

Introduced by

Senators Rust, Bekkedahl, Mathern

Representatives B. Anderson, D. Anderson, J. Nelson

1 A BILL for an Act to create and enact sections 43-41-15, 43-41-16, 43-41-17, 43-41-18,  
2 43-41-19, 43-41-20, 43-41-21, and 43-41-22 of the North Dakota Century Code, relating to the  
3 regulation of social work; to amend and reenact sections 43-41-01, 43-41-02, 43-41-03,  
4 43-41-04, 43-41-07, 43-41-08, 43-41-09, 43-41-10, 43-41-12, and 43-14-14 of the North Dakota  
5 Century Code, relating to the regulation of social work; to repeal section 43-41-05 of the North  
6 Dakota Century Code, relating to private practice of social work; and to provide a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 43-41-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **43-41-01. Definitions.**

11 In this chapter, unless the context or subject matter otherwise requires:

- 12 1. "Approved clinical supervisor" means a licensed clinical social worker who has met the  
13 qualifications to be a clinical supervisor for licensure as determined by the board.
- 14 2. "Approved provider of continuing education" means a person approved by the board to  
15 conduct educational programs.
- 16 3. "Approved social work program" means a school of social work or a social work  
17 educational program approved by the board.
- 18 ~~4. "Approved supervisor" means an approved clinical supervisor or licensed social~~  
19 ~~worker who has met the qualifications to be a supervisor as determined by the board.~~
- 20 ~~5. "Baccalaureate social worker" means an individual duly licensed to practice~~  
21 ~~baccalaureate social work.~~
- 22 ~~6.5.~~ "Board" means the North Dakota board of social work examiners.
- 23 2. ~~"College or university" means an institution of higher education whose social work~~  
24 ~~program has been accredited by an accrediting body approved by the board.~~

- 1       3. ~~"Licensed certified social worker" means an individual who has a doctorate or master's~~  
2       ~~degree in social work from a college or university and who has fulfilled the~~  
3       ~~requirements for licensure.~~
- 4       4. ~~"Licensed independent clinical social worker" means an individual who has a doctorate~~  
5       ~~or master's degree in social work from a college or university and who has fulfilled the~~  
6       ~~requirements for licensure or has been registered by the board for third-party~~  
7       ~~reimbursement before August 1, 1997.~~
- 8       5. "Licensed social worker" means an individual who has a baccalaureate degree in  
9       social work from a college or university and who has fulfilled the requirements for  
10       licensure.
- 11     ~~7. "Case management" means a method to plan, provide, evaluate, and monitor services~~  
12     ~~from a variety of resources on behalf of and in collaboration with a client.~~
- 13     ~~8.6.~~ "Client" means the individual, couple, family, group, organization, or community that  
14     seeks or receives social work services from an individual social worker or an  
15     organization regardless of whether the social worker or organization bills or accepts or  
16     requests the payment of fees for the services.
- 17     ~~9.7.~~ "Clinical social worker" means an individual duly licensed to practice clinical social  
18     work under this chapter.
- 19     ~~10.8.~~ "Clinical supervision for licensure" means an interactional professional relationship  
20     between an approved clinical supervisor and a social worker which provides  
21     evaluation and direction over the supervisee's practice of clinical social work in  
22     preparation for the social worker's licensure as a clinical social worker in accordance  
23     with the requirements adopted by the board and promotes continued development of  
24     the social worker's knowledge, skills, and abilities to engage in the practice of clinical  
25     social work in an ethical and competent manner.
- 26     ~~11.9.~~ "Continuing education" means education and training oriented to maintain, improve, or  
27     enhance competent social work practice.
- 28     ~~12.10.~~ "Continuing education contact hour" means a fifty-minute clock hour of instruction, not  
29     including breaks or meals.
- 30     ~~13.11.~~ "Consultation" means an advisory professional relationship between a social worker  
31     and an individual with particular expertise, with the social worker legally and ethically

1 maintaining responsibility for all judgments and decisions regarding service to the  
2 client.

3 ~~14.12.~~ **14.12.** "ConvictionConvicted" means conviction of a crime by a court of competent jurisdiction  
4 and includes a finding or verdict of guilt, regardless of whether the adjudication of guilt  
5 is withheld or not entered on admission of guilt, a no contest plea, a plea of nolo  
6 contendere, or a guilty plea.

7 ~~15.13.~~ **15.13.** "Counseling" means a method used by a social worker to assist an individual, couple,  
8 family, or group in learning how to solve problems and make decisions about personal,  
9 health, social, educational, vocational, financial, and other interpersonal concerns.

10 ~~16.14.~~ **16.14.** "Electronic social work services" means the use of a computer, including the internet,  
11 social media, online chat, text, and electronic mail, or other electronic means, such as  
12 a wireless communications device, landline telephone, or video technology, to provide  
13 information to the public, deliver social work services to a client, communicate with a  
14 client, manage confidential information and case records, store and access  
15 information about clients, and arrange payment for professional services.

16 ~~17.15.~~ **17.15.** "Examination" means a standardized test or examination of social work knowledge,  
17 skills, and abilities approved by the board.

18 ~~18.16.~~ **18.16.** "Felony" means a criminal act as defined by this state or any other state or by  
19 definition under federal law.

20 ~~19.17.~~ **19.17.** "Final adverse action" means any action taken or order entered by the board, whether  
21 through a consent agreement, as the result of a contested hearing, issued through a  
22 letter of reprimand, admonition, or warning, or other action against a licensee,  
23 applicant, or individual which is public information under applicable law and which  
24 impacts the licensure status, or record, practice status or record, or other related  
25 practice privileges. The term includes denial of a licensure application, denial of a  
26 licensure renewal application, and surrender of licensure. A board action or order is a  
27 final adverse action regardless of any pending appeal. To the extent applicable, a final  
28 adverse action is intended to encompass any action that requires reporting to state or  
29 federal authorities, including the national practitioner data bank.

30 ~~20.18.~~ **20.18.** "Licensee" means an individual duly licensed or registered under this chapter.

1 21.19. "Master's social worker" means an individual duly licensed to practice master's social  
2 work.

3 ~~6.22.20.~~ "Private practice of social work" means the independent practice of social work by a  
4 qualified individual licensee within that licensee's scope of practice as described in  
5 sections 43-41-15, 43-41-16, or 43-41-17, and who is self-employed on a full-time or  
6 part-time basis and is responsible for that independent practice. Consultation services  
7 provided to an organization or an agency are not considered to be the private practice  
8 of social work.

9 7. "Social work practice" consists of the professional application of social work values,  
10 principles, and techniques in helping people obtain tangible services; counseling;  
11 psychotherapy with individuals, families, and groups; helping communities or groups to  
12 improve social and health services; providing social casework; directly supervising  
13 programs providing social work services; social work education; social work research;  
14 or any combination of these. The practice of social work requires knowledge of human  
15 development and behavior, of social, economic, and cultural institutions, and the  
16 interaction of all these factors.

17 23.21. "Program of continuing education" means an educational program offered by an  
18 approved provider of continuing education.

19 24.22. "Psychotherapy" means the use of treatment methods utilizing a specialized, formal  
20 interaction between a clinical social worker and an individual, couple, family, or group  
21 in which a therapeutic relationship is established, maintained, and sustained to  
22 understand unconscious processes; intrapersonal, interpersonal, and psychosocial  
23 dynamics; and the assessment, diagnosis, and treatment of mental, emotional, and  
24 behavioral disorders, conditions, and addictions.

25 ~~25.~~ "Supervision for licensure" means the professional relationship between a supervisee  
26 and an approved supervisor who provides oversight, direction, and evaluation over the  
27 services provided by the supervisee and promotes continued development of the  
28 supervisee's knowledge, skills, and abilities to provide social work services in an  
29 ethical and competent manner.

1 23. "Social work case management" means a method to plan, provide, evaluate, and  
2 monitor services by a licensed social worker from a variety of resources on behalf of  
3 and in collaboration with a client.

4 **SECTION 2. AMENDMENT.** Section 43-41-02 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **43-41-02. Social work practice - Exceptions.**

- 7 1. Nothing in this chapter may be construed to prevent any person from doing work  
8 within the standards and ethics of that person's profession and calling, provided that  
9 the person does not present to the public, by title or description of services, that the  
10 person is engaging in social work practice.
- 11 2. Nothing in this chapter may be construed to prevent students who are enrolled in  
12 programs of study leading to social work degrees from interning with a licensed  
13 baccalaureate social worker, a licensed ~~certified~~master's social worker, or a licensed  
14 ~~independent~~ clinical social worker.
- 15 3. Nothing in this chapter prevents the employment of, or volunteering by, individuals in  
16 nonprofit agencies or community organizations provided these persons do not hold  
17 themselves out to the public as being social workers.
- 18 4. Nothing in this chapter prevents the employment of social work designees by  
19 hospitals, basic care facilities, or skilled nursing facilities, provided these individuals  
20 work under the direction of a social worker or social work consultant licensed under  
21 this chapter and that the board be notified of the name of the designee's employer and  
22 the name of the licensee who is providing direction or consultation to the designees.  
23 The board may adopt requirements by rule for licensees providing direction or  
24 consultation to designees under this section.
- 25 5. This chapter does not require public or appointed officials or administrators, acting in  
26 that capacity, or any other social or human service administrators who do not hold  
27 themselves out to the public as social workers, by title or description of services, to be  
28 licensed under this chapter.
- 29 6. This chapter does not prevent individuals with master's or doctoral degrees in the field  
30 of counseling with specialization in mental health from serving as counselors or

1 therapists in mental health in state institutions or regional human service centers, if  
2 they do not hold themselves out to the public as social workers.

3 7. In response to a disaster or emergency declared by the governor or other appropriate  
4 authority, an individual licensed and in good standing to practice social work in another  
5 jurisdiction who is providing social work services within the scope of practice  
6 designated by the license and whose professional licenses in all other disciplines are  
7 current and in good standing may, upon prior written notice to the board and without  
8 otherwise applying for a license, provide services in this state for the time the  
9 emergency or disaster declaration is effective. An individual exercising rights under  
10 this section is deemed to have submitted to the jurisdiction of the applicable board or  
11 state agency and to be bound by the laws of this state in addition to other applicable  
12 laws by virtue of licensure status in other states. An individual who has at any time  
13 surrendered any professional license under threat of administrative disciplinary  
14 sanction or in response to administrative investigation or has any professional license  
15 under suspension or revocation or agency order restricting or limiting practice  
16 privilege, with the exception of an expired or lapsed license due to voluntary  
17 nonrenewal of the license, may not practice under this section.

18 **SECTION 3. AMENDMENT.** Section 43-41-03 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **43-41-03. Representation to the public.**

- 21 1. Only those persons licensed to practice under this chapter may represent themselves  
22 as a licensed baccalaureate social worker, licensed ~~certified~~master's social worker, or  
23 licensed ~~independent~~ clinical social worker.
- 24 2. The license issued by the board under the provisions of this chapter must be  
25 prominently displayed at the principal place of business where the social worker  
26 practices.

27 **SECTION 4. AMENDMENT.** Section 43-41-04 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **43-41-04. Licenses.**

- 30 1. Except as otherwise provided in this chapter, no person may engage in social work  
31 practice in this state unless that person is a licensed baccalaureate social worker, a

- 1 licensed ~~certified~~ master's social worker, or a licensed independent clinical social  
2 worker.
- 3 2. ~~The board shall issue a license as a licensed social worker to an applicant who~~ To  
4 obtain a license to engage in the practice of baccalaureate social work, an applicant  
5 for licensure by examination shall submit a written application to the board in the form  
6 prescribed by the board and provide evidence satisfactory to the board the applicant:
- 7 a. Has attained the age of majority.
- 8 b. Has a baccalaureate degree in social work from a college or university an  
9 approved social work program.
- 10 ~~b.c.~~ Has passed an examination approved by the board for this purpose.
- 11 ~~e.d.~~ Has satisfied the board that the applicant agrees to adhere to the code of social  
12 work ethics adopted by the board.
- 13 e. Is of good moral character. As an element of good moral character, the board  
14 shall consider the information obtained through reports made under section  
15 43-41-04.2 in licensure decisions to the extent permissible by all applicable laws.
- 16 f. Has paid all applicable fees specified by the board relative to the licensure  
17 process.
- 18 3. ~~The board shall issue a license as a licensed certified social worker to an applicant~~  
19 ~~who~~ To obtain a license to engage in the practice of master's social work, an applicant  
20 for licensure by examination shall submit a written application to the board in the form  
21 prescribed by the board and provide evidence satisfactory to the board the applicant:
- 22 a. Has attained the age of majority.
- 23 b. Has a doctorate or master's degree in social work from a college or university an  
24 approved social work program.
- 25 ~~b.c.~~ Has passed an examination approved by the board for this purpose.
- 26 ~~e.d.~~ Has satisfied the board that the applicant agrees to adhere to the code of social  
27 work ethics adopted by the board.
- 28 e. Is of good moral character. As an element of good moral character, the board  
29 shall consider the information obtained through reports made under section  
30 43-41-04.2 in licensure decisions to the extent permissible by all applicable laws.

- 1           f. Has paid all applicable fees specified by the board relative to the licensure  
2           process.
- 3       4. ~~The board shall issue a license as a licensed independent clinical social worker to an~~  
4       ~~applicant who~~ To obtain a license to engage in the practice of clinical social work, an  
5       applicant for licensure by examination shall submit a written application to the board in  
6       the form prescribed by the board and provide evidence satisfactory to the board the  
7       applicant:
- 8           a. Has attained the age of majority.
- 9           b. Has a doctorate or master's degree in social work from a college or university an  
10          approved social work program.
- 11          ~~b.c.~~ Has passed an examination approved by the board for this purpose.
- 12          ~~e.d.~~ Has satisfied the board that within a four-year period the applicant has  
13          successfully completed three thousand hours of supervised post-master's clinical  
14          social work experience. The initial one thousand five hundred of the required  
15          hours must have been under the supervision of a licensed independent clinical  
16          social worker, or. If the board determines a hardship exists due to geographical  
17          location, disability, or other factors, the applicant may complete the remaining  
18          hours under the supervision of other qualified mental health professionals  
19          approved by the board. The qualified professional must be registered or  
20          otherwise qualified as a clinical supervisor by the board that licenses the other  
21          professional. However, if an applicant began that supervised post-master's  
22          clinical social work experience before August 1, 2009, a licensed certified  
23          master's social worker who has two years of experience, a licensed psychologist  
24          with a doctorate degree, or a licensed psychiatrist completed supervised practice  
25          approved by the board or demonstrated may have supervised the required hours.  
26          The applicant may demonstrate to the board's satisfaction that experience in the  
27          practice of clinical social work meets or exceeds the minimum supervisory  
28          requirements of the board.
- 29          ~~d.e.~~ Has satisfied the board that the applicant agrees to adhere to the code of social  
30          work ethics adopted by the board.



- 1           f. Is of good moral character. As an element of good moral character, the board  
2                   shall consider the information obtained through reports made under section  
3                   43-41-04.2 in licensure decisions to the extent permissible by all applicable laws.  
4           g. Has paid all applicable fees specified by the board relative to the licensure  
5                   process.

6           **SECTION 5. AMENDMENT.** Section 43-41-07 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **43-41-07. Qualification for licensure by an applicant licensed in another jurisdiction.**

9           ~~An applicant may be granted a license upon satisfactory proof to the board that the~~  
10 ~~applicant is licensed in good standing under the laws of another jurisdiction that imposes~~  
11 ~~substantially the same requirements as this chapter.~~A social worker licensed in another  
12 jurisdiction may obtain a license as a social worker by license transfer if the applicant submits a  
13 written application in the form prescribed by the board and provides evidence satisfactory to the  
14 board the applicant:

- 15           1. Has attained the age of majority.  
16           2. Is of good moral character. As an element of good moral character, the board shall  
17                   consider the information obtained through reports made under section 43-41-04.2 in  
18                   licensure decisions to the extent permissible by all applicable laws.  
19           3. Has possessed at the time of initial licensure as a social worker all other qualifications  
20                   necessary to have been eligible for licensure at that time in this state or has  
21                   possessed at the time of initial licensure as a social worker qualifications the board  
22                   determines to be substantially similar to those required for licensure in this state. The  
23                   board may determine an applicant for licensure under this section possesses  
24                   qualifications or experience in the practice of social work which meet or exceed the  
25                   minimum requirements for licensure of the board.  
26           4. Has proof any social work or any other professional license or other credential granted  
27                   to the applicant by any other state has not been suspended or revoked or have action  
28                   pending, or is otherwise restricted for any reason except nonrenewal or for the failure  
29                   to obtain the required continuing education credits in any state in which the applicant  
30                   is or has been licensed.  
31           5. Has paid the fees specified by the board.

1       **SECTION 6. AMENDMENT.** Section 43-41-08 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **43-41-08. Board of social work examiners - Qualifications - Appointment - Term of**  
4 **office - Compensation.**

- 5       1. The governor shall appoint the North Dakota board of social work examiners which  
6 must consist of six members, two of whom must be, at the time of initial appointment,  
7 licensed social workers; one of whom must be, at the time of initial appointment, a  
8 licensed certified social worker; one of whom must be, at the time of initial  
9 appointment, a licensed ~~independent~~ clinical social worker; and two of whom must be  
10 laypersons. Board members must demonstrate no conflict of interest.
- 11       2. The term of office of each board member must be for three years with two members  
12 appointed annually. No member may serve more than two consecutive terms.
- 13       3. The governor may remove any board member for good cause after giving that  
14 member a written statement of the reasons for removal and after that member has had  
15 an opportunity for a hearing.
- 16       4. Each ~~board member shall serve without compensation but shall~~of the board is entitled  
17 to receive as compensation the sum of two hundred dollars per day for each day  
18 during which the member is engaged in performance of the official duties of the board,  
19 and is entitled to be reimbursed for all reasonable and necessary expenses incurred in  
20 connection with the discharge of the official duties as provided in section 54-06-09 ~~and~~  
21 ~~per diem as must be fixed by the board.~~
- 22       5. Board members shall annually elect by a majority vote of the board a chairperson who  
23 shall preside at meetings of the board and a vice chairperson who shall preside at  
24 meetings of the board in the chairperson's absence. A majority of the members of the  
25 board constitutes a quorum.

26       **SECTION 7. AMENDMENT.** Section 43-41-09 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28       **43-41-09. Duties and responsibilities of board.**

29       In addition to the duties set forth elsewhere in this chapter, the board shall:

- 30       1. ~~Adopt~~Shall adopt rules to administer and carry out ~~the provisions of~~ this chapter.

- 1           2. Prøduce Is responsible for the control and regulation of the practice of social work in  
2           this state, including the following:
- 3           a. The licensing by examination or by licensure transfer of applicants who are  
4           qualified to engage in the practice of social work under this chapter.
- 5           b. The renewal of licenses to engage in the practice of social work.
- 6           c. The establishment and enforcement of compliance with professional standards of  
7           practice and rules of conduct of social workers engaged in the practice of social  
8           work.
- 9           3. Shall determine and issue standards for recognition and approval of degree programs  
10          of schools and colleges of social work of which graduates are eligible for licensure in  
11          this state, and the specification and enforcement of requirements for practical training.
- 12          4. Shall enforce the provisions of this chapter relating to the conduct or competence of  
13          social workers practicing in this state; investigate any such activities related to the  
14          practice or unauthorized practice of social work; and suspend, revoke, or restrict  
15          licenses to engage in the practice of social work.
- 16          5. With probable cause an applicant or licensee has engaged in conduct prohibited by  
17          this chapter or a statute or rule enforced by the board, may issue an order directing  
18          the applicant or licensee to submit to a mental or physical examination or chemical  
19          dependency evaluation. For the purpose of this subsection, every applicant or licensee  
20          is deemed to have consented to submit to a mental or physical examination or  
21          chemical dependency evaluation if ordered to do so in writing by the board and to  
22          have waived all objections to the admissibility of the examiner's or evaluator's  
23          testimony or reports on the grounds the testimony or reports constitute a privileged  
24          communication.
- 25          6. With probable cause that an applicant or licensee has engaged in conduct prohibited  
26          by this chapter or a statute or rule enforced by the board, may issue an order directing  
27          the applicant or licensee to submit to a mental or physical examination or chemical  
28          dependency evaluation. For the purpose of this section, every applicant or licensee is  
29          deemed to have consented to submit to a mental or physical examination or chemical  
30          dependency evaluation if ordered to do so in writing by the board and to have waived

- 1           all objections to the admissibility of the examiner's or evaluator's testimony or reports  
2           on the grounds the testimony or reports constitute a privileged communication.
- 3        7. Shall collect professional demographic data.
- 4        8. Shall issue and renew licenses of all individuals engaged in the practice of social work.
- 5        9. ~~Shall~~May inspect any licensee at all reasonable hours for the purpose of determining if  
6           any provisions of the laws governing the practice of social work are being violated.  
7           The board, its officers, inspectors, and representatives shall cooperate with all  
8           agencies charged with the enforcement of the laws of the United States, of this state,  
9           and of all other states relating to the practice of social work.
- 10      10. Shall recover its costs in the following circumstances:
- 11           a. If an order is issued in resolution of a disciplinary proceeding before the board,  
12           the board may request the administrative law judge to direct a licensee found as  
13           a result of the proceeding to have violated any laws or rules to pay to the board a  
14           sum not to exceed the costs of the investigation and fees of the attorneys  
15           representing the board in the matter. The costs to be assessed must be fixed by  
16           the administrative law judge and may not be increased by the board.
- 17           b. If an order for recovery of costs is made and timely payment is not made as  
18           directed in the board's decision, the board may enforce the order for payment in  
19           the district court of Burleigh County. This right of enforcement is in addition to any  
20           other rights the board may have as to any person directed to pay costs. In any  
21           action for recovery of costs, proof of the board's decision is conclusive proof of  
22           the validity of the order of payment and the terms for payment.
- 23      11. May join professional organizations and associations organized exclusively to promote  
24           the improvement of the standards of the practice of social work for the protection of  
25           the health and welfare of the public or which provide activities to assist and facilitate  
26           the work of the board.
- 27      12. Shall produce an annual list of the names and level of licensure of all persons licensed  
28           under this chapter and make the list available upon request.
- 29      ~~3. At its discretion,~~
- 30      13. May employ staff and provide for staff compensation.
- 31      4. Approve



1           treatment information to the board necessary for the board to evaluate the licensee's  
2           progress in and the effectiveness of the treatment program.

3           **SECTION 8. AMENDMENT.** Section 43-41-10 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **43-41-10. Grounds for disciplinary proceedings.**

6           1.    The board may deny, refuse to renew, suspend, revoke, reprimand, restrict, or limit the  
7           license of, or place on probationary status any license issued under this chapter on  
8           proof at a hearing that the applicant or licensed person:

9           4.    a.    Has engaged in unprofessional, unethical, immoral, improper, or dishonorable  
10           conduct as determined by the board.

11           b.    Has practiced outside the scope of practice applicable to that individual.

12           c.    Has an incapacity or impairment that prevents a licensee from engaging in the  
13           practice of social work with reasonable skill, competence, and safety to the  
14           public.

15           d.    Has engaged in any act involving moral turpitude or gross immorality.

16           e.    Has violated the laws or rules of this state or the laws or rules of any other state  
17           or of the federal government.

18           f.    Has misrepresented a material fact in securing or attempting to secure the  
19           issuance or renewal of a license, or in statements regarding the social worker's  
20           skills or efficiency or value of any treatment provided or to be provided or has  
21           used any false, fraudulent, or deceptive statement connected with the practice of  
22           social work, including false or misleading advertising.

23           g.    Has engaged in fraud in connection with the practice of social work, including  
24           engaging in ~~improper or~~ fraudulent billing practices or ~~intentionally or with gross~~  
25           negligence violating ~~related~~ laws ~~related to~~ fraud.

26           h.    Has engaged in or aided and abetted an individual to engage in the practice of  
27           social work without a license, or falsely used the title of social worker.

28           i.    Has failed to pay the costs assessed in a disciplinary matter under section  
29           43-41-09 or failed to comply with any stipulation or agreement involving probation  
30           or settlement of any disciplinary matter with the board or with any order entered  
31           by the board.

- 1           j. Has been found by the board to be in violation of this chapter or rules adopted  
2           under this chapter.
- 3           k. Has engaged in conduct that violates the security of any licensure examination  
4           materials; has removed from the examination room any examination materials  
5           without authorization; has reproduced by any means without authorization any  
6           portion of the actual licensing examination; has aided by any means the  
7           unauthorized reproduction of any portion of the actual licensing examination; has  
8           paid or used professional or paid examination takers for the purpose of  
9           reconstructing any portion of the licensing examination; has obtained  
10          examination questions or other examination material, except by specific  
11          authorization either before, during, or after an examination; has used or  
12          purported to use any examination questions or materials improperly removed or  
13          taken from any examination; or has sold, distributed, bought, received, or had  
14          unauthorized possession of any portion of a future, current, or previously  
15          administered licensing examination.
- 16          l. Has communicated improperly with any other examinee during the administration  
17          of a licensing examination; has copied answers from another examinee or  
18          permitted answers to be copied by another examinee; has in possession during  
19          the administration of the licensing examination any books, equipment, notes,  
20          written or printed materials, or data of any kind, other than the examination  
21          materials distributed, or otherwise authorized to be in possession during the  
22          examination; or has impersonated any examinee or has caused an impersonator  
23          to take the licensing examination on the individual's behalf.
- 24          m. Has been the subject of the revocation, suspension, surrender, or other  
25          disciplinary sanction of a social work or related license or of other adverse action  
26          related to a social work or related license in another jurisdiction or country or has  
27          failed to report such adverse action to the board.
- 28          n. Has been adjudicated by a court of competent jurisdiction, within or without this  
29          state, as incapacitated, mentally incompetent or mentally ill, chemically  
30          dependent, or mentally ill and dangerous to the public.
- 31          o. Has failed to make a report to the board as required under section 43-41-21.

1           p. Has been convicted of an offense determined by the board to have a direct  
2           bearing upon that individual's ability to practice social work or is not sufficiently  
3           rehabilitated as determined by the board in accordance with section  
4           12.1-33-02.1.

5           ~~2.~~ q. Is addicted to the habitual use of alcoholic beverages, narcotics, or stimulants ~~to~~  
6           ~~such an extent as to incapacitate that individual from their other addictive~~  
7           substances that impair the social worker's ability to practice of social work.

8           ~~3.~~ r. Has been grossly negligent in the practice of social work.

9           4. s. Has violated one or more of the rules and regulations of the board.

10          5. t. Has violated the code of social work ethics adopted by the board.

11          ~~6.2.~~ In order to pursue the investigation, the board may subpoena and examine witnesses  
12          and records, including client records, and copy, photograph, or take samples. The  
13          board may require a licensed social worker to give statements under oath and to  
14          submit to a physical or mental examination, or both, by a physician or physicians and  
15          other qualified evaluation professionals selected by the board if it appears to be in the  
16          best interests of the public that an evaluation be secured. A written request from the  
17          board constitutes authorization to release information. Absent a client release on file  
18          allowing the release of information, all client records released to the board are  
19          confidential and are not public records.

20          ~~7.3.~~ Unless there is a client release on file allowing the release of information at the public  
21          hearing, client and juvenile records introduced or client and juvenile testimony of a  
22          personal nature taken at a public hearing is confidential and closed to the public. The  
23          portions of board meetings at which client and juvenile testimony or records are taken  
24          or reviewed are confidential and closed to the public. If no client or juvenile testimony  
25          or records are taken or reviewed, the remainder of the meeting is an open meeting  
26          unless a specific exemption is otherwise applicable.

27          **SECTION 9. AMENDMENT.** Section 43-41-12 of the North Dakota Century Code is  
28          amended and reenacted as follows:

29          **43-41-12. Renewal of licenses.**

30          1. All licenses are effective when granted by the board.



2. All licenses of licensed baccalaureate social workers, licensed certified master's social workers, and licensed independent clinical social workers expire on December thirty-first of every odd-numbered year.
3. A license may be renewed by payment of the renewal fee and completion of the continuing education requirements set by the board, provided the applicant's license is not currently revoked or grounds for denial under section 43-41-10 do not exist.
4. If the application for renewal is not received on or before the expiration date, the license expires and the person may not practice social work until a new application is made and a license is granted by the board.
5. At the time of renewal the board shall require each applicant to present satisfactory evidence that the applicant has completed the continuing education requirements specified by the board.
6. If a license has not been renewed as a result of nonpayment of the renewal fee or the failure of the licensee to present satisfactory evidence of completion of the continuing education requirements, the licensee must reapply for licensure.
7. The board may extend the renewal deadline for an applicant having proof of medical or other hardship rendering the applicant unable to meet the renewal deadline.

**SECTION 10. AMENDMENT.** Section 43-41-14 of the North Dakota Century Code is amended and reenacted as follows:

**43-41-14. Penalty.**

1. Any person ~~whethat~~ violates subsection 1 of section 43-41-04 is guilty of a class B misdemeanor.
2. Any individual who, after hearing, is found by the board to have unlawfully engaged in the practice of social work by holding themselves out as a social worker and practicing within the scope of practice of a licensed social worker is subject to a civil fine to be imposed by the board not to exceed two thousand five hundred dollars for each violation in addition to the costs involved in investigating the matter and collecting the fee, plus any additional legal and attorney's fees. The hearing must be held before the office of administrative hearings acting on behalf of the board under chapter 28-32. The administrative law judge shall make a final decision. The final decision may be appealed to the district court under chapter 28-32.

1       **SECTION 11.** Section 43-41-15 of the North Dakota Century Code is created and enacted  
2 as follows:

3       **43-41-15. Baccalaureate social work - Scope of practice.**

4       The practice of baccalaureate social work is the application of social work theory,  
5 knowledge, methods, ethics, and the professional use of self to restore or enhance social,  
6 psychosocial, or biopsychosocial functioning of individuals, couples, families, groups,  
7 organizations, and communities. Baccalaureate social work is generalist practice that includes  
8 assessment, treatment planning, implementation, intervention, evaluation, research, social work  
9 case management, information and referral, counseling, supervision, consultation, education,  
10 advocacy, community organization, and the development, implementation, and administration of  
11 policies, programs, and activities.

12       **SECTION 12.** Section 43-41-16 of the North Dakota Century Code is created and enacted  
13 as follows:

14       **43-41-16. Master's social work - Scope of practice.**

15       The practice of master's social work is the application of social work theory, knowledge,  
16 methods, and ethics, and the professional use of self to restore or enhance social,  
17 psychosocial, or biopsychosocial functioning of individuals, couples, families, groups,  
18 organizations, and communities. Master's social work practice includes the application of  
19 specialized knowledge and advanced practice skills in the areas of assessment, treatment  
20 planning, implementation, intervention, evaluation, social work case management information  
21 and referral, counseling, supervision, consultation, education, research, advocacy, community  
22 organization, and the development, implementation, and administration of policies, programs,  
23 and activities. Under the supervision ~~as provided in this chapter~~ of a clinical social worker, the  
24 practice of master's social work may include the practices reserved to clinical social workers.

25       **SECTION 13.** Section 43-41-17 of the North Dakota Century Code is created and enacted  
26 as follows:

27       **43-41-17. Clinical social work - Scope of practice.**

28       The practice of clinical social work is the application of social work theory, knowledge,  
29 methods, and ethics and the professional use of self to restore or enhance social, psychosocial,  
30 or biopsychosocial functioning of individuals, couples, families, groups, organizations, and  
31 communities. The practice of clinical social work requires the application of specialized clinical

1 knowledge and advanced clinical skills in the areas of assessment, treatment planning,  
2 implementation and evaluation, **social work** case management information and referral,  
3 counseling, supervision, consultation, education, research, advocacy, community organization,  
4 the development, implementation, intervention, and administration of policies, programs, and  
5 activities, and the diagnosis and treatment of mental, emotional, and behavioral disorders,  
6 conditions, and addictions. Treatment methods include the provision of individual, marital,  
7 couple, family and group counseling, and psychotherapy. The practice of clinical social work  
8 may include the provision of clinical supervision.

9       **SECTION 14.** Section 43-41-18 of the North Dakota Century Code is created and enacted  
10 as follows:

11       **43-41-18. Electronic social work services.**

- 12       1. The practice of ~~baccalaureate social work, master's social work, or clinical~~ social work  
13       in this state through electronic social work services or other means, regardless of the  
14       location of the practitioner, constitutes the practice of social work and is subject to this  
15       chapter.
- 16       2. The practice of ~~baccalaureate social work, master's social work, or clinical~~ social work  
17       by a practitioner in this jurisdiction through electronic social work services or other  
18       means, regardless of the location of the client, constitutes the practice of social work  
19       and is subject to this chapter.
- 20       3. A social worker providing electronic social work services shall take all necessary  
21       measures to ensure compliance with relevant practice standards.

22       **SECTION 15.** Section 43-41-19 of the North Dakota Century Code is created and enacted  
23 as follows:

24       **43-41-19. Applicability of terms.**

- 25       1. Except as otherwise provided in this chapter, reference to the practice of social work is  
26       applicable to the practice of baccalaureate social work, master's social work, and  
27       clinical social work.
- 28       2. Except as otherwise provided in this chapter, reference to the term social work  
29       includes baccalaureate social work, master's social work, and clinical social work.

30       **SECTION 16.** Section 43-41-20 of the North Dakota Century Code is created and enacted  
31 as follows:

1        **43-41-20. Permission to report and immunity.**

2        An individual who has knowledge of any conduct by an applicant or a licensee which may  
3 constitute grounds for disciplinary action under this chapter or the rules of the board or of any  
4 unlicensed practice under this chapter may report the violation to the board. An individual is  
5 immune from civil liability or criminal prosecution for submitting in good faith a report under this  
6 chapter or for otherwise reporting, providing information, or testifying about violations or alleged  
7 violations of this chapter.

8        **SECTION 17.** Section 43-41-21 of the North Dakota Century Code is created and enacted  
9 as follows:

10       **43-41-21. Duty to report and immunity.**

11       A social worker who has substantial evidence a licensee has an active addictive disease for  
12 which the licensee is not receiving treatment under a program approved by the board under an  
13 agreement entered under this section, is diverting a controlled substance, or is mentally or  
14 physically incompetent to carry out the duties of the license, shall report the evidence to the  
15 board. An individual who reports under this section in good faith and without malice is immune  
16 from any civil or criminal liability arising from the report. Failure to provide a report within a  
17 reasonable time from receipt of knowledge may be considered grounds for disciplinary action  
18 against the licensee failing to report.

19       **SECTION 18.** Section 43-41-22 of the North Dakota Century Code is created and enacted  
20 as follows:

21       **43-41-22. Temporary suspension - Appeal.**

22       1. If, based on verified evidence, the board determines by a clear and convincing  
23 standard the evidence presented to the board indicates the continued practice by the  
24 licensee would create a significant risk of serious and ongoing harm to the public while  
25 a disciplinary proceeding is pending, and immediate suspension of the licensee's  
26 license is required to reasonably protect the public from that risk of harm, the board  
27 may order a temporary suspension ex parte. For purposes of this section, "verified  
28 evidence" means testimony taken under oath and based on personal knowledge. The  
29 board shall give prompt written notice of the suspension to the licensee, which must  
30 include a copy of the order and complaint, the date set for a full hearing, and a specific  
31 description of the nature of the evidence, including a list of all known witnesses and a

- 1            description of any documents relied upon by the board in ordering the temporary  
2            suspension which, upon request, must be made available to the social worker.
- 3            2. An ex parte temporary suspension remains in effect until a final order is issued after a  
4            full hearing or appeal under this section or until the suspension is otherwise terminated  
5            by the board.
- 6            3. The board shall conduct a hearing on the merits of the allegations to determine what  
7            disciplinary action, if any, must be taken against the licensee who is the subject of the  
8            ex parte suspension. That hearing must be held not later than thirty days from the  
9            issuance of the ex parte temporary suspension order. The licensee is entitled to a  
10           continuance of the thirty-day period upon request for a period determined by the  
11           hearing officer.
- 12           4. The licensee may appeal the ex parte temporary suspension order before the full  
13           hearing. For purposes of appeal, the district court shall decide whether the board  
14           acted reasonably or arbitrarily. The court shall give priority to the appeal for prompt  
15           disposition.
- 16           5. A progress note of a client, or other document containing personal information as  
17           defined in section 44-04-18.1 relating to a patient, which is obtained by the board is an  
18           exempt record as defined under section 44-04-17.1.

19           **SECTION 19. REPEAL.** Section 43-41-05 of the North Dakota Century Code is repealed.