

Introduced by

1 A BILL for an Act to create and enact section 43-45-05.1.1 of the North Dakota Century Code,  
2 relating to certification of behavioral addiction counselors; to amend and reenact subsection 11  
3 of section 25-03.1-02, subsection 2 of section 25-03.1-08, sections 25-03.1-10 and 25-03.1-23,  
4 subsection 2 of section 27-20-28, section 31-01-06.3, subdivision d of subsection 1 of section  
5 43-12.3-06, sections 43-45-01, 43-45-04, 43-45-05.2, 43-45-06, 43-45-07, 43-45-07.1,  
6 43-45-07.2, 43-45-07.3, and 43-45-08, subsection 1 of section 50-25.1-03, and subsection 1 of  
7 section 50-25.2-03 of the North Dakota Century Code, relating to the practice and regulation of  
8 addiction counseling and behavioral addiction counseling; and to provide a penalty.

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

10 **SECTION 1. AMENDMENT.** Subsection 11 of section 25-03.1-02 of the North Dakota  
11 Century Code is amended and reenacted as follows:

- 12 11. "Mental health professional" means:
- 13 a. A psychologist with at least a master's degree who has been either licensed or  
14 approved for exemption by the North Dakota board of psychology examiners.
  - 15 b. A social worker with a master's degree in social work from an accredited  
16 program.
  - 17 c. An advanced practice registered nurse.
  - 18 d. A registered nurse with a minimum of two years of psychiatric clinical experience  
19 under the supervision of an expert examiner.
  - 20 e. A licensed addiction counselor and a certified behavioral addiction counselor.
  - 21 f. A licensed professional counselor with a master's degree in counseling from an  
22 accredited program who has either successfully completed the advanced training  
23 beyond the master's degree as required by the national academy of mental

1 health counselors or a minimum of two years of clinical experience in a mental  
2 health agency or setting under the supervision of a psychiatrist or psychologist.

3 g. A physician assistant.

4 **SECTION 2. AMENDMENT.** Subsection 2 of section 25-03.1-08 of the North Dakota  
5 Century Code is amended and reenacted as follows:

6 2. The petition may be accompanied by any of the following:

7 a. A written statement supporting the petition from a psychiatrist, physician,  
8 physician assistant, psychologist, advanced practice registered nurse, ~~or~~  
9 addiction counselor, or certified behavioral addiction counselor who is practicing  
10 within the professional scope of practice and who has personally examined the  
11 respondent within forty-five days of the date of the petition.

12 b. One or more supporting affidavits otherwise corroborating the petition.

13 **SECTION 3. AMENDMENT.** Section 25-03.1-10 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **25-03.1-10. Involuntary treatment - Court-ordered examination.**

16 If the petition is not accompanied by a written supportive statement of a psychiatrist,  
17 physician, physician assistant, psychologist, advanced practice registered nurse, ~~or~~ addiction  
18 counselor, or behavioral addiction counselor who has examined the respondent within the last  
19 forty-five days, the court shall order the respondent to be examined by an expert examiner of  
20 the respondent's own choice or one appointed by the court. The order must state the date and  
21 time within which the respondent must appear; the address to which the respondent is to report;  
22 a statement that if the respondent fails to appear at the appointed place at or before the ordered  
23 date and time, the respondent may be involuntarily taken into custody and transported to the  
24 appointed place; and a statement that the expert examiner may consult with or request  
25 participation in the examination by a qualified mental health professional and may include with  
26 the written examination report any findings or observations by that mental health professional.  
27 Accompanying the order must be an explanation of the intended uses and possible effects of  
28 this examination. The examination may be conducted at a treatment facility, at the respondent's  
29 home, or at any other suitable place in the community. A request for examination at the state  
30 hospital must be screened and approved by a regional human service center. The respondent  
31 may be accompanied by one or more relatives or friends at the place of the examination. The

1 costs of the court-ordered examination must be borne by the county that is the respondent's  
2 place of residence.

3 **SECTION 4. AMENDMENT.** Section 25-03.1-23 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **25-03.1-23. Petition for continuing treatment orders.**

6 A petition for an order authorizing continuing treatment must contain a statement setting  
7 forth the reasons for the determination that the patient continues to be a person requiring  
8 treatment; a statement describing the treatment program provided to the patient and the results  
9 of that treatment; and a clinical estimate as to how long further treatment will be required. The  
10 petition must be accompanied by a certificate executed by a physician, physician assistant,  
11 psychiatrist, psychologist, advanced practice registered nurse, ~~or~~ licensed addiction counselor,  
12 or certified behavioral addiction counselor, any of whom is practicing within that individual's  
13 professional scope of practice.

14 **SECTION 5. AMENDMENT.** Subsection 2 of section 27-20-28 of the North Dakota Century  
15 Code is amended and reenacted as follows:

- 16 2. During the pendency of any proceeding the court:
- 17 a. May order the child to be examined at a suitable place by a physician,  
18 psychologist, ~~or certified~~ addiction counselor or behavioral addiction counselor;
  - 19 b. May order the child tested by appropriate forensic methods to determine whether  
20 the child has been exposed to a controlled substance or other substance  
21 considered injurious to the child's health; or
  - 22 c. May order medical or surgical treatment of a child who is suffering from a serious  
23 physical condition or illness, or alcohol or drug abuse, which in the opinion of a  
24 licensed physician requires prompt treatment, even if the parent, guardian, or  
25 other custodian has not been given notice of a hearing, is not available, or  
26 without good cause informs the court of that person's refusal to consent to the  
27 treatment.

28 **SECTION 6. AMENDMENT.** Section 31-01-06.3 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1           **31-01-06.3. Addiction counselor and behavioral addiction counselor - Client privilege**

2   **- Definitions.**

3           As used in sections 31-01-06.3 through 31-01-06.6:

- 4           1. "Client" means a person who consults or is examined or interviewed by a counselor.
- 5           2. "Confidential communication" means a communication ~~which is~~ not intended to be  
6           disclosed to third parties, except ~~persons~~an individual present to further the interest of  
7           the client in the consultation, examination, or interview, ~~persons~~ an individual  
8           reasonably necessary for the transmission of the communication; ~~or persons who~~  
9           ~~are~~ an individual participating in the diagnosis and treatment under the direction of the  
10          counselor, including members of the client's family.
- 11          3. "Counselor" means an addiction counselor ~~who has been~~ or behavioral addiction  
12          counselor who is licensed or certified under chapter 43-45 or who ~~is the client~~  
13          reasonably believed ~~by the client so to be~~ was licensed or certified, while engaged in  
14          the diagnosis or treatment of a physical, mental, or emotional condition, including  
15          alcohol or any addiction.
- 16          4. "Privilege" means the counselor-client privilege authorized under sections 31-01-06.3  
17          through 31-01-06.6.

18          **SECTION 7. AMENDMENT.** Subdivision d of subsection 1 of section 43-12.3-06 of the  
19          North Dakota Century Code is amended and reenacted as follows:

- 20           d. (1) For a behavioral health professional:
- 21                   (a) The loan repayment must be equal to four thousand dollars per year;
- 22                               and
- 23                   (b) The matching funds must equal ten percent of the amount required in
- 24                               subparagraph a.
- 25           (2) For purposes of this subdivision, a behavioral health professional means an
- 26           individual who practices in the behavioral health field and is:
- 27                   (a) A licensed addiction counselor or certified behavioral addiction  
28                               counselor;
- 29                   (b) A licensed professional counselor;
- 30                   (c) A licensed social worker;
- 31                   (d) A registered nurse; or

1 (e) A specialty practice registered nurse.

2 **SECTION 8. AMENDMENT.** Section 43-45-01 of the North Dakota Century Code is  
3 amended and reenacted as follows:

4 **43-45-01. Definitions.**

5 As used in this chapter, unless the context or subject matter otherwise requires:

6 1. "Addiction counseling" means the provision of counseling or assessment of ~~persons~~an  
7 individual regarding ~~their~~the individual's use or abuse of alcohol, tobacco, nicotine, or  
8 a controlled substance.

9 2. "Behavioral addiction counseling" means the provision of counseling or assessment of  
10 an individual regarding the individual's compulsion to engage in a rewarding activity,  
11 such as gambling, sex, or internet use.

12 3. "Board" means the board of addiction counseling examiners.

13 ~~3.4.~~ "Clinical training" means training in addiction counseling, approved by the board.

14 ~~4.5.~~ "Internship" means work experience in a licensed addiction treatment facility under the  
15 supervision of a clinical supervisor registered by the board.

16 ~~5.6.~~ "Private practice of addiction counseling" means the independent practice of addiction  
17 counseling by a qualified individual who is self-employed on a full-time or part-time  
18 basis and is responsible for that independent practice. Consultation services provided  
19 to an organization or agency are not the private practice of addiction counseling.

20 **SECTION 9. AMENDMENT.** Section 43-45-04 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **43-45-04. Board power, duties, and authority.**

23 1. The board shall:

24 a. Administer and enforce the provisions of this chapter.

25 b. Evaluate the qualifications of applicants for a license to practice addiction  
26 counseling and issue licenses under this chapter.

27 c. Establish ethical standards of practice for ~~persons~~an individual holding a license  
28 to practice addiction counseling in this state.

29 d. Establish continuing education requirements and approve providers of continuing  
30 education.

31 e. Approve clinical training programs.

- 1 f. Register clinical trainees.
- 2 g. Register interns.
- 3 h. Register clinical supervisors.
- 4 i. Register licensees for private practice.
- 5 j. Approve and administer examinations.
- 6 k. Periodically evaluate initial licensure coursework requirements and clinical
- 7 training requirements to ensure the requirements are up to date and do not serve
- 8 as an undue barrier to licensure.
- 9 l. Evaluate the qualifications of applicants for certification to practice behavioral
- 10 addiction counseling and issue certificates under this chapter.
- 11 m. Establish ethical standards of practice for an individual certified to practice
- 12 behavioral addiction counseling in this state.
- 13 2. The board may:
  - 14 a. Adopt rules under chapter 28-32 to implement this chapter.
  - 15 b. Issue subpoenas, examine witnesses, and administer oaths, and may investigate
  - 16 allegations of practices violating the provisions of this chapter.
  - 17 c. Recommend prosecution for violations of this chapter to the appropriate state's
  - 18 attorney.
  - 19 d. Recommend that the attorney general bring civil actions to seek injunctive and
  - 20 other relief against violations of this chapter.
  - 21 e. Collect fees for examinations, initial licensures and certifications, renewal of
  - 22 licenses and certificates, late license and certificate renewals, private practice
  - 23 registrations, renewal of private practice registrations, approval of continuing
  - 24 education providers, and administrative fees. The fees must be established by
  - 25 rule in amounts necessary to compensate the board for administration and
  - 26 enforcement of this chapter.
  - 27 f. Employ persons to assist the board in carrying out its duties under this chapter.

28 **SECTION 10.** Section 43-45-05.1.1 of the North Dakota Century Code is created and  
29 enacted as follows:

1        **43-45-05.1.1. Initial certification.**

- 2        1. The board shall certify a qualified applicant as a behavioral addiction counselor. To  
3        qualify for certification under this section, an applicant must hold, at a minimum, a  
4        baccalaureate degree in a board-approved course of study, such as social work, and  
5        must meet additional standards the board establishes by rule. The board may require  
6        a qualified certificate holder be certified in behavioral addiction counseling by a  
7        nationally recognized entity approved by the board.  
8        2. Although a certificate holder may hold concurrent licensure as an addiction counselor,  
9        concurrent licensure is not a requirement for certification.

10       **SECTION 11. AMENDMENT.** Section 43-45-05.2 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **43-45-05.2. Representation to the public.**

- 13       1. A person may not represent to the public ~~that the person is an addiction counselor or~~  
14       ~~engage in the practice of addiction counseling in this state unless the person is a~~  
15       ~~licensed~~an addiction counselor licensed under this chapter.  
16       2. A person may not represent to the public the person is a behavioral addiction  
17       counselor or engage in the practice of behavioral addiction counseling in this state  
18       unless the person is a behavioral addiction counselor certified under this chapter.  
19       3. The license or certificate, or both license and certificate, issued by the board under the  
20       provisions of this chapter must be prominently displayed at the principal place of  
21       business where the addiction counselor or behavioral addiction counselor practices.

22       **SECTION 12. AMENDMENT.** Section 43-45-06 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24       **43-45-06. Addiction counseling and behavioral addiction counseling practice -**  
25 **Exemptions.**

- 26       1. ~~Nothing in this~~This chapter may not be construed to prevent any person an individual  
27       from doing work within the standards and ethics of that person's individual's licensed  
28       profession and/or that individual's calling, provided that the person individual does not  
29       represent to the public, by title or by use of the initials L.A.C., that the person individual  
30       is engaging in addiction counseling or behavioral addiction counseling.

- 1           2.   ~~Nothing in this~~This chapter may not be construed to prevent addiction counseling  
2                    trainees or interns in board-approved programs from engaging in addiction counseling  
3                    related to training.

4           **SECTION 13. AMENDMENT.** Section 43-45-07 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **43-45-07. Renewal of license and certificate.**

- 7           1.   All licenses and certificates are effective ~~when granted~~on the date of issuance by the  
8                    board.
- 9           2.   All licenses of licensed addiction counselors and certificates of certified behavioral  
10                   addiction counselors expire on December thirty-first of every odd-numbered year.
- 11           3.   A license or certificate issued under this chapter may be renewed by payment of the  
12                    renewal fee and completion of the continuing education requirements set by the  
13                    board, ~~provided the.~~ However, to qualify for renewal of a license, an applicant's license  
14                    is may not be currently revoked ~~or~~and grounds for denial under section 43-45-07.1  
15                    do may not exist.
- 16           4.   At the time of renewal the board shall require each applicant to present satisfactory  
17                    evidence ~~that~~ the applicant has completed the continuing education requirements  
18                    specified by the board.
- 19           5.   If the board does not receive a completed application for renewal ~~is not received~~ by  
20                    December first of the odd-numbered year, the board shall charge a late fee will be  
21                    charged.
- 22           6.   If the board does not receive the completed application for renewal ~~is not received~~ on  
23                    or before the expiration date, the license expires and the ~~person~~individual may not  
24                    practice addiction counseling or the certificate expires and the individual may not  
25                    practice behavioral addiction counseling. The license or certificate may be renewed  
26                    within thirty days from the date of expiration of the license or certificate if the  
27                    completed application for renewal and the late fee are received by the board within  
28                    thirty days from the date of expiration of the license or certificate.
- 29           7.   If a completed application for renewal of license or certificate is not received by the  
30                    board within thirty days from the date of expiration of the license or certificate, the  
31                    licensee or certificate holder must reapply for licensure or certification.



- 1           8.    The board may extend the renewal deadline for an applicant having proof of medical  
2                    or other hardship rendering the applicant unable to meet the renewal deadline.

3           **SECTION 14. AMENDMENT.** Section 43-45-07.1 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **43-45-07.1. Grounds for disciplinary proceedings.**

- 6           1.    The board may deny an application, refuse to renew, suspend, revoke, or place on  
7                    probationary status any license issued under this chapter on proof at a hearing ~~that~~  
8                    the applicant or holder of the license has engaged in unprofessional conduct.

9                    Unprofessional conduct includes:

- 10          4.    a.    Obtaining an initial license or renewal by means of fraud, misrepresentation, or  
11                    concealment of material facts.
- 12          2.    b.    Violating rules set by the board.
- 13          3.    c.    Violating a provision of this chapter.
- 14          4.    d.    Violating the professional code of conduct as adopted by the board.
- 15          5.    e.    Being adjudged guilty of an offense determined by the board to have a direct  
16                    bearing on an applicant's or holder of the license's ability to serve the public as  
17                    an addiction counselor or being adjudged guilty of any offense and being  
18                    insufficiently rehabilitated as determined by the board under section  
19                    12.1-33-02.1.
- 20          2.    One year from the date of the revocation, the licenseholder may make application for  
21                    initial licensure.
- 22          3.    The board may deny an application or refuse to renew a certificate issued under this  
23                    hearing upon proof at a hearing the applicant or certificate holder obtained the initial  
24                    certification or a renewal by means of fraud, violated rules set by the board, or violated  
25                    a provision of this chapter.

26           **SECTION 15. AMENDMENT.** Section 43-45-07.2 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28           **43-45-07.2. Reporting obligations.**

- 29          1.    A person who has knowledge of any conduct constituting grounds for discipline under  
30                    this chapter may report the violation to the board.

- 1           2.    The hospital, clinic, or other health care institution, facility, or organization shall report  
2                   to the board any action taken by the hospital, clinic, or other health care facility,  
3                   institution, or organization to revoke, suspend, restrict, or condition an addiction  
4                   counselor's or behavioral addiction counselor's privilege to practice or treat patients in  
5                   the hospital, clinic, or other health care facility or institution, or as part of the  
6                   organization, any denial of privileges or any other disciplinary action.

7           **SECTION 16. AMENDMENT.** Section 43-45-07.3 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **43-45-07.3. Complaints - Investigations.**

- 10           1.    A person may file a written complaint with the board citing the specific allegations of  
11                   unprofessional conduct by an addiction counselor or violation of this chapter by a  
12                   behavioral addiction counselor. The board shall notify the addiction counselor or  
13                   behavioral addiction counselor of the complaint and request a written response from  
14                   the addiction counselor or behavioral addiction counselor.
- 15           2.    The board may investigate a complaint on its own motion, without requiring the identity  
16                   of the complainant to be made a matter of public record, if the board concludes that  
17                   good cause exists for preserving the confidentiality of the complainant.
- 18           3.    An addiction counselor or behavioral addiction counselor who is the subject of an  
19                   investigation by the board shall cooperate fully with the investigation. Cooperation  
20                   includes responding fully and promptly to any reasonable question raised by or on  
21                   behalf of the board relating to the subject of the investigation, and providing copies of  
22                   patient records when reasonably requested by the board and accompanied by the  
23                   appropriate release.
- 24           4.    In order to pursue the investigation, the board ~~has the power to~~ may subpoena and  
25                   examine witnesses and records, including patient records, and to copy, photograph, or  
26                   take samples. ~~†The board~~ may require the licensed addiction counselor or behavioral  
27                   addiction counselor to give statements under oath, to submit to a physical or mental  
28                   examination, or both, by a physician ~~or physicians~~ and other qualified evaluation  
29                   professionals selected by the board if it appears to be in the best interest of the public  
30                   that this evaluation be secured. A written request from the board constitutes

1 authorization to release information. The patient records that are released to the board  
2 are not public records.

3 5. Unless there is a patient release on file allowing the release of information at the  
4 public hearing, all data and information, including patient records, acquired by the  
5 board in its investigation are confidential and closed to the public. All board meetings  
6 wherein patient testimony or records are taken or reviewed are confidential and closed  
7 to the public. If no patient testimony or records are taken or reviewed, the remainder of  
8 the meeting is an open meeting unless a specific exemption is otherwise applicable.

9 **SECTION 17. AMENDMENT.** Section 43-45-08 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **43-45-08. Penalty.**

12 Any person who violates subsection 1 or 2 of section 43-45-05.2 is guilty of a class B  
13 misdemeanor.

14 **SECTION 18. AMENDMENT.** Subsection 1 of section 50-25.1-03 of the North Dakota  
15 Century Code is amended and reenacted as follows:

16 1. Any physician, nurse, dentist, optometrist, dental hygienist, medical examiner or  
17 coroner, or any other medical or mental health professional, religious practitioner of  
18 the healing arts, schoolteacher or administrator, school counselor, addiction counselor,  
19 behavioral addiction counselor, social worker, child care worker, foster parent, police  
20 or law enforcement officer, juvenile court personnel, probation officer, division of  
21 juvenile services employee, or member of the clergy having knowledge of or  
22 reasonable cause to suspect that a child is abused or neglected, or has died as a  
23 result of abuse or neglect, shall report the circumstances to the department if the  
24 knowledge or suspicion is derived from information received by that person in that  
25 person's official or professional capacity. A member of the clergy, however, is not  
26 required to report such circumstances if the knowledge or suspicion is derived from  
27 information received in the capacity of spiritual adviser.

28 **SECTION 19. AMENDMENT.** Subsection 1 of section 50-25.2-03 of the North Dakota  
29 Century Code is amended and reenacted as follows:

30 1. Any medical or mental health professional or personnel, law enforcement officer,  
31 firefighter, member of the clergy, or caregiver having knowledge that a vulnerable adult

1           has been subjected to abuse or neglect, or who observes a vulnerable adult being  
2           subjected to conditions or circumstances that reasonably would result in abuse or  
3           neglect, shall report the information to the department or the department's designee or  
4           to an appropriate law enforcement agency if the knowledge is derived from information  
5           received by that person in that person's official or professional capacity. A member of  
6           the clergy, however, is not required to report the information if the knowledge is  
7           derived from information received in the capacity of spiritual adviser. For purposes of  
8           this subsection, "medical or mental health professional or personnel" means a  
9           professional or personnel providing health care or services to a vulnerable adult, on a  
10          full-time or part-time basis, on an individual basis or at the request of a caregiver, and  
11          includes a physician, nurse, medical examiner, coroner, dentist, dental hygienist,  
12          optometrist, pharmacist, chiropractor, podiatrist, physical therapist, occupational  
13          therapist, addiction counselor, behavioral addiction counselor, counselor, marriage and  
14          family therapist, social worker, mental health professional, emergency medical  
15          services personnel, hospital personnel, nursing home personnel, congregate care  
16          personnel, or any other person providing medical and mental health services to a  
17          vulnerable adult.