

**2017 SENATE HUMAN SERVICES**

**SB 2240**

# 2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee  
Red River Room, State Capitol

SB 2240  
1/24/2017  
Job Number 27277

- Subcommittee  
 Conference Committee

Committee Clerk Signature *Mary Munder*

## Explanation or reason for introduction of bill/resolution:

A bill relating to temporary emergency suspension of marriage and family therapists, and exemptions from licensure for marriage and family therapists.

## Minutes:

Attachment #1

**Chairman J. Lee:** Brought the hearing to order. Sen. Piepkorn was absent.

## In favor of SB 2240:

**Larry Giese, A Licensed Marriage and Family Therapist, administrator for the North Dakota Marriage and Family therapy licensure board: (1:35-3:55) testified in favor of SB 2240. See attachment #1**

**Chairman J. Lee:** NDSU has a doctoral program?

**Larry Giese:** Yes

**Vice Chairman Larsen:** This is the bill that I co-sponsored and I understand the part about the temporary suspension, but I guess what snuck under me is the doctoral program. The person introducing the bill failed to mention that.

**Chairman J. Lee:** We want to make sure the program is recognized.

**Chairman J. Lee:** Closed the public hearing.

**Senator Anderson:** Does this mesh with what the rest of us do?

**Edward Erickson, Assistant Attorney General assigned to work with marriage and family therapy board:** The office of the Attorney General does not take a position one way or the other on this bill. It's the boards and Senator Larsen's bill, not the Attorney General's bill. The language is heavily plagiarized from the law that exists for physicians and for chiropractors. It's been through the courts several times, been upheld for due process.

**Senator Anderson:** You do use the terminology, clear and convincing evidence, and I wondered if that was a higher standard than using preponderance of the evidence.

**Edward Erickson:** I don't have the pharmacy law in front of me. Clear and convincing is more than preponderance of the evidence. We have to have something good to go on, not just a guess or a hunch, we're looking for actual evidence.

**Senator Piepkorn:** Was the client a man?

**Chairman J. Lee:** Is that relevant?

**Senator Piepkorn:** If the therapist was a female are there guidelines in an instance like this where a male sexual offender convicted of rape would be treated by a male therapist rather than a female therapist. Are there any guidelines to regulate that?

**Larry Giese:** When you go to these treatment centers, the therapists are qualified, whether they are male or female when assigned, it is not up to us to regulate that.

**Senator Anderson:** I wouldn't want to go there with this. This is a licensed individual. They treat whoever comes in and we are not going to say it has to be same sex or whatever.

**Vice Chairman Larsen:** As it relates to licensures and revoking licenses, we have so many boards that have this power to revoke a license if they are doing something the board feels they are not supposed to be doing. Is this the only board now that cannot revoke a license to your knowledge or is this just your issue where you are going to move forward with this?

**Larry Giese:** This is one of our issues, we don't know what the other mental health boards are doing as far as this kind of situation.

**Chairman J. Lee:** Any further information we need before acting on this bill?

**Vice Chairman Larsen:** I motion a do pass of 2240.

**Senator Piepkorn:** Second

**Roll Call taken: Motion carries 7 yeas, 0 nays**

**Motion passes: Senator Larsen carries.**

Date: 1/24 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2240

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. Larsen Seconded By Sen Piepkorn

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	Y				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Larsen

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

**REPORT OF STANDING COMMITTEE**

**SB 2240: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS**  
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2240 was placed on the  
Eleventh order on the calendar.

**2017 HOUSE HUMAN SERVICES**

**SB 2240**

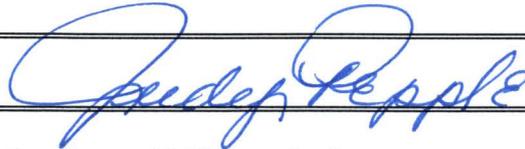
# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

SB 2240  
3/8/2017  
28930

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to exceptions from licensure for marriage and family therapists.

## Minutes:

1,

Chairman Weisz: Called the committee to order.  
Opened the hearing on SB 2240.  
Is there any testimony in support of SB 2240?

Sen. O. Larsen

Introduced SB 2240. This bill is to allow the board to be able to take a license away from someone that needs to be disciplined.

Chairman Weisz: Questions from the committee?

Representative P. Anderson: So this language would copy other boards and how they would be able to take a license away?

Sen. Larson: Yes, it goes along with the social work board or addiction counselor license and how they would remove a license.

Chairman Weisz: Further testimony in support of SB 2240?

Rev. Larry J. Giese, LMFT  
(Attachment 1)

Chairman Weisz: Are there any questions from the committee?

7:23

Chairman Weisz: When I look at the current code, under disciplinary proceedings it says, "a violation of ethical standards of such a nature as to render the licensee unfit to practice, the applicant may be denied a license and the licensee may be suspended or revoked and placed on supervised or unsupervised probation". So why isn't this language enough for the situation that you mentioned?

Rev. Giese: From the language that is in there it is the feeling of the board that once they have a license in hand, a lot of that language is for a person trying to enter the process toward licensure in the first place. Once they have a license in place there is not a lot that the board feels has teeth enough to work with that.

Chairman Weisz: Again it says, "the board may deny an application or institute a disciplinary proceedings concerning their licensee on the following grounds", so that means they are already licensed.

Rev. Giese: That disciplinary process takes time and until there is a settlement in my understanding, they have the ability to work and perform their duties in their scope of practice.

Chairman Weisz: Further questions from the committee?

Representative P. Anderson: This isn't necessarily on this bill. You heard the testimony on reciprocity which we dealt with in the compacts, do you have a similar policy for marriage counselors and family therapists to go back and forth between the states?

Rev. Giese: Yes, we do. That is all in place.

Chairman Weisz: Any further questions from the committee?

Chairman Weisz: Is there further testimony in support of SB 2240.

Edward Erickson, Attorney General's Office and council for the board  
The attorney general is not taking a position on this bill. I am here only to answer questions.

Chairman Weisz: They seem to be of the understanding that they have issue with trying to suspend a license. The current law seems to say that, but they wouldn't have that ability? Or is it just that they couldn't pull it immediately?

E. Erickson: Yes, that is exactly the issue. To have an immediate temporary suspension verses going through all of the legal stages. In the case that we are dealing with we have a man who was convicted of rape in district court. As part of his probation or parole term he was supposed to have counseling in sexual boundary issues. He was assigned to a particular licensed marriage and family therapist who then proceeded to have a physical sexual affair with him. This certainly set back any counseling for him as far as what is appropriate boundaries between men and women jeopardizing his own freedom, but also public safety. The board took action as quickly as they could to investigate once we received the complaint. We went through all of the legal steps, but we were able to settle the case prior to going to an administrative hearing. This is a long drawn out months long process where a person can continue to practice because their license hasn't been taken from them. The board felt that under these circumstances they needed to know what they could do to take someone's license immediately before the hearing. I was familiar with the law regarding physicians and chiropractors and some others which you see here as section 2 of the bill. This is going back to the physician's act which is the most litigated one of these temporary suspensions. This language is taken from that almost word for word except for changing out marriage and family therapist for physician. These cases have been litigated several times through the supreme

court and the statute has been upheld as following due process. We would only be using these when there is a significant risk of serious and ongoing harm to the public. This is certainly a rare situation, but in the case that appeared before the board which was their very first disciplinary complaint, we have such a serious situation that we need to proceed on this. That is the background on this. This allows for the board to immediately suspend someone once we have some verified evidence of this serious risk to the public and it allows the person whose license is being suspended to immediately appeal that decision to the district court, so someone other than the board is taking a look to see if the board acted correctly.

Chairman Weisz: It was pointed out that this took 18 months or something. Why did it take so long? Under this language of course you make sure that you can't drag it out either for the person. So my question in this case is there has to be an administrative hearing within 30 days of the temporary suspension. Correct?

E. Erickson: Yes sir.

Chairman Weisz: Ok then I am just curious, I am not necessarily disagreeing with this part, but why would it take 18 months on the other end before it could have gotten to an administrative hearing?

E. Erickson: It took us a while to verify that the complainant was telling the truth. We also tried to negotiate a settlement. Certainly someone who is claiming this against someone who could have filed a negative complaint about him in the court could be viewed as retaliation. We wanted to verify it and we took some time to do that. We also were in a stage where we offered a settlement negotiation, basically where the person would surrender their license. They obtained an attorney and were fighting that and on the verge of going to the court hearing before the administrative law judge before we reached the agreement. The person may reapply after 5 years.

Chairman Weisz: Further questions from the committee?

Further testimony in support?

Don Larson, American Association of Marriage and Family Therapists  
Our board and the association is fully behind this bill.

Chairman Weisz: further testimony in support?

Chairman Weisz: is there any opposition to SB 2240?

Closed hearing.

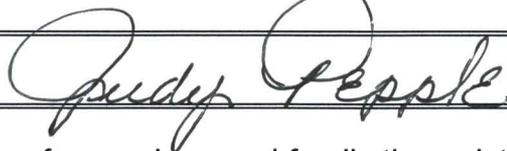
# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

SB 2240  
3/14/2017  
29193

- Subcommittee  
 Conference Committee

Committee Clerk Signature



Relating to exceptions from licensure for marriage and family therapists.

**Minutes:**

Chairman Weisz: opened the discussion on SB 2240

Representative D. Anderson: Motion for a do pass on SB 2240

Representative B. Anderson: Second

Representative Seibel: How many boards have that power? Is that pretty standard?

Chairman Weisz: It is pretty standard. I am not sure if it is universal, but it is pretty consistent with other boards.

Chairman Weisz: Is there further discussion? If not the clerk will call the roll for a do pass on SB 2240.

Roll call vote taken Yes 12 No 0 Absent 2

Chairman Weisz: Motion carried. Do I have a volunteer to carry this one?

Representative D. Anderson: I will carry it.

Chairman Weisz: Thank you. We are adjourned.

Date: 3-14-17  
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2240**

House 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 Rep. D. Anderson Seconded By Rep. B. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	✓	
Vice Chairman Rohr	absent.		Rep. Schneider	✓	
Rep. B. Anderson	✓				
Rep. D. Anderson	✓				
Rep. Damschen	✓				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams	✓				
Rep. Porter	absent.				
Rep. Seibel	✓				
Rep. Skroch	✓				
Rep. Westlind	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. D. Anderson

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

**REPORT OF STANDING COMMITTEE**

**SB 2240: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2240 was placed on the Fourteenth order on the calendar.

**2017 TESTIMONY**

**SB 2240**

Testimony SB 2240 Senate Human Services Committee  
Tuesday, January 24, 2017, 10:15 am

Rev. Larry J. Giese  
3910 Lewis Road NW  
Mandan, ND 58554, District #31, 701-400-8943

TO: Senator Judy Lee, Chair, Senators Oley Larsen, Howard C. Anderson, Jr., David Clemens, Joan Heckaman, Curt Kreun, Merrill Piepkorn

Good morning Chairman Lee and members of the Senate Human Services Committee. I am Larry Giese, a licensed marriage and family therapist (LMFT) and Administrator of the North Dakota Marriage & Family Therapy Board. Today I appear in FAVOR of SB 2240.

The first item is intended to address the creation of a doctoral program in Marriage and Family Therapy at NDSU. At the time the North Dakota Marriage and Family Therapy Licensure Board (NDMFTLB) was created in 2005 legislation, there was only a master's program in North Dakota. In the NDCC 43-53-03. Exemptions, the amendment would allow doctoral students to complete their course of study through the Couple and Family Therapy (CFT) program within the Department of Human Development and Family Science at NDSU. Therapists are supervised by NDSU faculty who are clinical members and approved supervisors of the American Association of Marriage and Family Therapy (AAMFT).

Secondly, is the protection of the public from licensed marriage and family therapists (LMFT) and licensed associate marriage and family therapists (LAMFT) who may pose a threat to public safety and ethics during a disciplinary process. An LMFT was treating a client for sexual boundary issues. The treatment was court-ordered after the client was convicted of rape. This LMFT started a sexual affair with the client, which jeopardized both the client's and the public's safety." From November 2014 through May of 2016 (18 months) there was not much the North Dakota Marriage and Family Therapy Licensure Board (NDMFTLB) could do to protect the public from a licensee that had violated the code of ethics. This inability to temporarily suspend a license through the disciplinary process left the Board in a precarious situation. The time described above was from the initial information of complaint and the Board deeming that there was evidence to investigate the ethics violations to the time of settlement between the licensee and the Board. This is why NDMFTLB seeks the temporary suspension authority, which is modeled after existing laws regarding physicians (NDCC 43-17-32.1) and chiropractors (NDCC 43-06-17.1).

Thank you for your consideration and I would be happy to answer any questions.

att. 1  
SB 2240  
3-8-17

Testimony SB 2240 House Human Services Committee  
Time: Wednesday, March 8, 2017, 2:15 PM

Rev. Larry J. Giese  
3910 Lewis Road NW  
Mandan, ND 58554, District #31, 701-400-8943

TO: Representative Robin Weisz, Chair, and members of the House Human Services Committee

Good afternoon Chairman Weisz and members of the House Human Services Committee. I am Larry Giese, a licensed marriage and family therapist (LMFT) and Administrator of the North Dakota Marriage & Family Therapy Board. Today I appear in FAVOR of SB 2240.

The first item in this bill is intended to address the creation of a doctoral program in Marriage and Family Therapy at NDSU. At the time the North Dakota Marriage and Family Therapy Licensure Board (NDMFTLB) was created in 2005 legislation, there was only a master's program in North Dakota. In the NDCC 43-53-03. Exemptions, the amendment would allow doctoral students to complete their course of study through the Couple and Family Therapy (CFT) program within the Department of Human Development and Family Science at NDSU. Therapists are supervised by NDSU faculty who are clinical members and approved supervisors of the American Association of Marriage and Family Therapy (AAMFT).

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Thank you for your consideration and I would be happy to answer any questions.