

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2361

Introduced by

Senators Anderson, Mathern

Representative J. Nelson

1 A BILL for an Act to create and enact subsection 8 of section 43-41-11 and three new sections
2 to chapter 43-41 of the North Dakota Century Code, relating to the licensing of social workers;
3 to amend and reenact subsections 9 and 10 of section 25-01-01, section 43-41-01, subsection
4 2 of section 43-41-02, subsection 1 of section 43-41-03, and sections 43-41-04, 43-41-05,
5 43-41-08, 43-41-10, and 43-41-12, of the North Dakota Century Code, relating to the licensing
6 of social workers; and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Subsections 9 and 10 of section 25-01-01 of the North Dakota
9 Century Code are amended and reenacted as follows:

- 10 9. "Tier 2 mental health professional" means a tier 2a or a tier 2b mental health
11 professional.
- 12 a. A tier 2a mental health professional is an independent clinician who is a licensed
13 ~~independent~~ clinical social worker licensed under chapter 43-41, a licensed
14 professional clinical counselor licensed under chapter 43-47, or a licensed
15 marriage and family therapist licensed under chapter 43-53.
- 16 b. A tier 2b mental health professional is an addiction counselor licensed under
17 chapter 43-45 or a registered nurse licensed under chapter 43-12.
- 18 10. "Tier 3 mental health professional" means a licensed associate professional counselor
19 licensed under chapter 43-47, a licensed ~~certified~~master social worker or licensed
20 baccalaureate social worker licensed under chapter 43-41, a licensed professional
21 counselor licensed under chapter 43-47, an associate marriage and family therapist
22 licensed under chapter 43-53, an occupational therapist licensed under chapter 43-40,
23 a licensed practical nurse licensed under chapter 43-12, a behavior analyst licensed or

1 registered under chapter 43-32, a vocational rehabilitation counselor practicing under
2 chapter 50-06.1, a school psychologist, or a human relations counselor.

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

5 **43-41-01. Definitions.**

6 In this chapter, unless the context or subject matter otherwise requires:

- 7 1. "Board" means the North Dakota board of social work examiners.
- 8 2. ~~"College or university" means an institution of higher education whose social work~~
9 ~~program has been accredited by an accrediting body approved by the board.~~
- 10 3. ~~"Licensed certified social worker" means an individual who has a doctorate or master's~~
11 ~~degree in social work from a college or university and who has fulfilled the~~
12 ~~requirements for licensure.~~
- 13 4. ~~"Licensed independent clinical social worker" means an individual who has a doctorate~~
14 ~~or master's degree in social work from a college or university and who has fulfilled the~~
15 ~~requirements for licensure or has been registered by the board for third party~~
16 ~~reimbursement before August 1, 1997.~~
- 17 5. ~~"Licensed social worker" means an individual who has a baccalaureate degree in~~
18 ~~social work from a college or university and who has fulfilled the requirements for~~
19 ~~licensure.~~

20 "Client" means the individual, couple, family, group, organization, or community that
21 seeks or receives social work services from an individual licensed social worker or an
22 organization, regardless of whether the licensed social worker or organization bills or
23 accepts or requests the payment of fees for the services.

24 3. "Clinical supervision for licensure" means an interactional professional relationship
25 between a clinical supervisor which meets the standards adopted by the board and a
26 social worker and which provides evaluation and direction over the supervisee's
27 practice of clinical social work in preparation for the social worker's licensure as a
28 licensed clinical social worker, in accordance with the requirements adopted by the
29 board, and promotes development of the social worker's knowledge, skills, and
30 abilities to engage in the practice of clinical social work in an ethical and competent
31 manner.

- 1 4. "Consultation" means an advisory professional relationship between a social worker
2 and an individual with particular expertise, with the social worker legally and ethically
3 maintaining responsibility for all judgments and decisions regarding service to the
4 client.
- 5 5. "Counseling" means a method used by a social worker to assist an individual, couple,
6 family, or group in learning how to solve problems and make decisions about personal,
7 health, social, educational, vocational, financial, and other interpersonal concerns.
- 8 6. "Electronic social work services" means the use of a computer, including the internet,
9 social media, online chat, text, and electronic mail, or other electronic means, such as
10 a wireless communications device, landline telephone, or video technology, to provide
11 information to the public, deliver social work services to a client, communicate with a
12 client, manage confidential information and case records, store and access
13 information about clients, and arrange payment for professional services.
- 14 7. "Licensed baccalaureate social worker" means an individual licensed under this
15 chapter to practice baccalaureate social work.
- 16 8. "Licensed clinical social worker" means an individual licensed under this chapter to
17 practice clinical social work.
- 18 9. "Licensed master social worker" means an individual licensed under this chapter to
19 practice masters social work.
- 20 ~~6-10.~~ "Private practice of social work" means the independent practice of social work by a
21 qualified individual licensee who is practicing within that licensee's scope of practice,
22 and who is self-employed on a full-time or part-time basis and is responsible for that
23 independent practice. Consultation services provided to an organization or an agency
24 are not considered to be the private practice of social work.
- 25 ~~7-11.~~ "Social work practice" consists of the professional application of social work values,
26 principles, and techniques in helping people obtain tangible services; counseling;
27 psychotherapy with individuals, families, and groups; helping communities or groups to
28 improve social and health services; providing social casework; directly supervising
29 programs providing social work services; social work education; social work research;
30 or any combination of these. The practice of social work requires knowledge of human
31 development and behavior, of social, economic, and cultural institutions, and the

1 interaction of all these factors means the application of social work theory, knowledge,
2 methods, ethics, and the professional use of self to restore or enhance social,
3 psychosocial, or biopsychosocial functioning of individuals, couples, families, groups,
4 organizations, and communities. The scope of practice for licensees of the board
5 consist of the following:

6 a. The practice of baccalaureate social work, which includes the application of
7 social work theory, knowledge, methods, ethics, and the professional use of self
8 to restore or enhance social, psychosocial, or biopsychosocial functioning of
9 individuals, couples, families, groups, organizations, and communities.

10 Baccalaureate social work is generalist practice that includes assessment,
11 planning, implementation, intervention, evaluation, research, social work case
12 management, information and referral, counseling, supervision, consultation,
13 education, advocacy, community organization, and the development,
14 implementation, and administration of policies, programs, and activities.

15 b. The practice of masters social work, which includes, in addition to the practice of
16 baccalaureate social work, the application of specialized knowledge and
17 advanced practice skills in the areas of assessment, treatment planning,
18 implementation, intervention, evaluation, social work case management
19 information and referral, counseling, supervision, consultation, education,
20 research, advocacy, community organization, and the development,
21 implementation, and administration of policies, programs, and activities. Under
22 the supervision of a licensed clinical social worker, the practice of masters social
23 work may include the practices reserved to licensed clinical social workers.

24 c. The practice of clinical social work, which includes, in addition to the practice of
25 baccalaureate social work and the practice of masters social work, the
26 application of specialized clinical knowledge and advanced clinical skills in the
27 areas of assessment, treatment planning, implementation and evaluation, social
28 work case management information and referral, counseling, supervision,
29 consultation, education, research, advocacy, community organization, the
30 development, implementation, intervention, and administration of policies,
31 programs, and activities, and the diagnosis and treatment of mental, emotional,

1 and behavioral disorders, conditions, and addictions. Treatment methods include
2 the provision of individual, marital, couple, family, and group counseling and
3 psychotherapy. The practice of clinical social work may include the provision of
4 clinical supervision.

5 12. "Psychotherapy" means the use of treatment methods utilizing a specialized, formal
6 interaction between a licensed clinical social worker and an individual, couple, family,
7 or group in which a therapeutic relationship is established, maintained, and sustained
8 to understand unconscious processes; intrapersonal, interpersonal, and psychosocial
9 dynamics; and the assessment, diagnosis, and treatment of mental, emotional, and
10 behavioral disorders, conditions, or addictions.

11 13. "Social work case management" means a method to plan, provide, evaluate, and
12 monitor services by a licensed social worker from a variety of resources on behalf of
13 and in collaboration with a client.

14 **SECTION 3. AMENDMENT.** Subsection 2 of section 43-41-02 of the North Dakota Century
15 Code is amended and reenacted as follows:

16 2. ~~Nothing in this~~ This chapter may not be construed to prevent students who are enrolled
17 in programs of study leading to social work degrees from interning with a licensed
18 baccalaureate social worker, a licensed ~~certified~~master social worker, or a licensed
19 ~~independent~~ clinical social worker.

20 **SECTION 4. AMENDMENT.** Subsection 1 of section 43-41-03 of the North Dakota Century
21 Code is amended and reenacted as follows:

22 1. Only those persons licensed to practice under this chapter may represent themselves
23 as a licensed baccalaureate social worker, licensed ~~certified~~master social worker, or
24 licensed ~~independent~~ clinical social worker.

25 **SECTION 5. AMENDMENT.** Section 43-41-04 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **43-41-04. Licenses - Rules.**

28 1. Except as otherwise provided in this chapter, ~~no~~ a person may not engage in social
29 work practice in this state unless that person is a licensed baccalaureate social
30 worker, a licensed ~~certified~~master social worker, or a licensed ~~independent~~ clinical
31 social worker.

- 1 2. ~~The board shall issue a license as a licensed social worker to an applicant who~~To
2 obtain a license to engage in the practice of social work, an applicant shall submit an
3 application to the board in the form prescribed by the board and provide evidence
4 satisfactory to the board the applicant:
- 5 a. ~~Has a baccalaureate degree in social work from a college or university~~attained
6 the age of majority.
- 7 b. ~~Has passed an~~the examination approved by the board for ~~this purpose~~the license
8 sought.
- 9 c. ~~Has satisfied the board that the applicant agrees to adhere to the code of social~~
10 work ethics adopted by the board.
- 11 3. ~~The board shall issue a license as a licensed certified social worker to an applicant~~
12 who:
- 13 a. ~~Has a doctorate or master's degree in social work from a college or university.~~
- 14 b. ~~Has passed an examination approved by the board for this purpose.~~
- 15 c. ~~Has satisfied the board that the applicant agrees to adhere to the code of social~~
16 work ethics adopted by the board.
- 17 4. ~~To obtain a license to practice clinical social work, an applicant for licensure by~~
18 examination shall submit to the board a written application in the form prescribed by
19 the board and provide satisfactory evidence the applicant:
- 20 a. ~~Has a doctorate or master's degree in social work from an approved social work~~
21 program.
- 22 b. ~~Passed an examination approved by the board for this purpose.~~
- 23 c. ~~Within~~
- 24 d. Is of good moral character. As an element of good moral character, the board
25 shall consider the applicant's adherence to values, principles, and ethical
26 standards consistent with professional social work practice, and shall also
27 consider information obtained through reports made under section 43-41-04.2 in
28 licensure decisions to the extent permissible by all applicable laws.
- 29 e. Has paid all applicable fees specified by the board relative to the licensure
30 process.
- 31 3. An applicant for licensure for the practice of:

- 1 a. Baccalaureate social work must demonstrate having been awarded a
2 baccalaureate degree in social work from a social work program approved by the
3 board.
- 4 b. Masters social work must demonstrate having been awarded a doctorate or
5 master's degree in social work from a social work program approved by the
6 board.
- 7 c. Clinical social work must demonstrate:
- 8 (1) Having been awarded a doctorate or master's degree in social work from a
9 social work program approved by the board.
- 10 (2) The successful completion, within a four-year period successfully-
11 completed, of three thousand hours of supervised post-master's clinical
12 social work experience. The initial one thousand five hundred of the
13 required hours must have been under the supervision of a licensed clinical
14 social worker. Additional hours of supervision may be under other qualified
15 mental health professionals approved by the board if barriers due to the
16 geographical location, disability, or other factors determined by the board to
17 create a hardship exist for the applicant. The qualified professional must be
18 registered or otherwise qualified as a clinical supervisor by the board that
19 licenses the other professional. However, if an applicant began supervised
20 post-master's clinical social work experience before August 1, 2009, a
21 ~~master's~~licensed master social worker who has two years of experience, a
22 licensed psychologist with a doctorate degree, or a licensed psychiatrist
23 may have supervised the required hours. The applicant may demonstrate to
24 the board's satisfaction that experience in the practice of clinical social work
25 meets or exceeds the minimum supervisory requirements of the board.
- 26 d. ~~Agrees to adhere to the code of social work ethics adopted by the board.~~
- 27 e. ~~Is of good moral character. In determining the character of an applicant in a~~
28 licensure decision, the board shall consider information obtained through reports
29 made under section 43-41-04.2.
- 30 f. ~~Paid all applicable fees specified by the board regarding the licensure process~~
- 31 4. The board may adopt rules pertaining to the supervision required under this section.

1 **SECTION 6. AMENDMENT.** Section 43-41-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-41-05. Private practice of social work.**

4 A person may not engage in the private practice of social work unless that person has been
5 licensed by the board as a licensed ~~independent~~ clinical social worker.

6 **SECTION 7. AMENDMENT.** Section 43-41-08 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-41-08. Board of social work examiners - Qualifications - Appointment - Term of**
9 **office - Compensation.**

- 10 1. The governor shall appoint the North Dakota board of social work examiners, which
11 must consist of ~~six~~seven members, two of whom must be, at the time of initial
12 appointment, licensed baccalaureate social workers; one of whom must be, at the time
13 of initial appointment, a licensed ~~certified~~master social worker; ~~one~~two of whom must
14 be, at the time of initial appointment, a licensed ~~independent~~ clinical social worker; and
15 two of whom must be laypersons. Board members must demonstrate no conflict of
16 interest.
- 17 2. The term of office of each board member must be for three years with ~~two~~no more
18 than three members appointed annually. ~~No~~A member may not serve more than two
19 consecutive terms.
- 20 3. The governor may remove any board member for good cause after giving that
21 member a written statement of the reasons for removal and after that member has had
22 an opportunity for a hearing.
- 23 4. Each ~~board~~ member shall ~~serve without compensation but shall~~of the board is entitled
24 to receive as compensation a sum not to exceed the daily compensation of members
25 of the legislative assembly per day for each day during which the member is engaged
26 in performance of the official duties of the board, and is entitled to be reimbursed for
27 all reasonable and necessary expenses incurred in connection with the discharge of
28 the official duties as provided in section 54-06-09 and ~~per diem as must be fixed by~~
29 the board.
- 30 5. ~~Board~~Annually, board members shall ~~annually~~ elect by a majority vote of the board a
31 chairperson who shall preside at meetings of the board and a vice chairperson who

1 shall preside at meetings of the board in the chairperson's absence. A majority of the
2 members of the board constitutes a quorum.

3 **SECTION 8. 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.**

6 1. The board may deny, refuse to renew, suspend, revoke, reprimand, restrict, or limit the
7 license of, or place on probationary status any license issued under this chapter on
8 proof at a hearing ~~that~~ the applicant or licensed person:

9 ~~1.~~ a. Has been convicted of an offense determined by the board to have a direct
10 bearing upon that individual's ability to practice social work or is not sufficiently
11 rehabilitated as determined by the board in accordance with section
12 12.1-33-02.1.

13 ~~2.~~ b. Is addicted to the habitual use of alcoholic beverages, narcotics, or stimulants ~~to~~
14 ~~such an extent as to incapacitate that individual from their other~~ addictive
15 substances that impair the social worker's ability to practice of social work.

16 ~~3.~~ c. Has been grossly negligent in the practice of social work.

17 ~~4.~~ d. Has violated one or more of the rules and regulations of the board.

18 ~~5.~~ e. Has violated the code of social work ethics adopted by the board.

19 f. Has failed to make a report to the board as required under section 12 of this Act.

20 ~~6-2.~~ In order to pursue the investigation, the board may subpoena and examine witnesses
21 and records, including client records, and copy, photograph, or take samples. The
22 board may require a licensed social worker to give statements under oath ~~and~~. The
23 board may require a licensed social worker to submit to a physical, chemical, or
24 mental examination, ~~or both,~~ by a physician or physicians ~~and/or~~ other qualified
25 evaluation professionals selected by the board if it appears to be in the best interests
26 of the public that an ~~evaluation~~ examination be secured. The board may require a
27 licensee to enroll in a treatment or monitoring program approved by the board if the
28 board determines in good faith to do so would be beneficial to the licensee or protect
29 the public. Failure to satisfactorily undergo an examination or enroll in a treatment and
30 monitoring program must be reported to the board by the treating professional.
31 Treating professionals are immune from any liability for reporting made in good faith. A

1 licensee is deemed to consent to the treating professional of the approved evaluation,
2 or the approved treatment and monitoring program, reporting to the board on the
3 results of the examination or the progress of the treatment or monitoring program, at
4 such intervals the board deems necessary. The approved examination, or treatment or
5 monitoring program, may release examination information, or treatment or monitoring
6 information, to the board so the board may evaluate the results of the examination or
7 the licensee's progress in and the effectiveness of the treatment or monitoring
8 program. A written request from the board constitutes authorization to release
9 information. Absent a client release on file allowing the release of information, all client
10 records released to the board are confidential and are not public records.

11 7-3. Unless there is a client release on file allowing the release of information at the public
12 hearing, client and juvenile records introduced or client and juvenile testimony of a
13 personal nature taken at a public hearing is confidential and closed to the public. The
14 portions of board meetings at which client and juvenile testimony or records are taken
15 or reviewed are confidential and closed to the public. If no client or juvenile testimony
16 or records are taken or reviewed, the remainder of the meeting is an open meeting
17 unless a specific exemption is otherwise applicable.

18 4. Until the board proceeds with disciplinary action, the complaint, the response, and any
19 record received by the board during an investigation of a complaint under this section
20 are exempt records, as defined in section 44-04-17.1.

21 **SECTION 9.** Subsection 8 of section 43-41-11 of the North Dakota Century Code is created
22 and enacted as follows:

23 8. The board shall recover costs of the board resulting from a hearing or disciplinary
24 process:

25 a. If an order is issued in resolution of a disciplinary proceeding before the board,
26 the board may request the administrative law judge to direct a licensee found as
27 a result of the proceeding to have violated any laws or rules to pay to the board a
28 sum not to exceed the costs of the investigation and fees of the attorneys
29 representing the board in the matter. The costs to be assessed must be fixed by
30 the administrative law judge and may not be increased by the board.

- 1 b. If an order for recovery of costs is made and timely payment is not made as
2 directed in the board's decision, the board may enforce the order for payment in
3 the district court of Burleigh County. This right of enforcement is in addition to any
4 other rights the board may have as to any person directed to pay costs. In any
5 action for recovery of costs, proof of the board's decision is conclusive proof of
6 the validity of the order of payment and the terms for payment.

7 **SECTION 10. AMENDMENT.** Section 43-41-12 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-41-12. Renewal of licenses.**

- 10 1. All licenses are effective when granted by the board.
11 2. All licenses of licensed baccalaureate social workers, licensed ~~certified~~master social
12 workers, and licensed ~~independent~~ clinical social workers expire on
13 December thirty-first of every odd-numbered year.
14 3. A license may be renewed by payment of the renewal fee and completion of the
15 continuing education requirements set by the board, provided the applicant's license is
16 not currently revoked or grounds for denial under section 43-41-10 do not exist.
17 4. If the application for renewal is not received on or before the expiration date, the
18 license expires and the person may not practice social work until a new application is
19 made and a license is granted by the board.
20 5. At the time of renewal the board ~~shall~~may require each applicant to present
21 satisfactory evidence ~~that~~ the applicant has completed the continuing education
22 requirements specified by the board.
23 6. If a license has not been renewed as a result of nonpayment of the renewal fee or the
24 failure of the licensee to present satisfactory evidence of completion of the continuing
25 education requirements, the licensee must reapply for licensure.
26 7. The board may extend the renewal deadline for an applicant having proof of medical
27 or other hardship rendering the applicant unable to meet the renewal deadline.

28 **SECTION 11.** A new section to chapter 43-41 of the North Dakota Century Code is created
29 and enacted as follows:

1 **Electronic social work services.**

2 1. The practice of social work in this state through electronic social work services or other
3 means, regardless of the location of the practitioner, constitutes the practice of social
4 work and is subject to this chapter.

5 2. The practice of social work by a practitioner in this jurisdiction through electronic social
6 work services or other means, regardless of the location of the client, constitutes the
7 practice of social work and is subject to this chapter.

8 3. A social worker providing electronic social work services shall take all necessary
9 measures to ensure compliance with relevant practice standards as established by the
10 board.

11 **SECTION 12.** A new section to chapter 43-41 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Permission to report - Immunity.**

14 An individual who has knowledge of conduct by an applicant or a licensee which may
15 constitute grounds for disciplinary action under this chapter or the rules of the board or of any
16 unlicensed practice under this chapter may report the violation to the board. An individual is
17 immune from civil liability or criminal prosecution for submitting in good faith a report under this
18 chapter or for otherwise reporting, providing information, or testifying about violations or alleged
19 violations of this chapter.

20 **SECTION 13.** A new section to chapter 43-41 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Duty to report - Immunity.**

23 A licensed social worker who has substantial evidence a licensee has an active addictive
24 disease for which the licensee is not receiving treatment under a program approved by the
25 board under an agreement entered under this section, is diverting a controlled substance, or is
26 mentally or physically incompetent to carry out the duties of the license, shall report the
27 evidence to the board. An individual who reports under this section in good faith and without
28 malice is immune from any civil or criminal liability arising from the report. Failure to provide a
29 report within a reasonable time may be considered grounds for disciplinary action against the
30 licensee.

31 **SECTION 14. EFFECTIVE DATE.** This Act is effective on February 1, 2020.