

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1160
(Industry, Business and Labor Committee)
(At the request of the Board of Counselor Examiners)

AN ACT to create and enact three new sections to chapter 43-47 of the North Dakota Century Code, relating to the authority of the board of counselor examiners to appoint or employ persons, payment of delinquent license fees, and unauthorized practice of counseling; to amend and reenact sections 43-47-01, 43-47-03, 43-47-06, and 43-47-08 of the North Dakota Century Code, relating to definitions, duties, responsibilities, license qualifications, and complaints and investigations applicable to the board of counselor examiners; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-47-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-47-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of counselor examiners.
2. "Counseling" means ~~assisting an individual, group, or family to develop understanding of intrapersonal and interpersonal problems; to define and set goals, make decisions, and plan a course of action reflecting the needs, interests, and abilities of the person or persons; and to use informational and community resources as needed for personal, social, educational, and vocational development and adjustment~~ the application of human development and mental health principles in a therapeutic process and professional relationship to assist individuals, couples, families, and groups in achieving more effective emotional, mental, marital, family, and social or educational development and adjustment. The goals of professional counseling are to:
 - a. Facilitate human development and adjustment throughout the life span;
 - b. Prevent, assess, and treat emotional, mental, or behavioral disorder and distress which interferes with mental health;
 - c. Conduct assessments for the purpose of establishing treatment goals and objectives; and
 - d. Plan, implement, and evaluate treatment plans using professional counseling strategies and interventions.
3. "Counselor" means a person who has been granted either a professional counselor or associate professional counselor license by the board.
4. "Licensed associate professional counselor" means a person who has been granted an associate professional license by the board to offer and conduct counseling under the supervision of a licensed professional counselor or such other person meeting the requirements of supervising professional set by the board.
5. "Licensed professional counselor" means a person who is trained in counseling, ~~guidance, or human services~~ or a related human service field and has been granted a professional counselor license by the board.

SECTION 2. AMENDMENT. Section 43-47-03 of the North Dakota Century Code is amended and reenacted as follows:

43-47-03. Duties and responsibilities of board. In addition to the duties set forth elsewhere in this chapter, the board shall:

1. Publish an annual list of the names and addresses of all persons licensed under this chapter.
2. Approve and administer an examination for counselors.
3. Set and collect a fee, not to exceed one hundred fifty dollars, for the filing of each application for a license under this chapter and set and collect a fee, not to exceed ~~twenty~~ one hundred dollars, for the renewal of a license under this chapter.
4. Deposit and disburse all fees and moneys collected by the board in accordance with section 54-44-12.
5. Establish continuing education requirements for license renewal.
6. Issue provisional or probationary licenses.
7. Establish a code of ethics for the practice of counseling.

SECTION 3. A new section to chapter 43-47 of the North Dakota Century Code is created and enacted as follows:

Authority to appoint or employ. The board may appoint or employ persons to assist the board in carrying out its duties under this chapter.

SECTION 4. AMENDMENT. Section 43-47-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-47-06. Licenses - Qualifications - Reciprocity.

1. Except as otherwise provided in this chapter, no person may engage in counseling in this state unless that person is a licensed professional counselor or licensed associate professional counselor.
2. The board shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in a manner the board prescribes, accompanied by the required fee, and who furnishes evidence to the board that the applicant:
 - a. Has received a master's degree from an accredited school or college in counseling or other program that meets the academic and training standards adopted by the board;
 - b. Has provided personal and professional recommendations that meet the requirements adopted by the board and has satisfied the board that the applicant will adhere to the highest standards of the profession of counseling;
 - c. Has two years of supervised experience under a licensed professional counselor, or its equivalent as determined by the board;
 - d. Has provided a statement of professional intent to practice in this state describing the applicant's proposed use of the license, the intended client population, and the counseling procedures, as defined by the board, the applicant intends to use in serving the client population; and
 - e. Has demonstrated knowledge in the field of counseling by successful completion of an examination prescribed by the board.

3. The board shall issue a license as a licensed associate professional counselor to each applicant who files an application upon a form and in a manner the board prescribes, accompanied by the required fee, and who furnishes sufficient evidence to the board that the applicant:
 - a. Has received a master's degree from an accredited school or college in counseling or other program that meets the academic and training standards adopted by the board;
 - b. Has provided personal and professional recommendations that meet the requirements adopted by the board and has satisfied the board that the applicant will adhere to the standards of the profession of counseling; and
 - c. Has provided a written plan for supervised experience which meets the requirements adopted by the board.
4. The board may waive the formal examination requirements for a professional counselor license when the applicant has been licensed or certified to practice counseling in another state under standards and qualifications similar or greater to those set by the board.
5. A professional counselor shall renew the license every two years. The board shall renew a license upon payment of a fee set by the board and upon demonstration by the licenseholder of completion of continuing education requirements set by the board.
6. An associate professional counselor initially licensed under this chapter may be licensed for no more than two years. The associate professional counselor's license may be extended beyond two years only upon recommendation of the associate professional counselor's supervisor and three other counselors, at least one of whom must be a professor from the associate professional counselor's training program.
7. ~~For a period of two years beginning on July 6, 1989, the board shall issue upon the application of any person a license as a licensed professional counselor if the applicant:~~
 - ~~a. Has received a master's degree that is primarily counseling in content from a regionally accredited institution of higher education;~~
 - ~~b. Has worked for pay in the counseling field, including counselor education during two of the previous five years;~~
 - ~~c. Shows evidence of supervision or continued professional growth; and~~
 - ~~d. Successfully completes an examination approved by the board.~~

SECTION 5. A new section to chapter 43-47 of the North Dakota Century Code is created and enacted as follows:

Payment of delinquent license fees - Reinstatement. A person who has been licensed under this chapter, and whose license has not been renewed because of the failure to pay the annual license fee, must be reinstated and the license renewed if within one year from the date of nonrenewal the person pays to the secretary of the board the amount of the annual license fee in default and a late fee to be determined by rule of the board.

SECTION 6. AMENDMENT. Section 43-47-08 of the North Dakota Century Code is amended and reenacted as follows:

43-47-08. Complaints - Investigations.

1. A person aggrieved by the actions of a counselor licensed under this chapter may file a written complaint with the board citing the specific allegations of misconduct by the counselor. The board shall notify the counselor of the complaint and require a written response from the counselor. Neither the initial complaint nor the counselor's response is public record. The counselor's response must be made available to the complainant.

2. A counselor who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation, and providing copies of patient records when reasonably requested by the board and accompanied by the appropriate release.
3. In order to pursue the investigation, the board may subpoena and examine witnesses and records, including patient records, and copy, photograph, or take samples. It may require the counselor to give statements under oath, submit to a physical or psychological examination, or both, by a physician or physicians or other qualified evaluation professionals selected by the board if it appears to be in the best interest of the public that this evaluation be secured. A written request from the board constitutes authorization to release information. Patient records that are released to the board are not public records.
4. After review of the complaint ~~and~~, the counselor's response, and information obtained in the investigation, the board shall determine if there is a reasonable basis to believe that the allegations are true and that the allegations constitute a violation of this chapter or the rules of the board. If the board determines that there is a reasonable basis to believe that the allegations are true and that the allegations constitute a violation of this chapter or the rules of the board, the board shall take appropriate action. If a reasonable basis is not found by the board, the board shall so notify the complaining party and the counselor in writing.
5. Unless there is a patient release on file allowing the release of information at the public hearing, patient records acquired by the board in its investigation are confidential and closed to the public. All portions of board meetings wherein patient testimony or records are taken or reviewed are confidential and closed to the public. If no patient testimony or records are taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

SECTION 7. A new section to chapter 43-47 of the North Dakota Century Code is created and enacted as follows:

Costs of prosecution - Disciplinary proceedings. The board may impose a fee against any person subject to regulation under this chapter to reimburse the board for all or part of the costs of administrative actions resulting in disciplinary action, including the amount paid by the board for services from the office of administrative hearings, attorney's fees, court costs, witness fees, staff time, and other expenses.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1160.

House Vote: Yeas 77 Nays 18 Absent 2

Senate Vote: Yeas 43 Nays 2 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State