

SENATE BILL NO. 2269

Introduced by

Senators Grindberg, Erbele, Flakoll

Representatives Hawken, N. Johnson, Potter

1 A BILL for an Act to create and enact chapter 43-53 of the North Dakota Century Code, relating
2 to creation of the North Dakota marriage and family therapy licensure board; and to provide a
3 penalty.

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

5 **SECTION 1.** Chapter 43-53 of the North Dakota Century Code is created and enacted
6 as follows:

7 **43-53-01. Definitions.** As used in this chapter, unless the context otherwise requires:

- 8 1. "Advertise" includes the issuing or causing to be distributed any card, sign, or
9 device to any person; the causing, permitting, or allowing any sign or marking in or
10 on any building, radio, or television; or advertising by any other means designed to
11 secure public attention.
- 12 2. "Board" means the North Dakota marriage and family therapy licensure board.
- 13 3. "Licensed marriage and family therapist" means an individual who holds a valid
14 license issued under this chapter.
- 15 4. "Marriage and family therapy" means the diagnosis and treatment of mental and
16 emotional disorders, whether cognitive, affective, or behavioral, within the context
17 of marriage and family systems. Marriage and family therapy involves the
18 professional application of psychotherapeutic and family systems theories and
19 techniques in the delivery of services to individuals, couples, and families for the
20 purpose of treating such diagnosed nervous and mental disorders.
- 21 5. "Practice of marriage and family therapy" means the rendering of professional
22 marriage and family therapy services to individuals, couples, and families, singly or
23 in groups, whether the services are offered directly to the general public or through
24 organizations, either public or private, for a fee, monetary or otherwise.

- 1 6. "Qualified supervision" means the supervision of clinical services, in accordance
2 with standards established by the board, by an individual who has been recognized
3 by the board as an approved supervisor.
- 4 7. "Recognized educational institution" means any educational institution that grants a
5 baccalaureate or higher degree that is recognized by the board and by a regional
6 accrediting body, or a postgraduate training institute accredited by the commission
7 on accreditation for marriage and family therapy education.
- 8 8. "Use a title or description of" means to hold oneself out to the public as having a
9 particular status by means of stating on signs, mailboxes, address plates,
10 stationery, announcements, calling cards, or other instruments of professional
11 identification.

12 **54-53-02. Prohibited acts.** Effective January 1, 2006, except as specifically provided
13 otherwise under this chapter, an individual who is not licensed under this chapter may not
14 advertise the performance by that individual of marriage and family therapy or counseling
15 services; use a title or description such as marital or marriage therapist, counselor, advisor, or
16 consultant, or any other name, title, or description denoting that the individual is a marriage and
17 family therapist; or practice marriage and family therapy.

18 **43-53-03. Exemptions.**

- 19 1. An individual is exempt from the requirements of this chapter if:
- 20 a. The individual is practicing marriage and family therapy as part of that
21 individual's duties as an employee of:
- 22 (1) A recognized academic institution or a governmental institution or
23 agency while performing those duties for which the individual is
24 employed by such a facility, institution, or agency; or
- 25 (2) A nonprofit organization that the board determines meets community
26 needs.
- 27 b. The individual is a marriage and family therapy intern or individual preparing
28 for the practice of marriage and family therapy under qualified supervision in a
29 training institution or facility or supervisory arrangement recognized and
30 approved by the board, if the individual is designated by a title such as

1 "marriage and family therapy intern", "marriage therapy intern", "family
2 therapy intern", or other title clearly indicating such training status.

3 c. The individual holds a temporary permit issued by the board, authorizing the
4 permitholder to engage in the activities for which licensure is otherwise
5 required.

6 2. This chapter does not prevent any person licensed by the state from doing work
7 within the standards and scope of practice of that person's profession, as long as
8 that person does not represent to the public that the person is a marriage and
9 family therapist.

10 **43-53-04. Marriage and family therapist licensure board.**

11 1. The North Dakota marriage and family therapist licensure board consists of five
12 members. The governor shall appoint the board members to serve terms of four
13 years, except for those first appointed one member must continue in office for two
14 years, two for three years, and two, including the chairman, for four years.

15 2. The governor shall appoint members of the board from among individuals who
16 meet the following qualifications:

17 a. At least three members must be licensed practicing marriage and family
18 therapists; and each must have been for at least five years immediately
19 preceding appointment actively engaged as marriage and family therapists in
20 rendering professional services in marriage and family therapy; in the
21 education and training of master's, doctoral, or postdoctoral students of
22 marriage and family therapy; or in marriage and family therapy research. A
23 member under this subdivision must have spent the majority of the time
24 devoted by that member to such activity during the two years preceding
25 appointment residing in this state.

26 b. At least one member must be a representative of the general public and may
27 not have any direct affiliation with the practice of marriage and family therapy
28 or another mental health profession.

29 c. The initial appointees, with the exception of any representative of the general
30 public, are deemed to be and become licensed practicing marriage and family

1 therapists immediately upon appointment and qualification as members of the
2 board.

3 3. The governor shall nominate a new member to fill a vacancy on the board within
4 thirty days of the vacancy. A member chosen to fill a board vacancy must be
5 appointed for the unexpired term of the board member whom that member is
6 succeeding. Upon the expiration of a member's term of office, a board member
7 shall continue to serve until a successor is appointed. An individual may not be
8 appointed more than once to fill an unexpired term or appointed to more than two
9 consecutive full terms. A member may not serve as chairman for more than four
10 years. The appointment of any member of the board automatically terminates
11 thirty days after the date the member is no longer a resident of this state.

12 4. The governor may remove any member of the board or the chairman from the
13 position as chairman for neglect of duty or malfeasance or conviction of a felony or
14 crime of moral turpitude while in office, but for no other reason. A member may not
15 be removed until after a hearing on the charges and at least thirty days' prior
16 written notice to such accused member of the charges and of the date fixed for
17 such hearing.

18 5. A board member may not participate in any matter before the board in which that
19 member has a pecuniary interest, personal bias, or other similar conflict of interest.
20 A board member shall serve without compensation but is entitled to be reimbursed
21 for the member's actual and necessary expenses incurred in the performance of
22 official board business.

23 **43-53-05. Board powers and duties.**

24 1. The board shall administer and enforce this chapter. The board shall adopt rules
25 as the board determines necessary.

26 2. The board shall examine and pass on the qualifications of all applicants and shall
27 issue a license to each successful applicant. The board shall adopt a seal which
28 must be affixed to all licenses issued by the board.

29 3. The board may authorize expenditures determined necessary to carry out this
30 chapter.

1 4. Four of the members of the board constitute a quorum. The board may employ
2 attorneys, experts, and other employees as necessary for the proper performance
3 of the board's duties.

4 **43-53-06. Licenses.**

5 1. Each individual desiring to obtain a license as a practicing marriage and family
6 therapist shall submit an application to the board, upon such form and in such
7 manner as the board prescribes. An applicant shall furnish evidence that the
8 applicant:

9 a. Is of good moral character;

10 b. Has not engaged in any practice or conduct that would be a ground for
11 revoking a license under this chapter; and

12 c. Is qualified for licensure pursuant to the requirements of this chapter.

13 2. Before January 1, 2008, an applicant may be issued a license by the board if the
14 applicant meets the qualifications set forth in subdivisions a and b of subsection 1
15 and provides evidence to the board that the applicant meets educational and
16 experience qualifications as follows:

17 a. An appropriate graduate degree, as defined by the board, from a regionally
18 accredited institution so recognized at the time of granting such degree.

19 b. At least five years of clinical experience in the practice of marriage and family
20 therapy, and membership or certification by an appropriate professional
21 organization, as defined by the board.

22 3. After December 31, 2007, an applicant may be issued a license by the board if the
23 applicant meets the qualifications set forth in subsection 1 and provides
24 satisfactory evidence to the board that the applicant:

25 a. Holds a master's degree or a doctoral degree in marriage and family therapy
26 from a recognized educational institution, or a graduate degree in an allied
27 field from a recognized educational institution and graduate level coursework
28 which is equivalent to a master's degree in marriage and family therapy, as
29 determined by the board.

1 b. Has successfully completed two calendar years of work experience in
2 marriage and family therapy under qualified supervision following receipt of a
3 qualifying degree.

4 c. Has passed an examination administered by the board.

5 **43-53-07. Examination.**

6 1. The board shall conduct an examination at least once a year at a time and place
7 designated by the board. Examinations may be written or oral as determined by
8 the board. In any written examination each applicant must be designated so that
9 the applicant's name is not disclosed to the board until the examination has been
10 graded. Examinations must include questions in such theoretical and applied fields
11 as the board determines most suitable to test an applicant's knowledge and
12 competence to engage in the practice of marriage and family therapy. An applicant
13 is deemed to have passed an examination upon affirmative vote of at least four
14 members of the board.

15 2. Any applicant who fails an examination conducted by the board may not be
16 admitted to a subsequent examination for a period of at least six months.

17 **43-53-08. Temporary permits - Reciprocal licenses.**

18 1. The board may adopt rules that permit the board to issue a temporary permit for up
19 to one year to an individual upon filing an application for licensure under this
20 chapter for the period in which the application is being processed by the board or
21 while the applicant is awaiting the opportunity to take the first written examination
22 offered by the board after filing of the application.

23 2. The board shall issue a license by examination of credentials to any applicant
24 licensed or certified as a marriage and family therapist in another state for which
25 the requirements for the license or certificate are equivalent to or exceed the
26 requirements of this state, provided the applicant submits an application on forms
27 prescribed by the board and pays the original licensure fee prescribed by this
28 chapter.

29 **43-53-09. Fees.** A fee, as determined by the board, must be paid to the board for
30 original licensure. A license is valid for two years and must be renewed biennially, with the

1 renewal fee being determined by the board. Any applicant for renewal of a license that has
2 expired must be required to pay a reregistration fee determined by the board.

3 **43-53-10. Renewal of license.** On or before November fifteenth of the year preceding
4 expiration of a license, the secretary of the board shall forward to the holder of the license an
5 application for license renewal.

6 **43-53-11. Disciplinary proceedings.**

- 7 1. The board may deny, revoke, or suspend a license granted under this chapter on
8 the following grounds:
- 9 a. Conviction by a court of competent jurisdiction of an offense that the board
10 determines to be of such a nature as to render the licensee unfit to practice
11 marriage and family therapy. The board shall compile, maintain, and publish
12 a list of such offenses.
 - 13 b. Violation of ethical standards of such a nature as to render the licensee unfit
14 to practice marriage and family therapy. The board shall publish such ethical
15 standards.
 - 16 c. Fraud or misrepresentation in obtaining a license.
 - 17 d. Any just and sufficient cause that renders a licensee unfit to practice marriage
18 and family therapy.
- 19 2. A license may be denied, suspended, or revoked for the reasons set forth in
20 subsection 1. A license may not be denied, suspended, or revoked under this
21 section except by majority vote of the full board, notwithstanding any other
22 provision of this chapter.
- 23 3. Any person may file a complaint with the board seeking denial, suspension, or
24 revocation of a license issued or to be issued by the board. The complaint must be
25 in a form prescribed by the board and must be verified under oath by the
26 complainant or a duly authorized officer of a complainant. If the board determines
27 that a complaint alleges facts that, if true, would require denial, revocation, or
28 suspension of a license, the board promptly shall institute a hearing. If the board
29 determines a complaint does not state facts warranting a hearing, the complaint
30 may be dismissed. The board may institute a hearing for denial, suspension, or
31 revocation of a license on its own motion.

1 4. Any person may be permitted to intervene and participate in board hearings on
2 denial, suspension, or revocation of licenses upon a showing of an interest in such
3 proceeding.

4 5. Any individual whose license has been suspended or revoked may apply to the
5 board for vacation of the suspension or reinstatement of the license.

6 **43-53-12. Limitations of practice - Divorce proceedings.**

7 1. If both parties to a marriage have obtained marriage and family therapy by a
8 licensed marriage and family therapist, the therapist may not testify in a spousal
9 support or divorce action concerning information acquired in the course of the
10 therapeutic relationship. This subsection does not apply to custody actions.

11 2. There is no monetary liability on the part of and no cause of action may arise
12 against any licensee in failing to warn of and protect from a patient's threatened
13 violent behavior or failing to predict and warn of and protect from a patient's violent
14 behavior except if the patient has communicated to the licensee a serious threat of
15 physical violence against a reasonably identifiable victim or victims.

16 3. The duty to warn of or to take reasonable precautions to provide protection from
17 violent behavior arises only under the limited circumstances specified under
18 subsection 2. The duty is discharged by the licensee if reasonable efforts are
19 made to communicate the threat to the victim or victims and to a law enforcement
20 agency.

21 4. No monetary liability and no cause of action may arise under this chapter against
22 any licensee for confidences disclosed to third parties in an effort to discharge a
23 duty arising under subsection 2 according to subsection 3.

24 **43-53-13. Penalty.** Any person who violates this chapter is guilty of a class B
25 misdemeanor.