



**Minnesota**  
STATE COLLEGES  
& UNIVERSITIES

# Human Resources Guideline & Interpretation

## Psychotherapist Checks Under M.S. Chapter 148A

### FSR0003

**Purpose:** Minnesota Statutes Chapter 148A (Action for Sexual Exploitation; Psychotherapists) provides that before hiring an applicant for a psychotherapist position, an employer is required to make inquiries of former employers of psychotherapists regarding requests for and occurrences of sexual contact with patients which occurred during treatment and, under certain circumstances, after treatment. NOTE: Inquiries made under this Act are separate from the regular employer reference check process.

#### **Affects:**

All system colleges, universities, and the office of the chancellor as follows:

The Act covers any employee who is assigned work as a psychotherapist. Under the Act, a psychotherapist is defined as "...a physician, psychologist, nurse, chemical dependency counselor, social worker, member of the clergy, marriage and family therapist, mental health service provider, or other person, whether or not licensed by the state, who performs or purports to perform psychotherapy." Psychotherapy is defined as "...the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition." Employees who were initially hired for positions not covered under this provision, but are subsequently assigned psychotherapist responsibilities must be subject to checks under this Act at the time of the reassignment.

**Authoritative References:** [M.S. Chapter 148A](#)

#### **Required Forms:**

- [Advisory Form \(.pdf\) \(.docx\)](#)
- [Employer Information/Psychotherapist Form \(.docx\)](#)
- [General Authorization and Release \(.docx\)](#)
- [Sample Letter \(.docx\)](#)

**Responsibility for Implementation:** Chapter 148A provides that employers who fail or refuse to make inquiries of an employer or former employer, whose name and address have been disclosed and who employ the psychotherapist within the last five years, may be held liable under the Act.

**Attachments:** None

**Introduction:** The following procedures should be followed for positions covered by the Act.

**Procedure:**

1. Determine if the position to be filled involves psychotherapy in accordance with the above definition. Any questions regarding whether a particular position involves psychotherapy should be directed to the MnSCU personnel office. (NOTE: Campuses that have not conducted background checks on current employees covered by this provision should do so. A review of employees who are covered under the Act should be conducted and background checks made for any covered employee who was hired for the position within the previous five year period.)
2. If the position involves psychotherapy, the applicant must complete the following forms:
  - A. Advisory (see attached [Form A](#));
  - B. Employer Information: Complete history of all current or former employers by whom the applicant was employed as a psychotherapist in the previous five years (see attached [Form B](#));
  - C. General Authorization and Release: The applicant must complete this form for each current or former employer listed on Employer Information Form B (see attached [Form C](#));
3. Once the forms are completed by the applicant, send the completed General Authorization and Release to each current or former employer listed on Form B, documenting the contact (for example, by retaining a copy of the cover letter to each employer contacted). **This documentation, as well as the originals of Forms A, B, and C, are to be retained permanently in the applicant's file if the applicant is hired.** If the applicant is not hired, documents should be retained in accordance with record retention policies.
4. Review information returned by current or former employers to determine whether the applicant is suitable for the position. If a current or former employer does not respond to the first inquiry, follow-up contacts are recommended. Any follow-up contacts also should be documented in the applicant's file.


**Failure to Pass Background Check:**

*Applicants.* Applicants who are found to have had sexual contact with a patient or former patient in violation of Chapter 148A must have offers of employment withdrawn.

*Current employees.* For current employees who are found to have had sexual contact with a patient or former patient in violation of Chapter 148A prior to their current employment, campuses should attempt to reassign the employee to other duties where psychotherapy is not required. If such reassignment is not possible, the employee will be subject to dismissal for just cause.

**Approved: Date: November 5, 1998**

**Revised: Date: November 1, 2000**



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**Vice Chancellor, Human Resources**

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December 13, 2000

**Date**