

**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; and to provide a  
3 penalty.

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 recognized  
3           by the board as an approved supervisor.
- 4           7. "Recognized educational institution" means any educational institution that grants a  
5           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           **54-53-02. Prohibited acts.** Effective January 1, 2006, except as specifically provided  
13 otherwise under this chapter, an individual who is not licensed under this chapter may not  
14 advertise the performance by that individual of marriage and family therapy or counseling  
15 services; use a title or description such as marital or marriage therapist, counselor, advisor, or  
16 consultant, or any other name, title, or description denoting that the individual is a marriage and  
17 family therapist; or practice marriage and family therapy.

18           **43-53-03. Exemptions.**

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

1 "marriage and family therapy intern", "marriage therapy intern", "family  
2 therapy intern", or other title clearly indicating such training status.

3 c. The individual holds a temporary permit issued by the board, authorizing the  
4 permitholder to engage in the activities for which licensure is otherwise  
5 required.

6 2. This chapter does not prevent any person licensed by the state from doing work  
7 within the standards and scope of practice of that person's profession, as long as  
8 that person does not represent to the public that the person is a marriage and  
9 family therapist.

10 **43-53-04. Marriage and family therapist licensure board.**

11 1. The North Dakota marriage and family therapist licensure board consists of five  
12 members. The governor shall appoint the board members to serve terms of four  
13 years, except for those first appointed one member must continue in office for two  
14 years, two for three years, and two, including the chairman, for four years.

15 2. The governor shall appoint members of the board from among individuals who  
16 meet the following qualifications:

17 a. At least three members must be licensed practicing marriage and family  
18 therapists; and each must have been for at least five years immediately  
19 preceding appointment actively engaged as marriage and family therapists in  
20 rendering professional services in marriage and family therapy; in the  
21 education and training of master's, doctoral, or postdoctoral students of  
22 marriage and family therapy; or in marriage and family therapy research. A  
23 member under this subdivision must have spent the majority of the time  
24 devoted by that member to such activity during the two years preceding  
25 appointment residing in this state.

26 b. At least one member must be a representative of the general public and may  
27 not have any direct affiliation with the practice of marriage and family therapy  
28 or another mental health profession.

29 c. The initial appointees, with the exception of any representative of the general  
30 public, are deemed to be and become licensed practicing marriage and family

1 therapists immediately upon appointment and qualification as members of the  
2 board.

3 3. The governor shall nominate a new member to fill a vacancy on the board within  
4 thirty days of the vacancy. A member chosen to fill a board vacancy must be  
5 appointed for the unexpired term of the board member whom that member is  
6 succeeding. Upon the expiration of a member's term of office, a board member  
7 shall continue to serve until a successor is appointed. An individual may not be  
8 appointed more than once to fill an unexpired term or appointed to more than two  
9 consecutive full terms. A member may not serve as chairman for more than four  
10 years. The appointment of any member of the board automatically terminates  
11 thirty days after the date the member is no longer a resident of this state.

12 4. The governor may remove any member of the board or the chairman from the  
13 position as chairman for neglect of duty or malfeasance or conviction of a felony or  
14 crime of moral turpitude while in office, but for no other reason. A member may not  
15 be removed until after a hearing on the charges and at least thirty days' prior  
16 written notice to such accused member of the charges and of the date fixed for  
17 such hearing.

18 5. A board member may not participate in any matter before the board in which that  
19 member has a pecuniary interest, personal bias, or other similar conflict of interest.  
20 A board member shall serve without compensation but is entitled to be reimbursed  
21 for the member's actual and necessary expenses incurred in the performance of  
22 official board business.

23 **43-53-05. Board powers and duties.**

24 1. The board shall administer and enforce this chapter. The board shall adopt rules  
25 as the board determines necessary.

26 2. The board shall examine and pass on the qualifications of all applicants and shall  
27 issue a license to each successful applicant. The board shall adopt a seal which  
28 must be affixed to all licenses issued by the board.

29 3. The board may authorize expenditures determined necessary to carry out this  
30 chapter.

1           4. Four of the members of the board constitute a quorum. The board may employ  
2           attorneys, experts, and other employees as necessary for the proper performance  
3           of the board's duties.

4           **43-53-06. Licenses.**

5           1. Each individual desiring to obtain a license as a practicing marriage and family  
6           therapist shall submit an application to the board, upon such form and in such  
7           manner as the board prescribes. An applicant shall furnish evidence that the  
8           applicant:

9           a. Is of good moral character;

10           b. Has not engaged in any practice or conduct that would be a ground for  
11           revoking a license under this chapter; and

12           c. Is qualified for licensure pursuant to the requirements of this chapter.

13           2. Before January 1, 2008, an applicant may be issued a license by the board if the  
14           applicant meets the qualifications set forth in subdivisions a and b of subsection 1  
15           and provides evidence to the board that the applicant meets educational and  
16           experience qualifications as follows:

17           a. An appropriate graduate degree, as defined by the board, from a regionally  
18           accredited institution so recognized at the time of granting such degree.

19           b. At least five years of clinical experience in the practice of marriage and family  
20           therapy, and membership or certification by an appropriate professional  
21           organization, as defined by the board.

22           3. After December 31, 2007, an applicant may be issued a license by the board if the  
23           applicant meets the qualifications set forth in subsection 1 and provides  
24           satisfactory evidence to the board that the applicant:

25           a. Holds a master's degree or a doctoral degree in marriage and family therapy  
26           from a recognized educational institution, or a graduate degree in an allied  
27           field from a recognized educational institution and graduate level coursework  
28           which is equivalent to a master's degree in marriage and family therapy, as  
29           determined by the board.

1           b. Has successfully completed two calendar years of work experience in  
2           marriage and family therapy under qualified supervision following receipt of a  
3           qualifying degree.

4           c. Has passed an examination administered by the board.

5           **43-53-07. Examination.**

6           1. The board shall conduct an examination at least once a year at a time and place  
7           designated by the board. Examinations may be written or oral as determined by  
8           the board. In any written examination each applicant must be designated so that  
9           the applicant's name is not disclosed to the board until the examination has been  
10          graded. Examinations must include questions in such theoretical and applied fields  
11          as the board determines most suitable to test an applicant's knowledge and  
12          competence to engage in the practice of marriage and family therapy. An applicant  
13          is deemed to have passed an examination upon affirmative vote of at least four  
14          members of the board.

15          2. Any applicant who fails an examination conducted by the board may not be  
16          admitted to a subsequent examination for a period of at least six months.

17          **43-53-08. Temporary permits - Reciprocal licenses.**

18          1. The board may adopt rules that permit the board to issue a temporary permit for up  
19          to one year to an individual upon filing an application for licensure under this  
20          chapter for the period in which the application is being processed by the board or  
21          while the applicant is awaiting the opportunity to take the first written examination  
22          offered by the board after filing of the application.

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

29          **43-53-09. Fees.** A fee, as determined by the board, must be paid to the board for  
30          original licensure. A license is valid for two years and must be renewed biennially, with the

1 renewal fee being determined by the board. Any applicant for renewal of a license that has  
2 expired must be required to pay a reregistration fee determined by the board.

3 **43-53-10. Renewal of license.** On or before November fifteenth of the year preceding  
4 expiration of a license, the secretary of the board shall forward to the holder of the license an  
5 application for license renewal.

6 **43-53-11. Disciplinary proceedings.**

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

1           4. Any person may be permitted to intervene and participate in board hearings on  
2           denial, suspension, or revocation of licenses upon a showing of an interest in such  
3           proceeding.

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

6           **43-53-12. Limitations of practice - Divorce proceedings.**

7           1. If both parties to a marriage have obtained marriage and family therapy by a  
8           licensed marriage and family therapist, the therapist may not testify in a spousal  
9           support or divorce action concerning information acquired in the course of the  
10          therapeutic relationship. This subsection does not apply to custody actions.

11          2. There is no monetary liability on the part of and no cause of action may arise  
12          against any licensee in failing to warn of and protect from a patient's threatened  
13          violent behavior or failing to predict and warn of and protect from a patient's violent  
14          behavior except if the patient has communicated to the licensee a serious threat of  
15          physical violence against a reasonably identifiable victim or victims.

16          3. The duty to warn of or to take reasonable precautions to provide protection from  
17          violent behavior arises only under the limited circumstances specified under  
18          subsection 2. The duty is discharged by the licensee if reasonable efforts are  
19          made to communicate the threat to the victim or victims and to a law enforcement  
20          agency.

21          4. No monetary liability and no cause of action may arise under this chapter against  
22          any licensee for confidences disclosed to third parties in an effort to discharge a  
23          duty arising under subsection 2 according to subsection 3.

24          **43-53-13. Penalty.** Any person who violates this chapter is guilty of a class B  
25          misdemeanor.