

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED 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; to provide a  
3 penalty; and to provide for a legislative council study.

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  
3           recognized by the board as an approved supervisor.
- 4           7. "Recognized educational institution" means any educational institution that grants  
5           a 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           **43-53-02. Representation to the public.** Effective January 1, 2006, except as  
13 specifically provided otherwise under this chapter, only an individual licensed under this chapter  
14 may use the title "marriage and family therapist" or the abbreviations "LMFT". A licensee shall  
15 display prominently the licensee's license at the principal place of business of the licensee.

16           **43-53-03. Exemptions.**

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

- 1           c.    The individual holds a temporary permit issued by the board, authorizing the
- 2                            permitholder to engage in the activities for which licensure is otherwise
- 3                            required.
- 4           d.    The individual is a member of the clergy of any religious denomination and
- 5                            providing services within the scope of ministerial duties.
- 6           e.    The individual is a volunteer for or is employed by a nonprofit agency or
- 7                            community organization and the individual does not hold out to the public that
- 8                            the individual is a professional marriage and family therapist.
- 9        2.    This chapter does not prevent any person licensed by the state from doing work
- 10                            within the standards and scope of practice of that person's profession if that person
- 11                            does not represent to the public that the person is a professional marriage and
- 12                            family therapist.

13        **43-53-04. Marriage and family therapist licensure board.**

- 14        1.    The North Dakota marriage and family therapist licensure board consists of five
- 15                            members. The governor shall appoint the board members to serve terms of four
- 16                            years, except for those first appointed one member must continue in office for two
- 17                            years, two for three years, and two, including the chairman, for four years.
- 18        2.    The governor shall appoint members of the board from among individuals who
- 19                            meet the following qualifications:
- 20           a.    At least three members must be licensed practicing marriage and family
- 21                            therapists; and each must have been for at least five years immediately
- 22                            preceding appointment actively engaged as marriage and family therapists in
- 23                            rendering professional services in marriage and family therapy; in the
- 24                            education and training of master's, doctoral, or postdoctoral students of
- 25                            marriage and family therapy; or in marriage and family therapy research. A
- 26                            member under this subdivision must have spent the majority of the time
- 27                            devoted by that member to such activity during the two years preceding
- 28                            appointment residing in this state.
- 29           b.    At least one member must be a representative of the general public and may
- 30                            not have any direct affiliation with the practice of marriage and family therapy
- 31                            or another mental health profession.

- 1           c.    The initial appointees, with the exception of any representative of the general  
2                    public, are deemed to be and become licensed practicing marriage and family  
3                    therapists immediately upon appointment and qualification as members of the  
4                    board.
- 5           3.    The governor shall nominate a new member to fill a vacancy on the board within  
6                    thirty days of the vacancy. A member chosen to fill a board vacancy must be  
7                    appointed for the unexpired term of the board member whom that member is  
8                    succeeding. Upon the expiration of a member's term of office, a board member  
9                    shall continue to serve until a successor is appointed. An individual may not be  
10                  appointed more than once to fill an unexpired term or appointed to more than two  
11                  consecutive full terms. A member may not serve as chairman for more than four  
12                  years. The appointment of any member of the board automatically terminates  
13                  thirty days after the date the member is no longer a resident of this state.
- 14          4.    The governor may remove any member of the board or the chairman from the  
15                  position as chairman for neglect of duty or malfeasance or conviction of a felony or  
16                  crime of moral turpitude while in office, but for no other reason. A member may  
17                  not be removed until after a hearing on the charges and at least thirty days' prior  
18                  written notice to such accused member of the charges and of the date fixed for  
19                  such hearing.
- 20          5.    A board member may not participate in any matter before the board in which that  
21                  member has a pecuniary interest, personal bias, or other similar conflict of interest.  
22                  A board member shall serve without compensation but is entitled to be reimbursed  
23                  for the member's actual and necessary expenses incurred in the performance of  
24                  official board business.

25           **43-53-05. Board powers and duties.**

- 26           1.    The board shall administer and enforce this chapter. The board shall adopt rules  
27                  as the board determines necessary.
- 28           2.    The board shall examine and pass on the qualifications of all applicants and shall  
29                  issue a license to each successful applicant. The board shall adopt a seal which  
30                  must be affixed to all licenses issued by the board.

- 1           3.    The board may authorize expenditures determined necessary to carry out this
- 2                    chapter.
- 3           4.    Four of the members of the board constitute a quorum. The board may employ
- 4                    attorneys, experts, and other employees as necessary for the proper performance
- 5                    of the board's duties.
- 6           5.    The board shall adopt a nationally recognized code of ethics for the practice of
- 7                    marriage and family therapy.
- 8           6.    The board shall establish continuing education requirements for license renewal.
- 9           7.    The board shall publish an annual list of the names and addresses of all
- 10                   individuals licensed under this chapter.

11           **43-53-06. Licenses.**

- 12           1.    Each individual desiring to obtain a license as a practicing marriage and family
- 13                    therapist shall submit an application to the board, upon such form and in such
- 14                    manner as the board prescribes. An applicant shall furnish evidence that the
- 15                    applicant:
- 16                    a.    Is of good moral character;
- 17                    b.    Has not engaged in any practice or conduct that would be a ground for
- 18                    revoking a license under this chapter; and
- 19                    c.    Is qualified for licensure pursuant to the requirements of this chapter.
- 20           2.    Before January 1, 2008, an applicant may be issued a license by the board if the
- 21                    applicant meets the qualifications set forth in subdivisions a and b of subsection 1
- 22                    and provides evidence to the board that the applicant meets educational and
- 23                    experience qualifications as follows:
- 24                    a.    An appropriate graduate degree, as defined by the board, from a regionally
- 25                    accredited institution so recognized at the time of granting such degree.
- 26                    b.    At least five years of clinical experience in the practice of marriage and family
- 27                    therapy, and membership or certification by an appropriate professional
- 28                    organization, as defined by the board.
- 29           3.    After December 31, 2007, an applicant may be issued a license by the board if the
- 30                    applicant meets the qualifications set forth in subsection 1 and provides
- 31                    satisfactory evidence to the board that the applicant:

- 1           a. Holds a master's degree or a doctoral degree in marriage and family therapy  
2           from a recognized educational institution, or a graduate degree in an allied  
3           field from a recognized educational institution and graduate level coursework  
4           which is equivalent to a master's degree in marriage and family therapy, as  
5           determined by the board.
- 6           b. Has successfully completed two calendar years of work experience in  
7           marriage and family therapy under qualified supervision following receipt of a  
8           qualifying degree.
- 9           c. Has passed a national examination administered by the board.

10       **43-53-07. Examination.**

- 11       1. The board shall conduct an examination at least once a year at a time and place  
12       designated by the board. Examinations may be written or oral as determined by  
13       the board. In any written examination each applicant must be designated so that  
14       the applicant's name is not disclosed to the board until the examination has been  
15       graded. Examinations must include questions in such theoretical and applied  
16       fields as the board determines most suitable to test an applicant's knowledge and  
17       competence to engage in the practice of marriage and family therapy. An  
18       applicant is deemed to have passed an examination upon affirmative vote of at  
19       least four members of the board.
- 20       2. Any applicant who fails an examination conducted by the board may not be  
21       admitted to a subsequent examination for a period of at least six months.

22       **43-53-08. Reciprocal licenses.** The board shall issue a license by examination of  
23       credentials to any applicant licensed or certified as a marriage and family therapist in another  
24       state for which the requirements for the license or certificate are equivalent to or exceed the  
25       requirements of this state, provided the applicant submits an application on forms prescribed by  
26       the board and pays the original licensure fee prescribed by this chapter.

27       **43-53-09. Fees.** A fee, as determined by the board, must be paid to the board for  
28       original licensure. A license is valid for two years and must be renewed biennially, with the  
29       renewal fee being determined by the board. Any applicant for renewal of a license that has  
30       expired must be required to pay a reregistration fee determined by the board. The fees

1 established under this section must be adequate to establish and maintain the operation of the  
2 board.

3 **43-53-10. Disciplinary proceedings.**

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

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

3           **43-53-11. Limitations of practice - Divorce proceedings.**

- 4           1. If both parties to a marriage have obtained marriage and family therapy by a  
5           licensed marriage and family therapist, the therapist may not testify in a spousal  
6           support or divorce action concerning information acquired in the course of the  
7           therapeutic relationship. This subsection does not apply to custody actions.
- 8           2. There is no monetary liability on the part of and no cause of action may arise  
9           against any licensee in failing to warn of and protect from a patient's threatened  
10          violent behavior or failing to predict and warn of and protect from a patient's violent  
11          behavior except if the patient has communicated to the licensee a serious threat of  
12          physical violence against a reasonably identifiable victim or victims.
- 13          3. The duty to warn of or to take reasonable precautions to provide protection from  
14          violent behavior arises only under the limited circumstances specified under  
15          subsection 2. The duty is discharged by the licensee if reasonable efforts are  
16          made to communicate the threat to the victim or victims and to a law enforcement  
17          agency.
- 18          4. No monetary liability and no cause of action may arise under this chapter against  
19          any licensee for confidences disclosed to third parties in an effort to discharge a  
20          duty arising under subsection 2 according to subsection 3.

21          **43-53-12. Penalty.** Any person who violates this chapter is guilty of a class B  
22          misdemeanor.

23          **SECTION 2. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider  
24          studying, during the 2005-06 interim, the fiscal impact and the feasibility and desirability of  
25          establishing an umbrella licensing organization for a group consisting of counselors,  
26          psychologists, marriage and family therapists, and social workers. The legislative council shall  
27          report its findings and recommendations, together with any legislation required to implement  
28          the recommendations, to the sixtieth legislative assembly.