

**Sixty-first Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2152  
(Human Services Committee)  
(At the request of the Marriage and Family Therapy Licensure Board)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks; to amend and reenact sections 43-53-01, 43-53-05, 43-53-06, 43-53-07, 43-53-08, 43-53-09, 43-53-10, and 43-53-12 of the North Dakota Century Code, relating to marriage and family therapy licensure and practice; and to provide a penalty.

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

**SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The marriage and family therapy licensure board for applicants, licensees, or investigations under chapter 43-53, except that criminal history record checks need not be made unless required by the board.

**SECTION 2. AMENDMENT.** Section 43-53-01 of the North Dakota Century Code is amended and reenacted as follows:

**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.
- ~~3.~~ 4. "Licensed marriage and family therapist" means an individual who holds a valid license issued under this chapter.
4. 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.
5. 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.
6. 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.

7. ~~8.~~ "Recognized educational institution" means any educational institution that grants a ~~baccalaureate 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.
8. ~~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.

**SECTION 3. AMENDMENT.** Section 43-53-05 of the North Dakota Century Code is amended and reenacted as follows:

**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. ~~Four~~ 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.

**SECTION 4. AMENDMENT.** Section 43-53-06 of the North Dakota Century Code is amended and reenacted as follows:

**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 ~~revoking a license~~ discipline under this chapter; and
  - c. Is qualified for licensure pursuant to the requirements of this chapter.
2. ~~Before~~ An individual who was actively practicing marriage and family therapy in this state before January 1, 2008, an applicant 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. ~~After December 31, 2007, an~~ 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 ~~a national~~ 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.

**SECTION 5. AMENDMENT.** Section 43-53-07 of the North Dakota Century Code is amended and reenacted as follows:

**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.

**SECTION 6. AMENDMENT.** Section 43-53-08 of the North Dakota Century Code is amended and reenacted as follows:

**43-53-08. Reciprocal licenses 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.

**SECTION 7. AMENDMENT.** Section 43-53-09 of the North Dakota Century Code is amended and reenacted as follows:

**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 ~~registration~~ 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.

**SECTION 8. AMENDMENT.** Section 43-53-10 of the North Dakota Century Code is amended and reenacted as follows:

**43-53-10. Disciplinary proceedings.**

1. The board may deny, ~~revoke, or suspend~~ an application or institute a disciplinary proceeding concerning a license granted under this chapter ~~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 ~~shall~~ 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. ~~A license~~ 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 license licensee may not be denied, suspended, or revoked ~~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 fees for any disciplinary matter resulting in disciplinary action.
3. Any person may file a complaint with the board seeking ~~denial, suspension, or revocation~~ discipline of a ~~license issued or to be issued by the board~~ 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 ~~denial, revocation, or suspension~~ discipline of a ~~license 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 ~~denial, suspension, or revocation~~ discipline of a ~~license 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 ~~whose license~~ 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.

**SECTION 9. AMENDMENT.** Section 43-53-12 of the North Dakota Century Code is amended and reenacted as follows:

**43-53-12. Penalty.** Any person who ~~violates~~ practices without a license in violation of this chapter is guilty of a class B misdemeanor.

\_\_\_\_\_  
President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2152.

Senate Vote:      Yeas    45            Nays    0            Absent    2

House Vote:      Yeas    81            Nays    12           Absent    1

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State