State of Minnesota

Board of Behavioral Health and Therapy

Affirmative Action Plan

2010-2012

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Statement of Commitment

The Board of Behavioral Health and Therapy 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 employees or applicants 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;

- The Board of Behavioral Health and Therapy is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan;

- The Board of Behavioral Health and Therapy is committed to an objective of hiring members of protected groups when vacancies occur if an apparent underutilization of protected group members exists in the work force;

- The Board of Behavioral Health and Therapy is committed to the retention of all qualified, talented employees, including protected group employees;

- The Board of Behavioral Health and Therapy is committed to the implementation of the affirmative action policies, programs, and procedures as amended by the Statewide Affirmative Action Hiring Goals for Persons with Disabilities Task Force; and

- The Board of Behavioral Health and Therapy is committed to the hiring and retention of individuals with disabilities who can perform the essential functions of the job with or without reasonable accommodation.

Cindy Greenlaw Benton, Personnel / Contracts Officer, Health-Related Licensing Boards-Administrative Services Unit, will act as the Board of Behavioral Health and Therapy's Affirmative Action Officer designee and ADA Coordinator designee. She is located at 2829 University Avenue SE, Suite 445, Minneapolis, MN 55414, telephone number 651-201-2737, email cindy.benton@state.mn.us. Kari Rechtzigel, Executive Director, Board of Behavioral Health and Therapy, and Cindy Greenlaw Benton will share responsibility for monitoring the day-to-day activities of the program.

Anyone interested in reviewing the Board of Behavioral Health and Therapy's affirmative action plan or who has concerns about affirmative action or equal opportunity issues, may request a copy of the plan from Kari Rechtzigel, Executive Director, Minnesota Board of Behavioral Health and Therapy.

It is the policy of the Board of Behavioral Health and Therapy to provide an employment environment free of any form of discrimination or discriminatory harassment as prohibited by federal, state, and local human rights laws. We strive to provide equal employment opportunities and the best possible service to the citizens of Minnesota.

1.6.2011
Date

Kari Rechtzigel
Kari Rechtzigel, Executive Director

Discriminatory Harassment/Discrimination Policy

Statement of Policy

It is the policy of the Board of Behavioral Health and Therapy to prohibit discrimination and discriminatory 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 discrimination and discriminatory harassment includes both overt acts of harassment and those acts that create a negative work environment. Any employee who believes they may be subject to such discrimination or discriminatory harassment should file a complaint internally with the Board of Behavioral Health and Therapy'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 Office of Diversity and Equal Opportunity at the Minnesota Department of Employee Relations for information regarding the filing of a complaint. Violation of this policy against discrimination, by an employee, will be cause for appropriate disciplinary action up to and including termination.

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 will be informed that discriminatory harassment and discrimination is unacceptable behavior. The Affirmative Action Officer designee will be expected to keep the Board of Behavioral Health and Therapy 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 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 a severe type of discrimination, which includes negative, offensive behavior based on protected class status, that substantially interferes with an individual's employment. 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 is one type of discriminatory harassment. Sexual harassment has 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 are encouraged to bring the matter to the attention of the Executive Director, any Board manager or supervisor, or the Affirmative Action Officer designee. In fulfilling our obligation to maintain a positive and productive work environment, employees should report any suspected harassment or retaliation.

Individuals who violate this policy against discrimination and discriminatory harassment are subject to disciplinary action, up to and including termination. Additionally, employees who engage in inappropriate behaviors that do not rise to the level of discriminatory harassment, but are nonetheless disruptive, are also subject to disciplinary action.

Procedure

Any employee or applicant of the Board of Behavioral Health and Therapy who believes that s/he has experienced discrimination or discriminatory 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 discriminatory harassment can be filed using the internal discrimination complaint procedure included in the Board of Behavioral Health and Therapy's affirmative action plan.

Internal Harassment/Discrimination Complaint Procedure

The Minnesota Board of Behavioral Health and Therapy has established the following discrimination complaint procedure to be used by all employees or 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 of the Board of Behavioral Health and Therapy 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 using this procedure. 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 the Board of Behavioral Health and Therapy'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.

Filing Procedures

1. The employee or applicant should contact the Affirmative Action Officer designee, and complete the "Complaint of Discrimination Form" provided by the Affirmative Action Officer designee. Supervisors who know or should know of an alleged violation of the policy against discrimination will take timely and appropriate action, including informing the Affirmative Action Officer designee of the alleged violations. When an allegation of a violation of this policy occurs, the Board will take timely and appropriate action, including investigation of the complaint. Employees are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation(s) may involve discrimination or discriminatory harassment. The Affirmative Action Officer designee will provide assistance in filling out the form upon request.

2. The Affirmative Action Officer designee will determine if the complaint falls under the purview of Equal Employment Opportunity law, i.e., whether the complaint alleges discrimination or discriminatory 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 unrelated to discrimination.

A. If it is determined that the complaint **does not allege** violations of the policy against discrimination, the Affirmative Action Officer designee will inform the complainant of this determination in writing within ten (10) working days.

B. If the complaint **is** determined to allege a violation of the nondiscrimination policy, the Affirmative Action Officer designee will notify the complainant and all parties named as respondent(s) and outline the alleged facts of the complaint within 10 working days.

3. The Affirmative Action Officer designee will investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer designee shall notify the complainant(s) and respondent(s) that s/he has completed the investigation and review the findings of the investigation.

A. If probable cause of a violation of the policy against discrimination is found, appropriate action will be taken in accordance with this policy and any applicable labor agreements.

B. If no probable cause of a violation of the policy against discrimination is found, a letter will be provided to the complainant(s) and the respondent(s) dismissing the complaint.

4. Investigation of the complaint will be completed within sixty days after the complaint is filed, unless there are extenuating circumstances. The complainant(s) will be notified if such circumstances prevent completion of the investigation within sixty (60) days.

5. Disposition of the complaint will be filed with the Commissioner of the Department of Employee Relations within thirty (30) days of 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 complainant(s) and respondent(s). 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., complainant(s), respondent(s), 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.

Reasonable Accommodation Policy

Policy

The Minnesota Board of Behavioral Health and Therapy is committed to the fair and equal employment of people with disabilities, including a commitment to reasonable accommodation of 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, reasonable accommodation will be provided to employees, including those seeking promotional opportunities, and applicants.

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 or substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Reasonable Accommodation:

"Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified disabled person. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require: (a) making facilities readily accessible to and usable by disabled persons; and (b) job restructuring, modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis. [Minnesota Human Rights Act]

The term "reasonable accommodation" may include -

> **(A)** making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
>
> **(B)** job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. [Americans with Disabilities Act]

Procedure - Current Employees and Employees Seeking Promotion

2. The Board of Behavioral Health and Therapy will inform all employees that this accommodation policy can be made available in accessible formats.

3. The employee shall inform their supervisor or the ADA Coordinator designee of the request for an accommodation.

3. The ADA Coordinator designee may request documentation of the individual's functional limitations to support the request and to determine whether the person is a qualified person with a disability. Access to medical information will be in accordance with the Minnesota

Data Practices Act and the Health Insurance Portability and Accountability Act (HIPPA) unless the disability might require emergency treatment.

4. When a qualified individual with a disability requests an accommodation, the employer shall, in consultation with the individual:

   a. Discuss the purpose and essential functions of the particular job involved.

   b. Determine the precise job-related limitation that requires accommodation.

   c. Identify potential accommodations that would allow the individual to perform the essential functions of the job.

5. The ADA Coordinator and the Executive Director will determine and implement the accommodation. It is the responsibility of the employer to determine whether reasonable accommodation is required, and appropriate accommodation.

6. The ADA Coordinator or the Executive Director will inform the employee of the outcome of the request for reasonable accommodation.

Procedure-Job Applicants

1. The job applicant shall inform the Office Manager, Executive Director, or ADA Coordinator designee of any request for a reasonable accommodation. If the Office Manager or Executive Director receives such a request, s/he shall notify the ADA Coordinator, who will confer with the job applicant regarding the request.

2. The ADA Coordinator designee will determine whether a request for reasonable accommodation will be approved and, if approved, take the necessary steps to see that the accommodation is provided in consultation with the Executive Director.

Policy for Funding Accommodations

Funding must be approved by the Board of Behavioral Health and Therapy for accommodations that do not cause an undue hardship (M.S. 43A.191(c)), and is provided through the budget of the Minnesota Board of Behavioral Health and Therapy.

Appeals

Employees or applicants who are dissatisfied with the decision(s) pertaining to his/her accommodation request may file an appeal with the Executive Director, within a reasonable period of time.

If the individual believes the decision violates the policy against nondiscrimination, s/he may file a complaint internally through the agency's complaint procedure.

Supported Work

The Minnesota Board of Behavioral Health and Therapy 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, a list of supported worker candidates will be requested from DOER. The Board of Behavioral Health and Therapy will work with the State ADA/Disability Coordinator to recruit and hire individuals for supported employment if such a position is created.

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COMPLAINT OF DISCRIMINATORY HARASSMENT/DISCRIMINATION

Please Read Before Completion of Form

Any complaint of discriminatory harassment/discrimination is considered confidential data under Minnesota Statutes section 13.39, Subdivisions 1 and 2. This information is being collected for the purpose of determining whether discriminatory 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 as required by legal process.

Complainant (You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone ( )
Agency	Division	Manager
Respondent (Person Who 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 discriminated against (names, dates, places, etc.). Use a separate sheet of paper if needed and attach to this form.

List documents that contain information regarding your complaint.

Information on Witnesses Who Have Information About Your Complaint		
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

Employee Request for Reasonable Accommodation

Employee Name: Job Title:

Date of Request: Division:

This information will be used by _____ or any other person, including the agency's legal counsel, who is authorized by my employer to handle medical information for ADA/MHRA purposes and, any information concerning my health and/ 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, your employer may refuse to provide reasonable accommodation.

1. Please describe the nature of your limitations, what life activity(s) it substantially limits, and how this life activity(s) is substantially limited.

2. How does it affect your ability to perform your job?

3. Type of accommodation you are requesting:

_____ Making facilities readily accessible
_____ Job restructuring
_____ Part time or modified work schedule
_____ Modification to a rule, policy or practice
_____ Modification of equipment or devices
_____Qualified reader or interpreter
_____ Acquisition of equipment or devices
_____ Other (specify):

Please describe in detail the accommodation you are requesting:

4. How will the requested accommodation be effective in allowing you to perform the essential functions of your job?

5. Additional Comments:

Signature of Employee: _____Date:_____