

2017 SENATE HUMAN SERVICES

SB 2111

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2111
1/10/2017
Job Number 26734

- Subcommittee
 Conference Committee

Marge Ellefson

Explanation or reason for introduction of bill/resolution:

A bill relating to licensure exceptions for counseling practice in North Dakota.

Minutes:

Attachment 1: testimony Marge Ellefson

Chair Lee opened the meeting.
All members are present.

Marge Ellefson Executive Secretary to the North Dakota Board of Counselor Examiners introduced the bill provided test (1:00 -6:15) Please see attachment #1
Currently, school psychologists are not regulated by the psychology board. Higher education school counselors are exempted from state standards; this bill will limit non-licensed counselors to k-12.

The terms counselor and advisor are synonymous when applied to career guidance. The term doesn't matter if they are doing mental health counseling work above the k-12 grade level, they need to be licensed.

Senator Anderson gave an example. The NDSU College of Pharmacy has an associate dean for student affairs who performs addiction, alcoholism etc. counseling, who probably doesn't have a separate degree in counseling or social work. According to Ms. Ellefson, he probably should.

This bill is addressing mental and behavioral health counselors, not career counselors. The educational psychologists are regulated by the educational standards and practices board who practice in k-12. Licensed Clinical Social Workers, Licensed Professional Counselors, Licensed Clinical Counselors, and Licensed Addiction Counselors. People doing behavioral health and addiction counseling.

Katie Fitzsimmons, Director of Student Affairs for North Dakota University System:

She will talk with the board of counseling to figure out the motive and legislative intent of this bill, there are different counselors at different schools who provide a range services. Psychologists, psychiatrists, contract nurse practitioners for mental services. We have 3 schools who share a school psychologist, board certified counselor, and licensed addiction counselor. Each has their own area of expertise. A couple of 'counselors' that are not board certified, but they have a certification in a different type of counseling they've been in position for years providing quality service to students. They understand the scope of practice; they understand that they will refer out for things outside their scope. We're trying to sort through

what to do to keep the board happy, and provide the best mental health services to all of our students. If some of these people were no longer in that position because of a technicality of a certification, I don't know who we'd have in that role, so that's where is something better than nothing? I don't know, I'd rather have somebody on campus for students to talk to when they're having an issue. And if that person realizes that they can't help, they can refer to someone who can. We'll talk this over with the board and with mental health care staff across the state. We are working with UND, NDSU they get a lot of interns in their higher programs of psychology and counseling that go to different campuses to provide services to students. We're working on different telehealth models. We're doing everything that we can to try to provide as many mental health services to all of our students.

She will be sending written testimony at a later time.

Senator Lee asks that the parties engaged at this time talk with each other, and with the board, and figure out what kind of things to do. Whether or not we even need this, or whether or not they can address it through rule with the board and the policies of your board.

The meeting was closed.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2111
1/31/2017
Job Number 27669

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mame Johnson

Explanation or reason for introduction of bill/resolution:

Licensure exceptions for counseling practices.

Minutes:

No Attachments

Chair J. Lee: Opened the meeting. Explained that the parties involved no longer wanted the bill.

Senator Heckaman: Do Not Pass.

Senator Anderson: Second.

A roll call vote was taken.

Motion passes 6-0-1.

Senator Piepkorn will carry.

Reopened vote for Senator Kreun.

Final vote 7-0-0.

Chair J. Lee: Closed the hearing.

Date: 1/31 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2111

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Heckaman Seconded By Sen. Anderson

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Piepkorn

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2111: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2111 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

SB 2111

SB 2111
Attachment #1
1/10/17

Re: Senate Bill 2111
January 10, 2017 11:00 AM
Presented by Marge Ellefson
North Dakota Board of Counselor Examiners

Good morning Madam chair and committee members:

My name is Marge Ellefson and I am here today to testify for SB 2111 which relates to counselor licensure in the state of North Dakota. The North Dakota Board of Counselor Examiners regrets no board members could be here today, but the board has given me permission to present the information through this testimony.

Currently, under NDCC Section 1, 43-47-05.2, there is an exception to licensure by the Board for individuals hired to perform counseling in certain organizations. That exception applies to the following individuals *...people hired by any federal, state, or local political subdivision, or hired by a private or public educational institution, if the person is performing counseling within the scope of employment.* This would mean that an employee of a federal, state or local political subdivision or employees of a private or public education institution could perform counseling and call themselves counselors without needing to be licensed by the North Dakota Board of Counselor Examiners.

The change that the North Dakota Board of Counselor Examiners would like you to consider would be to restrict the exemption to counselors for the grades of K through 12 at public or private educational institutions, and no longer exempt counselors at institutions of higher education. Counselors at educational institutions for grades K through 12 have extensive requirements and evaluations set by the North Dakota Department of Public Instruction. The North Dakota Board of Counselor Examiners visited with the Department of Public Instruction as to these requirements and expectations of school counselors, and was quite satisfied with the accountability these school counselors are held to.

Under the current law, however, counselors at institutions of higher education are able to practice counseling and use the title of counselor without any oversight, training, or verification that the counselor has the training and practical and theoretical knowledge to effectively serve individuals attending institutions of higher education. These counselors are not regulated by a mental health board or any other board or state agency. Under current law, anyone could be hired to provide counseling services and use the title of counselor even if that person has no training or background as a counselor. This board is aware of staff personnel functioning in the role of a counselor at institutions of higher education and having a degree in a field other than counseling. The population using these counselors is predominantly young, often confused, have issues with sexuality, harassment, chemical use, financial pressures, and trying to stand on their own. Late adolescence and early adulthood is also a time when serious mental illness can emerge. This population needs counselors with professional training in assessment and diagnosis that prepares them for a wide variety of client concerns. That is what a client should be able to expect when seeking counseling. The ND Board of Counselor Examiners believes that for these populations to be effectively served, counselors employed at institutions of higher education should be licensed by the Board. Removing this exception and requiring these counselors to be licensed will help ensure that the students and faculty at institutions of higher education receive the effective counseling services they need.

Our board chair, Mr. James Pfeifer, states:

Under the exemption, people could practice 'counseling' without meeting any licensure requirements and without any legal oversight. Holding oneself out as a counselor means that they've met strict educational, experiential, and ethical standards and can be reasonably trusted to provide that service skillfully to the public. The exemption grants state-employed entities the right to hold themselves out as a counselor without having to acquire the educational, experiential, and ethical base of knowledge/skill-repertoire. Our responsibility to the public is to ensure that people holding themselves out as counselors are trained and qualified as such; this exemption allowed for people to circumnavigate that, without oversight, and this potentially puts service-recipients at risk.

It is this Board's responsibility to ensure that anyone practicing counseling and using the title of Counselor be able to demonstrate counseling proficiency through the licensure process. This is to protect the public by ensuring all counselors meet state standards to achieve licensure.

Thank you.

Marge Ellefson

Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2111

Introduced by

Human Services Committee

(At the request of the Board of Counselor Examiners)

1 A BILL for an Act to amend and reenact section 43-47-05 of the North Dakota Century Code,
2 relating to licensure exceptions for counseling practice in North Dakota.

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

4 **SECTION 1. AMENDMENT.** Section 43-47-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-47-05. Counseling practice - Exceptions.**

- 7 1. This chapter does not prevent any person licensed by the state from doing work within
8 the standards and ethics of that person's profession, if that person does not represent
9 to the public that the person is a professional counselor or associate professional
10 counselor.
- 11 2. This chapter does not apply to the activities, services, or use of an official title on the
12 part of a person employed as a counselor by any federal, state, or local political
13 subdivision or by a private or public educational institution within the grades of
14 kindergarten through twelfth grade, if the person is performing counseling within the
15 scope of employment.
- 16 3. This chapter does not prevent students or trainees who are enrolled in programs
17 leading to counseling degrees from interning within the limitations set by the rules
18 adopted by the board under chapter 28-32.
- 19 4. This chapter does not prevent a licensed attorney from providing services within the
20 scope of the practice of law.
- 21 5. This chapter does not prevent a member of the clergy of any religious denomination
22 from providing services within the scope of ministerial duties.
- 23 6. This chapter does not prevent the employment of, or volunteering by, individuals in
24 nonprofit agencies or community organizations if these persons do not hold

1 themselves out to the public as professional counselors or associate professional
2 counselors.

5. Establish continuing education requirements for license renewal.
6. Issue provisional or probationary licenses.
7. Establish a code of ethics for the practice of counseling.

43-47-03.1. Authority to appoint or employ.

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

43-47-04. Representation to the public.

Only persons licensed under this chapter may use the title "professional counselor" or "associate professional counselor", or the abbreviations "LPC" or "LAPC". The license issued by the board must be prominently displayed at the principal place of business of the counselor.

43-47-05. Counseling practice - Exceptions.

1. This chapter does not prevent any person licensed by the state from doing work within the standards and ethics of that person's profession, if that person does not represent to the public that the person is a professional counselor or associate professional counselor.
2. This chapter does not apply to the activities, services, or use of an official title on the part of a person employed as a counselor by any federal, state, or local political subdivision or by a private or public educational institution, if the person is performing counseling within the scope of employment.
3. This chapter does not prevent students or trainees who are enrolled in programs leading to counseling degrees from interning within the limitations set by the rules adopted by the board under chapter 28-32.
4. This chapter does not prevent a licensed attorney from providing services within the scope of the practice of law.
5. This chapter does not prevent a member of the clergy of any religious denomination from providing services within the scope of ministerial duties.
6. This chapter does not prevent the employment of, or volunteering by, individuals in nonprofit agencies or community organizations if these persons do not hold themselves out to the public as professional counselors or associate professional counselors.

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

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