

Introduced by

Senators Roers, Axtman, Wobbema

Representatives Richter, Louser, O'Brien

1 A BILL for an Act to create and enact chapter 43-56 of the North Dakota Century Code, relating
2 to the composite mental health licensing board; to amend and reenact subsection 2 of section
3 12-60-24, subsections 1, 2, and 7 of section 43-32-01, sections 43-32-10, 43-32-16, 43-32-17,
4 and 43-32-26, subsection 1 of section 43-41-01, sections 43-41-02, 43-41-03, subsection 1 of
5 section 43-41-04, sections 43-41-05.1, 43-41-07, 43-41-09, and 43-41-11.1, subsection 2 of
6 section 43-45-01, sections 43-45-04 and 43-45-05.1, subsection 2 of section 43-45-05.2,
7 section 43-45-07.1, subsection 1 of section 43-45-07.2, subsection 1 of section 43-47-01,
8 section 43-47-03, subsection 1 of section 43-47-06, sections 43-47-06.1, 43-47-06.3, 43-47-07,
9 and 43-47-07.1, subsections 1 and 4 of section 43-47-08, section 43-47-09, subsections 3
10 and 4 of section 43-53-01, sections 43-53-02, 43-53-03, and 43-53-05, subsection 1 of section
11 43-53-06, subsection 1 of section 43-53-07, and section 43-53-12 of the North Dakota Century
12 Code, relating to the state board of psychologist examiners, board of social work examiners,
13 board of addiction counseling examiners, board of counselor examiners, and marriage and
14 family therapy licensure board; to repeal sections 43-32-02, 43-32-03, 43-32-04, 43-32-05,
15 43-32-06, 43-32-07, 43-32-08, 43-32-11, 43-32-13, 43-32-14, 43-41-08, 43-41-12, 43-45-02,
16 43-45-03, 43-45-05, 43-45-07, 43-47-02, 43-47-03.1, 43-47-06.2, and 43-53-04 of the North
17 Dakota Century Code, relating to the state board of psychologist examiners, board of social
18 work examiners, board of addiction counseling examiners, board of counselor examiners, and
19 marriage and family therapy licensure board; to provide a penalty; to provide for a transfer; and
20 to provide for application.

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

22 **SECTION 1. AMENDMENT.** Subsection 2 of section 12-60-24 of the North Dakota Century
23 Code is amended and reenacted as follows:

- 1 2. The bureau of criminal investigation shall provide to each agency, official, or entity
2 listed in this subsection who has requested a statewide and nationwide criminal history
3 record check, the response of the federal bureau of investigation and any statewide
4 criminal history record information that may lawfully be made available under this
5 chapter:
- 6 a. The governing body of a city or a county, by ordinance or resolution, for a final
7 applicant for a specified occupation with the city or county.
- 8 b. The agriculture commissioner for each applicant for a license to grow or process
9 hemp under section 4.1-18.1-02.
- 10 c. The education standards and practices board for initial, re-entry, and reciprocal
11 teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance
12 and counseling services under section 15.1-13-23.
- 13 d. The North Dakota board of medicine for licenses or disciplinary investigations
14 under section 43-17-07.1, except that criminal history record checks need not be
15 made unless required by the board.
- 16 e. The private investigative and security board for licenses or registrations under
17 section 43-30-06.
- 18 f. The department of health and human services for foster care licenses, certified
19 family foster home for children providers, approved tribal foster care facilities, and
20 identified relatives under chapter 50-11, appointments of legal guardians under
21 chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the
22 criminal history record investigation must be conducted in accordance with those
23 chapters. A criminal history record investigation completed under chapter
24 25-03.2, 50-06, 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements
25 of a criminal history record investigation under either of the other four chapters.
26 The federal bureau of investigation's criminal history record investigation
27 obtained from one criminal history record investigation purpose may not be
28 reused to satisfy the requirements of another federal bureau of investigation's
29 criminal history record investigation for a different purpose.
- 30 g. The department of health and human services for criminal history record checks
31 authorized under section 50-06-01.9.

- 1 h. The chief information officer of the information technology department for certain
2 individuals under section 54-59-20.
- 3 i. A public peace officer training school that has been approved by the peace officer
4 standards and training board for enrollees in the school. The school may only
5 disclose the criminal history record information as authorized by law. The school
6 shall pay the costs for securing the fingerprints, any criminal history record
7 information made available under this chapter, and for the nationwide criminal
8 history record check. This subdivision does not apply to the highway patrol law
9 enforcement training center and enrollees who have a limited license under
10 section 12-63-09.
- 11 j. The North Dakota public employees retirement board for individuals first
12 employed by the public employees retirement board after July 31, 2005, who
13 have unescorted physical access to the office or any security-sensitive area of
14 the office as designated by the executive director.
- 15 k. The executive director of the retirement and investment office for individuals first
16 employed by the retirement and investment office after July 31, 2005, who have
17 unescorted physical access to the office or any security-sensitive area of the
18 office as designated by the executive director.
- 19 l. The Bank of North Dakota for a final applicant for a specified occupation with the
20 Bank as designated by the president.
- 21 m. Job service North Dakota for all employees, final applicants for employment with
22 job service, and contractors with access to federal tax information.
- 23 n. The department of health and human services for a final applicant for a job
24 opening or a current employee with the department; an individual being
25 investigated by the department; or an applicant for registration as a designated
26 caregiver or a compassion center agent under chapter 19-24.1.
- 27 o. The state board of nursing for applicants, licensees, registrants, or disciplinary
28 investigations under chapter 43-12.1, except that criminal history record checks
29 need not be made unless required by the board.
- 30 p. The state board of pharmacy for applicants or disciplinary investigations under
31 chapter 43-15 and registrations, or revocation or suspension of registrations,

- 1 under chapter 19-03.1, except that criminal history record checks need not be
2 made unless required by the board.
- 3 q. The state real estate commission for applicants, licensees, or investigations
4 under chapter 43-23, except that criminal history record checks need not be
5 made unless required by the commission.
- 6 r. The ~~North Dakota composite mental health licensing board of social work-~~
7 ~~examiners~~ for applicants for initial licensure ~~or licensees~~ under chapter
8 ~~43-4143-56~~, except that criminal history record checks for licensees need not be
9 made unless required by the board.
- 10 s. All agencies, departments, bureaus, boards, commissions, or institutions of the
11 state, including the North Dakota university system, for all employees or final
12 applicants for employment as a security guard or to otherwise provide security.
- 13 t. The office of management and budget for each individual who has access to
14 personal information as designated by the director.
- 15 u. The department of corrections and rehabilitation for all agents and employees
16 and a final applicant for employment designated by the director and for each
17 agent, employee, or a final applicant for employment of a privately operated
18 entity providing contract correctional services for the department who exercises
19 direct authority over juveniles, inmates, probationers, or parolees.
- 20 v. A city, county, or combination of cities or counties that operates a correctional
21 facility subject to chapter 12-44.1, for each agent and employee and a final
22 applicant for employment of the correctional facility who has direct contact with or
23 exercises direct authority over any juvenile or inmate of the correctional facility,
24 and for each agent, employee, or a final applicant for employment of a privately
25 operated entity providing contract correctional services for the correctional facility
26 who exercises direct authority over juveniles, inmates, probationers, or parolees.
- 27 w. The North Dakota university system for a final applicant for or employee in a
28 specified position in the university system or a university system institution or for
29 each student applying for or admitted to a specified program of study, as
30 designated by the chancellor.

- 1 the board is responsible for paying the costs associated with obtaining a
2 criminal history record check;
- 3 (4) The board of a regional education association, for a final applicant seeking
4 employment with the association or otherwise providing services to the
5 association if that individual has unsupervised contact with students,
6 provided the board is responsible for paying the costs associated with
7 obtaining a criminal history record check; and
- 8 (5) The superintendent of public instruction in the case of a nonpublic school or
9 a state school with a superintendent appointed by or reporting to the
10 superintendent of public instruction, for a final applicant seeking
11 employment with the school or otherwise providing services to the school, if
12 that individual has unsupervised contact with students, provided the board is
13 responsible for paying the costs associated with obtaining a criminal history
14 record check.
- 15 (6) For purposes of this subdivision, "unsupervised contact" with students
16 means being in proximity to one or more students, on school grounds or at
17 school functions, outside the presence of an individual who has been
18 subject to a criminal history record check.
- 19 z. The racing commission for applicants for licenses under chapter 53-06.2, except
20 that criminal history record checks need not be made unless required by the
21 commission.
- 22 aa. A district court for a petition to change a name under chapter 32-28.
- 23 bb. The state board of pharmacy for a wholesale drug distributor seeking licensure
24 under chapter 43-15.3.
- 25 cc. The board of dental examiners for investigations of applicants or dentists under
26 section 43-28-11.2, except that criminal history record checks need not be made
27 unless required by the board.
- 28 dd. The department of financial institutions for each applicant for a specified
29 occupation with the department as specified by the commissioner and principal
30 owners and managing officers of applicants for a license from the department of
31 financial institutions.

- 1 ee. The office of tax commissioner for all employees, final applicants for employment
2 with the tax commissioner, and contractors with access to federal tax information.
- 3 ff. The state board of examiners for nursing home administrators for applicants for
4 licensure or licensees under chapter 43-34, except that criminal history record
5 checks for licensees need not be made unless required by the board.
- 6 ~~gg. The marriage and family therapy licensure board for applicants, licensees, or~~
7 ~~investigations under chapter 43-53, except that criminal history record checks~~
8 ~~need not be made unless required by the board.~~
- 9 ~~hh.~~ The state board of chiropractic examiners for applicants, licensees, certificates,
10 or investigations under chapter 43-06, except that criminal history record checks
11 need not be made unless required by the board.
- 12 ~~ii.~~hh. Workforce safety and insurance for a final applicant for a specified occupation
13 with workforce safety and insurance as designated by the director, or for
14 contractors who may have access to confidential information as designated by
15 the director.
- 16 ~~jj.~~ The board of counselor examiners for applicants for licensure or licensees under
17 chapter 43-47, except that criminal history record checks for licensees need not
18 be made unless required by the board.
- 19 ~~kk.~~ii. The state board of respiratory care for applicants, licensees, or investigations
20 under chapter 43-42, except that criminal history record checks need not be
21 made unless required by the board.
- 22 ~~ll.~~jj. The North Dakota real estate appraiser qualifications and ethics board for
23 applicants for permits or registration or permittees, registrants, owners, or
24 controlling persons under chapters 43-23.3 and 43-23.5, except that criminal
25 history record checks for permittees, registrants, owners, or controlling persons
26 need not be made unless required by the board.
- 27 ~~mm.~~kk. The insurance department for criminal history record checks authorized under
28 chapters 26.1-26 and 26.1-26.8.
- 29 ~~nn.~~ll. The office of the adjutant general for employees and volunteers working with the
30 recruiting and retention, sexual assault, and youth programs.

1 **SECTION 4. AMENDMENT.** Section 43-32-16 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-32-16. Board to keep records.**

- 4 1. The board shall keep a record of its proceedings and a register of all applicants for
5 licensing which must show:
- 6 a. The name, date of birth, and residence of each applicant.
 - 7 b. The date of each applicant's application.
 - 8 c. The place of business of each applicant.
 - 9 d. A summary of the educational and other qualifications of each applicant.
 - 10 e. Whether an examination was required of an applicant.
 - 11 f. Whether a license was granted to an applicant.
 - 12 g. The date of the action of the board.
 - 13 h. Any information the board determines necessary or advisable in aid of the
14 requirements of this subsection.
- 15 2. Except as otherwise provided by law, the records of the board are public records and
16 evidence of the proceedings of the board, and a transcript of board proceedings, duly
17 certified by ~~the secretary~~ of the board is admissible in evidence with the same effect
18 as if the original were produced.

19 **SECTION 5. AMENDMENT.** Section 43-32-17 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-32-17. License required for practice - Titles.**

- 22 1. Except as otherwise provided under this chapter and chapter 43-56, ~~a person~~an
23 individual may not engage in the practice of psychology unless that ~~person~~individual is
24 licensed as a psychologist or is registered as a psychology resident under ~~this chapter~~
25 43-56. Except as otherwise provided ~~by~~under this chapter and chapter 43-56, ~~a~~
26 ~~person~~an individual may not engage in the practice of industrial-organizational
27 psychology unless that ~~person~~individual is licensed as a psychologist or
28 industrial-organizational psychologist or is registered as a psychology resident or
29 industrial-organizational psychology resident under ~~this chapter~~ 43-56.
- 30 2. ~~A person~~An individual may not use the title "psychologist" or similar title unless that
31 ~~person~~individual is licensed as a psychologist. ~~A person~~An individual may not use the

1 titles "industrial psychologist", "organizational psychologist", or
2 "industrial-organizational psychologist" unless that ~~person~~individual is licensed as a
3 psychologist or industrial-organizational psychologist.

4 3. ~~A person~~An individual may not use the title "psychology resident" or similar title unless
5 that ~~person~~individual is registered as a psychology resident. ~~A person~~An individual
6 may not use the titles "industrial psychology resident", "organizational psychology
7 resident", or "industrial organizational psychology resident" unless that
8 ~~person~~individual is registered as a psychology resident or industrial-organizational
9 psychology resident.

10 **SECTION 6. AMENDMENT.** Section 43-32-26 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-32-26. Issuance and display of license.**

13 The board is the sole agency empowered to examine competence in the practice of
14 psychology. A certificate of license or registration issued by the board must show the full name
15 of the licensee, have a serial number, be signed by the ~~president~~chair of the board, and be
16 attested by ~~the secretary~~another member of the board. The license issued by the board under
17 ~~this chapter 43-56~~ must be prominently displayed at the principal place of business at which the
18 licensee practices.

19 **SECTION 7. AMENDMENT.** Subsection 1 of section 43-41-01 of the North Dakota Century
20 Code is amended and reenacted as follows:

21 1. "Board" means the ~~North Dakota board of social work examiners~~composite mental
22 health licensing board under chapter 43-56.

23 **SECTION 8. AMENDMENT.** Section 43-41-02 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **43-41-02. Social work practice - Exceptions.**

26 1. ~~Nothing in this~~This chapter may not be construed to prevent any ~~person~~an individual
27 from doing work within the standards and ethics of that ~~person's~~individual's profession
28 and calling, provided that the ~~person~~individual does not present to the public, by title or
29 description of services, that the ~~person~~individual is engaging in social work practice.

30 2. This chapter ~~may~~does not be construed to prevent students who are enrolled in
31 programs of study leading to social work degrees from interning with a licensed

- 1 baccalaureate social worker, a licensed master social worker, or a licensed clinical
2 social worker.
- 3 3. ~~Nothing in this~~This chapter ~~prevents~~does not prevent the employment of, or
4 volunteering by, individuals in nonprofit agencies or community organizations provided
5 these ~~persons~~individuals do not hold themselves out to the public as being social
6 workers.
- 7 4. ~~Nothing in this~~This chapter ~~prevents~~does not prevent the employment of social work
8 designees by hospitals, basic care facilities, or skilled nursing facilities, provided these
9 individuals work under the direction of a social worker or social work consultant
10 licensed under ~~this~~ chapter 43-56 and ~~that~~ the board ~~be~~is notified of the name of the
11 designee's employer and the name of the licensee who is providing direction or
12 consultation to the designees.
- 13 5. This chapter does not require public or appointed officials or administrators, acting in
14 that capacity, or any other social or human service administrators who do not hold
15 themselves out to the public as social workers, by title or description of services, to be
16 licensed under ~~this~~ chapter 43-56.
- 17 6. This chapter does not prevent individuals with master's or doctoral degrees in the field
18 of counseling with specialization in mental health from serving as counselors or
19 therapists in mental health in state institutions or regional human service centers, if
20 they do not hold themselves out to the public as social workers.

21 **SECTION 9. AMENDMENT.** Section 43-41-03 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-41-03. Representation to the public.**

- 24 1. Only those ~~persons~~individuals licensed to practice under ~~this~~ chapter 43-56 may
25 represent themselves as a licensed baccalaureate social worker, licensed master
26 social worker, or licensed clinical social worker.
- 27 2. The license issued by the board under ~~the provisions of this~~ chapter 43-56 must be
28 prominently displayed at the principal place of business where the social worker
29 practices.

30 **SECTION 10. AMENDMENT.** Subsection 1 of section 43-41-04 of the North Dakota
31 Century Code is amended and reenacted as follows:

- 1 1. Except as otherwise provided in this chapter and chapter 43-56, ~~a person~~an individual
2 may not engage in social work practice in this state unless that ~~person~~individual is a
3 licensed baccalaureate social worker, a licensed master social worker, or a licensed
4 clinical social worker.

5 **SECTION 11. AMENDMENT.** Section 43-41-05.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-41-05.1. Electronic social work services.**

- 8 1. The practice of social work in this state through electronic social work services or other
9 means, regardless of the location of the practitioner, constitutes the practice of social
10 work and is subject to this chapter and chapter 43-56.
11 2. The practice of social work by a practitioner in this jurisdiction through electronic social
12 work services or other means, regardless of the location of the client, constitutes the
13 practice of social work and is subject to this chapter and chapter 43-56.
14 3. A social worker providing electronic social work services shall take all necessary
15 measures to ensure compliance with relevant practice standards as established by the
16 board.

17 **SECTION 12. AMENDMENT.** Section 43-41-07 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **43-41-07. Qualification for licensure by an applicant licensed in another jurisdiction.**

- 20 1. An applicant may be granted a license upon:
21 a. Satisfactory proof to the board that the applicant is licensed in good standing
22 under the laws of another jurisdiction that imposes substantially the same
23 requirements as this chapter and chapter 43-56; or
24 b. Determination of the board that at the time of application for licensure ~~under this-~~
25 ~~section~~ the applicant is licensed in good standing under the laws of another
26 jurisdiction and possesses qualifications or experience in the practice of social
27 work which are substantially similar to the minimum requirements for licensure
28 under this chapter and chapter 43-56.
29 2. The applicant shall pay the licensure fees specified by the board.

30 **SECTION 13. AMENDMENT.** Section 43-41-09 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **43-41-09. Duties and responsibilities of board.**

2 In addition to the duties set forth elsewhere in this chapter and chapter 43-56, the board
3 shall:

- 4 1. Adopt rules to administer and carry out the provisions of this chapter and chapter
5 43-56.
- 6 2. Produce an annual list of the names and level of licensure of all persons licensed
7 under ~~this~~ chapter 43-56 and make the list available upon request.
- 8 3. At its discretion, employ staff and provide for staff compensation.
- 9 4. License social workers. The board may:
 - 10 a. Suspend the use of an examination for licensure.
 - 11 b. Waive examination requirements and create a process under which an applicant
12 may apply for a waiver to licensure examination requirements.
 - 13 c. Create alternative requirements that do not require an examination to ascertain
14 the qualifications and fitness of a candidate for a license to engage in the practice
15 of social work.
- 16 5. Establish fees and receive all moneys collected ~~under this chapter~~.
- 17 6. ~~Deposit and disburse all fees and moneys collected by the board in accordance with~~
18 ~~section 54-44-12.~~
- 19 7. Recommend prosecution for violations of this chapter to the appropriate state's
20 attorney.
- 21 ~~8.7.~~ Recommend the attorney general bring civil actions to seek injunctive and other relief
22 against violations of this chapter.
- 23 ~~9.8.~~ Establish continuing education requirements for license renewal.
- 24 ~~10.9.~~ Adopt a code of social work ethics.

25 **SECTION 14. AMENDMENT.** Section 43-41-11.1 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **43-41-11.1. Permission to report - Immunity.**

28 An individual who has knowledge of conduct by an applicant or a licensee which may
29 constitute grounds for disciplinary action under this chapter or chapter 43-56 or the rules of the
30 board or of any unlicensed practice ~~under this chapter~~ may report the violation to the board. An
31 individual is immune from civil liability or criminal prosecution for submitting in good faith a

1 report ~~under this chapter~~ or for otherwise reporting, providing information, or testifying about
2 violations or alleged violations of this chapter or chapter 43-56.

3 **SECTION 15. AMENDMENT.** Subsection 2 of section 43-45-01 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 2. "Board" means the ~~board of addiction counseling examiners~~composite mental health
6 licensing board under chapter 43-56.

7 **SECTION 16. AMENDMENT.** Section 43-45-04 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-45-04. Board power, duties, and authority.**

10 1. The board shall:

- 11 a. Administer and enforce ~~the provisions of this chapter~~ and chapter 43-56.
- 12 b. Evaluate the qualifications of applicants for a license to practice addiction
13 counseling and issue addiction counselor, licensed clinical addiction counselor,
14 and masters addiction counselor licenses under ~~this chapter~~ 43-56.
- 15 c. Establish ethical standards of practice for a licensee to practice addiction
16 counseling in this state.
- 17 d. Establish continuing education requirements and approve providers of continuing
18 education.
- 19 e. Approve clinical training programs.
- 20 f. Register clinical trainees and addiction counselor trainees.
- 21 g. Register interns.
- 22 h. Register clinical supervisors.
- 23 i. Register licensees for private practice.
- 24 j. Approve and administer examinations.
- 25 k. Periodically evaluate initial licensure coursework requirements and clinical
26 training requirements to ensure the requirements are up to date and do not serve
27 as an undue barrier to licensure.

28 2. The board may:

- 29 a. Adopt rules under chapter 28-32 to implement this chapter and chapter 43-56.
- 30 b. Issue subpoenas, examine witnesses, and administer oaths, and may investigate
31 allegations of practices violating the provisions of this chapter and chapter 43-56.

- 1 c. Recommend prosecution for violations of this chapter and chapter 43-56 to the
- 2 appropriate state's attorney.
- 3 d. Recommend the attorney general bring civil actions to seek injunctive and other
- 4 relief against violations of this chapter and chapter 43-56.
- 5 e. Collect fees for examinations, initial licensures, renewal of licenses, late
- 6 renewals, private practice registrations, renewal of private practice registrations,
- 7 approval of continuing education providers, and administrative fees. The fees
- 8 must be established by rule in amounts necessary to compensate the board for
- 9 administration and enforcement of this chapter and chapter 43-56.
- 10 f. Employ persons to assist the board in carrying out the board's duties under this
- 11 chapter and chapter 43-56.

12 **SECTION 17. AMENDMENT.** Section 43-45-05.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-45-05.1. Initial licenses - Licensure of applicant licensed in another jurisdiction.**

- 15 1. The board shall issue an initial license under chapter 43-56 as an addiction counselor,
- 16 licensed clinical addiction counselor, or masters addiction counselor to an applicant
- 17 who has met all of the following requirements:
 - 18 a. Successfully completed board-approved coursework at an accredited college or
 - 19 university.
 - 20 b. Successfully completed one or more oral or written examinations approved by
 - 21 the board for this purpose.
 - 22 c. Successfully completed a clinical training program approved by the board or
 - 23 accumulated experience as established by the board by rule.
 - 24 d. Satisfied to the board that the applicant agrees to adhere to the code of
 - 25 professional conduct adopted by the board.
- 26 2. For the clinical training program or accumulated experience required of an intern
- 27 seeking initial licensure, at least fifty percent of the required supervision must be
- 28 provided by a supervising licensed addiction counselor, and the additional supervision
- 29 may be with other professionals who are designated by the supervising addiction
- 30 counselor, approved by the board, and competent in the area of practice being

1 supervised. The other professional must be registered as a clinical supervisor by the
2 board that licenses the other professional.

3 3. The board may issue a license under chapter 43-56 to an applicant for licensure who
4 is in good standing as a licensed, approved, or certified addiction counselor, licensed
5 clinical addiction counselor, or masters addiction counselor under the laws of another
6 jurisdiction:

7 a. Upon satisfactory proof to the board the laws of the other jurisdiction impose at
8 least substantially the same requirements imposed under this chapter and
9 chapter 43-56; or

10 b. Upon a determination by the board the applicant possesses qualifications or
11 experiences in the practice of addiction counseling which are substantially similar
12 to the minimum requirements for licensure under this chapter and chapter 43-56.

13 4. If the board denies a licensure application, the board shall notify the applicant in
14 writing of the reasons for denial and of the applicant's right to a hearing before the
15 board, under chapter 28-32, if a hearing is requested within thirty days.

16 **SECTION 18. AMENDMENT.** Subsection 2 of section 43-45-05.2 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 2. The license issued by the board under ~~the provisions of this chapter~~ 43-56 must be
19 prominently displayed at the principal place of business where the licensee practices.

20 **SECTION 19. AMENDMENT.** Section 43-45-07.1 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-45-07.1. Grounds for disciplinary proceedings.**

23 1. The board may deny an application and may refuse to renew, suspend, revoke, or
24 place on probationary status any license issued under ~~this chapter~~ 43-56 on proof at a
25 hearing the applicant or holder of the license engaged in unprofessional conduct.

26 Unprofessional conduct includes:

27 a. Obtaining an initial license or renewal by means of fraud, misrepresentation, or
28 concealment of material facts.

29 b. Violating rules set by the board.

30 c. Violating a provision of this chapter or chapter 43-56.

31 d. Violating the professional code of conduct as adopted by the board.

1 e. Being adjudged guilty of an offense determined by the board to have a direct
2 bearing on an applicant's or holder of the license's ability to provide addiction
3 counseling to the public as a licensee or being adjudged guilty of any offense and
4 being insufficiently rehabilitated as determined by the board under section
5 12.1-33-02.1.

6 2. One year from the date of the revocation, a former licenseholder may make
7 application for initial licensure.

8 **SECTION 20. AMENDMENT.** Subsection 1 of section 43-45-07.2 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 1. A person with knowledge of any conduct constituting grounds for discipline under this
11 chapter or chapter 43-56 may report the violation to the board.

12 **SECTION 21. AMENDMENT.** Subsection 1 of section 43-47-01 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 1. "Board" means the ~~board of counselor examiners~~ composite mental health licensing
15 board under chapter 43-56.

16 **SECTION 22. AMENDMENT.** Section 43-47-03 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-47-03. Duties and responsibilities of board.**

19 In addition to the duties set forth elsewhere in this chapter and chapter 43-56, the board
20 shall:

- 21 1. Publish an annual list of the names and addresses of all persons licensed under ~~this-~~
22 chapter 43-56.
- 23 2. Approve and administer an examination for counselors.
- 24 3. Set, by rule, and collect a fee for the filing of each application for a license under ~~this-~~
25 chapter 43-56 and set, by rule, and collect a fee for the renewal of a license under ~~this-~~
26 chapter 43-56.
- 27 4. ~~Deposit and disburse all fees and moneys collected by the board in accordance with~~
28 ~~section 54-44-12.~~
- 29 5. Establish continuing education requirements for license renewal.
- 30 6.5. Issue provisional or probationary licenses.
- 31 7.6. Establish a code of ethics for the practice of counseling.

1 **SECTION 23. AMENDMENT.** Subsection 1 of section 43-47-06 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. Except as otherwise provided in this chapter ~~and chapter 43-56, a person~~ an individual
4 may not engage in counseling in this state unless that ~~person~~ individual is a licensed
5 professional counselor or licensed associate professional counselor.

6 **SECTION 24. AMENDMENT.** Section 43-47-06.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-47-06.1. Board may establish specialty licenses.**

9 The board may provide a counselor specialty license to any licensed professional counselor
10 who meets the standards established by the board for that particular specialty. The board shall
11 adopt standards for specialty licenses equal to or greater than those established by the national
12 board of certified counselors, which governs the standards for particular specialties. ~~The board-~~
13 ~~may not create a specialty license for which the scope of practice is defined under any other~~
14 ~~chapter in this title.~~

15 **SECTION 25. AMENDMENT.** Section 43-47-06.3 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-47-06.3. Criminal history record checks.**

18 The board ~~shall~~ may require an applicant for licensure under ~~subsections 2, 3, and 4 of~~
19 ~~section 43-47-06 and section 43-47-06.1~~ chapter 43-56 to submit to a statewide and nationwide
20 criminal history record check and may require a licensee to submit to a statewide and
21 nationwide criminal history record check. The nationwide criminal history record check must be
22 conducted in the manner provided in section 12-60-24. All costs associated with obtaining a
23 background check are the responsibility of the applicant or licensee.

24 **SECTION 26. AMENDMENT.** Section 43-47-07 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **43-47-07. Disciplinary proceedings.**

27 The board may deny, refuse to renew, suspend, or revoke any license issued under ~~this-~~
28 ~~chapter~~ 43-56 upon finding by a preponderance of the evidence ~~that~~ the applicant or
29 licensee holder:

- 1 1. Has been convicted of an offense determined by the board to have a direct bearing
2 upon the individual's ability to practice counseling and is not sufficiently rehabilitated
3 as determined by the board in accordance with section 12.1-33-02.1;
- 4 2. Has been grossly negligent in the practice of counseling and has injured a client or
5 other person to whom the individual owed a duty; or
- 6 3. Has violated any rule of the board.

7 **SECTION 27. AMENDMENT.** Section 43-47-07.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-47-07.1. Costs of prosecution - Disciplinary proceedings.**

10 The board may impose a fee against ~~any person~~ an individual subject to regulation under
11 this chapter ~~and chapter 43-56~~ to reimburse the board for all or part of the costs of
12 administrative actions resulting in disciplinary action, including the amount paid by the board for
13 services from the office of administrative hearings, attorney's fees, court costs, witness fees,
14 staff time, and other expenses.

15 **SECTION 28. AMENDMENT.** Subsections 1 and 4 of section 43-47-08 of the North Dakota
16 Century Code are amended and reenacted as follows:

- 17 1. ~~A person~~An individual aggrieved by the actions of a counselor licensed under ~~this-~~
18 chapter 43-56 may file a written complaint with the board citing the specific allegations
19 of misconduct by the counselor. The board shall notify the counselor of the complaint
20 and require a written response from the counselor. Neither the initial complaint nor the
21 counselor's response is public record. The counselor's response must be made
22 available to the complainant.
- 23 4. After review of the complaint, the counselor's response, and information obtained in
24 the investigation, the board shall determine if there is a reasonable basis to believe
25 that the allegations are true and that the allegations constitute a violation of this
26 chapter, chapter 43-56, or the rules of the board. If the board determines that there is
27 a reasonable basis to believe ~~that~~ the allegations are true and ~~that~~ the allegations
28 constitute a violation of this chapter, chapter 43-56, or the rules of the board, the board
29 shall take appropriate action. If a reasonable basis is not found by the board, the
30 board shall so notify the complaining party and the counselor in writing.

1 **SECTION 29. AMENDMENT.** Section 43-47-09 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-47-09. Confidentiality.**

4 Except as authorized by law, ~~no person~~an individual licensed under this chapter ~~43-56~~ may
5 not be required to disclose any information acquired in rendering counseling services without
6 the consent of the ~~person~~individual who received the counseling services.

7 **SECTION 30. AMENDMENT.** Subsections 3 and 4 of section 43-53-01 of the North Dakota
8 Century Code are amended and reenacted as follows:

9 3. "Board" means the ~~North Dakota marriage and family therapy licensure-~~
10 ~~board~~composite mental health licensing board under chapter 43-56.

11 4. "Licensed marriage and family therapist" means an individual who holds a valid
12 license issued under this chapter ~~43-56~~.

13 **SECTION 31. AMENDMENT.** Section 43-53-02 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-53-02. Representation to the public.**

16 Effective January 1, 2006, except as specifically provided otherwise under this chapter
17 ~~43-56~~, only an individual licensed under this chapter ~~43-56~~ may use the title "marriage and
18 family therapist" or the abbreviations "MFT". A licensee shall display prominently the licensee's
19 license at the principal place of business of the licensee.

20 **SECTION 32. AMENDMENT.** Section 43-53-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-53-03. Exemptions.**

- 23 1. An individual is exempt from the requirements of this chapter and chapter 4356 if:
- 24 a. The individual is practicing marriage and family therapy as part of that individual's
25 duties as an employee of a recognized academic institution or a governmental
26 institution or agency while performing those duties for which the individual is
27 employed by such a facility, institution, or agency.
- 28 b. The individual is a marriage and family therapy intern or individual preparing for
29 the practice of marriage and family therapy under qualified supervision in a
30 training institution or facility or supervisory arrangement recognized and
31 approved by the board if:

- 1 (1) The individual is a student in a master's or doctorate program of marriage
2 and family therapy; and
- 3 (2) The individual is designated by a title such as "marriage and family therapy
4 intern", "marriage therapy intern", "family therapy intern", or other title clearly
5 indicating such training status.
- 6 c. The individual is a member of the clergy of any religious denomination and
7 providing services within the scope of ministerial duties.
- 8 d. The individual is a volunteer for or is employed by a nonprofit agency or
9 community organization and the individual does not hold out to the public that the
10 individual is a licensed marriage and family therapist.
- 11 2. This chapter ~~does~~ and chapter 43-56 do not prevent ~~any person~~ an individual licensed
12 by the state from doing work within the standards and scope of practice of that
13 ~~person's~~ individual's profession, including the practice and advertising of marriage and
14 family therapy services.

15 **SECTION 33. AMENDMENT.** Section 43-53-05 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-53-05. Board powers and duties.**

- 18 1. The board shall administer and enforce this chapter. The board shall adopt rules as
19 the board determines necessary.
- 20 2. The board shall examine and pass on the qualifications of all applicants and shall
21 issue a license under chapter 43-56 to each successful applicant. The board shall
22 adopt a seal which must be affixed to all licenses issued by the board.
- 23 ~~3. The board may authorize expenditures determined necessary to carry out this chapter.~~
- 24 ~~4. Three of the members of the board constitute a quorum. The board may employ~~
25 ~~attorneys, accountants, experts, and other employees as necessary for the proper~~
26 ~~performance of the board's duties.~~
- 27 ~~5.~~ The board shall adopt a nationally recognized code of ethics for the practice of
28 marriage and family therapy.
- 29 ~~6.4.~~ The board shall establish continuing education requirements for license renewal.
- 30 ~~7.5.~~ The board shall publish an annual list of the names and addresses of all individuals
31 licensed under ~~this~~ chapter 43-56.

1 **SECTION 34. AMENDMENT.** Subsection 1 of section 43-53-06 of the North Dakota
2 Century Code is amended and reenacted as follows:

- 3 1. Each individual desiring to obtain a license as a practicing marriage and family
4 therapist shall submit an application to the board, upon such form and in such manner
5 as the board prescribes. An applicant shall furnish evidence that the applicant:
6 a. Is of good moral character;
7 b. Has not engaged in any practice or conduct that would be a ground for discipline
8 under this chapter or chapter 43-56; and
9 c. Is qualified for licensure pursuant to the requirements of this chapter and chapter
10 43-56.

11 **SECTION 35. AMENDMENT.** Subsection 1 of section 43-53-07 of the North Dakota
12 Century Code is amended and reenacted as follows:

- 13 1. The board shall conduct an examination at least once a year at a time and place
14 designated by the board. Examinations may be written or oral as determined by the
15 board. The board may create its own examination or adopt a nationally recognized
16 examination. In any written examination each applicant must be designated so that the
17 applicant's name is not disclosed to the board until the examination has been graded.
18 Examinations must include questions in such theoretical and applied fields as the
19 board determines most suitable to test an applicant's knowledge and competence to
20 engage in the practice of marriage and family therapy. ~~An applicant is deemed to have~~
21 ~~passed an examination upon affirmative vote of at least four members of the board.~~

22 **SECTION 36. AMENDMENT.** Section 43-53-12 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-53-12. Penalty.**

25 ~~Any person~~An individual who practices without a license in violation of this chapter and
26 chapter 43-56 is guilty of a class B misdemeanor.

27 **SECTION 37.** Chapter 43-56 of the North Dakota Century Code is created and enacted as
28 follows:

29 **43-56-01. Composite mental health licensing board - Creation and composition.**

- 30 1. As used in this chapter, "board" means the composite mental health licensing board.
31 2. The governor shall appoint eleven members to the board consisting of:

- 1 a. Two licensed psychologists;
- 2 b. Two licensed social workers;
- 3 c. Two licensed addiction counselors;
- 4 d. Two licensed professional counselors;
- 5 e. Two licensed marriage and family therapists; and
- 6 f. One peer support specialist.
- 7 3. All licensed board members must have at least three years of professional experience.
- 8 4. The governor shall appoint the board members to serve staggered terms. Members
9 initially appointed shall serve as follows:
 - 10 a. Three members shall serve a term of one year;
 - 11 b. Four members shall serve a term of two years; and
 - 12 c. Four members shall serve a term of three years.
- 13 5. Following the initial appointments under subsection 3, all board appointments must be
14 for a term of three years.
- 15 6. Members may not serve more than two consecutive terms. A member may be eligible
16 to serve two additional terms after a one year break from service. Each board member
17 shall demonstrate service on the board does not pose a conflict of interest, as
18 determined by the board.
- 19 7. The governor may remove any board member for good cause following the:
 - 20 a. Issuance of a written statement that specifies the basis for removal; and
 - 21 b. Opportunity for a hearing.

22 **43-56-02. Meetings and officers.**

- 23 1. The board annually shall elect a chair, vice chair, and treasurer from its members. A
24 member may serve in a chair, vice chair, or treasurer capacity for multiple terms.
- 25 2. The board shall meet at least quarterly. Additional meetings may be called by the chair
26 or by a majority of the board members.
- 27 3. A majority of the members constitutes a quorum.

28 **43-56-03. Board powers and duties.**

- 29 1. The board shall:
 - 30 a. Administer and enforce the provisions of this chapter and chapters 43-32, 43-41,
31 43-45, 43-47, and 43-53. If a provision of this chapter is interpreted to be

1 inconsistent with a provision of chapter 43-32, 43-41, 43-45, 43-47, or 43-53, this
2 chapter controls.

3 b. Adopt rules to carry out this chapter and chapters 43-32, 43-41, 43-45, 43-47, and
4 43-53.

5 c. Investigate a complaint, subpoena a witness, conduct a hearing, and take
6 disciplinary action as necessary.

7 d. Hire or contract administrative staff or external administrators as necessary to
8 carry out duties.

9 e. Approve participation in interstate compacts for professional licensing, as
10 determined appropriate, to facilitate multi-state practice for licensees.

11 f. Deposit all funds collected into a single account managed by the board.

12 2. For each profession governed by the board, the board shall:

13 a. Issue licenses and certifications;

14 b. Establish continuing education requirements for license renewal;

15 c. Approve programs of study and clinical training necessary for licensure; and

16 d. Assess and collect application and service fees for licensing, examination,
17 certification, and other board activities.

18 3. The board shall maintain any funds and accounts as necessary to administer this
19 chapter and chapters 43-32, 43-41, 43-45, 43-47, and 43-53, in accordance with
20 section 54-44-12.

21 **43-56-04. Licensing requirements.**

22 1. An applicant for licensure shall, as prescribed by the board:

23 a. Submit an application for licensure or certification.

24 b. Demonstrate compliance with educational and clinical training requirements.

25 c. Comply with any applicable code of ethics and professional standards.

26 d. Comply with application and licensing requirements under this chapter and
27 chapter 43-32, 43-41, 43-45, 43-47, or 43-53, as applicable.

28 2. An applicant from another jurisdiction may apply for licensure by endorsement, as
29 prescribed by the board.

30 3. A license issued by the board must be reviewed biennially.

1 4. A licensee must complete continuing education requirements, as prescribed by the
2 board.

3 **43-56-05. Disciplinary actions.**

4 1. The board may deny, suspend, revoke, or place conditions on a license for:

5 a. Fraud or misrepresentation in obtaining a license;

6 b. Violation of the profession's code of ethics or professional standards;

7 c. Criminal convictions related to the licensee's practice;

8 d. Violation of the requirements of this chapter or chapter 43-32, 43-41, 43-45,

9 43-47, or 43-53, as applicable; or

10 e. Failing to comply with a directive of the board.

11 2. The board shall ensure any disciplinary action provides due process to the licensee,
12 including notice and an opportunity for a hearing.

13 **SECTION 38. REPEAL.** Sections 43-32-02, 43-32-03, 43-32-04, 43-32-05, 43-32-06,
14 43-32-07, 43-32-08, 43-32-11, 43-32-13, 43-32-14, 43-41-08, 43-41-12, 43-45-02, 43-45-03,
15 43-45-05, 43-45-07, 43-47-02, 43-47-03.1, 43-47-06.2, and 43-53-04 of the North Dakota
16 Century Code are repealed.

17 **SECTION 39. TRANSFER - COMPOSITE MENTAL HEALTH LICENSING BOARD FUND.**

18 The office of management and budget shall transfer any moneys or balances remaining in the
19 funds or accounts maintained by the North Dakota state board of psychologist examiners, North
20 Dakota board of social work examiners, board of addiction counseling examiners, board of
21 counselor examiners, and North Dakota marriage and family therapy licensure board, to the
22 composite mental health licensing board fund on the effective date of this Act.

23 **SECTION 40. APPLICATION.** An individual licensed under chapter 43-32, 43-41, 43-45,
24 43-47, or 43-53, on the effective date of this Act, shall retain licensure without the need for initial
25 reapplication. A licensee shall follow renewal requirements, as determined by the board, and
26 consistent with the provisions of this Act.