CHAPTER 43-53
MARRIAGE AND FAMILY THERAPY PRACTICE

43-53-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Advertise" includes the issuing or causing to be distributed any card, sign, or device to any person; the causing, permitting, or allowing any sign or marking in or on any building, radio, or television; or advertising by any other means designed to secure public attention.
2. "Associate marriage and family therapist" means an individual who has completed the educational requirements for a marriage and family license and who has successfully passed the licensing examination, but who has not yet successfully completed the supervised work experience requirement for licensure as a marriage and family therapist.
3. "Board" means the North Dakota marriage and family therapy licensure board.
4. "Licensed marriage and family therapist" means an individual who holds a valid license issued under this chapter.
5. "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. Marriage and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such diagnosed nervous and mental disorders.
6. "Practice of marriage and family therapy" means the rendering of marriage and family therapy services to individuals, couples, and families, singly or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.
7. "Qualified supervision" means the supervision of clinical services, in accordance with standards established by the board, by an individual who has been recognized by the board as an approved supervisor. At least fifty percent of the hours of qualified supervision must be with an approved supervisor who is a licensed marriage and family therapist and additional hours of qualified supervision may be with other professionals designated by the approved supervisor and acting under the approved supervisor. The other professional must be approved by the board, approved by that individual's licensing authority to supervise interns if appropriate, and competent in the area of practice being supervised. The marriage and family therapist approved supervisor remains the applicant's supervisor of record.
8. "Recognized educational institution" means any educational institution that grants a master's or higher degree that is recognized by the board and by a regional accrediting body, or a postgraduate training institute accredited by the commission on accreditation for marriage and family therapy education.
9. "Use a title or description of" means to hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, calling cards, or other instruments of professional identification.

43-53-02. Representation to the public.

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

43-53-03. Exemptions.

1. An individual is exempt from the requirements of this chapter if:
   a. The individual is practicing marriage and family therapy as part of that individual's duties as an employee of a recognized academic institution or a governmental

institution or agency while performing those duties for which the individual is employed by such a facility, institution, or agency.

b. The individual is a marriage and family therapy intern or individual preparing for the practice of marriage and family therapy under qualified supervision in a training institution or facility or supervisory arrangement recognized and approved by the board if:
   (1) The individual is a student in a master's or doctorate program of marriage and family therapy; and
   (2) The individual is designated by a title such as "marriage and family therapy intern", "marriage therapy intern", "family therapy intern", or other title clearly indicating such training status.

c. The individual is a member of the clergy of any religious denomination and providing services within the scope of ministerial duties.

d. The individual is a volunteer for or is employed by a nonprofit agency or community organization and the individual does not hold out to the public that the individual is a licensed marriage and family therapist.

2. This chapter does not prevent any person licensed by the state from doing work within the standards and scope of practice of that person's profession, including the practice and advertising of marriage and family therapy services.

43-53-04. Marriage and family therapy licensure board.

1. The North Dakota marriage and family therapy licensure board consists of five members. The governor shall appoint the board members to serve terms of four years, except for those first appointed one member must continue in office for two years, two for three years, and two, including the chairman, for four years.
2. The governor shall appoint members of the board from among individuals who meet the following qualifications:
   a. At least three members must be licensed practicing marriage and family therapists; and each must have been for at least five years immediately preceding appointment actively engaged as marriage and family therapists in rendering professional services in marriage and family therapy; in the education and training of master's, doctoral, or postdoctoral students of marriage and family therapy; or in marriage and family therapy research. A member under this subdivision must have spent the majority of the time devoted by that member to such activity during the two years preceding appointment residing in this state.
   b. At least one member must be a representative of the general public and may not have any direct affiliation with the practice of marriage and family therapy or another mental health profession.
   c. The initial appointees, with the exception of any representative of the general public, are deemed to be and become licensed practicing marriage and family therapists immediately upon appointment and qualification as members of the board.
3. The governor shall nominate a new member to fill a vacancy on the board within thirty days of the vacancy. A member chosen to fill a board vacancy must be appointed for the unexpired term of the board member whom that member is succeeding. Upon the expiration of a member's term of office, a board member shall continue to serve until a successor is appointed. An individual may not be appointed more than once to fill an unexpired term or appointed to more than two consecutive full terms. A member may not serve as chairman for more than four years. The appointment of any member of the board automatically terminates thirty days after the date the member is no longer a resident of this state.
4. The governor may remove any member of the board or the chairman from the position as chairman for neglect of duty or malfeasance or conviction of a felony or crime of moral turpitude while in office, but for no other reason. A member may not be removed until after a hearing on the charges and at least thirty days' prior written notice to such accused member of the charges and of the date fixed for such hearing.

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

43-53-05. Board powers and duties.

1. The board shall administer and enforce this chapter. The board shall adopt rules as the board determines necessary.
2. The board shall examine and pass on the qualifications of all applicants and shall issue a license to each successful applicant. The board shall adopt a seal which must be affixed to all licenses issued by the board.
3. The board may authorize expenditures determined necessary to carry out this chapter.
4. Three of the members of the board constitute a quorum. The board may employ attorneys, accountants, experts, and other employees as necessary for the proper performance of the board's duties.
5. The board shall adopt a nationally recognized code of ethics for the practice of marriage and family therapy.
6. The board shall establish continuing education requirements for license renewal.
7. The board shall publish an annual list of the names and addresses of all individuals licensed under this chapter.

43-53-06. Licenses.

1. Each individual desiring to obtain a license as a practicing marriage and family therapist shall submit an application to the board, upon such form and in such manner as the board prescribes. An applicant shall furnish evidence that the applicant:
   a. Is of good moral character;
   b. Has not engaged in any practice or conduct that would be a ground for discipline under this chapter; and
   c. Is qualified for licensure pursuant to the requirements of this chapter.
2. An individual who was actively practicing marriage and family therapy in this state before January 1, 2008, and whose application is received by the board before January 1, 2010, may be issued a license by the board if the applicant meets the qualifications set forth in subdivisions a and b of subsection 1 and provides evidence to the board that the applicant meets educational and experience qualifications as follows:
   a. An appropriate graduate degree, as defined by the board, from a regionally accredited institution so recognized at the time of granting such degree.
   b. At least five years of clinical experience in the practice of marriage and family therapy, and membership or certification by an appropriate professional organization, as defined by the board.
3. An applicant may be issued a license by the board if the applicant meets the qualifications set forth in subsection 1 and provides satisfactory evidence to the board that the applicant:
   a. Holds a master's degree or a doctoral degree in marriage and family therapy from a recognized educational institution, or a graduate degree in an allied field from a recognized educational institution and graduate level coursework which is equivalent to a master's degree in marriage and family therapy, as determined by the board.
   b. Has successfully completed two calendar years of work experience in marriage and family therapy under qualified supervision following receipt of a qualifying degree.
   c. Has passed the examination administered or adopted by the board.
4. An applicant may be issued an associate marriage and family therapist license by the board if the applicant meets the qualifications set forth in subsection 1 and has provided the board with satisfactory evidence that the applicant meets the

requirements in subdivisions a and c of subsection 3. Associate marriage and family therapists must practice under the supervision of a board-qualified supervisor and must obey the same laws and rules as a marriage and family therapist. An associate marriage and family therapist license lasts for one year and may be renewed for up to four additional years.

5. The board may adopt rules concerning reinstatement of lapsed licenses, voluntary termination, or emeritus status.
6. The board may require an applicant for licensure or a licensee to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or licensee.

43-53-07. Examination.

1. The board shall conduct an examination at least once a year at a time and place designated by the board. Examinations may be written or oral as determined by the board. The board may create its own examination or adopt a nationally recognized examination. In any written examination each applicant must be designated so that the applicant's name is not disclosed to the board until the examination has been graded. Examinations must include questions in such theoretical and applied fields as the board determines most suitable to test an applicant's knowledge and competence to engage in the practice of marriage and family therapy. An applicant is deemed to have passed an examination upon affirmative vote of at least four members of the board.
2. Any applicant who fails an examination conducted by the board may not be admitted to a subsequent examination for a period of at least six months.

43-53-08. License by endorsement.

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

43-53-09. Fees.

A fee, as determined by the board, must be paid to the board for original licensure. A fee may also be established for the licensure examination. A license is valid for two years and must be renewed biennially, with the renewal fee being determined by the board. The board may also establish a fee for a duplicate license. Any applicant for renewal of a license that has expired must be required to pay a late fee determined by the board. The board may also establish a fee for continuing education sponsors. The fees established under this section must be adequate to establish and maintain the operation of the board. Payment of a late fee is not a defense to a charge of practicing without a license.

43-53-10. Disciplinary proceedings.

1. The board may deny an application or institute a disciplinary proceeding concerning a licensee on the following grounds:
   a. Conviction by a court of competent jurisdiction of an offense that the board determines to be of such a nature as to render the licensee unfit to practice marriage and family therapy. The board may compile, maintain, and publish a list of such offenses.
   b. Violation of ethical standards of such a nature as to render the licensee unfit to practice marriage and family therapy. The board shall publish such ethical standards.
   c. Fraud or misrepresentation in obtaining a license.

d. Any just and sufficient cause that renders a licensee unfit to practice marriage and family therapy.

2. An applicant may be denied a license, and a licensee may be suspended or revoked, placed on supervised or unsupervised probation, required to take corrective action, attend continuing education, or fined up to two hundred dollars per violation for the reasons set forth in subsection 1. A licensee may not be disciplined under this section except by majority vote of the full board, notwithstanding any other provision of this chapter. The board may also charge the licensee with its reasonable expenses and reasonable attorney's fees for any disciplinary matter resulting in disciplinary action.
3. Any person may file a complaint with the board seeking discipline of a licensee. The complaint must be in a form prescribed by the board and must be verified under oath by the complainant or a duly authorized officer of a complainant. If the board determines that a complaint alleges facts that, if true, would require discipline of a licensee, the board promptly shall institute a hearing. If the board determines a complaint does not state facts warranting a hearing, the complaint may be dismissed. The board may institute a hearing for discipline of a licensee on its own motion.
4. Any person may be permitted to intervene and participate in board hearings on denial, suspension, or revocation of licenses upon a showing of an interest in such proceeding.
5. Any individual who has been suspended or revoked may not apply to the board for vacation of the suspension until the time specified in the board's order is complete or for reinstatement of the license until one year after the board's order or such other time as specified in the board's order is complete.

43-53-10.1. Temporary suspension - Appeal.

1. If, based on verified evidence, the board determines by a clear and convincing standard that the evidence presented to the board indicates the continued practice by a licensed marriage and family therapist or an associate marriage and family therapist would create significant risk of serious and ongoing harm to the public while a disciplinary proceeding is pending, and that immediate suspension of the licensed marriage and family therapist's license or the associate marriage and family therapist's license is required to reasonably protect the public from this risk of harm, the board may order a temporary suspension ex parte.
   a. For purposes of this section, "verified evidence" means testimony taken under oath and based on personal knowledge.
   b. The board shall give prompt written notice of the suspension to the licensed marriage and family therapist or associate marriage and family therapist which must include a copy of the order and complaint, the date set for a full hearing, and, upon request, a specific description of the nature of the evidence, including a list of all known witnesses.
   c. The board shall make available to the licensed marriage and family therapist or associate marriage and family therapist a specific description of any documents relied upon by the board in ordering the temporary suspension.
2. An ex parte suspension remains in effect until a final order is issued after an administrative hearing or appeal to the district court under this section or until the suspension is otherwise terminated by the board.
3. The board shall conduct an administrative hearing on the merits of the allegations to determine what disciplinary action, if any, will be taken against the licensed marriage and family therapist or associate marriage and family therapist who is the subject of the ex parte suspension. The administrative hearing must be held not later than thirty days from the issuance of the ex parte temporary suspension order. The licensed marriage and family therapist or associate marriage and family therapist is entitled to a continuance of the thirty-day period upon request for a period determined by the hearing officer.
4. The licensed marriage and family therapist or associate marriage and family therapist may appeal the ex parte temporary suspension order to the district court. On appeal,

the district court shall decide whether the board acted reasonably or arbitrarily. The district court shall give priority to the appeal for prompt disposition.

5. Any medical record of a patient, or other document containing personal information about a patient, which is obtained by the board is an exempt record.

43-53-11. Limitations of practice - Divorce proceedings.

1. If both parties to a marriage have obtained marriage and family therapy by a licensed marriage and family therapist, the therapist may not testify in a spousal support or divorce action concerning information acquired in the course of the therapeutic relationship. This subsection does not apply to custody actions.
2. There is no monetary liability on the part of and no cause of action may arise against any licensee in failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except if the patient has communicated to the licensee a serious threat of physical violence against a reasonably identifiable victim or victims.
3. The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified under subsection 2. The duty is discharged by the licensee if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.
4. No monetary liability and no cause of action may arise under this chapter against any licensee for confidences disclosed to third parties in an effort to discharge a duty arising under subsection 2 according to subsection 3.

43-53-12. Penalty.

Any person who practices without a license in violation of this chapter is guilty of a class B misdemeanor.