
State of Minnesota

MINNESOTA BOARD OF MEDICAL PRACTICE

Affirmative Action Plan

2012 – 2014

2829 University Avenue SE, Suite 500
Minneapolis, MN 55414

*This document is available in alternative formats to individuals with disabilities by contacting
the Board at 612-617-2130*

MINNESOTA BOARD OF MEDICAL PRACTICE
2012 – 2014 Affirmative Action Plan

Table of Contents:

I. STATEMENT OF COMMITMENT3

II. HARASSMENT/DISCRIMINATION POLICY.....4

III. INTERNAL HARASSMENT/DISCRIMINATION COMPLAINT PROCEDURE.....6

IV. REASONABLE ACCOMMODATION POLICY9

V. POLICY OF NONDISCRIMINATION IN ACCESS TO PUBLIC SERVICE

ATTACHMENT.....16

A.Complaint Of Harassment/Discrimination16

B.Employee Request for Reasonable AccommodationForm.....

13

C.Request for Access to Public Services18

I. STATEMENT OF COMMITMENT

The Minnesota Board of Medical Practice is committed to Minnesota's statewide affirmative action efforts and equal employment opportunity policies. I affirm my personal and official support of these policies which provide that:

- Discrimination against applicants or employees on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age will not be tolerated.
- This agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan;
- This agency will continue to actively promote a program of affirmative action, wherever minorities, women, and persons with disabilities are underrepresented in the workforce;
- This agency is committed to the retention of all qualified, talented employees, including protected group employees.

Cindy Greenlaw Benton will act as the Minnesota Board of Medical Practice's Affirmative Action Officer designee and ADA Coordinator designee. She is responsible for monitoring the day-to-day activities of the program.

Anyone interested in reviewing the agency's affirmative action plan or who has concerns about affirmative action or equal opportunity issues, may request a copy of the plan from Rob Leach, Executive Director, Minnesota Board of Medical Practice.

It is the agency's policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. I strongly encourage suggestions as to how we may improve. We strive to provide equal employment opportunities and the best possible service to the citizens of Minnesota.


Executive Director

September 12, 2013

Date

II. HARASSMENT/DISCRIMINATION POLICY

Statement of Policy

It is the policy of the Minnesota Board of Medical Practice to prohibit harassment of its employees based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age. This prohibition with respect to harassment includes both overt acts of harassment and those acts that create a negative work environment. Any employee subjected to such harassment should file a complaint internally with the agency's Affirmative Action Officer designee. If the employee chooses, s/he may file a complaint externally with the Minnesota Department of Human Rights, the Equal Employment Opportunity Commission, or through other legal channels. These agencies have time limits for filing complaints, so individuals should contact the agencies for more information. In extenuating circumstances, the employee should contact the State Affirmative Action Program Coordinator at Minnesota Management & Budget for information regarding the filing of a complaint. Any unintentional or deliberate violation of this policy by an employee will be cause for appropriate disciplinary action.

Each employee is responsible for the application of this policy. This includes initiating and supporting programs and practices designed to develop understanding, acceptance, commitment, and compliance within the framework of this policy. All employees must be informed that harassment is unacceptable behavior. The Affirmative Action Officer designee will be expected to keep the Minnesota Board of Medical Practice and its employees apprised of any changes in the law or its interpretation regarding this form of discrimination. The Affirmative Action Officer designee is also responsible for:

1. Notifying all applicants and employees, and orienting each new employee who is hired, of this policy; and
2. Informing all employees of the complaint procedure and ensuring that all complaints will be investigated promptly and carefully.

Definitions

Discriminatory harassment is any behavior based on protected class status which is not welcome, which is personally offensive, which, therefore, may affect morale and interfere with the employee's ability to perform. For example, harassment based on national origin has been defined by the U.S. Equal Employment Opportunity Commission as "Ethnic slurs and other verbal or physical conduct relating to an individual's national origin."

Sexual harassment has also been specifically defined by the Minnesota Human Rights Act, which states in regard to employment, that:

“Sexual harassment” includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when: (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment; (2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

It is possible for discriminatory harassment to occur: 1) among peers or coworkers, 2) between managers and subordinates, or 3) between employees and members of the public. Employees who experience discriminatory harassment should bring the matter to the attention of the Executive Director or the Board of Medical Practice's Affirmative Action Officer designee. In fulfilling our obligation to maintain a positive and productive work environment, the Affirmative Action Officer designee and all employees are expected to address or report any suspected harassment or retaliation.

Varying degrees of discriminatory harassment violations can occur and require varying levels of progressive discipline. Individuals who instigate harassment are subject to serious disciplinary actions up to and including suspension, demotion, transfer, or termination. Additionally, inappropriate behaviors that do not rise to the level of discriminatory harassment, but are none the less disruptive, should be corrected early and firmly in the interests of maintaining a barrier-free work place. Individuals who participate in inappropriate behaviors at work are also subject to disciplinary actions.

Procedure

Any employee or applicant who believes that she/he has experienced discrimination or harassment based on his/her race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint of discrimination.

Complaints of discrimination or harassment can be filed using the internal discrimination complaint procedure included in this affirmative action plan.

III. INTERNAL HARASSMENT/DISCRIMINATION COMPLAINT PROCEDURE

The Minnesota Board of Medical Practice has established the following discrimination complaint procedure to be used by all employees and applicants. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

Responsibility of Employees

All employees shall respond promptly to any and all requests by the Affirmative Action Officer designee for information and for access to data and records for the purpose of enabling the Affirmative Action Officer designee to carry out responsibilities under this complaint procedure.

Who May File

Any employee or applicant who believes that s/he has been discriminated against by reason of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint. Employees who are terminated are encouraged to file their internal complaint prior to their actual separation; however, complaints will be taken for a reasonable period of time subsequent to the actual separation date.

The Complaint Procedure

The internal complaint procedure provides a method for resolving complaints involving violations of this agency's nondiscrimination policy within the agency. Employees and applicants are encouraged to use this internal complaint process. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency or other legal channels is prohibited. The Affirmative Action Officer designee may contact the Office of Diversity and Equal Opportunity if s/he wants information about filing a complaint.

Filing Procedures

1. The employee or applicant completes the "Complaint of Discrimination Form" provided by the Affirmative Action Officer designee. Employees are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation(s) may involve discriminatory harassment. The Affirmative Action Officer designee will, if requested, provide assistance in filling out the form.

2. The Affirmative Action Officer designee determines if the complaint falls under the purview of Equal Employment Opportunity law, i.e., the complainant is alleging discrimination or harassment on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age; or if the complaint is of a general personnel concern. The Affirmative Action Officer designee shall also discuss other options for resolution, such as the workplace mediation.
 - A. If it is determined that the complaint is not related to discrimination but rather to general personnel concerns, the Affirmative Action Officer designee will inform the complainant, in writing, within ten (10) working days.
 - B. If the complaint is related to discrimination, the Affirmative Action Officer designee will, within ten (10) working days, contact all parties named as respondents and outline the basic facts of the complaint. The respondents will be asked to provide a response to the allegations within a specific period of time.
3. The Affirmative Action Officer designee shall then investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer designee shall notify the complainants and respondents that s/he has completed the investigation. The Affirmative Action Officer designee shall then review the findings of the investigation.
 - A. If there is sufficient evidence to substantiate the complaint, appropriate action will be taken.
 - B. If insufficient evidence exists to support the complaint, a letter will be sent to the complainants and the respondents dismissing the complaint.
4. A written answer will be provided to the parties within sixty (60) days after the complaints are filed. The complainants will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.
5. Disposition of the complaint will be filed with the Commissioner of the Minnesota Management & Budget after the final determination.
6. All documentation associated with a complaint shall be considered investigative data under the Minnesota Government Data Practices Act. The status of the complaint will be shared with the complainants and respondents. After an investigation is completed and all appeals are exhausted, all documentation is subject to the provisions of the Minnesota Government Data Practices Act.
7. All data collected may at some point become evidence in civil or criminal legal proceedings pursuant to state or federal statutes. An investigation may include, but is not limited to, the following types of data:

- A. Interviews or written interrogatories with all parties involved in the complaint, e.g., complainants, respondents, and their respective witnesses; officials having pertinent records or files, etc.
 - B. All records pertaining to the case i.e., written, recorded, filmed, or in any other form.
8. The Affirmative Action Officer designee shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

IV. REASONABLE ACCOMMODATION POLICY

Policy

The Minnesota Board of Medical Practice is committed to the fair and equal employment of people with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without accommodation, other qualified employees and applicants face barriers to employment without the accommodation process. It is the policy of this agency to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship. In accordance with the Minnesota Human Rights Act and the Americans with Disabilities Act, accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants, employees, and employees seeking promotional opportunities.

Definitions

Disability:

For purposes of determining eligibility for a reasonable accommodation, a person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities; or a record of such an impairment; or being regarded as having such an impairment.

Reasonable Accommodation:

A reasonable accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and reassignment to a vacant position.

Reasonable accommodation applies to three aspects of employment:

- a. To assure equal opportunity in the employment process;
- b. To enable a qualified individual with a disability to perform the essential functions of a job; and
- c. To enable an employee with a disability to enjoy equal benefits and privileges of employment.

Procedure - Current Employees and Employees Seeking Accommodation

1. This agency will inform all employees that this accommodation policy can be made available in accessible formats.
2. The employee shall inform their supervisor or the ADA Coordinator designee of the need for an accommodation.
3. The ADA Coordinator designee may request documentation of the individual's functional limitations to support the request. Any medical documentation must be collected and maintained on separate forms and in separate, locked files. No one will be told or have access to medical information unless the disability might require emergency treatment.
4. When a qualified individual with a disability has requested an accommodation, the employer shall, in consultation with the individual:
 - a. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary.
 - b. Determine the precise job-related limitation.
 - c. Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.
 - d. Select and implement the accommodation that is the most appropriate for both the individual and the employer. While an individual's preference will be given consideration, the Minnesota Board of Medical Practice is free to choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.
5. The ADA Coordinator designee will work with the employee to obtain technical assistance, as needed.
6. The ADA Coordinator will provide a decision to the employee within a reasonable amount of time.
7. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of the business, the employee and the ADA Coordinator designee shall work together to determine whether reassignment may be an appropriate accommodation.

Procedure-Job Applicants

1. The job applicant shall inform the ADA Coordinator designee of the need for an accommodation. The ADA Coordinator designee will discuss the needed accommodation and possible alternatives with the applicant.

2. The ADA Coordinator designee will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

Policy for Funding Accommodations

Funding must be approved by this agency for accommodations that do not cause an undue hardship.

Definition of Undue Hardship

An undue hardship is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of this agency.

Procedure for Determining Undue Hardship

In determining whether or not providing a reasonable accommodation would impose an "undue hardship," the agency will consider at least the following factors:

1. overall size of the program (i.e., number and type of facilities, size of budget);
2. type of the operation including the composition and structure of the work force;
3. nature and cost of the accommodation needed;
4. reasonable ability to finance the accommodation; and
5. documented good-faith efforts to explore less restrictive or less expensive alternatives including consultation with the disabled person or with knowledgeable disabled persons or organizations.

The ADA Coordinator designee will provide a decision to the employee.

Appeals

Employees or applicants who are dissatisfied with the decisions pertaining to his/her accommodation request may file an appeal with the agency head, within a reasonable period of time, for a final decision.

If the individual believes the decision is based on discriminatory reasons, then they may file a complaint internally through the agency's complaint procedure as outlined in this plan.

Supported Work

This agency will review vacant positions and assess the current workload and needs of the office, to determine if job tasks might be performed by a supported employment worker(s). If appropriate, the agency will work with the agency ADA Coordinator and organizations that provide employment services to persons with disabilities to recruit and hire individuals for supported employment if such a position is created.

V. POLICY OF NONDISCRIMINATION IN ACCESS TO PUBLIC SERVICE

The Minnesota Board of Medical Practice (Board) is committed to Minnesota's statewide affirmative action efforts and equal opportunity policies. It is the policy of the Board to prohibit discrimination against any person in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex, sexual orientation, or status with regard to public assistance or to fail to ensure physical and program access for disabled persons unless the public service can demonstrate that providing the access would impose an undue hardship on its operation. In determining whether providing physical and program access would impose an undue hardship, factors to be considered include:

- (1) the type and purpose of the public service's operation;
- (2) the nature and cost of the needed accommodation;
- (3) documented good faith efforts to explore less restrictive or less expensive alternatives;
and
- (4) the extent of consultation with knowledgeable disabled persons and organizations.

This policy applies to all persons who seek access to full utilization or benefits from the Minnesota Board of Medical Practice. This includes, but is not limited to, applicants, licensees and other members of the public with disabilities.

Definitions

Disability.

"Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Public service.

"Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

Qualified disabled person.

"Qualified disabled person" means: with respect to public services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

Notification – Physical Access to services for Members of the public

This agency will post on its website this policy regarding nondiscrimination in public services.

This board will also ensure that each document prepared for distribution to the public will contain a statement indicating that the information is available in alternative formats to individuals with disabilities upon request; and will ensure that facilities used for all meetings, training, programs or other events are accessible to the public. The board will inform potential participants of the availability of accommodations by including a statement notifying individuals with a disability who might need a reasonable accommodation on how to participate in the event, and include a statement on bulletins, flyers, brochures, public service announcements, or any other material used to inform participants of the event.

Who May File

A person seeking full access to public services shall contact the Executive Director of the Board of the need for accommodation to access public services.

Procedure – Request for Access to Public Services

A request for access to public services may be made in writing or by telephone contact; the person may be requested to complete a “Request for Access to Public Service” form (Attachment 3). The Executive Director will contact the Board’s designated affirmative action officer, who will review the request.

The affirmative action officer designee may request documentation of the individual's functional limitations to support the request.

When a qualified individual with a disability has requested access, the board shall, in consultation with the individual:

- a. Discuss the access requested.
- b. Determine the precise limitation to full access.
- c. Identify the potential modifications and assess the effectiveness each would have in allowing the individual to access public services.
- d. Select and implement the accommodation that is the most appropriate for both the individual and the public service provider. While an individual's preference will be given consideration, the Minnesota Board of Medical Practice is free to choose among equally effective modifications and may choose the one that is less expensive or easier to provide.

In determining whether providing physical and program access would impose an undue hardship, factors to be considered include:

- (1) the type and purpose of the public service's operation;
- (2) the nature and cost of the needed accommodation;

- (3) documented good faith efforts to explore less restrictive or less expensive alternatives;
and
- (4) the extent of consultation with knowledgeable disabled persons and organizations.

The affirmative action officer designee will obtain technical assistance, as needed.

The executive director or the affirmative action officer will provide a decision to the member of the public requesting access within a reasonable amount of time. The person seeking access will receive a determination within ten business days of the request, unless extenuating circumstances do not permit a response within that time.

Procedure – Discrimination Complaint

A person who believes they have been discriminated against in public services may complete a “Complaint of Discrimination Form” (Attachment 1). The member of the public completes the “Complaint of Discrimination Form” provided by the Executive Director, who will contact the designated affirmative action officer.

Any person who believes that s/he has experienced discrimination or discriminatory harassment in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex, sexual orientation, or status with regard to public assistance; or a failure to ensure physical and program access for disabled persons unless the public service can demonstrate that providing the access would impose an undue hardship on its operation, may file a complaint of discrimination.

The internal complaint procedure provides a method for resolving complaints involving violations of this agency’s nondiscrimination policy within the agency. Individuals who believe they have been denied access to public services are encouraged to use this internal complaint process. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency or other legal channels is prohibited. Complaints of discrimination or harassment may be filed using the internal discrimination complaint procedure included in this affirmative action plan. A person seeking access to public services who believes that s/he has experienced discrimination or harassment should file a complaint internally with the agency’s executive director, who will consult the affirmative action officer / ADA coordinator designee. If the person chooses, s/he may file a complaint externally with the Minnesota Department of Human Rights, the US Office for Civil Rights, Region V, or through other legal channels. These agencies may have time limits for filing complaints, so individuals should contact the agencies for more information.

Appeal

Members of the public who are dissatisfied with the decisions pertaining to his/her request for access to public services may file an appeal with the agency head, within a reasonable period of time, for a final decision.

If the individual believes the decision is based on discriminatory reasons, then they may file a complaint internally through the agency's complaint procedure as outlined in this plan.

ATTACHMENT 1

Minnesota Board of Medical Practice
2829 University Avenue SE, Suite 500
Minneapolis, MN 55414
612-617-2130

A. Complaint Of Harassment/Discrimination

Please Read Before Completion of Form

Any complaint of harassment/discrimination is considered confidential data under Minnesota Statute §13.39, Subd. 1 and 2. This information is being collected for the purpose of determining whether harassment/discrimination has occurred. You are not legally required to provide this information, but without it, an investigation cannot be conducted. This information may only be released to the Affirmative Action Officer designee, the complainant, the respondent, and appropriate personnel.

Complainant (You)

| | | | | | |
|---|--|-----------------------|-----------|------------------|--|
| Name | | | Job Title | | |
| Work Address | | City, State, Zip Code | | Telephone () | |
| Agency | | Division | | Manager | |
| Respondent (Person Who Harassed/Discriminated Against You) | | | | | |
| Name | | | Job Title | | |
| Work Address | | City, State, Zip Code | | Telephone () | |
| Agency | | Division | | Manager | |

The Complaint

Basis of Complaint ("X" all that apply):

- Race Color Disability Sexual Orientation
- Sex Creed Marital Status Status with Regard to Public Assistance
- Age Religion National Origin Membership or Activity in a Local Human

| Rights Commission | |
|---|--|
| Date most recent act of harassment/discrimination took place: | If you filed this complaint with another agency, give the name of that agency: |
| Describe how you believe that you have been harassed/discriminated against (names, dates, places, etc.). Use a separate sheet of paper if needed and attach to this form. | |
| | |

| Information on Witnesses Who Can Support Your Case | | |
|--|--------------|----------------|
| Name | Work Address | Work Telephone |
| 1. | | () |
| 2. | | () |
| 3. | | () |

Additional witnesses may be listed in “Additional Information” or on a separate sheet attached to this form.

| | |
|--|------|
| This complaint is being filed on my honest belief that the State of Minnesota has harassed/discriminated against me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief. | |
| Complainant Signature | Date |
| | |

| | |
|--------------------------------------|------|
| Affirmative Action Officer Signature | Date |
| | |

ATTACHMENT 3

C. Request for Access to Public Services

Please Print or Type

| | | |
|---|----------------------|-------------------------|
| Name: | Address: | Date of Request: |
| email address: | Phone Number: | |
| <i>Attach additional sheets for questions below if necessary.</i> | | |
| 1. Please describe the nature of your medical condition for which you are requesting an reasonable modification. Describe how it limits any major life activities. | | |
| 2. How does it affect your ability to access public services of the Board of Medical Practice? | | |
| 3. Type of modification requested: <input type="checkbox"/> Rule or policy change <input type="checkbox"/> Removal of architectural, communications, or transportation barriers <input type="checkbox"/> Provision of auxiliary aids and services | | |
| 4. Describe in detail the modification you are requesting: | | |
| 5. Has your medical provider recommended the modification? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

6. How will the requested modification be effective in allowing access to public services?

Signature:

Date:

This information will be used by human resource management or any other person, including the agency's legal counsel, who is authorized by the board to handle medical information for ADA/MHRA purposes and, any information concerning my physical or mental condition, that are necessary to determine whether I have a disability as defined by the Americans with Disabilities Act and/or the Minnesota Human Rights Act, and to determine whether any reasonable accommodations can be made. The provision of this information is voluntary, however if you refuse to provide it, the Board may refuse to provide reasonable accommodation.