

Fifty-fifth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1161

Introduced by

Human Services Committee

(At the request of the North Dakota Board of Social Work Examiners)

1 A BILL for an Act to create and enact a new subsection to chapter 43-41 of the North Dakota  
2 Century Code, relating to a civil penalty for practicing social work without a license; to amend  
3 and reenact subdivision e of subsection 2 of section 26.1-36-09, and sections 43-41-01,  
4 43-41-04, 43-41-05, 43-41-10, and 43-41-12 of the North Dakota Century Code, relating to  
5 group health policy and health service contract mental disorder coverage and social work  
6 licensures; to repeal sections 43-41-06 and 43-41-12.1 of the North Dakota Century Code; and  
7 to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Subdivision e of subsection 2 of section 26.1-36-09 of the  
10 North Dakota Century Code is amended and reenacted as follows:

11 e. (1) In the case of benefits provided for outpatient treatment, the benefits  
12 must be provided for a minimum of thirty hours for services covered  
13 under this section in any calendar year if the treatment services are  
14 provided within the scope of licensure by a nurse who holds advanced  
15 licensure with a scope of practice within mental health or if the  
16 diagnosis, evaluation, and treatment services are provided within the  
17 scope of licensure by a licensed physician, a licensed psychologist who  
18 is eligible for listing on the national register of health service providers  
19 in psychology, or a licensed ~~certified~~ independent clinical social worker  
20 ~~who:~~  
21 (a) ~~Possesses a master's or doctorate degree in social work from an~~  
22 ~~institution accredited by the council of social work education;~~

- 1                   ~~(b) Has at least one year of direct clinical social work practice during~~  
2                   ~~graduate school or one year of postgraduate supervised clinical~~  
3                   ~~social work practice in a structured teaching environment;~~  
4                   ~~(c) Has completed at least the equivalent of four years of full time~~  
5                   ~~supervised clinical social work experience within the last seven~~  
6                   ~~years;~~  
7                   ~~(d) Has passed the clinical examination or its equivalent offered by~~  
8                   ~~the North Dakota board of social work examiners; and~~  
9                   ~~(e) If not licensed in this state, is licensed, certified, or registered at~~  
10                  ~~the highest level of social work practice in another state.~~

- 11                  (2) A person who is qualified for third-party payment by the board of social  
12                  work examiners on August 1, ~~1995~~ 1997, is exempt from  
13                  ~~subparagraphs c and d~~ paragraph 1 of this subdivision. ~~Supervision~~  
14                  ~~under subparagraph c may be provided by a qualified clinical social~~  
15                  ~~worker, a licensed psychologist, or a licensed psychiatrist, but the~~  
16                  ~~preferred supervisor is the qualified clinical social worker.~~

17                  **SECTION 2. AMENDMENT.** Section 43-41-01 of the North Dakota Century Code is  
18                  amended and reenacted as follows:

19                  **43-41-01. Definitions.** In this chapter, unless the context or subject matter otherwise  
20                  requires:

- 21                  1. "Board" means the North Dakota board of social work examiners.  
22                  2. "Licensed certified social worker" means an individual who has a doctorate or  
23                  master's degree in social work from a college or university accredited by the  
24                  council on social work education and who has fulfilled the requirements for  
25                  licensure.  
26                  3. "Licensed independent clinical social worker" means an individual who has a  
27                  doctorate or master's degree in social work from a college or university accredited  
28                  by the council on social work education and who has fulfilled the requirements for  
29                  licensure or has been registered by the board for third-party reimbursement before  
30                  August 1, 1997.

1           4. "Licensed social worker" means an individual who has a baccalaureate degree in  
2           social work from a college or university accredited by the council on social work  
3           education and who has fulfilled the requirements for licensure.

4           ~~4. "Private practice of social work" means the independent practice of social work by~~  
5           ~~a qualified individual who is self-employed on a full-time or part-time basis and is~~  
6           ~~responsible for that independent practice. Consultation services provided to an~~  
7           ~~organization or an agency are not considered to be the private practice of social~~  
8           ~~work.~~

9           5. Social work practice consists of the professional application of social work values,  
10          principles, and techniques in: helping people obtain tangible services; counseling;  
11          psychotherapy with individuals, families, and groups; helping communities or  
12          groups to improve social and health services; providing social casework; directly  
13          supervising programs providing social work services; social work education; social  
14          work research; or any combination of these. The practice of social work requires  
15          knowledge of human development and behavior, of social, economic, and cultural  
16          institutions, and of the interaction of all of these factors.

17          **SECTION 3. AMENDMENT.** Section 43-41-04 of the North Dakota Century Code is  
18          amended and reenacted as follows:

19          **43-41-04. Licenses.**

20          1. Except as otherwise provided in this chapter, no person may engage in social work  
21          practice in this state unless that person is a licensed social worker or a licensed  
22          certified social worker.

23          2. The board shall issue a license as a licensed social worker to an applicant who:

24               a. Has a baccalaureate degree in a social work or social welfare program  
25               approved by the board from a college or university accredited by the council  
26               on social work education.

27               b. Has passed an examination approved by the board for this purpose.

28               c. Has satisfied the board that the applicant agrees to adhere to the code of  
29               social work ethics adopted by the board.

30          3. The board shall issue a license as a licensed certified social worker to an applicant  
31          who:

- a. Has a doctorate or master's degree from a school of social work accredited by the council on social work education.
- b. Has passed an examination approved by the board for this purpose.
- c. Has satisfied the board that the applicant agrees to adhere to the code of social work ethics adopted by the board.

4. The board shall issue a license as a licensed independent clinical social worker to an applicant who:

- a. Has a doctorate or master's degree from a school of social work accredited by the council on social work education.
- b. Has passed an examination approved by the board for this purpose.
- c. Has satisfied the board that the applicant has successfully completed four years of full-time, post-master's clinical social work experience under the supervision of a licensed certified social worker who has two years of experience, a licensed clinical psychologist, or a licensed psychiatrist. This requirement must be waived if the applicant was approved by the board for third-party reimbursement or certified for private practice before August 1, 1997.
- d. Has satisfied the board that the applicant agrees to adhere to the code of social work ethics adopted by the board.

**SECTION 4. AMENDMENT.** Section 43-41-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**43-41-05. Private practice of social work.** ~~No~~ A person may not engage in the private practice of social work unless that person: has been licensed by the board as a licensed independent clinical social worker or was certified to practice privately by the board before August 1, 1997.

- ~~1. Is licensed under this chapter as a licensed certified social worker.~~
- ~~2. Has had three years of post master's experience under the supervision of a licensed certified social worker or a social worker who is eligible for licensure as a licensed certified social worker.~~
- ~~3. Has passed the clinical examination or its equivalent offered by the board.~~

- 1           4. ~~Is registered with the board as eligible for private practice under criteria as may be~~  
2           ~~established by board rule.~~

3           **SECTION 5. AMENDMENT.** Section 43-41-10 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **43-41-10. Grounds for disciplinary proceedings.** The board may deny, refuse to  
6 renew, suspend, revoke, or place on probationary status any license issued under this chapter  
7 on proof at a hearing that the applicant or licensed person:

- 8           1. Has been convicted of an offense determined by the board to have a direct bearing  
9           upon that individual's ability to practice social work and is not sufficiently  
10           rehabilitated as determined by the board in accordance with section 12.1-33-02.1.  
11           2. Is addicted to the habitual use of alcoholic beverages, narcotics, or stimulants to  
12           such an extent as to incapacitate that individual from the practice of social work.  
13           3. Has been grossly negligent in the practice of social work.  
14           4. Has violated one or more of the rules and regulations of the board.  
15           5. Has violated the code of social work ethics adopted by the board.  
16           6. In order to pursue the investigation, the board may subpoena and examine  
17           witnesses and records, including client records, and copy, photograph, or take  
18           samples. The board may require a licensed social worker to give statements under  
19           oath and to submit to a physical or mental examination, or both, by a physician or  
20           physicians and other qualified evaluation professionals selected by the board if it  
21           appears to be in the best interests of the public that an evaluation be secured. A  
22           written request from the board constitutes authorization to release information. ~~All~~  
23           Absent a client release on file allowing the release of information, all client records  
24           released to the board are confidential and not subject to section 44-04-18 and  
25           section 6 of article XI of the Constitution of North Dakota.  
26           7. Unless there is a client release on file allowing the release of information at the  
27           public hearing, ~~all data and information, including~~ client and juvenile records,  
28           ~~acquired by the board in its investigation are~~ introduced or client and juvenile  
29           testimony of a personal nature taken at a public hearing is confidential and closed  
30           to the public. All board meetings where client and juvenile testimony or records are  
31           taken or ~~revised~~ reviewed are confidential and closed to the public. If no client or

juvenile testimony or records are taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

**SECTION 6. AMENDMENT.** Section 43-41-12 of the North Dakota Century Code is amended and reenacted as follows:

**43-41-12. Renewal of licenses.**

1. All licenses are effective when issued by the board.
2. All licenses of licensed social workers and licensed certified social workers expire on December 31, 1985, and on December thirty-first every two years thereafter.
3. A license may be renewed by payment of the renewal fee set by the board, provided the applicant's license is not currently revoked or suspended.
4. If the application for renewal is not received ~~within six months of~~ on or before the expiration date, the board shall require reexamination.
5. At the time of renewal the board shall require each applicant to present satisfactory evidence that the applicant has completed the continuing education requirements specified by the board.

**SECTION 7.** A new section to chapter 43-41 of the North Dakota Century Code is created and enacted as follows:

**Unauthorized practice - Civil penalty.** In addition to any other penalty, the board may levy a civil penalty of not more than one thousand dollars per offense upon any unlicensed person who, after a hearing or informal resolution in accordance with chapter 28-32, is found to have practiced social work without a license issued by the board. In addition, the board may assess costs and attorney's fees of the investigation and administrative proceeding against the unlicensed person found to have been practicing social work without a currently valid license. An appeal from any fine imposed pursuant to this section may be made pursuant to chapter 28-32.

**SECTION 8. REPEAL.** Sections 43-41-06 and 43-41-12.1 of the North Dakota Century Code are repealed.