

**STATE OF MINNESOTA**  
**OFFICE OF MENTAL HEALTH PRACTICE**

09 - 0070

January 14, 2009

Representative Thomas Huntley  
585 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, Minnesota 55155

Dear Representative Huntley:

During the 2005 legislative session, the Office of Mental Health Practice was transferred from the Minnesota Department of Health to the State Mental Health Licensing Boards.

At the same time, the legislature mandated that the Office of Mental Health Practice prepare and submit a report to the legislature by January 15, 2009, evaluating the activity of the office and making recommendations concerning the regulation of unlicensed mental health practitioners. In the absence of legislative action to continue the committee, the committee was set to expire on June 30, 2009.

Based on this requirement, the Office of Mental Health Practice has reviewed its regulatory program and prepared and submitted the enclosed report to the 2009 legislature.

In sum, the Office of Mental Health Practice is recommending that the Office be allowed to sunset. Additionally, the report includes several recommendations that generally propose that unlicensed mental health practice not be allowed in Minnesota, unless the practitioner is otherwise licensed or exempt pursuant to the rules of the Minnesota Boards of Behavioral Health and Therapy, Medical Practice, Nursing, Marriage and Family Therapy, Psychology, and Social Work

If there are questions on this matter, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina Green'.

Gina Green  
Program Manager  
Minnesota Office of Mental Health Practice  
(612) 617-2105

The January 14, 2009, letter to Representative Thomas Huntley from Gina Green was also sent to the following persons:

Senator Linda Berglin, Chair  
Health and Human Services Budget Division  
309 Capitol Building  
Saint Paul, Minnesota 55155

Senator Lawrence J. Pogemiller  
Senate Majority Leader  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
Capitol Building, Room 235  
Saint Paul, MN 55155-1606

Representative Marty Seifert  
House Minority Leader  
267 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, Minnesota 55155

Senator David H. Senjem  
Senate Minority Leader  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
State Office Building, Room 147  
Saint Paul, Minnesota 55155

Representative Anthony Sertich  
House Majority Leader  
459 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, Minnesota 55155

Representative Cy Thao, Chair  
House Licensing Division Committee  
359 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, Minnesota 55155

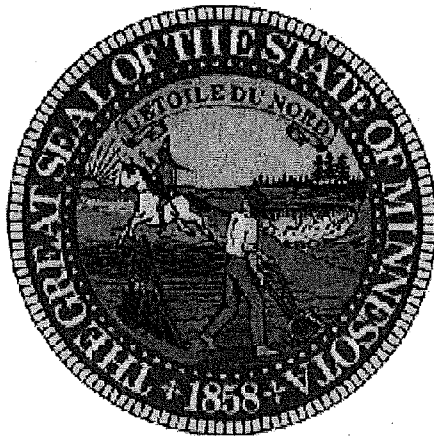
Representative Paul Thissen, Chair  
House Health Care and Human Services Policy and Oversight Committee  
351 State Office Building  
100 Rev. Dr. martin Luther King Jr. Blvd.  
Saint Paul, Minnesota 55155

# **Recommendations Concerning the Regulation of Unlicensed Mental Health Practitioners in Minnesota**

**A Report to the Minnesota Legislature**

Required by Laws of Minnesota 2005, Chapter 147, Article 8, Section 2

**January 15, 2009**



STATE OF MINNESOTA  
OFFICE OF MENTAL HEALTH PRACTICE

This report is the product of the Minnesota Office of Mental Health Practice.

Recommendations were developed by the Office's Program Committee, comprised of representatives from the Minnesota Boards of Behavioral Health and Therapy, Marriage and Family Therapy, Medical Practice, Nursing, Psychology, and Social Work.

The report and recommendations were mandated by:  
Laws of Minnesota 2005, Chapter 147, Article 8, Section 2.

### **Cost of this report**

The costs to produce this report are approximately as follows:

Costs incurred by the Minnesota Office of Mental Health Services: \$6,000.  
Minnesota Statutes, Section 3.197, requires that a report to the Legislature contain, at the beginning of the report, the cost of preparing the report, including costs incurred by another agency or another level of government.

This information is available in other forms to people with disabilities by contacting us at (612) 617-2105 (voice). TTY users can call the Minnesota Relay at (800) 627-3529.

Printed on recycled paper.

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## Executive Summary

Individuals in Minnesota may provide psychotherapy and other mental health services for remuneration without any state license or certification. These individuals are unlicensed mental health providers, as defined in Minnesota Law and are commonly known as:

- Psychotherapists,
- Employee assistance counselors,
- Private school counselors,
- Holistic therapists,
- Some pastoral counselors, i.e. clergy who are providing mental health services that are equivalent to those defined in Minnesota law,
- Mental health providers who choose not to apply for or be licensed, or who do not qualify for a license,
- Persons employed by a program licensed by the commissioner of human services who are acting as mental health practitioners within the scope of their employment, and
- Persons employed by a program licensed by the commissioner of human services who are providing chemical dependency counseling services; persons who are providing chemical dependency counseling services in private practice.

Minnesota is one of three states that allow individuals to provide mental health services to consumers without a license. In Minnesota, unlicensed mental health services are defined as:

“... psychotherapy, behavioral health care, spiritual counseling, hypnosis when not for entertainment, and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions. The term does not include pastoral services provided by members of the clergy to members of a religious congregation in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by that religious congregation or services provided by Christian Scientist practitioners.”<sup>1</sup>

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<sup>1</sup> Minnesota Statutes, section 148B.60, subdivision 4.

The Office of Mental Health Practice (OHMP), which was created in 1991 and later transferred from the Minnesota Department of Health to the Mental Health Licensing Boards in 2004, is the regulatory body that has authority to investigate complaints against the providers listed above, and takes and enforces disciplinary actions against providers for engaging in prohibited conduct or violating the client bill of rights. The Office may revoke or suspend the provider's right to practice.

The same legislation that transferred the Office also required the Office of Mental Health Practice to:

“... prepare and submit a report to the legislature by January 15, 2009, evaluating the activity of the office and making recommendations concerning the regulation of unlicensed mental health practitioners. In the absence of legislative action to continue the committee, the committee expires on June 30, 2009.”

Based on this requirement, the Office of Mental Health Practice has reviewed its regulatory program and prepared and submitted this report to the 2009 legislature. The Minnesota Office of Mental Health Practice makes the following recommendations concerning the future regulation of unlicensed mental health practitioners:

1. Allow the Office of Mental Health Practice to sunset.
2. Unless a provider is practicing in an exempt category as defined by the Minnesota Boards of Behavioral Health and Therapy; Marriage and Family Therapy; Medical Practice; Nursing; Psychology; or Social Work, the practice of engaging in unlicensed mental health practice should be unlawful.
3. Local law enforcement agencies and/or an Attorney General Special Prosecutor's Office would enforce laws prohibiting the practice of engaging in unlicensed mental health by providers who are not licensed nor fall within an exempt category.
4. Make psychotherapist a protected title.

Each of these recommendations are detailed and explained further in the sectioned titled Recommendations Concerning Unlicensed Mental Health Practitioners.

## **Description of the Office of Mental Health Practice**

### **Mission**

The mission of the Office of Mental Health Practice is to protect consumers who receive mental health services from practitioners who are not licensed or otherwise regulated by the boards that license other health and mental health professions.

### **History**

The Office of Mental Health Practice (the Office) was established in 1991 for consumers receiving mental health services from practitioners who fall outside of the licensing authorities for Minnesota psychologists, social workers, marriage and family therapists, and psychiatrists (physicians), nurses, licensed professional counselors, and alcohol and drug counselors.

At that time, the Office of Mental Health Practice was located within the Minnesota Department of Health. Under Minnesota law, mental health services were defined as:

“...psychotherapy and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions.”

Minnesota Statutes, section 148.60, subdivision 4 (1991).

Prior to the Office’s establishment in 1991, the following activities occurred and created the framework and justification for occupational regulation of mental health practitioners:

1. Task Force on Sexual Exploitation by Counselors and Therapists. 1985
  - This task force found that much of the sexual misconduct was done by unregulated psychotherapists and those violators should be prohibited from practicing. The task force also found that civil suits do not accomplish this result, nor do criminal convictions unless there is jail time.
  
2. Advisory Task Force on Regulation of Psychotherapists. 1986
  - This task force developed majority and several minority recommendations.
    - Majority: Recommended that psychotherapists be licensed.
    - Minority: Recommended that psychotherapists be permitted and file credentials with the Minnesota Department of Health.
    - Minority: There should be a definitional distinction made between “psychotherapist” and “counseling” and registration for both sets of practitioners those be imposed.



- Minority: Develop a consumer survey to evaluate what psychotherapy services were available.

### 3. Board of Unlicensed Mental Health Providers (BUMP) 1987

- Established as a board and a permit system for unlicensed mental health practitioners.
- The BUMP was intended to “close the loop” of mental health service providers who were not otherwise licensed or regulated by the state. And BUMP was to track, register by permit and discipline providers who had previously not been subject to regulation. Acknowledged that some of these providers may have been disciplined under one professional title and then continued practicing under a different title.
- It had been anticipated that 15,000 registrants would file. About 700 filed. Part of the reason for lower number was that the Boards of Marriage and Family Therapy and Social Work were established at same time and many of the anticipated unlicensed practitioners became licensed under the grand parenting qualifications of each of the new licensing boards instead.

By 2004, the Minnesota Department of Health had conducted an internal evaluation regarding which agency, if any, should continue the operations of the Office of Mental Health Practice. This analysis occurred at the same time that the groundwork had been prepared for the Minnesota Boards of Behavioral Health and Therapy to establish the Licensed Professional Counselor designation, and estimates of the practitioners who had received warning letters, or more serious reprimands, revealed that 21 percent (20 out of a total of 95) could have qualified as Licensed Professional Counselors, and would be handled as such in the future.

In 2004, the Office of Mental Health Practice was transferred from the Minnesota Department of Health to the Mental Health Licensing Boards in 2004.

### **Occupational Regulation Activities**

Minnesota is one of three states that allow individuals to provide mental health services to consumers without a license. In Minnesota, unlicensed mental health services are defined as:

“... psychotherapy, behavioral health care, spiritual counseling, hypnosis when not for entertainment, and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions. The term does not include pastoral services provided by members of the clergy to members of a religious congregation in the context of performing and fulfilling the salaried duties and obligations

required of a member of the clergy by that religious congregation or services provided by Christian Scientist practitioners.”<sup>2</sup>

The Office of Mental Health Practice has jurisdiction over unlicensed mental health practitioners in Minnesota. This represents an occupation that is not licensed, registered, nor certified, but providers are required to conform to a client bill of rights and not engage in prohibited conduct. Failure to meet these statutory requirements can be the basis for disciplinary action.<sup>3</sup>

Consumers receiving mental health services, or any concerned individual, may file a complaint about an unlicensed mental health practitioner with the Office, or receive information from the Office about state regulations governing both licensed and unlicensed mental health practitioners.

### **Who are the Unlicensed Mental Health Services Providers?**

The Minnesota Office of Mental Health Practice has jurisdiction and enforcement authority over unlicensed mental health practitioners. Examples of these practitioners include:

- Psychotherapists,
- Employee assistance counselors,
- Private school counselors,
- Holistic therapists,
- Some pastoral counselors, i.e. clergy who are providing mental health services that are equivalent to those defined in Minnesota law, and
- Mental health providers who choose not to apply for or be licensed, or who do not qualify for a license.
- Persons employed by a program licensed by the commissioner of human services who are acting as mental health practitioners within the scope of their employment, and
- Persons employed by a program licensed by the commissioner of human services who are providing chemical dependency counseling services; persons who are providing chemical dependency counseling services in private practice.

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<sup>2</sup> Minnesota Statutes, section 148B.60, subdivision 4.

<sup>3</sup> Minnesota Statutes, section 148B.68.

## Licensed Mental Health Services Providers

The unlicensed mental health practitioners described on the previous page constitute only one category of providers who offer their services to consumers in Minnesota. The following boards all license persons whose occupations involve providing mental health services:

- The Minnesota Board of Behavioral Health and Therapy (Licensed Drug and Alcohol Counselor or Licensed Professional Counselor),
- The Minnesota Board of Marriage and Family Therapy (Marriage and Family Therapist),
- The Minnesota Board of Medical Practice (Psychiatrist),
- The Minnesota Board of Nursing (Nurse),
- The Minnesota Board of Psychology (Psychologist), and
- The Minnesota Board of Social Work (Licensed Clinical Social Worker or Licensed Social Worker).

Persons whose occupations are regulated by the Boards listed above cannot practice in that occupation unless the person has satisfied predetermined qualifications for practicing and has been recognized by the state as having met those qualifications.<sup>4</sup> This is also known as “scope of practice protection.” A person may demonstrate that the required qualifications have been met by passing a licensing examination, graduating from an accredited educational institution with a relevant degree, or working in the field while under supervision. Unlicensed mental health practitioners, in contrast, are not required to meet any of the foregoing requirements.

In addition to being licensed, registration is required by individuals who have met predetermined qualifications for practicing and wish to use a designated title. This is also known as “title protection,” and such practitioners are listed on an official roster.<sup>5</sup> Nonlicensed persons are prohibited from using protected titles.

Currently, there are 2604 individuals licensed through the Minnesota Board of Behavioral Health and Therapy, 1301 individuals licensed through the Minnesota Board of Marriage and Family Therapy, and 3863 individuals licensed through the Minnesota Board of Psychology. The Boards of Nursing and Medical Practice also license individuals engaged in the practice and/or delivery of mental health services.

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<sup>4</sup> Minnesota Statutes, section 214.001, subdivision 3, paragraph (d).

<sup>5</sup> Minnesota Statutes, section 214.001, subdivision 3, paragraph (c).

The number of unlicensed mental health practitioners in Minnesota is unknown because there is no requirement nor mechanism for such practitioners to report to a centralized entity. Further, it is unknown whether the services of unlicensed mental health providers are billable or reimbursable by public or private insurance companies.

### **Major Functions**

The Office of Mental Health Practice receives and investigates complaints against mental health practitioners who are not licensed in the state of Minnesota, and can take and enforce disciplinary action against unlicensed mental health practitioners for violations of an ethical code of conduct. The Office is also charged with acting as a clearinghouse by providing the public with information about the regulation of mental health practice in the State of Minnesota, and maintains a website at: [www.omhp.state.mn.us](http://www.omhp.state.mn.us).

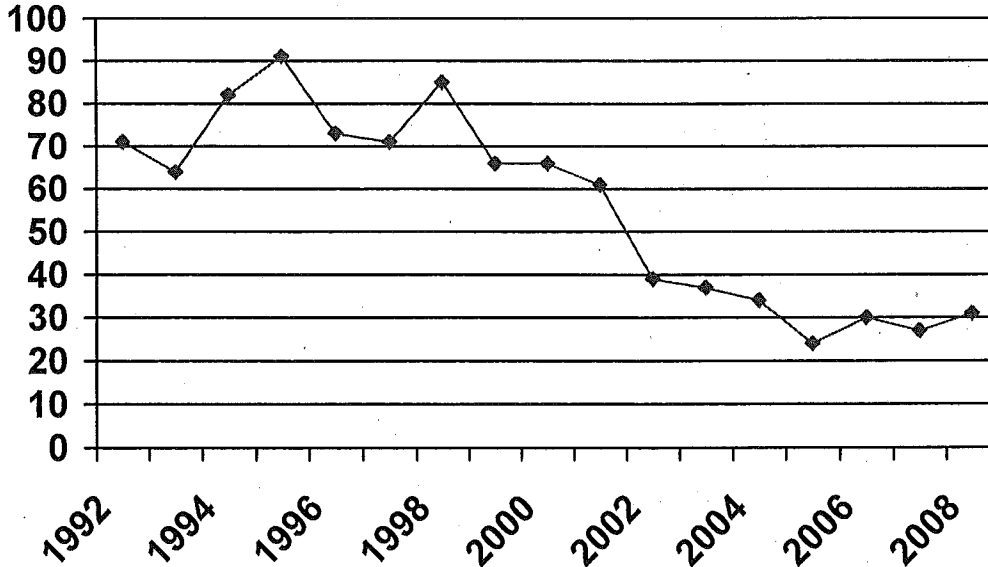
The major functions of the Office are receiving, investigating, and resolving complaints. These functions include:

1. Accepting complaints and reports from the clients, employers, health care insurers and providers, other health care regulators, and the public about the conduct of unlicensed mental health practitioners;
2. Determining whether the conduct alleged, if substantiated, is within the Office's jurisdiction; if so, obtaining sufficient evidence to determine whether the practitioner has violated the standards of practice; and, if so, determining what action, if any, the Office should take;
3. Engaging in appropriate fact-finding by interviewing complainants, practitioners, and other witnesses and obtaining relevant documents;
4. Coordinating with other health care regulators by coordinating investigations and referring complaints under the jurisdiction of other health care regulators and law enforcement agencies;
5. Keeping complainants informed of the status and resolution of their complaint consistent with the Government Data Practices Act;
6. Protecting the identity of clients and complainants consistent with the Government Data Practices Act;
7. Taking and enforcing disciplinary action against unlicensed mental health practitioners who have violated the standards of practice;
8. Evaluating the case, considering the facts and the law, including relevant constitutional principles, while respecting the practitioner's constitutional right to due process of law, and considering the Office's obligation to protect the public in a cost-effective way;

9. Holding conferences and meetings with complainants, practitioners, and witnesses to clarify information received during investigations; clearly identifying the practitioner's role and responsibility; and providing the practitioner with the opportunity to make a meaningful response;
10. Resolving complaints by means of voluntary agreements with practitioners when possible and by means of alternative dispute resolution or contested case hearings when not;
11. Monitoring practitioners' compliance with corrective or disciplinary agreements or orders to ensure compliance;
12. Taking appropriate action in cases of noncompliance;
13. Processing requests from practitioners for reinstatement of the right to practice or removal of conditions or restrictions of the right to practice when appropriate;
14. Acting as a clearinghouse by providing the public with information about the regulation of mental health practice in the State of Minnesota; and
15. Being available in person, by e-mail, on-line, by telephone, and in writing to answer questions about the regulation of the provision of mental health services by individuals in the State of Minnesota including how to file a complaint and enforcement actions taken by the Office.

## Minnesota Office of Mental Health Practice Activity

The Office has received over 1000 written complaints since it was created in 1991, as demonstrated by the chart below.

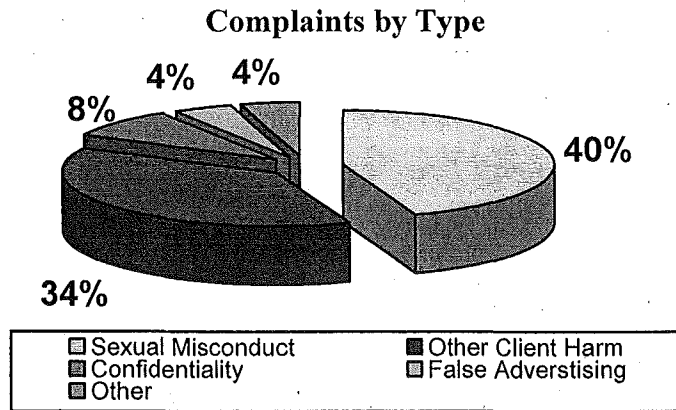


The number of complaints that the Office received reached its highest level in 1995, with 91 complaints. The number of complaints then began to decline after 1998, and reached its lowest level in 2005. The level of complaints has remained steady since the Office was transferred from the Minnesota Department of Health in 2005, with an average of 28 complaints each year.

Licensed health professionals are required to report any knowledge they have concerning unprofessional conduct by an unlicensed mental health practitioner. However, anyone, including consumers or concerned friends or family members may file a formal written complaint with the Office by submitting a written statement, an example of which is posted on the Office's website and available for download or electronic transmittal.

Most of the complaints that the Office has received were made by various health professionals, yet some were submitted by consumers on their own or another's behalf.

Minnesota law requires the Office to investigate every complaint that it receives. Of the 1000 complaints that have been received since the Office was created, the most frequent type of complaint involved sexual misconduct and violations of ethical boundaries, as demonstrated by the chart on the following page.



After receiving a complaint, the Office first determined whether it had jurisdiction, or legal authority to handle the complaint. In cases where the Office did not have jurisdiction to process the complaint, it made referrals to other licensing boards; to other agencies or organizations; and advised complainants on the services of other governmental agencies or professional associations where the Office was not the appropriate agency to deal with the complaint or concern.

During an investigation, matters involving sexual misconduct were handled by the Minnesota Attorney General's Office. The remaining complaints were investigated by Office staff, and included information gathering, conducting interviews, and any further action necessary to evaluate the allegations. The Office then evaluated the facts and made determinations regarding whether to take action against the involved practitioner.

There have been 100 enforcement actions taken by the Office since 1991, and the names of practitioners regarding whom such an action has been taken are available on the Office's website. The actions taken fall into the following categories:

- Limit, suspend, or revoke an unlicensed practitioner's right to practice (28 percent of enforcement actions).
- Order the unlicensed practitioner to pay civil penalties up to \$10,000 for each separate violation and to pay all court and investigative costs incurred during the complaint investigation and settlement process (19 percent of enforcement actions).
- Order unlicensed practitioners to enroll in appropriate treatment programs (11 percent of enforcement actions).
- Issue a public letter of reprimand, or advisement letter (68 percent of enforcement actions).

## **Recommendations Concerning Unlicensed Mental Health Practitioners**

**Recommendation 1:** Allow the Office of Mental Health Practice to sunset.

The legislation that transferred the Office from the Minnesota Department of Health to the Minnesota Health Licensing Boards included a sunset provision, in which the Office would automatically expire on June 30, 2009, unless legislation is enacted to the contrary.

The Office's Program Committee has reached consensus that the Office be allowed to sunset. No legislation would need to be drafted and enacted by the legislature to achieve this result.

If only recommendation 1 goes into effect, the Office, including its definition of unlicensed mental health services, would sunset and Minnesota Law would be silent on the matter. The current definition of unlicensed mental health services that would no longer be in Minnesota Law is as follows:

“... psychotherapy, behavioral health care, spiritual counseling, hypnosis when not for entertainment, and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions. The term does not include pastoral services provided by members of the clergy to members of a religious congregation in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by that religious congregation or services provided by Christian Scientist practitioners.”<sup>6</sup>

In other words, there would be no governmental occupational authority set forth in Minnesota Law or regulations that is required to investigate every complaint it receives that is determined jurisdictional regarding practitioners who provide the services set forth above regardless of what the person calls themselves. For example, cases that have been reviewed by the Office of Mental Health Practice have involved individuals who use titles such as “relationship coach”; “coach for troubled teens;” “therapist”; and “independent living skills worker,” yet when further analysis is conducted regarding these individuals' job descriptions, it has been determined that their activities meet the definition of mental health practice as defined by Minnesota Statutes, section 148B.60.

To address this so that Minnesota law is not silent on what constitutes allowable unlicensed mental health services, the Office is proposing that new legislation be enacted in Chapter 214 or Chapter 148B. This legislation would simply clarify that practitioners may not provide mental health services in Minnesota unless they are licensed by one of

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<sup>6</sup> Minnesota Statutes, section 148B.60, subdivision 4.



Minnesota's Mental Health Licensing Boards, or fall within an exempt category of those Boards. This leads to Recommendation 2.

**Recommendation 2**

Unless a provider is practicing in an exempt category as defined by the Minnesota Boards of Behavioral Health and Therapy; Marriage and Family Therapy; Medical Practice; Nursing; Psychology; or Social Work, the practice of engaging in unlicensed mental health practice should be unlawful.

Under this recommendation, persons in Minnesota wishing to provide mental health services would have to be licensed, or fall within an exempt category, as provided by the laws and policies governing the Mental Health Licensing Boards.

The Office does not want to make any changes to existing law or policy regarding persons who are practicing in an exempt category as provided by one of the Mental Health Licensing Boards. These are decisions that are best kept within the purview of the Boards. Therefore, any legislation making the practice of engaging in unlicensed mental health unlawful must include a provision specifically stating that it does not apply to mental health practitioners who meet an existing exempt category as defined by the Boards.

Persons whose occupations are regulated by the Mental Health Boards cannot practice in that occupation unless the person has satisfied predetermined qualifications for practicing and has been recognized by the state as having met those qualifications.<sup>7</sup> (Scope of Practice Protection). A person may demonstrate that the required qualifications have been met by passing a licensing examination, graduating from an accredited educational institution with a relevant degree, or working in the field while under supervision.

In addition to being licensed, registration is required by individuals who have met predetermined qualifications for practicing and wish to use a designated title. This is also known as "title protection," and such practitioners are listed on an official roster.<sup>8</sup> Nonlicensed persons are prohibited from using protected titles.

The issue of title protection is addressed as recommendation 4 in this document.

**Recommendation 3.**

Local law enforcement agencies and/or an Attorney General Special Prosecutor's Office would enforce laws prohibiting the practice of engaging in unlicensed mental health by providers who are not licensed nor fall within an exempt category.

This recommendation addresses where complaints and/or concerns would be directed and investigated assuming that the Office sunsets on June 30, 2009. If the Office no longer

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<sup>7</sup> Minnesota Statutes, section 214.001, subdivision 3, paragraph (d).

<sup>8</sup> Minnesota Statutes, section 214.001, subdivision 3, paragraph (c).

exists, every report would no longer be required to be investigated. There would no longer be Minnesota law that designates a governmental authority that is required to conduct an investigation, nor involve the Attorney General's Office in the investigation and enforcement process.

**Recommendation 4.** Make psychotherapist a protected title.

To make it clear that a person may no longer refer to themselves as a psychotherapist who does psychotherapy and provide such services on an unlicensed basis, the Office recommends that Minnesota Law create title protection for the term "psychotherapist."

Current statutes governing the Office of Mental Health Practice statutes include psychotherapy as one practice that falls within the scope of an unlicensed mental health provider. The Office has received an estimated 30 calls in the last two years from individuals in Minnesota wishing to use this term and wondering whether they need to be licensed, registered, or certified in order to do so. This Office responded that no such action was required on their part, however, the provisions of Minnesota Statutes, sections 148B.60 through 148B.71 must be followed. In all cases, the individuals calling had master's degrees in some discipline and were choosing to not pursue licensure as a practitioner under one of Minnesota's Mental Health Licensing Boards, or an exemption therein.

Assuming the Office sunsets and along with it the definition of unlicensed mental health services, Minnesota Law would no longer address psychotherapists as a group in terms of any occupational regulation whatsoever.

This is not the trend at a national level. Only three states, Minnesota, Vermont, and Massachusetts allow the practice of unlicensed mental health counseling. What is common to all three states is that psychotherapist is identified as an unlicensed mental health practitioner/professional, and the term "psychotherapist" is not regulated and anyone may use this term or title without oversight.

Most states include psychotherapy as being within the scope of practice for licensed behavioral health professionals who are licensed and regulated by an identified professional board, for example, professional counselors, substance abuse counselors, marriage and family counselors, social workers, medicine, and psychology.

One state – Colorado – allows psychotherapists to choose whether to engage in their practice as an unlicensed psychotherapist or as a licensed psychotherapist.<sup>9</sup> The Unlicensed Psychotherapists Grievance Board regulates the former, and requires that these unlicensed psychotherapists be listed in their database directory, and that they agree to practice according to established standards of professional conduct.

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<sup>9</sup> Colorado Mental Health statutes, 2004 section 12-43-201(9)

Colorado Statutes define “unlicensed psychotherapist” as:

“... any person whose primary practice is psychotherapy or who holds himself out as being able to practice psychotherapy for compensation and who is not licensed to practice psychotherapy in Colorado. The term also means a person who is a licensed school psychologist who is practicing outside of a school setting.”

These statutes also define Psychotherapy as:

“the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention which takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, it can be a single intervention .”

The Office recommends that psychotherapist become a protected title, however, it may remain unclear what government authority would proscribe and determine whether such practitioners have met predetermined qualifications for practicing and wish to use a designated title.

**Office of Mental Health Practice  
Program Committee**

**Duane Reynolds**

*Board of Behavioral Health and Therapy*

**Robert Butler**

*Board of Marriage and Family Therapy*

**Rob Leach**

*Board of Medical Practice*

**Kimberly Miller, Judy Reeves**

*Board of Nursing*

**Jean Wolf**

*Board of Psychology*

**Tony Bibus, Robin Bode, Chris Black-Hughes**

*Board of Social Work*