clarify that a written copy of a client’s private information is to be furnished in most cases rather than an oral disclosure. The term “release” is also most commonly used in Minn. Stat. 144.291 to 144.298, “Access to Health Records,” particularly in situations in which patient permission is not required. Language also clarifies that providers need not redact identifying information in files provided to the Board. This is necessary because, most frequently, the Board already knows or needs to know the identity of the client or other relevant individuals in order to conduct a thorough investigation.

7200.4720 INFORMED CONSENT

Subpart 1. Obtaining informed consent for services. The provider shall obtain informed consent for services to a client. The informed consent may be oral or written, except as provided in subpart 2. The informed consent shall include:

SONAR: This is a new part that combines several rules involving informed consent for services under one heading. This is necessary and reasonable to improve the organization of the rules so that a reader may locate information more easily and so that the requirements of these rules are clearer.

This subpart is necessary to clarify that informed consent is required, is to contain specific components, and may be oral or written, with the exclusion of subpart 2. This language highlights protection of the public by allowing the recipient to the service to have a clear understanding of the service before agreeing to receive it.

A. the goals, purpose, and procedures of the proposed service;

SONAR: Item A. is reasonable and necessary in that it requires a discussion of the service, that is, what will be done and the goals of the service, to allow for an informed participant in the use of psychological services.

B. a discussion of factors that may impact the duration of the service;

SONAR: Item B. is reasonable and necessary to provide a potential client with information required to make an informed decision regarding whether or not to participate in the receipt of psychological services.

C. the applicable fee schedule;

SONAR: Item C: This rule is necessary and reasonable because knowing the cost of a service is an important element in deciding whether to participate in receiving the service.

D. the limits to the client's privacy;

SONAR: Item D. It is reasonable and necessary for the prospective recipient of psychological services to know in advance when there are limits to the degree to which the provider can protect the individual's privacy.

E. the significant risks and benefits of the service;

SONAR: Item E. It is reasonable and necessary for a prospective recipient of psychological services to know in advance when there is a potential impact on the client from the service received, which would include a discussion of whether the service may affect the client's interests, if this is known, such as a potential impact on an employment decision.

F. information and uncertainty of benefits, if the proposed service, method, or procedure is of an experimental, emerging, or innovative nature;

SONAR: Item F. It is reasonable and necessary to require informing prospective clients when the service being offered has not been established within the psychological community by research or long-standing use, including the limitations regarding information about potential outcomes, so the client can make an informed decision about whether to be a recipient of that kind of psychological service.

G. where applicable, advisement to the client that the provider is developing a new service;
and

SONAR: Item G: It is reasonable and necessary for the prospective client to be informed when the provider does not have an established competence in the service being provided,

so the client can make an informed decision about whether to receive the service.

H. alternatives to the service, if any.

SONAR: Item H: It is necessary and reasonable for the client to be informed of any possible alternatives to the service being proposed, so the client can make an informed decision about whether to receive the service.

Subp. 2. **Written informed consent.** Written informed consent shall be required for forensic services, except as otherwise provided by law or court order, or as required by part 7200.4710, subpart 3.

SONAR: This is a new subpart. It requires the provider to obtain written informed consent prior to providing forensic services, except as otherwise provided by law or court order. This is reasonable and necessary both because written documents are often required in forensic contexts and because of the potential consequences of forensic services, ensuring that a client is knowledgeable regarding the service to be provided in writing is an increased step towards public protection.

Subp. 3. **Modification to service.** If the nature or purpose of a service changes substantially, it is necessary to obtain informed consent again.

SONAR: The public is protected by requiring that the provider obtain informed consent each time a service changes, so that the client is able to make a decision regarding receiving the service based on the factors relevant to the current service.

Subp. 4. **Emergency or crisis interventions.** When emergency or crisis services are provided, the provider shall not be required to obtain informed consent. If services continue after the emergency or crisis has abated, informed consent shall then be obtained.

SONAR: This is a new subpart and is necessary because emergencies or crises in therapy do not realistically permit time for informed consent. It is intended to refer to situations of extreme distress or behavioral or emotional dysfunction which need immediate professional attention. The focus of the services in such circumstances should be entirely on the client's distress or dysfunction, rather than on administrative tasks involving informed consent issues.

If a client's immediate emergency or crisis is addressed successfully and the client then wishes to continue with psychotherapy services, the informed consent requirements for other psychological services must be met.

7200.4740 TERMINATION OF SERVICES

Subpart 1. **Right to terminate services.** Either the provider or client may terminate professional

services unless prohibited by law or court order.

SONAR: It is necessary and reasonable to combine rules addressing termination of services to improve the organization of the Rules of Conduct.

This new subpart uses language in previous part 7200.4900, subpart 5, “Conflict between psychologist and client”: “Either the psychologist or the client may terminate the relationship.” To this is added “unless prohibited by law or court order.” However, whereas the former subpart referred only to conflicts between a provider and a client, subpart 1 does not impose such a limitation. It is necessary and reasonable in a section of the Rules of Conduct dealing with termination of services to clarify with a general statement that both the client and the provider have the right to terminate services at any time. Providers may terminate a professional relationship for a variety of reasons, even though the client may wish for the services to continue. For example, it is reasonable to terminate services if a client has a pattern of failed appointments, does not pay for services as agreed, fails to make adequate progress in psychotherapy, or endangers or threatens the provider. The issue of “client abandonment” only potentially arises if the termination is done in an improper manner that is not in compliance with subparts 3 and 4.

Subpart 1 is reasonable by recognizing that in some cases an exception to the right of the client to terminate may exist due to law or a court order. However, some legally “mandated” services—for example court-ordered outpatient sex offender treatment—are not mandatory because the client is given an alternative choice (i.e., he or she may opt instead for prison). In addition, the court order applies to the client, but not to the provider, who ordinarily would not be court-ordered to provide a psychological service.

Subp. 2. Mandatory termination of services. The provider shall promptly terminate services to a client, except as otherwise provided by law or court order, whenever:

SONAR: This is a new subpart. It is necessary and reasonable to clarify when a provider shall be required to terminate the psychological service. The rule sets out two types of mandatory termination in items A and B.

- A. the provider’s objectivity or effectiveness is impaired, unless a resolution can be achieved as permitted in part 7200.4810; or

SONAR: Item A addresses the mandatory termination of services due to impaired objectivity or effectiveness of the provider, which is necessary because such impairment or ineffectiveness can cause harm to the client. However, it is reasonable to allow for the possibility that an impaired provider need not terminate services to clients as a necessary step in resolving the impairment. Item A references part 7200.4810, which describes the elements of impaired objectivity, the options available to the provider for resolving the impairment, and the situations in which client termination due to impairment is mandatory. It is reasonable for Item A and Part 7200.4810, subpart 3 to cross-reference

each other.

B. the client is unlikely to benefit from continued professional services by the provider.

SONAR: Item B addresses termination of services when a client “is unlikely to benefit from continued professional services by the provider, is being harmed by further services, or the services are unneeded.” This language in modified form is taken from former part 7200.4900, subpart 6. It is necessary and reasonable in protecting the public to require mandatory termination of clients when they no longer benefit from the service. Benefit is a broader category than need, such that if services are unneeded, the client will not benefit from the service, therefore, the language was redundant and is simplified.

Subp. 3. Notification of termination. Whenever the provider initiates a termination of professional services, the provider shall promptly inform the client in a manner that minimizes harm. This requirement shall not apply when the termination is due to the successful completion of a predefined service such as an assessment or time-limited therapy.

SONAR: This is a new subpart. It is reasonable and necessary that provider-initiated termination uses minimization of harm to the client as the primary criterion. This is in recognition that termination initiated by the provider may occur for many reasons and depending upon how this is communicated may create distress in the client. This rule therefore puts the burden on the provider of considering how to inform the client of termination while minimizing harm.

It is necessary to make an exception because notification of termination is pointless when a pre-defined service to a client has been completed. It would be unreasonable to require the provider to inform the client of the obvious. It is reasonable to require notification only when there is the possibility that the client is unsure or unaware that termination has occurred. It is also reasonable to make clear that notification is not required in client-initiated termination, which can be inferred from the current rule. This change is necessary because such notification can be harmful to the client, in that it can be experienced as a punitive action by the provider.

Subp. 4. Recommendation upon termination. Upon the termination of psychological services, the provider shall:

- A. offer to make a recommendation to the client for appropriate mental health services whenever the provider believes they are needed by the client; or
- B. provide such a recommendation at the request of the client.

SONAR: It is necessary and reasonable to require referral recommendations if services continue to be needed, or in response to a request for such a recommendation from the client, in order that necessary psychological services can continue to be provided.

Subp. 5. Exception to required recommendation. The requirements of subpart 4 shall not apply whenever an assessment of an individual for a third party is conducted in which a recommendation for mental health services is not part of the requested service.

SONAR: The exemption within this subpart is reasonable and necessary because in a number of forensic situations, such as determinations of legal insanity, competence to stand trial, or civil commitment, the provider's role is limited to an assessment. While the provider might very well recommend mental health services in the report, the provider would not reasonably be expected, or allowed in some forensic situations, to make the referral of the client being assessed or to assist in obtaining the recommended services, unless this had been specified as a part of the contracted services.

Another example, making this subpart both reasonable and necessary, would be the case of a psychologist who performs a consultative psychological or neuropsychological assessment of a patient upon the referral of a physician. While the psychologist might make a general recommendation for mental health services in the report (and may even include names of appropriate providers), it would typically be inappropriate for the psychologist to make a direct referral of the physician's patient unless requested to do so by the physician.

7200.4750 RECORD KEEPING

Subpart 1. Record-keeping requirements. Providers shall maintain accurate and legible records of their services for each client. Records shall minimally contain:

SONAR: This subpart was formerly part 7200.4900, subpart 1a, "Client records." It is necessary to move it to part 7200.4750, "Record Keeping," to improve the organization of the Rules of Conduct in order to make them more user friendly.

It is necessary to replace the record keeping requirements found in former part 7200.4900, subpart 1a, because they are outdated. Current standards of practice now require more than "an accurate chronological listing of all client visits, together with fees charged to the client or a third-party payer," "copies of all correspondence relevant to the client," "a client personal data sheet," and "copies of all client authorizations for release of information and any other legal forms pertaining to the client."

It is necessary to add that records shall be "legible" because in many instances they are not. This requirement is reasonable because both clients, the Board, and others may have access to the client's records, and they are of little or no use if they are not legible. Client records serve several functions, each of which is adversely affected if the records are not legible. For example, client records have a continuity of care function. If a provider obtains a client's former records and they are not legible, the client's current services could

be unnecessarily repetitive and costly, irrelevant, or even harmful.

The term “records,” rather than “record,” is necessary and reasonable because it is the same term generally found in statutes. In addition, there have been complaints involving the incomplete release of records in which some, but not all, parts of a record were released. Finally, particularly in larger mental health organizations, a client’s records may be in more than one physical location—e.g., case notes in a psychotherapist’s office, client information sheets and financial agreements in an administrative office, and billing records in a billing office. Use of the plural, “records,” may help reduce confusion among providers and contribute to an increase in compliance with proper record keeping (and record releasing) requirements.

A. client personal data;

B. an accurate chronological listing of all client visits, fees charged to the client or a third-party payer, and payments received;

SONAR: Item B. This item is conceptually retained from former part 7200.4900, subpart 1a. but is modified slightly because of changes in the format of data retention, such as electronic as opposed to a piece of paper with relevant information, meaning that there is not a requirement that records be kept physically in one location, which the former rule can be read to imply. “Payments received” was added so that a complete record is maintained.

Item B does not specify a particular style or level of detail that these elements shall include, whether this is in regard to case notes, treatment plan criteria, or other required documentation. It is reasonable to let the style, format, and structure be determined by the provider because there is no one “correct” way to document that has been established within the psychological community. However, it is the intent of the rule that a reasonable approach be utilized by the provider based on professional standards in the community.

C. documentation of services, including where applicable:

(1) assessment methods, data, and reports;

(2) an initial treatment plan and any subsequent revisions;

(3) the name of the individual providing the services;

(4) case notes for each date of service, including any interventions;

(5) consultations with collateral sources;

(6) diagnoses or problem descriptions;

(7) documentation that informed consent for services was given, including written informed consent documents, where applicable;

(8) documentation of supervision or consultation received; and

(9) the name of the individual who is clinically responsible for the services provided;

SONAR: Item C. This is a new item that requires “documentation of services.” Such documentation was not specifically required in the previous rule, but nevertheless had long been considered as required based on professional conduct standards. The current rule

explicitly describes the minimum elements of acceptable record keeping. These elements are considered to meet minimum current standards of record keeping.

Item C is also reasonable because it states that the required elements must be recorded in the case record “where applicable.” For example, if there have been no consultations with collateral sources, no comment needs to be made. If a client does not continue psychotherapy services sufficiently for the provider to develop a treatment plan, none would be expected in the record. If no consultation or supervision is obtained, no reference to such is required.

D. copies of all correspondence relating to the client; and

E. copies of all client authorizations for release of information and any other documents pertaining to the client.

SONAR: Item D. It is necessary to make clear that all correspondence regarding a client is to be retained, for purposes of continuity of care, quality assurance, and potential Board action. This change is also consistent with the current standard in the psychological community.

Subp. 2. Duplicate records. The provider need not maintain client records that duplicate those maintained by the agency, clinic, or other facility at which services are provided.

SONAR: Subpart 2 is a new subpart that is based on former part 7200.4900, subpart 1a, “Client records,” which states in part: “A psychologist who is an employee of an agency or facility need not maintain client records separate from records maintained by the agency or facility.” It is necessary and reasonable to place the former subpart here to improve the organization of the Rules of Conduct by placing all rules regarding record keeping in one location in the rules.

The former subpart is amended to indicate that providers are still required to ensure that the minimum record keeping requirements of subpart 1 are met. It is reasonable not to require a provider to duplicate information already in a client’s record, yet to require that the provider meet the minimum standards of record keeping set by the Board.

Subpart 2 also replaces “employee” with “the agency, clinic, or other facility at which services are provided.” This is necessary to eliminate potential confusion regarding situations in which the provider is an independent contractor rather than a salaried employee. The rule is intended to apply equally to both kinds of providers. It is reasonable to make this change because many providers are hired as independent contractors, and this status should have no bearing on the minimum standards required for record keeping.

Subp. 3. Records retention. The provider shall retain a client’s records for a minimum of eight years after the date of the provider’s last professional service to the client, except as otherwise provided by law. If the client is a minor, the records retention period shall not commence until the client reaches age 18, except as otherwise provided by law.

SONAR: Subpart 3 is a new subpart. It is necessary to establish a minimum retention period to protect client records from being prematurely destroyed. Client records serve a number of functions, including continuity of care, documentation when there are reviews by third party payers, and documentation when complaints are made against providers. The eight-year records retention period is reasonable because it is based on the Board's statutory seven-year jurisdiction for complaints, which allows the Board one additional (eighth) year to obtain client records if a complaint has been made in the seventh year following the last occurrence of the misconduct alleged in the complaint.

The exception regarding clients who are minors is reasonable and necessary because it mirrors statutory language regarding the Board's jurisdiction over complaints involving minors.

This subpart does not mandate the destruction of records after eight years; it is only a minimum retention requirement. Retention periods longer than eight years must balance the potential benefits to the client versus the potential harm (e.g., the possibility that client records can be lost, stolen, or misused).

This subpart is intended to apply only to those client records that are in the control of the provider, not to records that belong to the agency, clinic, hospital, or other facility at which the provider provides services.

7200.4810 IMPAIRED OBJECTIVITY, OR EFFECTIVENESS

Subpart 1. ~~Psychological services prohibited~~ Situations involving impaired objectivity or effectiveness. ~~A psychologist must not provide psychological services to a client or potential client when the psychologist's objectivity or effectiveness is~~ Items A to F involve impaired objectivity or effectiveness and are prohibited as specified.

SONAR: This change is necessary to clarify the meaning of this item. This rule is designed to protect the public by preventing the client from receiving a psychological service when circumstances exist in which the probability of harm to the client is increased by virtue of limitations in the ability of the provider to provide an objective service or in situations where there is reduced effectiveness on the part of the provider. The language in subpart 1 is necessary to improve the organization of the rule and to more accurately reflect the intent and content of the rule. The subpart is worded so as to define the situations in which objectivity or effectiveness are impaired and to prohibit provision of psychological services in such situations. The new organization of this part includes specific requirements within each type of impairment.

- A. The provider shall not provide psychological services to a client if doing so would create a multiple relationship. If an unforeseen multiple relationship arises after services have been initiated, the provider shall promptly terminate the professional relationship. This item shall not apply if the psychological services involve teaching or research, if such a relationship cannot reasonably be avoided.

SONAR: Item A. Item A has been rewritten to fit the grammatical structure of part

7200.4810. “Dual” relationship has been replaced with the term, “multiple” relationship. This is necessary and reasonable to conform to current terminology and because more than two types of relationships are possible. As in the past, multiple relationships are prohibited. Item A also explicitly requires that the provider terminate the professional relationship” a multiple relationship because of the harm that can occur in multiple relationships. The intent of item A is the same as in the previous rule.

It is reasonable to permit multiple relationships in teaching or research if the multiple relationship cannot be avoided, because the probability of harm is lower when the professional service is teaching or research and because in some instances prohibiting such multiple relationships could create an undue hardship on the client (in this case, student or research participant). All relationships that can be defined as exploitative (7200.4910) are prohibited.

B. The provider shall not provide to a client psychotherapy or assessment services and concurrently either supervision or teaching. If an unforeseen situation arises in which both types of services are required or requested by the client or a third party, the provider shall decline to provide one or both of the services.

SONAR: Item B. Item B is a new rule. Its intent is to prohibit the concurrent provision of psychotherapy or assessment services, on the one hand, and either supervision or teaching, on the other. This is necessary and reasonable because the concurrent combination of psychotherapy or assessment, and one or more of the other services has, in the experience of the Board, resulted in a number of complaints with harm having occurred. It is the Board’s experience that the provision of psychotherapy or assessment services concurrently with teaching and/or supervision services to a client involves a significant risk of loss of objectivity.

C. The provider shall not provide concurrently to a client two or more types of psychological services in which a fundamental conflict arises between the psychological services. If the conflict cannot be resolved in a manner required in subpart 2a, the provider shall decline to provide one or more of the services that give rise to the conflict.

SONAR: Item C. Item C is a new item. It is necessary to add this as an additional source of impaired objectivity or effectiveness because the occurrence of certain fundamental conflicts inherently impairs the provider’s effectiveness or objectivity. For example, a psychologist is providing both couple’s and individual therapy to a client, when, during an individual therapy session, the client reveals that he is involved in an external sexual relationship, does not want to end this, and does not want his partner or spouse to be told. The psychologist engages the client in discussions about this in his individual therapy sessions, but the client refuses to change, to tell his partner or spouse the truth, or end the other relationship, despite advice by the psychologist to choose one of these options. Because the psychologist’s effectiveness in the couple’s therapy services to both individuals is inherently impaired, and there is an ethical dilemma for the psychologist since the client’s partner or spouse is also a client by virtue of the couple’s therapy services, there is

a fundamental conflict that must be resolved by the psychologist declining to provide one or both of the services.

D. The provider shall not provide psychotherapy services to multiple clients whose psychotherapy goals are fundamentally irreconcilable. If this situation arises after services have been initiated, the provider shall promptly terminate services to one or both clients.

SONAR: Item D. Item D is a new item. It is necessary to prohibit the provision of psychological services to two clients who have incompatible goals because of the harm to one or both that can occur. An example would be providing relationship therapy to a couple in which it becomes clear over time that one member in the relationship is unwilling to continue in the relationship and the other is unwilling to consider discontinuing the relationship. The partners' goals are fundamentally irreconcilable when it is reasonably evident that the divergent goals cannot be reconciled. In the event of a complaint alleging that the provider failed to terminate services to one or both clients, as required by the rule, the provider has the burden of proof to show that he or she acted reasonably under the circumstances.

There is a difference between “fundamentally irreconcilable” and divergent goals. Multiple clients sometimes have divergent goals, but compromises can be found or the divergence can be eliminated. For example, if one partner wants children and the other does not, relationship therapy could help them resolve their differences.

It is not the intent of this rule to apply to the provision of assessment services to more than one client, because by their nature such assessments often involve parties who are in an explicitly adversarial role. For example, when a couple has a child custody dispute, the provider may conduct a psychological evaluation of each parent to help resolve what is in the best interests of their children.

The rule does not prohibit the provider from providing services to dual clients, either jointly or separately, if their fundamentally irreconcilable goals, by agreement, shall no longer be the focus of the intervention services. For example, relationship partners who cannot receive psychotherapy services conjointly due to their irreconcilable goals might still be seen individually to address other issues that each partner would like to resolve personally. However, the decision by the provider to agree to services to each client under such circumstances is difficult because the divergent goals may still impact treatment and impact the provider's ability to maintain objectivity and requires careful professional judgment so as not to cause client harm.

E. The provider shall not provide psychological services to a client when the provider is biased for or against the client for any reason that interferes with the provider's impartial judgment, except if the provider is resolving the impairment in the manner required in subpart 2a.

SONAR: Item E. Potential Bias against a client is a well-known risk that has been addressed for some time by item F (formerly item C). However, in some instances, it is necessary and reasonable to include bias for a client, which can also be problematic and,

potentially, harmful to the public. For example, the Board has received several complaints in the past that involved a provider's overzealous reports or testimony in favor of one party over another, as in some child custody cases, or in which a provider lost objectivity and "defended" a client who was in a dispute with the client's employer. A bias of this type might also occur when providing services on behalf of a relative of the provider who is a more distant relative than those listed under the definition of "family member" (See, part 7200.0100, subpart 5c).

The rule is reasonable because it qualifies the kind of bias that may be harmful and is specific, that is, that bias that "interferes with the provider's impartial judgment." The rule is also reasonable because it allows the provider to continue providing services to the client "if the provider is resolving the impairment in the manner required in subpart 2." It should be noted that subpart 2 only permits resolution of impairment if the provider "actively pursues a resolution of the impairment and is able to do so in a manner that results in minimal adverse effects on the client or potential client."

- F. The provider shall not provide services to a client when there is a fundamental divergence or conflict of service goals, interests, values, or attitudes between the client and the provider that adversely affects the professional relationship, except if the provider is resolving the impairment in the manner required in subpart 2a.

SONAR: Item F. Item F was formerly part 7200.4900, subpart 5. It is necessary to include this item here to improve the organization of the Rules of Conduct by including all items regarding objectivity and effectiveness in one rule. The rule retains the same general intent to prohibit the provision of services to a client when differences affect the professional relationship. The addition of "fundamental" is reasonable to clarify that not all divergences or conflicts between a provider and a client cause impairment in objectivity or effectiveness. The previous rule also included "biases," but it is necessary and reasonable to eliminate "biases" here because it is illogical to speak of a divergence or conflict of biases. Biases are addressed in Item E.

This item allows the provider to continue providing services to the client "if the provider is resolving the impairment in the manner required in subpart 2." This is reasonable because, although fundamental divergences or conflicts with clients can occur, they can be resolved in a manner that results in minimal adverse effects on the client. When this is not the case, the provider is required to terminate services to the client.

~~REPEALED. Subp. 2 **Elements of impaired objectivity, effectiveness.** A psychologist's objectivity or effectiveness is impaired whenever:~~

- ~~A. the psychologist has a dual relationship with a client;~~
- ~~B. the psychologist misuses the relationship with a client due to a relationship with another individual or entity;~~
- ~~C. the psychologist is biased against a client because of the client being a member of a class of individuals that is legally protected from discrimination;~~
- ~~D. the psychologist is dysfunctional as a result of a severe physical or mental health problem, including chemical abuse or dependency, or~~
- ~~E. the psychologist exploits the professional relationship with a client for the~~

psychologist's emotional, financial, sexual, or personal advantage or benefit.

SONAR: It is reasonable and necessary to repeal subdivision 2 as noted above as it is replaced by Minnesota Rule 7200.4810, subpart 1 A-F.

Subp. 2a. Resolution of impaired objectivity or effectiveness. When an impairment occurs that is listed in subpart 1, item C, E, or F, the provider may provide services only if the provider actively pursues a resolution of the impairment and is able to do so in a manner that minimizes the potential for adverse effects on the client or potential client. If the provider attempts to resolve the impairment, it shall be by means of relevant professional education, training, study, continuing education, consultation, psychotherapy, intervention, supervision, or discussion with the client or potential client, or an appropriate combination thereof. If resolution or impairment is not possible, the provider shall terminate services.

SONAR: This is a new rule. This revision permits the provider under limited circumstances to resolve the impaired objectivity or effectiveness rather than be required automatically to terminate the professional relationship. This is necessary because some cases of impaired objectivity or effectiveness can be resolved with minimal adverse impact on the provider's clients. It is reasonable to allow for the possibility of resolving the impairment when this might be in the client's best interests, rather than automatically requiring a termination of the professional relationship as was required in the previous rules. For example, a severe but brief physical illness or injury might temporarily require that a provider cease providing services to a client who has been receiving long-term services from the provider, but if the illness or injury can be resolved with minimal adverse effects on the client, the professional relationship would not need to be terminated.

It is reasonable to allow for options other than termination of clients in some cases when the provider is impaired because this may be in the client's best interests and minimal adverse effects on the client have resulted. Permitting a provider in limited circumstances to continue services to a client when impaired can be seen as analogous to allowing a provider to provide services while developing competence in an area in which the provider is not yet fully competent (*See*, part 7200.4600, subpart 2, "Developing competence"). Parallel requirements for resolving impairment or developing competence include education, training, continuing education, consultation, or supervision, or an appropriate combination thereof. In addition, impaired providers shall obtain, as appropriate, psychotherapy or intervention services, or shall engage, as appropriate, in discussions with the client or potential client as additional avenues to resolve the impairment.

Providers are required to terminate services with their clients when impaired, unless they pursue resolution of the impairment "in a manner that minimizes any adverse effects on the client." Where such minimizing of adverse effects is not reasonably possible, the provider is required to terminate services, as in the previous rule. When termination under this subpart is required, it must be done in accordance with the requirements of part 7200.4740, "Termination of Services."

Subp. 3. Termination of services due to impaired objectivity or effectiveness.

~~Whenever a psychologist's objectivity or effectiveness becomes impaired during a professional relationship with a client, the psychologist must notify the client orally and in writing that the psychologist can no longer see the client professionally and must assist the client in obtaining Termination of services from another professional required by subpart 2a must conform with the requirements of part 7200.4740.~~

SONAR: It is necessary to amend the heading of this subpart to distinguish it from Part 7200.4740, "Termination of services." The addition of "due to impairment" is reasonable language to accomplish this. The previous language in this subpart is stricken. This is necessary because part 7200.4740 is a new part that addresses termination requirements. The stricken language is now redundant. It is necessary to have a rule regarding termination in cases of impairment, because in some cases that is the only reasonable alternative, but the procedure for termination is the same as other kinds of service termination, so it is reasonable to have language in subpart 3 that directs the reader to part 7200.4740.

Subp. 4. **Burden of proof.** If a complaint is submitted to the board alleging a violation of this part, the provider has the burden of proof to demonstrate that there was no impaired objectivity or effectiveness or that the provider was compliant with subpart 2a.

SONAR: This part places the burden of proof on the provider to demonstrate that if the provider has not complied with subpart 3, the he or she has complied with subpart 2a, which is reasonable and necessary in that the responsibility to take action in matters of impaired objectivity falls upon the provider. Thus, it is reasonable to expect that in cases where there is a complaint regarding the actions a provider has taken that the provider demonstrate to the Board the steps taken towards compliance. The provider is the person in the best position to demonstrate his or her actions and documentation.

7200.4850 PROVIDER IMPAIRMENT

The provider shall not offer psychological services to clients when the provider is unable to offer such services with reasonable skill and safety as a result of a physical or mental illness or condition, including, but not limited to, substance abuse or dependence.

SONAR: This is a new rule in part constructed from 7200.4810 E. This rewritten rule is necessary to accurately reflect prohibitions on provision of psychological services when the provider is not able to do so without reasonable skill and safety due to certain conditions. It provides a specific prohibition for conduct that is one of the grounds of discipline enumerated in Minnesota Statute section 148.941. It is reasonable to specify the conditions under which absence of skill and safety may occur in order that the intent of the rule is clear.

REPEALED. 7200.4900 CLIENT WELFARE.

~~Subpart 1. **Providing explanation of procedures.** A client has the right to have and a~~

~~psychologist has the responsibility to provide, on request, a nontechnical explanation of the nature and purpose of the psychological procedures to be used and the results of test administered to the client. The psychologist shall establish procedures to be followed if the explanation is to be provided by another individual under the direction of the psychologist.~~

SONAR: It is necessary and reasonable to strike this rule because its amended language is now located in part 7200.4905, subpart 1. This change improves the organization of the Rules of Conduct.

~~Subp. 1a. **Client records.** A client who is the direct recipient of psychological services has the right of access to the records relating to psychological services maintained by the psychologist on that client, as provided in Minnesota Statutes, section 144.292, provided the records are not classified as confidential under Minnesota Statutes, section 13.84. A psychologist must maintain an accurate record for each client. Each record must minimally contain:~~

- ~~A. an accurate chronological listing of all client visits, together with fees charged to the client or a third-party payer;~~
- ~~B. copies of all correspondence relevant to the client;~~
- ~~C. a client personal data sheet; and~~
- ~~D. copies of all client authorizations for release of information and any other legal forms pertaining to the client.~~

~~A psychologist who is an employee of an agency or facility need not maintain client records separate from records maintained by the agency or facility.~~

SONAR: It is reasonable and necessary to repeal subpart 1a as it is replaced with Minnesota Rule 7200.4750, subpart 1 and subpart 2.

7200.4905 CLIENT WELFARE.

Subpart 1. **Bill of rights.** The provider shall display prominently on the premises of the professional practice or make available as a handout the bill of rights of clients which must include a statement that consumers of psychological services have the right:

SONAR: It is necessary to delete the reference in the former rules to a statement of areas of competency because that requirement is eliminated in these rules (*See*, former 7200.0100, subp. 2, being repealed).

- A. to expect that the provider has met the minimum qualifications of education, training, and experience required by state law for licensure;

SONAR: Item A. New language is necessary and reasonable to clarify ‘minimum’ requirements for “licensure” and adding that clients have the right to expect minimum requirements are also met by through education.

- B. to examine public records maintained by the Board of Psychology that contain the credentials of the provider;

SONAR: Item B. Modifications to this are a grammatical change only, substituting “that” for “which.”

- C. to report complaints to the Board of Psychology;

SONAR: Former item C, that reads:

~~C. to obtain a copy of the rules of conduct from the State Register and Public Documents Division, Department of Administration, 117 University Avenue, Saint Paul, MN 55155~~

It is necessary to strike this item because the Board provides copies of the Rules of Conduct to the public in print and on its website. It is reasonable to strike Item C, having obtained advice from the State Register’s office that the rules are available elsewhere.

New Item C. This item was formerly item D. It is necessary and reasonable to strike the address of the Board of Psychology because it is subject to change. Because changes to the rules involve lengthy processes, it is better not to include addresses in a rule that are subject to change. The language in item M. of this part requires that the Bill of Rights shall include the Board of Psychology's current mailing address, web site, and telephone number.

- D. to be informed of the cost of professional services before receiving the services;

SONAR: Item D. This item adds to the Bill of Rights that the recipient of the psychological service shall be informed of the cost of the service before receiving it. It is reasonable that

consumers of psychological services be told at the onset of a potential therapeutic relationship what the costs of services are to be prior to receiving those services to allow them to make informed decisions regarding treatment.

E. to privacy as defined and limited by rule and law;

SONAR: Item E. Formerly Item F, this item has been amended to add “and limited.” This is necessary to add to public protection by informing consumers of psychological services that the right to privacy is not unlimited, as specified in rule 7200.4700. It is reasonable to clarify this to the public in a Client Bill of Rights.

F. to be free from being the object of unlawful discrimination while receiving psychological services;

SONAR: Item F. This item was formerly item G. It is necessary and reasonable to amend item F because, as written, it was grammatically incorrect. It is not the categories of discrimination that are “unlawful,” but rather most types of discrimination. The use of “unlawful” to modify discrimination nevertheless must be added because some types of discrimination are legally permitted; e.g., a blind person can be prohibited from obtaining a job as a school bus driver.

It is also necessary to amend this item because categories of discrimination have changed over the intervening years since the rule was originally adopted. At minimum, the following additional categories of unlawful discrimination have been added since then: national origin, age, and disability. Also, there are legal exceptions within each category, requiring legal consultation by the provider when in doubt about the applicability of a particular anti-discrimination statute. As a result, it is reasonable not to itemize these categories since they are subject to change and legal exception and instead to include a blanket statement prohibiting unlawful discrimination.

G. to have access to their records as provided in Minnesota Statutes, sections 144.291 to 144.298, except as otherwise provided by law or a prior written agreement;

SONAR: Item G. This item was formerly Item H. It is necessary and reasonable to add “except as otherwise provided by law” because the access to one’s records has exceptions in law. It is necessary and reasonable to add "or prior written agreement" because this limitation can be structured as part of some psychological services. It is reasonable to clarify this to the public in a Client Bill of Rights.

H. to be free from exploitation for the benefit or advantage of the provider;

SONAR: Item H. It is reasonable to add this item as a part of informed consent and is prohibited in part 7200.4905 subp. 4 in a client Bill of Rights as an expectation for clients seeking psychological services, to inform the public of their right to be free from exploitation to advance public protection.

- I. to terminate services at any time, except as otherwise provided by law or court order;

SONAR: Item I. It is reasonable to add this item as a part of informed consent and public protection in a client Bill of Rights so that clients understand that they are not required to continue to receive psychological services once they begin.

- J. to know the intended recipients of psychological assessment results;

SONAR: Item J. It is reasonable and necessary as a part of informed consent and public protection for an examinee of a psychological assessment know before the assessment begins who will receive the results of the assessment.

- K. to withdraw consent to release assessment results, unless that right is prohibited by law or court order or is waived by prior written agreement;

SONAR: Item K. It is reasonable and necessary for informed consent and public protection to inform examinees of a psychological assessment that even if they have agreed to allow the provider to release the results of the assessment, they can change their minds and withdraw that consent for future release, unless laws or court orders prohibit that withdrawal or they have previously agreed in writing that they will not withdraw that consent.

- L. to a nontechnical description of assessment procedures; and

SONAR: Item L. It is reasonable and necessary for informed consent and public protection for a recipient of a psychological assessment to be informed in language understandable to that individual what the assessment will involve.

- M. to a nontechnical explanation and interpretation of assessment results, unless that right is prohibited by law or court order or is waived by prior written agreement. The handout must include the Board of Psychology's current mailing address, Web site address, and telephone number.

SONAR: Item M. It is reasonable and necessary for informed consent and public protection that the recipient of a psychological assessment has a right to be told, in language understandable to that person, what the results of the assessment were, unless laws or court orders prohibit such explanation or the recipient of the assessment has previously agreed in writing that he or she will not receive such explanation.

This rule is also necessary and reasonable so that recipients of psychological services will have current information regarding how to make inquiries or file complaints with the Board.

Items J-M relate to assessment procedures, results and distribution. These items were moved from the section on the informed consent to make it possible to have a clear delineation of the minimum standards required for informed consent. It is necessary and reasonable to place the items related to informed consent in assessment in the section of the rules on the rights to which recipients of services are entitled and to specify that recipients of psychological services be informed of this rights before the service is provided.

Subp. 2. **Stereotyping.** The provider shall consider the client as an individual and shall not impose on the client any stereotypes of behavior, values, or roles related to human diversity.

SONAR: This subpart was formerly subpart 3. It is reasonable to simplify Subpart 2 by referencing the definition of human diversity, which is previously defined in rule 7200.4905, subp. 1, item F.

Subp. 3. **Misusing client relationship.** The provider shall not misuse the relationship with a client due to a relationship with another individual or entity.

SONAR: Subpart 3 has been moved here from part 7200.4810, subpart 2b. This is reasonable and necessary to improve the organization of the Rules of Conduct as it more appropriately belongs in the rule on Client Welfare.

Subp. 4. **Prohibiting exploitation of client.** The provider shall not exploit in any manner the professional relationship with a client for the provider's emotional, financial, sexual, or personal advantage or benefit. This prohibition is extended indefinitely to former clients who are vulnerable or dependent on the provider. If a complaint is submitted to the board alleging violation of this subpart with respect to a former client, the provider has the burden of proof to demonstrate that the former client was not vulnerable or dependent.

SONAR: This subpart was formerly subpart 7a under Minnesota Rule 7200.4900. It was necessary and reasonable to amend this subpart to protect against exploitation for certain

former clients indefinitely. This is necessary because certain former clients are vulnerable to exploitation after services have ended. Current rules prohibit exploitation of current clients and sexual relationships within two years of termination, but not longer and do not prohibit other types of exploitation after the relationship ends. The potential for harm when the client has a dependent relationship with the provider is particularly high, necessitating the extension of the prohibition for those individuals indefinitely. Because of the vulnerable position of those dependent on a provider, it is reasonable to require that the provider prove that dependency does not exist, in the event of a complaint. The definition of “dependent on the provider” is provided in rule 7200.0110 subp. 7.

The rule does not assume or imply that all financial, sexual, or personal relationships with clients subsequent to termination of services are exploitative and only those that are exploitative with vulnerable or dependent clients are prohibited.

~~REPEALED. Subp. 8. **Sexual contact with a client.** A psychologist shall not engage in sexual intercourse or other physical intimacies with a client, nor in any verbal or physical behavior which is sexually seductive or sexually demeaning to the client. Physical intimacies include handling of the breasts, genital areas, buttocks, or thighs of either sex by either the psychologist or the client. A psychologist must not engage in sexual intercourse or other physical intimacies with a former client for a period of two years following the date of the last professional contact with the client, whether or not the psychologist has formally terminated the professional relationship.~~

SONAR: It is reasonable to repeal former subpart 8 in its entirety as it is replaced by subpart 5.

Subp. 5. **Sexual behavior with a client.** A provider shall not engage in any sexual behavior with a client, including:

A. sexual contact with the client; or

B. any physical, verbal, written, interactive, or electronic communication, conduct, or act that may be reasonably interpreted to be sexually seductive, demeaning, or harassing to the client;

SONAR: This subpart has replaced former subpart 8, “Sexual contact with a client.” It is reasonable to specify only the prohibition of sexual contact because the definition of sexual contact is contained in Minnesota Statutes, section 604.20, subdivision 7. It is necessary to expand the description of behaviors that can be experienced as sexually harassing, seductive, or demeaning to be more inclusive of all such behaviors that can occur today.

Subp. 6. **Sexual behavior with a former client.** The prohibitions against sexual behavior with clients established in subpart 5 also apply to former clients for a period of two years following the date of the last psychological service, whether or not the provider has formally terminated the professional relationship. This prohibition is extended indefinitely for a former client who is vulnerable or dependent on the provider. If a complaint is submitted to the board alleging a violation of this subpart with respect to a former client, the provider has the burden of proof to demonstrate that the former client was not vulnerable or dependent.

SONAR: Subpart 6 expands and clarifies the previous rule’s prohibition against sexual behavior with a former client. The two-year standard is retained, but it is reasonable to reference “the date of the last psychological service” rather than the previous rule’s “date of the last professional contact.” The distinction is that a professional contact may only mean that the client contacted the provider for an administrative reason, such as a billing question or a records release matter, versus an actual professional service. It has always been the intent of this rule to reference the point at which the provision of psychological services ceased, because it is the latter that typically creates the power differential between the provider and client, particularly in the provision of psychotherapy services, wherein nearly all complaints alleging sexual behavior with a client originate.

Subpart 6 also extends the two-year prohibition “indefinitely” regarding a former client “who is vulnerable or dependent on the provider. This is a reasonable extension for a particular set of clients, as noted with regard to subpart 4 of this rule. To make this rule clearer, “dependent on the provider” is defined in part 7200.0110, subpart 7.

~~REPEALED. Subp. 4. **Preferences and options for treatment.** A psychologist shall disclose to the client preferences of the psychologist for choice of treatment or outcome and shall present other options for the consideration or choice of the client.~~

~~REPEALED. Subp. 5. **Conflict between psychologist and client.** A psychologist who becomes aware of a divergence of interests, values, attitudes, or biases between a client and the psychologist sufficient to impair their professional relationship shall so inform the client. Either the client or the psychologist may terminate the relationship.~~

~~REPEALED. Subp. 6. **Termination of services.** A psychologist shall terminate a professional relationship with a client when the client is not likely to benefit from continued professional services or the services are unneeded. The psychologist shall inform the client orally and in writing of the termination and assist the client in obtaining services from another professional.~~

~~REPEALED. Subp. 7. **Referrals on request.** A psychologist shall make a prompt and appropriate referral of the client to another professional when requested to do so by the client.~~

~~REPEALED. Subp. 9. **Coordinating services with other professionals.** A psychologist shall ask a client whether the client has had or continues to have a professional relationship with another mental health professional. If it is determined that the client had or has a professional relationship with another mental health professional, the psychologist shall, to the extent possible and consistent with the wishes and best interests of the client, coordinate services for that client with the other mental health professional.~~

~~REPEALED. Subp. 10. **Complaints to board** A psychologist, for purposes of this subpart the "first psychologist," shall file a complaint with the board when the first psychologist has reason to believe that a second psychologist is having or has had sexual contact with a client in violation of subpart 8, or has failed to report abuse of children or vulnerable adults in violation of part 7200.4700, subpart 11. This requirement to file a complaint does not apply when the belief is based on information obtained by the first psychologist in the course of providing psychological services to the second psychologist. Nothing in this part relieves the first psychologist from the duty to file a report as required by Minnesota Statutes, section 626.556 or 626.557, regarding abuse of children and vulnerable adults.~~

~~REPEALED. Subp. 11. **Communicating complaints to psychologist or board.** A psychologist informed of conduct of another psychologist which appears to be in violation of any rule of conduct other than those listed in subpart 10 may directly communicate with or seek to counsel the other psychologist or may file a complaint directly with the board.~~

~~REPEALED. Subp. 12. **Information on complaint procedure.** A psychologist shall, upon request, provide information regarding the procedure for filing a complaint with the board and may, upon request, assist with filing a complaint.~~

SONAR: It is reasonable and necessary to strike the provisions above and include in the repealer, given that the concepts embodied in subparts 4 through 12 have been restated

and clarified in Minnesota Rule 7200.4905, Client Welfare, and specifically under subpart 1, A-M, identified as the “Client bill of rights.”

7200.5400 WELFARE OF STUDENTS, SUPERVISEES, AND RESEARCH SUBJECTS.

~~A psychologist shall protect the welfare of psychology students, supervisees, and research subjects and shall accord the students, supervisees, and human research subjects the client rights listed in parts 7200.4700 and 7200.4900, except for parts 7200.4700, subparts 4 and 6, and 7200.4900, subparts 4, 6, and 9.~~

SONAR: It is necessary to repeal this rule because it has been subsumed by 7200.4910.

7200.4910 WELFARE OF STUDENTS, SUPERVISEES, AND RESEARCH SUBJECTS.

Subpart 1. **General.** Providers who teach, evaluate, supervise, or conduct research have authority over their students, supervisees, or research subjects, and must protect the welfare of these individuals.

SONAR: This was formerly part 7200.5400. It is necessary to renumber it so that it immediately follows part 7200.4900, “Client Welfare.” This is reasonable because both parts address issues pertaining to client welfare, thereby improving the organization of the rules.

Subpart 1 is a new subpart. Although the previous rule indicated that students, supervisees, and research subjects had certain client “rights,” it said nothing about their nature or status. It is necessary to reiterate that they are clients, as defined in Minnesota Statute, section 148.89, subd. 2a (although with more limited protections than other clients), to describe the reason for according them certain protections, and define what is meant by the terms “student” “supervisee” and “research subject.” Doing so will help clarify to providers and the public when, and to whom, part 7200.4910 applies.

Due to the evaluative, supervisory, or other authority that providers who teach, supervise, or conduct research have over their psychology students, supervisees, or research subjects, those providers shall protect the welfare of these individuals. This authority the providers have over these individuals creates a power differential that could leave students, supervisees, or research subjects vulnerable to exploitation in various ways, which creates the necessity for this rule. Student is defined in 7200.0110, subp. 32 of these rules.

Supervisee is defined in part 7200.0110, subp. 33 of these rules.

Research subject is defined in part 7200.0110, subp. 25 of these rules.

Whereas previous Part 7200.5400 was organized around the concept of “client rights,” the current rule lists provider “protections” that must be accorded to students, supervisees, and research subjects. This is necessary to clarify to providers what behaviors are prohibited and what behaviors are required in the role of teacher, supervisor, or researcher.

Subp. 2. Protections. To protect the welfare of students, supervisees, or research subjects, providers shall not:

SONAR: Subpart 2 is needed to delineate specific prohibited behaviors by providers who are in the role of teacher, supervisor, or researcher, as related to the definitions provided in subpart 1.

A. impose any stereotypes of behavior, values, or roles related to race, ethnicity, national origin, religious affiliation, language, age, gender, physical disabilities, mental capabilities, sexual orientation or identity, or socioeconomic status;

SONAR: This item was formerly part 7200.4900, subpart 3 (now 7200.4905, subpart 2). The protection against stereotyping is essentially the same as provided for in former part 7200.5400. It is reasonable to include it in a list of specific protections to improve the organization of the Rules of Conduct. This item has been amended so that it is consistent with the categories listed in the new definition of “human diversity”

B. exploit or misuse in any manner the professional relationship for the emotional, financial, sexual, or personal advantage or benefit of the provider or another individual or entity;

SONAR: This item is a new protection for students, supervisees, and research subjects. This rule is reasonable and necessary because it is nearly identical to the protection afforded other clients by part 7200.4905, subpart 3. Impairment in judgment or objectivity can occur in providers in their relationships with students, supervisees, or research subjects and can result in actions as harmful to such individuals as to other clients.

C. engage in any sexual behavior with a current supervisee, including sexual contact, as defined in part 7200.0110, subpart 28, or any physical, verbal, written, interactive, or electronic communication, conduct, or act that may be reasonably interpreted to be sexually seductive, demeaning, or harassing;

SONAR: This item was formerly part 7200.4900 subpart 8 (now 7200.4905, subpart 5). The protection against sexual exploitation is essentially the same as provided for in former part 7200.5400, except that the current rule does not extend beyond the period of time that the individual is a current student, supervisee, or research subject. The rule prohibiting sexual behavior with clients for two years after the completion of psychological services seems clearly necessary in the case of clients who receive psychotherapy services, due to the vulnerable state, by definition, of such clients, but its necessity is less clear regarding students, supervisees, or research subjects, who are not at the same risk to develop a dependence on the teacher, supervisor, or researcher that continues after they are no longer clients. The teacher-student relationship, supervisor-supervisee, or researcher-research subject relationship is not as likely to involve the same relationship dynamics or transference issues as the therapist-client relationship. Teachers and their students, or researchers and their research subjects, may have little personal contact while the teaching or research is taking place. Once students have completed their graduate studies, they become peers and often fellow licensees with their former teachers, sometimes within one year after completing their degrees. The area of supervision is somewhat more difficult to evaluate in this regard, but it is, in general, not reasonable to establish a rule unless there are sufficient grounds for believing that there is a need for protecting the public in the area contemplated by the rule. The risk to students, research subjects, and supervisees is not clearly established beyond the time they are in the client role, so the necessity and reasonableness of a rule prohibiting any type of constitutional contact is not established. The second change in the rule is that the language specifying the nature of prohibited sexual behavior is omitted as unnecessary, because it is specified in the relevant statute, Minnesota Statutes, section 148.941, subd. 7.

D. engage in any deceptive or fraudulent behavior;

SONAR: Item D. This is a new rule. This is necessary and reasonable to protect students, supervisees, and research subjects due to the damaging effects deception or fraud can have on them.

E. disclose evaluative information except for legitimate professional or scientific purposes;

or

SONAR: Item E. Item E is a new rule that is necessary because students, supervisees, and research subjects can be harmed by release of evaluative information. However, because in and research settings the exchange of such information can be necessary for legitimate professional or scientific purposes, it is reasonable not to prohibit such exchanges of information.

F. engage in any other unprofessional conduct.

SONAR: Item F. This is a new item that is reasonable because it simply makes explicit the extension of rule 7200.5700 to students, supervisees, and research subjects.

7200.4950 MEDICAL AND OTHER HEALTH CARE CONSIDERATIONS

Subpart 1. Coordinating services. With authorization from the client, the provider shall coordinate services for the client with other health care professionals, consistent with the best interests of the client.

SONAR: This subpart was formerly part 7200.4900, subpart 9:

~~**Subp. 9. Coordinating services with other professionals.** A psychologist shall ask a client whether the client has had or continues to have a professional relationship with another mental health professional. If it is determined that the client had or has a professional relationship with another mental health professional, the psychologist shall, to the extent possible and consistent with the wishes and best interests of the client, coordinate services for that client with other mental health professionals.~~

The former rule has been moved here to improve the organization of the Rules of Conduct. The heading and the body of the subpart use the phrase, “medical and other health care considerations,” to make clearer the other professionals to whom the subpart is referring. This is necessary because the rule requires coordination of services with other healthcare professionals only, not professionals in general. “Healthcare professionals” includes the former term, “mental health professional,” but also includes physicians, nurses, and other professionals in the healthcare field. This is necessary because there is often an overlap between psychological and medical or other healthcare services, and coordination with healthcare professionals is in the client’s best interests and is often necessary for the provision of adequate psychological services.

The change simplifies the rule and places an emphasis on the coordination of services. It also rephrases the rule so that it makes sense.

Language in this subpart that previously referred to past healthcare services has been stricken, because logically one cannot coordinate professional services that are no longer being provided.

Subp. 2. Medications.

SONAR: This is a new subpart. Subpart 2 recognizes that in the practice of psychology, providers sometimes may discuss medication issues with a client consistent with the best interests of the client. Providers may be able to monitor the effects of prescription

medications on their clients and take appropriate steps if there appear to be problems.

Subpart 2 is intended to permit providers with the requisite competence to discuss possible medication options for the client to investigate with a physician or other qualified healthcare professional with prescriptive authority. Certainly the provider's experience with similar clients could contribute to the validity of the provider's observations that are discussed with the client. However, the rule's intent is to protect clients from receiving specific recommendations from providers regarding medications, dosages, or discontinuing medications, or from mistakenly interpreting the comments of the provider as a prescription recommendation.

- A. If competent to do so, providers may discuss prescription or nonprescription medications and their effects with a client or the client's physician or other prescribing health care provider, or in a report.

SONAR: Item A. Item A allows Providers with the requisite competence to “discuss prescription or non-prescription medications and their effects with a client, the client's physician or other prescribing healthcare provider, or in a report.” It is necessary to permit such discussions because they have the potential to benefit the client if done properly. It is reasonable to permit such discussions under the stated limitations of the provider's competence.

- B. Providers shall make clear in medication discussions with a client or in a report that the ultimate decision whether to prescribe, alter, or discontinue a medication lies solely with a physician or other prescribing health care provider.

SONAR: Item B. Item B adds a requirement that, if medication discussions occur as permitted in item A, the provider “shall make clear in medication discussions with a client or in a report that the ultimate decision whether to prescribe, alter, or discontinue a medication lies solely with a physician or other prescribing healthcare provider.” This rule is necessary to protect clients who might misinterpret a provider's medication comments and as a result believe that the provider has made a recommendation for a specific prescription medication or has recommended that the client alter or discontinue his or her medication. This could have harmful consequences to a client who acted on this misunderstanding.

SONAR: Former Minnesota Rule 7200.5000, “Assessments, Tests, Reports,” has been stricken and replaced with Minnesota Rule 7200.5010.

REPEALED. 7200.5000 ASSESSMENTS, TESTS, REPORTS

~~Subpart 1. **Test information for users.** Except for research purposes, psychological tests used by psychologists must include a manual or other published information which fully describes the development of the test, the rationale for the test, the validity and reliability of the test, and normative data.~~

SONAR: Former Subpart 1. It is necessary to repeal this subpart because its content is more appropriate to a definition, so it is now included in the definition of “Standardized Test” (See, part 7200.0110, subpart 31).

~~REPEALED. Subp. 1a. **Computerized testing services.** A psychologist who uses computerized testing services is responsible for the legitimacy and accuracy of the test interpretations. Computer generated interpretations of tests must be used only in conjunction with professional judgment. A psychologist must indicate when a test interpretation is not based on direct contact with the client, that is, when it is a blind interpretation.~~

SONAR: Former subpart 1a. It is necessary to repeal this subpart because it improves the organization of the Rules of Conduct to include it elsewhere. The first two sentences are now replaced by new subpart 3, item E. The third sentence addresses a report writing issue, and is now replaced by Subpart 5, Item E.

~~REPEALED. Subp. 1b. **Administration and interpretation of tests.** A psychologist must be qualified to administer and interpret tests employed and must be prepared to explain to the client the purposes, applications, scoring, and interpretation of those tests.~~

SONAR: It is necessary to repeal this rule because its contents and SONAR are contained elsewhere in these rules. The issue of qualification of psychologists is addressed in 7200.5010, subp 3. The part of this rule on explaining results is now contained in the client bill of rights, 7200.4905, subp. 1, part M. It is reasonable to move the rule to that part of the rules to ensure that clients not only receive an explanation of assessment results, but are informed of that right before the service is provided.

~~REPEALED. Subp. 2. **Offering tests for publication.** A psychologist must offer psychological tests for commercial publication only to those publishers who present tests in a professional manner and who distribute them only to qualified professional users. The psychologist must ensure that test advertisements are factual and descriptive.~~

SONAR: Subpart 2. This subpart has been repealed. This is necessary and reasonable because there are significant questions about whether a violation by a publisher would be jurisdictional, and whether restraint of trade issues occur by attempting to limit who is permitted to publish a psychological test. The Board is unaware of any past complaints in this area, so it is reasonable to repeal this rule.

~~REPEALED. Subp. 3. **Reports.** The provision of a written or oral report, including the testimony of a psychologist as an expert witness, concerning the psychological or emotional health or state of a client, is a psychological service. The report must include:~~

- ~~A. a description of all assessments, evaluations, or other procedures upon which the psychologist's conclusions are based;~~
- ~~B. any reservations or qualifications concerning the validity or reliability of the conclusions formulated and recommendations made, taking into account the conditions under which the procedures were carried out, the limitations of scientific procedures and psychological descriptions, and the impossibility of absolute predictions;~~
- ~~C. a notation concerning any discrepancy, disagreement, or conflicting information regarding the circumstances of the case that may have a bearing on the psychologists conclusions; and~~
- ~~D. a statement as to whether the conclusions are based on direct contact between the psychologist and the client.~~

~~REPEALED. Subp. 4. **Private information.**— A test result or interpretation regarding an individual is private information.~~

SONAR: It is necessary to repeal this subpart because it is duplicative with the definition of “private information,” part 7200.0110, subpart 19.

7200.5010 CONCLUSIONS AND REPORTS

SONAR: This rule replaces Minnesota Rule 7200.5000, Assessments, Tests, and Reports. It is reasonable to do so to gain organizational clarity and to expand on each subpart of the rule as noted in the SONAR statements below each subpart. The heading for this rule was renamed to accurately reflect the focus of the rule on the conclusions of the provider and the expression of those conclusions, rather than on a particular technique used to arrive at a conclusion.

Subpart 1. **Bases for assessments.** An assessment process must be appropriate and sufficient for the purposes for which it is intended.

SONAR: This subpart is necessary to make clear that an assessment process must use procedures that are considered by the psychological community to be appropriate and sufficient to answer questions for which the assessment was intended.

Subp. 2. **Bases for conclusions.** Providers shall base their conclusions on information and procedures sufficient to substantiate those conclusions.

SONAR: This subpart is necessary to make clear that it is a violation of these rules to draw professional conclusions about individuals without gathering information that is considered adequate to form such conclusions. Thus, the requirement is that the opinion formed by a

provider must be supported by the information obtained and the procedures used to form that conclusion. In the case of a complaint, of which there have been many in this area of practice, the provider would have the requirement to demonstrate to the Board how the information obtained and procedures used provided a sufficient basis for the conclusions drawn.

Subp. 3. Administration and interpretation of tests. Providers shall use psychological tests as follows:

SONAR: This subpart replaces former subpart 1b. It is necessary and reasonable to strike the language, “A psychologist must be qualified to administer and interpret tests and other measures employed,” because it is redundant with the requirements of part 7200.4600, subpart 1, “Competent practice,” which states that providers “shall limit practice to the services that they can provide competently as defined in part 7200.0100, subpart 4.” This subpart makes clear in its component parts A-E, the requirements for providers who use psychological tests.

A. standardized tests shall be used preferentially over nonstandardized tests;

SONAR: Although providers may use either standardized or non-standardized tests, standardized tests have a more extensive development, normative data base, validation, and reliability. Because test results based on poorly constructed or non-validated tests, or on unreliable tests, can have a significant negative impact on the welfare of clients, it is necessary and reasonable to require that a standardized test be used preferentially over a non-standardized if such a test is available. This rule does reasonably leave the option of using a non-standardized test in a situation where no appropriate, standardized test is available, such as if a standardized test has not been standardized with the population from which the examinee comes.

B. all tests shall be administered and responses shall be recorded, scored, and interpreted based on practice or scientific foundations;

SONAR: In order that a test maintain its valid in a given usage, it is necessary that it be administered in a standard and objective manner, and that responses be recorded, scored, and interpreted in a standard and objective manner. Therefore, in order to maintain sound and effective practice, it is necessary and reasonable that any tests used be used in a standard manner according to current practice or scientific foundations.

C. whether a test is used in a nonstandard manner, the limitations of the test and the reasons

for its nonstandard use shall be clearly stated in the report;

SONAR: This part reasonably allows for use of tests in a nonstandard manner, if standard usage is not possible, such as the use of a standardized test with a population on which the test has not been normed. Part B requires that if a standardized test that has been normed on the population is available, that test be used. However, when that it not possible or is undesirable for some reason, it is reasonable and necessary to require that the limitations based on lack of normative data regarding validity and interpretation be described in order that such limitations are clear to the consumer of the assessment conclusions. In addition, it is reasonable to require a description of why it was necessary to employ a non-standardized test, in particular in a situation where there might be some question about whether an appropriate standardized test is available.

D. a test’s reliability, validity, and normative data shall be taken into account in its selection, use, and interpretation; and

SONAR: It is necessary to require that the provider take into account a test’s psychometric properties in order to ensure that the appropriate uses and limitations of a test are considered. This rule also requires consideration of whether the test itself or the particular version used is obsolete or otherwise does not meet minimum standards of acceptable and prevailing practice. It is reasonable to require that these considerations be taken into account because client harm can result from the use of inappropriate tests or from drawing conclusions from tests that are limited in their psychometric properties.

E. the reliability and validity of test statements and interpretations in reports shall be the responsibility of the provider, including when automated testing services are used.

SONAR: This item was formerly subpart 1a, “Computerized testing services.” It is necessary to replace subpart 1a with Item E to improve the organization of the Rules of Conduct. It is necessary to retain the requirements of former subpart 1a to assure that tests are interpreted appropriately by providers, even if they use automated testing services. However, the language in former subpart 1a was grammatically incorrect; it suggested that providers are responsible for the “legitimacy and accuracy of the (automated) test interpretations,” whereas this is actually the responsibility of the automated testing service. Rather, providers are responsible for the content of their reports, including content based in part or in whole on automated test interpretations. The Board has received several complaints against providers who quoted automated test interpretations mechanically in their reports, even though the automated interpretations were invalid. It is reasonable to have a rule in this regard because client harm can result from inaccurate test statements and interpretations.

Subp. 4. Reports. Reports shall include:

- A. a description of all sources of information upon which the provider's conclusions are based;

SONAR: The definitional language in the previous rule regarding the intent of the term “report” is now more reasonably contained in the definition section of the rules, 7200.0110, subp. 24. It is reasonable to broaden the requirement of the previous rule to include all sources of information used to form a conclusion rather than just some of the sources, so that the consumer of the report, and the Board in the case of a complaint, know all of the sources of information used to draw conclusions about a client. This is a reasonable requirement based on the general principle of transparency of psychological procedures and the requirements of current practice standards in the community.

- B. any reservations or qualifications concerning the validity or reliability of the opinions and conclusions formulated and recommendations made, taking into account the conditions under which the procedures were carried out, including any nonstandard use of a test, the limitations of scientific procedures and psychological descriptions, base rate and baseline considerations, and the impossibility of absolute predictions;

SONAR: A number of additions were made to this rule, without changing the intent and goals of the rule. Because in meeting with the Board during disciplinary procedures, licensees have at times claimed that evaluative statements made in reports were not “conclusions,” it was necessary to add a requirement that any reservations or limitations regarding opinions, as well as conclusions, be provided in a report. Second, because of requirements in paragraphs A and C of this rule, it is necessary to add the requirement that any reservations or limitations regarding psychological reports based on the use of nonstandard procedures be included in the report. Third, the Board has observed that a common error in psychological reports is the failure to note either base rates or baseline data when an opinion is given regarding a client's psychological condition. Conclusions expressed without such a discussion makes it possible for the conclusion to be inaccurate or misapplied and can, therefore, be misleading to the consumer of the report and harmful to the client.

- C. a statement concerning any discrepancy, disagreement, or inconsistent or conflicting information regarding the circumstances of the case that may have a bearing on the provider's conclusions.

SONAR: It is necessary and reasonable to amend item C by replacing “notation” with

“statement” in order to clarify that a written statement is expected in a report regarding the requirements of this item. The stricken term “notation” is less substantial and subject to misinterpretation. “Inconsistent” is added to “Conflicting” to include a common occurrence, that there are inconsistencies in the data collected. It is necessary to include this in the rule so that a provider does not ignore or omit data that are inconsistent with the desired conclusions or opinions.

D. a statement of the nature of and reasons for any use of a procedure that differs from the purposes, populations, or referral questions for which it has been designed or validated, or that is administered, recorded, scored, or interpreted in other than a standard and objective manner; and

SONAR: It is reasonable and necessary to identify for the consumer of the report the nature of and reasons for any use of a procedure that deviates from the purposes, populations, or referral questions for which it has been designed or validated, or that is administered, recorded, scored, or interpreted in other than a standard and objective manner. This provides the context for the reader of the report to allow him or her to apply the proper weight to any given procedure and to assess its applicability for the given use.

E. a statement indicating if any test interpretations or report conclusions are not based on direct contact between the provider and the client.

SONAR: The added and amended language was previously found in subpart 1a, where it did not fit well. It is stated such that a statement is only necessary if a test interpretation or report conclusions are made without direct contact with the client. It is reasonable and necessary to modify this former requirement to reflect the more commonly occurring practice that test interpretations and report conclusions are based on direct contact between the provider and the client, and to require a statement only in the circumstance when this is not the case.

7200.5100 PUBLIC STATEMENTS

Subpart 1. **Prohibition against false or misleading information.** Public statements by providers shall not include false or misleading information. ~~They may describe fees, professional qualifications, and services provided, but they may not evaluate services as to their quality or uniqueness and may not contain testimonials by quotation or implication.~~ False or misleading information means any public statement that contains a material misrepresentation or omission of fact. The provider shall make reasonable efforts to ensure that the public statements by others on behalf of the provider are truthful and shall make reasonable remedial efforts to

bring a public statement into compliance with this part when the provider becomes aware of a violation.

SONAR: It is necessary to amend the Board’s previous rule regarding False or Misleading Information (See, former Minn. R. 7200.5100) to bring it more in line with current standards based on statutory and case law. The public can be protected in a reasonable manner by amending the rule in a way that emphasizes truthfulness in public statements. It is reasonable to strike the prohibition against “evaluating (one’s own) services as to their quality or uniqueness,” to be consistent with current legal standards, as long as the provider is truthful when providing such evaluations.

The scope of subpart 1 is intended to include test advertisements, which were previously referenced in former part 7200.5000, subpart 2, “offering tests for publication.” This inclusion is necessary and reasonable because test advertisements are a type of public statement, and should be covered under the same rule as other kinds of public statements.

It is necessary and reasonable to add language regarding public statements by others to address situations in which other individuals, rather than the provider, make false or misleading public statements about the provider or the provider’s services or products. Such public statements, although not made by the provider, might nevertheless have a harmful effect or impact on the public and at minimum will be misleading. It is reasonable to require that the licensee have two kinds of responsibilities regarding false or misleading public statements by others: To make reasonable efforts to ensure that such statements are not made, and, if they do occur, to make reasonable remedial efforts to correct such statements when he or she becomes aware of them.

This portion of subpart 1 is reasonable because “reasonable remedial efforts” recognizes that providers may have little or no control over the public statements of others, such as the advertising practices of one’s publisher, and that as a result providers cannot be held accountable for the actions of others beyond a standard of reasonableness...

Subp. 2. **Misrepresentation.** ~~A psychologist may~~ The provider shall not misrepresent directly or by implication professional qualifications ~~such as including~~ education, training, experience, ~~or areas of competence, credentials, certification by a specialty board, or areas of specialization.~~ ~~A psychologist may~~ The provider shall not misrepresent, directly or by implication, professional affiliations, or the purposes and characteristics of institutions and organizations with which the ~~psychologist~~ provider is professionally associated.

SONAR: It is necessary to amend this subpart to include language formerly in part 7200.4600, subpart 2, “Accurate representation.” These two subparts were very similar, and it is reasonable to combine them into one subpart to improve the organization of the Rules of Conduct. “training” and “professional” have been added. In addition, it is reasonable to add “credentials” and “certification by a specialty board, or areas of specialization” as additional areas of professional qualifications that should not be misrepresented; as such designations can mislead the public about the actual qualifications of the provider. Finally, it is necessary to clarify those institutions and organizations with which the provider is “professionally” associated should not be misrepresented. Association with many guild organizations requires minimal qualification and such association should not be used to state or imply a level of qualification that is not present based on education, training and experience.

Subp. 3. **Limit on use of degree.** ~~A psychologist~~ An applicant for licensure or a provider licensed by virtue of a master’s degree who has a doctorate from an institution that is not accredited by a regional accrediting association or whose doctoral major does not meet the education requirements for licensure ~~may~~ shall not use the term “Doctor,” “Ph.D.,” “Psy.D.,” or “Ed.D.” with the ~~psychologist’s~~ provider’s name in any situation or circumstance ~~related to~~ involving the practice of psychology.

SONAR: This subpart was broadened to include applicants. It has been necessary to replace “related to” with “involving” because the former was overly inclusive, especially in the context of “any situation or circumstance.”

Subp. 4. **Testimonials.** Providers shall not solicit or use testimonials by quotation or implication from current clients or from former clients who are vulnerable due to undue influence.

SONAR: The previous rule 7200.5100 subp. 1 prohibited all testimonials, which is not the current standard, so that rule was deleted. However, the addition of this subpart is necessary and reasonable to protect current clients, or former clients who are vulnerable to undue influence, from the possibility of exploitation by providers.

Subp. 5. Use of specialty board designations. Providers may represent themselves as having an area of specialization from a specialty board, such as a designation as diplomate or fellow, if the specialty board used at minimum the following criteria to award the designation and the provider minimally meets the following four criteria:

- A. specified educational requirements defined by the specialty board;
- B. specified experience requirements defined by the specialty board;
- C. a work product evaluated by other specialty board members; and
- D. an in-person examination by a committee of specialty board members or a comprehensive written examination in the area of specialization.

SONAR: This is a new subpart. It is necessary because some designations appear to have limited substance, based on an absence of specific requirements to obtain the designation, and therefore can be misleading to the public. It is necessary to provide guidelines for a valid specialty board designation. Items A through D are reasonable in that they require a set of criteria that require peer-reviewed evaluation of whether specialized knowledge and competence have been attained and they are based on a generally accepted community standard for designation of specialty competence.

This subpart is not intended to prohibit the use of honorific designations such as “fellow” in a professional society or organization, such as “American Psychological Association Fellow,” “Society for Personality Assessment Fellow,” or other such honorific titles. It is solely focused on “specialty board designations.”

7200.5200 FEES AND STATEMENTS

Subpart 1. **Disclosure of cost on request fees.** ~~A psychologist~~ The provider shall, ~~when asked by a client about the cost of professional services,~~ disclose the cost of fees for professional services provided to a client before providing the services.

SONAR: The heading of subpart 1 has been amended by replacing “cost on request” with “fees.” This is necessary and reasonable because “fees” is the most common term used for a charge for a professional service. The rule also now requires the provider to disclose fees as a standard practice, rather than only when requested to do so. This is necessary as a public protection issue, and conforms to acceptable and prevailing practice. The rule also now requires that the mandatory disclosure of fees occur “before providing the services.” This is necessary and reasonable to assure that clients are informed about potential costs before they begin services so that they can make an informed decision about whether to receive the psychological services.

Subp. 2. **Itemized fee statement.** ~~A psychologist~~ Upon request, the provider shall itemize fees

for all services for which the client or a third party is billed ~~and make the itemized statement available to the client.~~ The statement shall identify at least minimally the date on which the service was provided, the nature of the service, and the name of the individual providing the service ~~and the name of the individual who is professionally responsible for the service.~~

SONAR: This change is reasonable because unless the client or third party payer requests an itemized statement, there is no need to require an itemized statement in rule. The deletion of the requirement that the individual who is professionally responsible be provided is reasonable because to require such information is not necessary to protect the public.

Subp. 3. ~~No misrepresentation~~ **Representation of billed services.** ~~A psychologist~~ The provider shall not directly or by implication misrepresent to the client or to a third party billed for services the nature of the services, or the extent to which the ~~psychologist~~ provider has provided the services, ~~or the individual who is professionally responsible for the services provided.~~

SONAR: It is necessary to amend the heading for subpart 3 to be consistent with other heading changes in the Rules of Conduct in which prescriptive headings have been avoided in favor of descriptive headings. Thus, “No misrepresentation” has been replaced by “Representation of billed services.”

It is necessary and reasonable to simplify the rule by striking language referring to “the individual who is professionally responsible for the services provided” because this language is unnecessary. Accurately representing “the extent to which the provider has provided the services” automatically requires that the provider not misrepresent any other provider’s involvement.

Subp. 4. ~~Claiming fees to be claimed only by provider.~~ ~~A psychologist~~ The provider shall not claim a fee for psychological services unless the ~~psychologist~~ provider is either the direct provider of the services or the individual who is professionally clinically responsible for the provision of the services ~~and under whose direction the services were provided.~~

SONAR: It is necessary to amend the heading for subpart 4 to be consistent with other heading changes in the Rules of Conduct in which prescriptive headings have been avoided in favor of descriptive headings. It is necessary to replace “professionally” responsible with “clinically” responsible to clarify that person referenced is the clinical supervisor or equivalent, not an administrator or other professional. Similarly, “under whose direction” has been stricken as unnecessary because “clinically” responsible has been added.

Subp. 5. ~~No remuneration for referrals.~~ No commission, rebate, or other form of remuneration may be given or received by a psychologist for the referral of clients for psychological services.

SONAR: It is necessary and reasonable to strike this subpart because it duplicates Minnesota Statutes, section 148.941, subdivision 2, clause (11), which extensively covers the prohibition against fee splitting.

7200.5300 AIDING AND ABETTING UNLICENSED PRACTICE.

~~A psychologist~~ The provider shall not aid or abet:

A. an unlicensed individual engaging in the practice of psychology; or

SONAR: Item A. Item A clarifies that a provider shall not aid or abet an unlicensed individual practicing psychology. This is necessary because the previous language does not distinguish between unlicensed individuals in general and the Board’s jurisdictional concern, the practice of psychology.

~~B. an psychological practitioner, applicant, or student in engaging in the independent practice of psychology. However, a licensed psychologist who supervises a psychological practitioner or an individual preparing for licensure as a licensed psychologist according to Minnesota Statutes, section 148.97, subdivision 3, clause (2) by the board is not in violation of this part if the supervised individual is not engaging in the independent practice of psychology and, if preparing for licensure as a licensed psychologist, is salaried or offering services pro bono supervision is conducted according to the Psychology Practice Act. Properly qualified individuals who administer and score psychological instruments under the direction of a licensee who maintains responsibility for the service are not considered to be in violation of this part. The licensee assumes responsibility for adequate training, experience, and oversight to ensure proper qualifications to administer and score the instruments.~~

SONAR: It is reasonable in this rule to add the term “licensed” to avoid the potential for confusion as a result of the various references to licensees, applicants, and students. The rule is intended to apply only to licensees of the Board.

The reference to Minn. Stat., section 148.97, subd. 3, clause (2) has been stricken because that statute has been repealed. Instead, general reference is made to the Psychology Practice Act because it would be unwieldy to make specific references to each of the various statutory sections, subdivisions, and clauses related to supervision.

It is necessary and reasonable to strike the reference to being “salaried or offering services pro bono” because this is irrelevant to the intent of the rule. The issue addressed in this item is whether a provider is practicing independently, not whether he or she is compensated.

It is necessary to include a rule stating that the administration and scoring of tests under proper supervision is permitted to reflect reasonable practices for some areas of psychology. It is necessary to make clear that the licensee is responsible for the training and the services provided by such an individual in order to ensure that the public is adequately protected from incompetent practice.

7200.5500 VIOLATION OF LAW

~~A psychologist~~ The provider shall not violate any law in which the facts giving rise to the

violation involve the ~~provision~~ practice of ~~psychological services~~ psychology as defined in the psychology Practice Act. In determining whether a violation involves the ~~provision of psychological services~~ the board shall consider:

- ~~A. the nature and seriousness of the violation the psychologist is alleged to have committed;~~
- ~~B. the relationship of the alleged violation to the purposes of regulating the practice of psychology; and~~
- ~~C. the relationship of the violation to the ability, capacity, fitness, or integrity of the psychologist in rendering psychological services.~~

In any board proceeding alleging a violation of this rule the proof of a conviction of a crime shall constitute proof of the underlying factual elements necessarily underlying that conviction.

SONAR: This part was intended to provide guidelines for helping to determine whether a violation of a law involves the provision of psychological services. However, it is necessary to strike Items A through C and other language associated with these items in this part because, although Items A through C would be helpful in determining a remedy once a violation of the Psychology Practice Act has been established, they do not help determine whether or not a violation has occurred. It is reasonable to strike language that does not properly address its intended purpose.

It is necessary to replace “Provision of psychological services” with “practice of psychology, as defined in the Psychology Practice Act,” to clarify the intent of this rule. It is reasonable to use the term “practice of psychology” because it is defined in the Psychology Practice Act and includes specific services.

It is reasonable to use the conviction of a crime as proof of the underlying behavior so as to avoid duplicative adjudication.

7200.5600 DECEPTION OR FRAUD.

~~A psychologist must~~ The provider shall not engage in any conduct likely to deceive or defraud the public or the board.

SONAR: It is necessary to make this change to use the terms consistently throughout the rules.

7200.5700 UNPROFESSIONAL CONDUCT.

~~A psychologist must~~ The provider shall not engage in any unprofessional conduct.

~~Unprofessional conduct is any conduct violating parts 7200.4600 to 7200.5600 or violating those standards of professional behavior that have become established by consensus of the expert opinion of psychologists as reasonably necessary for the protection of the public interest.~~

SONAR: It is necessary to strike the part of the rule that defines “unprofessional conduct” because definitions properly belong in part 7200.0100. The definition of unprofessional conduct appears in 7200.0100, subp. 35.

7200.5750 COMPLAINTS TO BOARD

Subpart 1. Mandatory reporting requirements. The provider shall file a complaint with the board when the provider has reason to believe that another provider:

SONAR: This is a new part. It is necessary and reasonable to add this part to consolidate three related rules and thereby improve the organization of the Rules of Conduct.

This subpart was formerly part 7200.4900, subpart 10. It has been moved here to improve the organization of the Rules of Conduct and revised to replace convoluted language with succinct language. Reference to “the provider” and “another provider” reasonably accomplishes this.

Subpart 1 also amends the reporting exception. A supervisor is now required to file a complaint with the Board if he or she has reason to believe that a supervisee has violated this subpart. In addition, a licensee who provides psychotherapy or assessment services to another licensee or applicant is required to report violations of this subpart to the board, except as noted below. It is necessary and reasonable to require this so that the Board has the requisite information regarding potential harm to the public in order to fulfill its statutory responsibilities. Previous rules protected the privacy of such information under the privacy rules. It is reasonable to make an exception to the privacy rules, the violation of which can cause harm to the public, when the recipient of the psychological services is a provider or applicant, because of the very high risk of even greater harm occurring to the public in case of a violation of this subpart by a licensee or applicant.

- A. is unable to practice with reasonable skill and safety as a result of a physical or mental illness or condition, including but not limited to substance abuse or dependence, except that this mandated reporting requirement is deemed fulfilled by a report made to the health professionals services program (HPSP) under Minnesota Statutes, section 214.33,

subdivision 1;

SONAR: Item A is new. This addition is necessary and reasonable given the Board’s primary function of facilitating public protection. The primary responsibility of the board in its role of public protection is to ensure that licensees can practice with reasonable skill and safety. The inability to practice with reasonable skill and safety creates a high potential for harm to the public. Therefore, it is reasonable and necessary to add this condition to the mandated reporting rule in order to provide reasonable protection of the public. Additionally, it is reasonable to make an exemption if a report to HPSP is made because enrollment with the HPSP ensures that the individual is being monitored and is receiving appropriate coordinated care for his or her condition; thus, the public is given adequate assurances of safety. The public is further protected because HPSP will report to the Board a provider who does not fulfill conditions of the HPSP assessment and service agreement.

B. is engaging in or has engaged in sexual behavior with a client or former client in violation of part 7200.4905, subpart 5, unless the information is obtained in the course of treating the other provider for the sexual behavior;

SONAR: Item B It is necessary and reasonable to amend the language of this rule so that it accurately reflects the intended scope of Part 7200.4905, subpart 5, to which it refers; that is, it is not only “sexual contact” that must be reported, but other sexual behavior cited in subpart 5 as well. In addition, it is necessary and reasonable to add “or former client” because of the intent of 7200.4905, subp. 5. An exemption from the mandated report is made for providers who learn of the behavior in violation of this item while providing treatment to the violating provider for that behavior. This adequately protects the public by increasing the probability the offending provider will be willing to discuss the violation with the treating provider and thereby ensuring that the behavior of the offending provider will be monitored. If this exemption did not exist, the risk is heightened that the violation will go unreported and unmonitored.

C. has failed to report abuse or neglect of minors or vulnerable adults in violation of part 7200.4700, subpart 11; or

SONAR: Item C is amended from the previous rule to require that failure by another provider to report such “neglect or abuse” must be reported to the Board, due to the high risk of harm to particularly vulnerable persons and to ensure strict adherence to the reporting law, Minnesota Statutes section 626.556. The change to the term “minors” is

made to be consistent with current statute.

D. had employed fraud or deception in obtaining or renewing a psychology license.

SONAR: Item D adds fraud and deception in obtaining or renewing a psychology license as a mandated report. This language is reasonable and necessary in that it protects the public by reducing the risk of harm from providers who do not have the credentials or qualifications claimed.

Subp. 2. **Communicating complaints to board.** A provider who knows or has reason to believe that the conduct of another provider is in violation of the Psychology Practice Act other than conduct listed in subpart 1 may file a complaint with the board.

SONAR: This subpart was formerly part 7200.4900, subpart 11. It has been moved here to improve the organization of the Rules of Conduct. It is necessary to make several changes to this rule. First, the condition that the provider has been “informed of” a rules violation by another provider has been replaced with “has reason to believe” the violation has occurred. This is reasonable and necessary in that it makes the language used consistent with similar language in other parts and does not limit the means by which a provider obtains information about the violation of another provider.

Second, the rule has been modified to differentiate permissive reports from mandated reports. Language regarding contacting the other provider is deleted as unnecessary, because the permissive nature of this rule allows for various alternative courses of action, including contacting the other provider. There is no necessity to specify what the alternative behaviors might be in regulation. While the entire language of this rule is permissive, it is reasonable to retain this rule in its current form in order to make clear that reporting a violation by another provider is always an appropriate option.

Subpart 2 also replaces “any rule of conduct” with “the Psychology Practice Act.” This is necessary because the Rules of Conduct are one component of the Psychology Practice Act, the other being the statutes that provide for the creation of the Rules.

Subpart 2 also replaces “subpart 10” with “subpart 1.” This is a housekeeping amendment; former part 7200.4900, subpart 10, has been replaced with part 7200.5750, subpart 1.

Subp. 3. **Right to file complaint.** A provider shall not attempt to induce a client or another individual, either by request or other means, to waive the right to file a complaint with the board.

SONAR: This subpart is new. It is necessary to make clear, the right of any individual to file a complaint against a provider and to protect a potential reporter from any pressure by the provider not to file a complaint.

7200.6100 FEES.

The nonrefundable fees for licensure payable to the board are as follows:

- A. application for admission to national standardized examination, \$150;
- B. application for professional responsibility examination, \$150;
- C. application for licensure as a licensed psychologist, \$500;
- D. renewal of license for a licensed psychologist, \$500;
- E. late renewal of license for a licensed psychologist, \$250;
- ~~F. application for licensure as a licensed psychological practitioner, \$250;~~
- ~~G. renewal of license for a licensed psychological practitioner, \$250;~~
- ~~H. late renewal of license for a licensed psychological practitioner, \$125;~~
- I. E. application for converting from master's to doctoral level licensure, \$150; and
- ~~J. G.~~ application for guest licensure, \$150.

SONAR: It is reasonable to eliminate the fee for licensing, renewing, and charging of late fees as associated with the licensed psychological practitioner license, given that the authority for licensed psychological practitioners (LPPs) expired in statute on December 31, 2011.

REPEALED. 7200.6175 SPECIAL FEE.

~~Each licensed psychologist licensed before June 11, 2001, shall be assessed a one-time fee in the amount of \$90 to be remitted to the board on or before June 22, 2001, for the purpose of recovering the cost of litigation and contested case proceedings. A late fee of \$45 shall be assessed if the one-time fee is not received in the board office on or before June 22, 2001. The board shall withhold the license or renewal certificate of any licensee who fails to remit the one-time fee by June 22, 2001, until the one-time fee and the late fee are paid.~~

SONAR: It is necessary to delete this rule because the special fee requirement has already been met, rendering it obsolete.

REPEALER. Minnesota Rules, parts 7200.0100, subparts 1, 2, 3, 4a, 5, 5a, 5b, 5c, 5d, 6, 7, 8, 9, 9a, 9b, 11, 12, and 13; 7200.0300; 7200.0400; 7200.0500; 7200.0650; 7200.0700; 7200.0810; 7200.1000; 7200.1100; 7200.1200; 7200.1300, subparts 2a, 3, and 4; 7200.1410; 7200.1700; 7200.1800; 7200.1900; 7200.2100; 7200.2200; 7200.2300; 7200.2400; 7200.2500; 7200.2600; 7200.3000, subparts 1, 1a, 2, 3, 4, and 5; 7200.3400, subparts 2, 3, and 4; 7200.3605; 7200.3610, subpart 2; 7200.3830, subparts 3, 4, 5, and 6; 7200.3840; 7200.4500, subpart 4; 7200.4600, subparts 2, 2a, 3, and 4; 7200.4700, subparts 6 and 12; 7200.4810, subpart 2; 7200.4900; 7200.5000; 7200.5200, subpart 5; 7200.5400; and 7200.6175, are repealed.