

Introduced by

Senator O. Larsen

1 A BILL for an Act to create and enact a new section to chapter 43-53 of the North Dakota
2 Century Code, relating to temporary emergency suspension of marriage and family therapists;
3 and to amend and reenact section 43-53-03 of the North Dakota Century Code, relating to
4 exceptions from licensure for marriage and family therapists.

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

6 **SECTION 1. AMENDMENT.** Section 43-53-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-53-03. Exemptions.**

9 1. An individual is exempt from the requirements of this chapter if:

10 a. The individual is practicing marriage and family therapy as part of that individual's
11 duties as an employee of a recognized academic institution or a governmental
12 institution or agency while performing those duties for which the individual is
13 employed by such a facility, institution, or agency.

14 b. The individual is a marriage and family therapy intern or individual preparing for
15 the practice of marriage and family therapy under qualified supervision in a
16 training institution or facility or supervisory arrangement recognized and
17 approved by the board if:

18 (1) The individual is a student in a master's or doctorate program of marriage
19 and family therapy; and

20 (2) The individual is designated by a title such as "marriage and family therapy
21 intern", "marriage therapy intern", "family therapy intern", or other title clearly
22 indicating such training status.

23 c. The individual is a member of the clergy of any religious denomination and
24 providing services within the scope of ministerial duties.

1 d. The individual is a volunteer for or is employed by a nonprofit agency or
2 community organization and the individual does not hold out to the public that the
3 individual is a licensed marriage and family therapist.

4 2. This chapter does not prevent any person licensed by the state from doing work within
5 the standards and scope of practice of that person's profession, including the practice
6 and advertising of marriage and family therapy services.

7 **SECTION 2.** A new section to chapter 43-53 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Temporary suspension - Appeal.**

10 1. If, based on verified evidence, the board determines by a clear and convincing
11 standard that the evidence presented to the board indicates the continued practice by
12 a licensed marriage and family therapist or an associate marriage and family therapist
13 would create significant risk of serious and ongoing harm to the public while a
14 disciplinary proceeding is pending, and that immediate suspension of the licensed
15 marriage and family therapist's license or the associate marriage and family therapist's
16 license is required to reasonably protect the public from this risk of harm, the board
17 may order a temporary suspension ex parte.

18 a. For purposes of this section, "verified evidence" means testimony taken under
19 oath and based on personal knowledge.

20 b. The board shall give prompt written notice of the suspension to the licensed
21 marriage and family therapist or associate marriage and family therapist which
22 must include a copy of the order and complaint, the date set for a full hearing,
23 and, upon request, a specific description of the nature of the evidence, including
24 a list of all known witnesses.

25 c. The board shall make available to the licensed marriage and family therapist or
26 associate marriage and family therapist a specific description of any documents
27 relied upon by the board in ordering the temporary suspension.

28 2. An ex parte suspension remains in effect until a final order is issued after an
29 administrative hearing or appeal to the district court under this section or until the
30 suspension is otherwise terminated by the board.

- 1 3. The board shall conduct an administrative hearing on the merits of the allegations to
2 determine what disciplinary action, if any, will be taken against the licensed marriage
3 and family therapist or associate marriage and family therapist who is the subject of
4 the ex parte suspension. The administrative hearing must be held not later than thirty
5 days from the issuance of the ex parte temporary suspension order. The licensed
6 marriage and family therapist or associate marriage and family therapist is entitled to a
7 continuance of the thirty-day period upon request for a period determined by the
8 hearing officer.
- 9 4. The licensed marriage and family therapist or associate marriage and family therapist
10 may appeal the ex parte temporary suspension order to the district court. On appeal,
11 the district court shall decide whether the board acted reasonably or arbitrarily. The
12 district court shall give priority to the appeal for prompt disposition.
- 13 5. Any medical record of a patient, or other document containing personal information
14 about a patient, which is obtained by the board is an exempt record.