

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2088

Introduced by

Senators Anderson, J. Lee

Representatives Seibel, Westlind

1 A BILL for an Act to create and enact a new section to chapter 43-45 of the North Dakota
2 Century Code, relating to licensed clinical addiction counselors; and to amend and reenact
3 sections 43-45-01, 43-45-02, 43-45-03, 43-45-04, 43-45-05, 43-45-05.1, 43-45-05.2,
4 43-45-05.3, 43-45-05.4, 43-45-06, 43-45-07, 43-45-07.1, 43-45-07.2, and 43-45-07.3 of the
5 North Dakota Century Code, relating to the scope of practice for addiction counselors and the
6 licensure authority of the board of addiction counseling examiners.

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

8 **SECTION 1. AMENDMENT.** Section 43-45-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-45-01. Definitions.**

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

- 12 1. "Addiction counseling" means the provision of counseling or assessment of
13 persons ~~individuals regarding their the use or abuse of tobacco, nicotine, alcohol, or a~~
14 ~~controlled other harmful substance; the engagement in gambling; or the use of any~~
15 ~~harmful substance or engagement in any harmful behavior identified by the board by~~
16 ~~rule. A substance or behavior identified by the board by rule must appear comparable~~
17 ~~to disorders recognized~~ an individual regarding a substance-related or addictive
18 disorder identified by the "Diagnostic and Statistical Manual of Mental Disorders",
19 American psychiatric association, fifth edition, text revision (2013), ~~or a future edition~~
20 ~~adopted by the board.~~
- 21 2. "Board" means the board of addiction counseling examiners.
- 22 3. "Clinical training" means training in addiction counseling, approved by the board.
- 23 4. "Internship" means work experience in a licensed addiction treatment facility under the
24 supervision of a clinical supervisor registered by the board.

1 5. "Licensee" means an individual licensed by the board to practice addiction counseling.

2 6. "Private practice of addiction counseling" means the independent practice of addiction
3 counseling by a qualified individual who is self-employed on a full-time or part-time
4 basis and is responsible for that independent practice. Consultation services provided
5 to an organization or agency are not the private practice of addiction counseling.

6 **SECTION 2. AMENDMENT.** Section 43-45-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-45-02. Board of addiction counseling examiners - Composition.**

9 The governor shall appoint a seven-member board of addiction counseling examiners. The
10 ~~members shall~~membership must include:

11 1. Five members who are ~~licensed addiction counselors~~licensees actively engaged in the
12 practice of addiction counseling, one of whom must be actively engaged in the private
13 practice of addiction counseling.

14 2. Two members who are laypersons.

15 **SECTION 3. AMENDMENT.** Section 43-45-03 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-45-03. Board member terms.**

18 The governor shall appoint new board members. Appointments must be for three-year
19 terms, but ~~no person~~an individual may not be appointed to serve for more than two consecutive
20 terms. Terms begin on the first day of the calendar year and end on the last day of the calendar
21 year or until successors are appointed.

22 **SECTION 4. AMENDMENT.** Section 43-45-04 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-45-04. Board power, duties, and authority.**

25 1. The board shall:

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

27 b. Evaluate the qualifications of applicants for a license to practice addiction
28 counseling and issue addiction counselor, licensed clinical addiction counselor,
29 and masters addiction counselor licenses under this chapter.

30 c. Establish ethical standards of practice for ~~persons holding a license~~a licensee to
31 practice addiction counseling in this state.

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

27 **SECTION 5. AMENDMENT.** Section 43-45-05 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **43-45-05. Board meetings.**

- 30 1. The board shall meet at least quarterly. A majority of the members constitute a
31 quorum.

1 2. Each board member shall serve without compensation but ~~shall~~ is entitled to receive
2 expenses as provided in section 54-06-09.

3 **SECTION 6. AMENDMENT.** Section 43-45-05.1 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-45-05.1. Initial licenses.**

6 1. The board shall issue an initial license as an addiction counselor, licensed clinical
7 addiction counselor, or masters addiction counselor to an applicant who has met all of
8 the following requirements:

9 a. ~~Has successfully~~ Successfully completed board-approved coursework, ~~approved~~
10 ~~by the board,~~ at an accredited college or university.

11 b. ~~Has successfully~~ Successfully completed one or more oral or written
12 examinations approved by the board for this purpose.

13 c. ~~Has successfully~~ Successfully completed a clinical training program approved by
14 the board or accumulated experience as established by the board by rule.

15 d. ~~Has satisfied~~ Satisfied to the board that the applicant agrees to adhere to the
16 code of professional conduct adopted by the board.

17 2. For the clinical training program or accumulated experience required for of an intern
18 seeking initial licensure, at least fifty percent of the required supervision must be
19 provided by a supervising licensed addiction counselor, and the additional supervision
20 may be with other professionals who are designated by the supervising addiction
21 counselor, approved by the board, and competent in the area of practice being
22 supervised. The other professional must be registered as a clinical supervisor by the
23 board that licenses the other professional.

24 3. The board may grant reciprocity, on such terms and conditions as it may determine
25 necessary, to an applicant for licensure who is in good standing as a licensed,
26 approved, or certified addiction counselor, licensed clinical addiction counselor, or
27 masters addiction counselor under the laws of another jurisdiction that imposes at
28 least substantially the same requirements that are imposed under this chapter.

29 ~~3.4.~~ An applicant who is denied If the board denies a licensure must be notified application,
30 the board shall notify the applicant in writing of the reasons for denial and of the

1 applicant's right to a hearing before the board, under chapter 28-32, if a hearing is
2 requested within thirty days.

3 **SECTION 7. AMENDMENT.** Section 43-45-05.2 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-45-05.2. Representation to the public.**

- 6 1. A person may not represent to the public that the person is an addiction counselor, a
7 licensed clinical addiction counselor, or a masters addiction counselor or engage in the
8 practice of addiction counseling in this state unless the person is a ~~licensed addiction-~~
9 ~~counselor~~licensee.
- 10 2. The license issued by the board under the provisions of this chapter must be
11 prominently displayed at the principal place of business where the ~~addiction-~~
12 ~~counselor~~licensee practices.

13 **SECTION 8. AMENDMENT.** Section 43-45-05.3 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-45-05.3. Private practice of addiction counseling.**

16 A person may not engage in the private practice of addiction counseling unless that person
17 is an individual registered with the board as eligible for private practice under criteria
18 established by board rule.

19 **SECTION 9. AMENDMENT.** Section 43-45-05.4 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-45-05.4. Addiction counseling internship - Loan program - Revolving fund -**
22 **Continuing appropriation.**

- 23 1. a. The Bank of North Dakota shall develop and implement a program under which
24 loans may be provided to qualified individuals participating in a paid or unpaid
25 internship at a licensed substance abuse treatment facility in this state, in order to
26 obtain licensure ~~as an addiction counselor~~by the board.
- 27 b. The Bank of North Dakota shall determine all terms applicable to the time and
28 manner in which loans made under this section must be repaid.
- 29 c. Interest on outstanding loans under this section must accrue at the Bank of North
30 Dakota's current base rate, but may not exceed six percent per annum.

1 d. The maximum loan for which an applicant may qualify under this section is seven
2 thousand five hundred dollars.

3 e. This subsection is applicable only to individuals beginning an internship after
4 June 30, 2015.

5 2. The Bank of North Dakota shall maintain a revolving loan fund for the purpose of
6 making loans under this section. All moneys transferred into the fund, interest upon
7 moneys in the fund, and payments to the fund of principal and interest on loans under
8 this section are appropriated to the Bank on a continuing basis.

9 **SECTION 10. AMENDMENT.** Section 43-45-06 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-45-06. Addiction counseling practice - Exemptions.**

12 1. ~~Nothing in this~~This chapter may not be construed to prevent any ~~person~~an individual
13 from doing work within the standards and ethics of that ~~person's~~individual's profession
14 and calling, ~~provided if~~ that the ~~person~~individual does not represent to the public, by
15 title or by use of the initials L.A.C., L.C.A.C., or M.A.C., that the ~~person~~individual is
16 engaging in addiction counseling.

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

20 **SECTION 11. AMENDMENT.** Section 43-45-07 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-45-07. Renewal of license.**

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

24 2. All licenses ~~of licensed addiction counselors~~issued by the board expire on December
25 thirty-first of every odd-numbered year.

26 3. A license may be renewed by payment of the renewal fee and completion of the
27 continuing education requirements set by the board, provided the applicant's license is
28 not currently revoked or grounds for denial under section 43-45-07.1 do not exist.

29 4. At the time of renewal the board shall require each applicant to present satisfactory
30 evidence ~~that~~ the applicant ~~has~~ completed the continuing education requirements
31 specified by the board.

- 1 5. If the completed application for renewal is not received by December first of the
- 2 odd-numbered year, a late fee will be charged.
- 3 6. If the completed application for renewal is not received on or before the expiration
- 4 date, the license expires and the ~~person~~individual may not practice addiction
- 5 counseling. The license may be renewed within thirty days from the date of expiration
- 6 of the license if the completed application for renewal and the late fee are received
- 7 within thirty days from the date of expiration of the license.
- 8 7. If a completed application for renewal of license is not received within thirty days from
- 9 the date of expiration of the license, relicensure requires the licensee must former
- 10 licenseholder to reapply for licensure.
- 11 8. The board may extend the renewal deadline for an applicant having proof of medical
- 12 or other hardship rendering the applicant unable to meet the renewal deadline.

13 **SECTION 12. AMENDMENT.** Section 43-45-07.1 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-45-07.1. Grounds for disciplinary proceedings.**

- 16 1. The board may deny an application, and may refuse to renew, suspend, revoke, or
- 17 place on probationary status any license issued under this chapter on proof at a
- 18 hearing ~~that~~ the applicant or holder of the license ~~has~~ engaged in unprofessional
- 19 conduct. Unprofessional conduct includes:
 - 20 1. a. Obtaining an initial license or renewal by means of fraud, misrepresentation, or
 - 21 concealment of material facts.
 - 22 2. b. Violating rules set by the board.
 - 23 3. c. Violating a provision of this chapter.
 - 24 4. d. Violating the professional code of conduct as adopted by the board.
 - 25 5. e. Being adjudged guilty of an offense determined by the board to have a direct
 - 26 bearing on an applicant's or holder of the license's ability to ~~serve~~provide
 - 27 addiction counseling to the public as an ~~addiction counselor~~licensee or being
 - 28 adjudged guilty of any offense and being insufficiently rehabilitated as determined
 - 29 by the board under section 12.1-33-02.1.
- 30 2. One year from the date of the revocation, ~~the~~a former licenseholder may make
- 31 application for initial licensure.

1 **SECTION 13. AMENDMENT.** Section 43-45-07.2 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-45-07.2. Reporting obligations.**

- 4 1. A person ~~who has~~with knowledge of any conduct constituting grounds for discipline
5 under this chapter may report the violation to the board.
- 6 2. ~~The~~A hospital, clinic, or other health care ~~institution~~, facility, institution, or organization
7 shall report to the board any action taken by the hospital, clinic, or other health care
8 facility, institution, or organization to revoke, suspend, restrict, or condition ~~an~~
9 ~~addiction counselor's~~a licensee's privilege to practice or treat patients in the hospital,
10 clinic, or other health care facility or institution, or as part of the organization, any
11 denial of privileges or any other disciplinary action.

12 **SECTION 14. AMENDMENT.** Section 43-45-07.3 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-45-07.3. Complaints - Investigations.**

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

1 board if it appears to be in the best interest of the public that this evaluation be
2 secured. A written request from the board constitutes authorization to release
3 information. The patient records that are released to the board are not public records.
4 5. Unless there is a patient release on file allowing the release of information at the
5 public hearing, all ~~data and information, including~~ patient records, acquired by the
6 board in ~~its~~the board's investigation are confidential ~~and closed to the public~~. All board
7 meetings ~~wherein~~at which patient testimony or records are taken or reviewed are
8 confidential and closed to the public. If no patient testimony or records are taken or
9 reviewed, the remainder of the meeting is an open meeting unless a specific
10 exemption is otherwise applicable.

11 **SECTION 15.** A new section to chapter 43-45 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Licensed clinical addiction counselor.**

- 14 1. Under section 43-45-05.1, the board shall issue an initial license as a licensed clinical
15 addiction counselor to a qualified applicant who:
16 a. Applies for licensure under this section before January 1, ~~2023~~2024;
17 b. On December 31, ~~2017~~2018, was licensed in this state as an addiction
18 counselor; and
19 c. Completed ten thousand hours of full-time clinical experience as a licensed
20 addiction counselor.
21 2. The scope of practice of a licensed clinical addiction counselor is the same as the
22 scope of practice of a masters addiction counselor.