

May 16, 2006

Kari Rechtzigel
Executive Director
Minnesota Board of Behavioral Health
and Therapy
2829 University Avenue SE, Suite 210
Minneapolis, MN 55414-3250

Re: *In the Matter of the Proposed Expedited Rules of the Minnesota Board of Behavioral Health and Therapy Relating to Continuing Education, Request for Review and Approval of Expedited Rules*
OAH Docket No. 3-0911-17270-1; Governor's Tracking No. AR 3591

Dear Ms. Rechtzigel:

This is to inform you that the above-referenced rules, as adopted by the agency on April 17, 2006, are approved as to legality. The Administrative Law Judge has determined there are no negative findings in these rules. The Administrative Law Judge recommends one technical correction to correct a typographical error in the rules. The recommendation is not a defect, but is merely a recommendation for correction that the agency may adopt if it chooses to do so.

Minn. R. 2150.2520, subpart 4

The Administrative Law Judge recommends the following change to subpart 4: "In addition to the completing the requisite coursework as outlined in subparts 1 to 3, each licensee shall also complete in the first four years of licensure, a minimum of 40 hours of continuing education activities approved by the board as described in part 2150.2540." The recommended change simply corrects the transposed words and does not make the rule part substantially different than that originally proposed.

If the Board ever undertakes a more comprehensive revision to the rules, it could consider the following changes as well. The last sentence of Minn. R. 2150.2580, item F, reads "A licensee *may* receive 15 continuing education hours per semester credit hour or ten continuing education hours per quarter credit hour" (emphasis added). As written, the language suggests that the board may

(or may not) award 15 continuing education hours per semester credit hour or ten continuing education hours per quarter credit hour. The Administrative Law Judge believes that what the board means to say is that each approved semester credit hour is equivalent to 15 continuing education hours, and each approved quarter credit hour is equivalent to ten continuing education hours. That would be a more clear way of wording the conversion of academic credits to continuing education credits. The Administrative Law Judge recognizes, however, that as written this item is worded consistently with the remainder of the rule, which provides in item A that “[t]en continuing education hours *may* be earned for each semester credit hour taught;” in item B that “[c]ontinuing education hours *may* be earned only in the year of publication; and in item C that “[a] presenter *may* also receive continuing education hours for development time at the rate of three hours for each hour of presentation time” (emphasis added). As these items address the same general issue, the wording should be consistent.

In addition, Minn. R. 2150.2590, subpart 1, provides in part that “transcripts must be received by the board within 60 days of the licensee’s renewal date, or the licensee may be subject to administrative suspension until such time as the transcripts are received.” An administrative suspension is also referenced in Minn. R. 2150.2660, subpart 3, which is not being revised at this time. The meaning of “administrative suspension” is not defined anywhere in the rule, although I understand the board defines it as a nondisciplinary suspension. Again, if the Board ever undertakes a more comprehensive revision, it could define the term “administrative suspension” as a nondisciplinary suspension in order to eliminate confusion about what it means.

All of the above suggestions are merely recommendations, not defects. With the approval of the adoption of these rules, our office is sending this letter to the agency for its consideration of the suggested technical correction to Minn. R. 2150.2520, subpart 4. **Please contact Maria Lindstrom at (612) 349-2527 with any questions and to inform OAH whether the agency intends to adopt the recommendation to correct the typographical error identified above.**

Sincerely,

s/Kathleen D Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

Enclosures

cc: Office of the Governor
Office of the Attorney General
Legislative Coordinating Commission
Revisor of Statutes