

Introduced by

1 A BILL for an Act to create and enact section 43-45-05.1.1 of the North Dakota Century Code,
2 relating to certification of behavioral addiction counselors; to amend and reenact subsection 11
3 of section 25-03.1-02, subsection 2 of section 25-03.1-08, sections 25-03.1-10 and 25-03.1-23,
4 subsection 2 of section 27-20-28, section 31-01-06.3, subdivision d of subsection 1 of section
5 43-12.3-06, sections 43-45-01, 43-45-04, 43-45-05.2, 43-45-06, 43-45-07, 43-45-07.1,
6 43-45-07.2, 43-45-07.3, and 43-45-08, subsection 1 of section 50-25.1-03, and subsection 1 of
7 section 50-25.2-03 of the North Dakota Century Code, relating to the practice and regulation of
8 addiction counseling and behavioral addiction counseling; and to provide a penalty.

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

10 **SECTION 1. AMENDMENT.** Subsection 11 of section 25-03.1-02 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 11. "Mental health professional" means:
- 13 a. A psychologist with at least a master's degree who has been either licensed or
14 approved for exemption by the North Dakota board of psychology examiners.
 - 15 b. A social worker with a master's degree in social work from an accredited
16 program.
 - 17 c. An advanced practice registered nurse.
 - 18 d. A registered nurse with a minimum of two years of psychiatric clinical experience
19 under the supervision of an expert examiner.
 - 20 e. A licensed addiction counselor and a certified behavioral addiction counselor.
 - 21 f. A licensed professional counselor with a master's degree in counseling from an
22 accredited program who has either successfully completed the advanced training
23 beyond the master's degree as required by the national academy of mental

1 health counselors or a minimum of two years of clinical experience in a mental
2 health agency or setting under the supervision of a psychiatrist or psychologist.

3 g. A physician assistant.

4 **SECTION 2. AMENDMENT.** Subsection 2 of section 25-03.1-08 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 2. The petition may be accompanied by any of the following:

7 a. A written statement supporting the petition from a psychiatrist, physician,
8 physician assistant, psychologist, advanced practice registered nurse, ~~or~~
9 addiction counselor, or certified behavioral addiction counselor who is practicing
10 within the professional scope of practice and who has personally examined the
11 respondent within forty-five days of the date of the petition.

12 b. One or more supporting affidavits otherwise corroborating the petition.

13 **SECTION 3. AMENDMENT.** Section 25-03.1-10 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **25-03.1-10. Involuntary treatment - Court-ordered examination.**

16 If the petition is not accompanied by a written supportive statement of a psychiatrist,
17 physician, physician assistant, psychologist, advanced practice registered nurse, ~~or~~ addiction
18 counselor, or behavioral addiction counselor who has examined the respondent within the last
19 forty-five days, the court shall order the respondent to be examined by an expert examiner of
20 the respondent's own choice or one appointed by the court. The order must state the date and
21 time within which the respondent must appear; the address to which the respondent is to report;
22 a statement that if the respondent fails to appear at the appointed place at or before the ordered
23 date and time, the respondent may be involuntarily taken into custody and transported to the
24 appointed place; and a statement that the expert examiner may consult with or request
25 participation in the examination by a qualified mental health professional and may include with
26 the written examination report any findings or observations by that mental health professional.
27 Accompanying the order must be an explanation of the intended uses and possible effects of
28 this examination. The examination may be conducted at a treatment facility, at the respondent's
29 home, or at any other suitable place in the community. A request for examination at the state
30 hospital must be screened and approved by a regional human service center. The respondent
31 may be accompanied by one or more relatives or friends at the place of the examination. The

1 costs of the court-ordered examination must be borne by the county that is the respondent's
2 place of residence.

3 **SECTION 4. AMENDMENT.** Section 25-03.1-23 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **25-03.1-23. Petition for continuing treatment orders.**

6 A petition for an order authorizing continuing treatment must contain a statement setting
7 forth the reasons for the determination that the patient continues to be a person requiring
8 treatment; a statement describing the treatment program provided to the patient and the results
9 of that treatment; and a clinical estimate as to how long further treatment will be required. The
10 petition must be accompanied by a certificate executed by a physician, physician assistant,
11 psychiatrist, psychologist, advanced practice registered nurse, or licensed addiction counselor,
12 or certified behavioral addiction counselor, any of whom is practicing within that individual's
13 professional scope of practice.

14 **SECTION 5. AMENDMENT.** Subsection 2 of section 27-20-28 of the North Dakota Century
15 Code is amended and reenacted as follows:

- 16 2. During the pendency of any proceeding the court:
- 17 a. May order the child to be examined at a suitable place by a physician,
18 psychologist, ~~or certified addiction counselor~~ or behavioral addiction counselor;
 - 19 b. May order the child tested by appropriate forensic methods to determine whether
20 the child has been exposed to a controlled substance or other substance
21 considered injurious to the child's health; or
 - 22 c. May order medical or surgical treatment of a child who is suffering from a serious
23 physical condition or illness, or alcohol or drug abuse, which in the opinion of a
24 licensed physician requires prompt treatment, even if the parent, guardian, or
25 other custodian has not been given notice of a hearing, is not available, or
26 without good cause informs the court of that person's refusal to consent to the
27 treatment.

28 **SECTION 6. AMENDMENT.** Section 31-01-06.3 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **31-01-06.3. Addiction counselor and behavioral addiction counselor - Client privilege**

2 **- Definitions.**

3 As used in sections 31-01-06.3 through 31-01-06.6:

- 4 1. "Client" means a person who consults or is examined or interviewed by a counselor.
- 5 2. "Confidential communication" means a communication ~~which is~~ not intended to be
6 disclosed to third parties, except ~~persons~~an individual present to further the interest of
7 the client in the consultation, examination, or interview, ~~persons~~ an individual
8 reasonably necessary for the transmission of the communication; ~~or persons who~~
9 are an individual participating in the diagnosis and treatment under the direction of the
10 counselor, including members of the client's family.
- 11 3. "Counselor" means an addiction counselor ~~who has been~~ or behavioral addiction
12 counselor who is licensed or certified under chapter 43-45 or who ~~is the client~~
13 reasonably believed ~~by the client so to be~~ was licensed or certified, while engaged in
14 the diagnosis or treatment of a physical, mental, or emotional condition, including
15 alcohol or any addiction.
- 16 4. "Privilege" means the counselor-client privilege authorized under sections 31-01-06.3
17 through 31-01-06.6.

18 **SECTION 7. AMENDMENT.** Subdivision d of subsection 1 of section 43-12.3-06 of the
19 North Dakota Century Code is amended and reenacted as follows:

- 20 d. (1) For a behavioral health professional:
- 21 (a) The loan repayment must be equal to four thousand dollars per year;
- 22 and
- 23 (b) The matching funds must equal ten percent of the amount required in
24 subparagraph a.
- 25 (2) For purposes of this subdivision, a behavioral health professional means an
26 individual who practices in the behavioral health field and is:
- 27 (a) A licensed addiction counselor or certified behavioral addiction
28 counselor;
- 29 (b) A licensed professional counselor;
- 30 (c) A licensed social worker;
- 31 (d) A registered nurse; or

1 (e) A specialty practice registered nurse.

2 **SECTION 8. AMENDMENT.** Section 43-45-01 of the North Dakota Century Code is
3 amended and reenacted as follows:

4 **43-45-01. Definitions.**

5 As used in this chapter, unless the context or subject matter otherwise requires:

6 1. "Addiction counseling" means the provision of counseling or assessment of ~~persons an~~
7 individual regarding ~~their~~the individual's use or abuse of alcohol, tobacco, nicotine, or
8 a controlled substance.

9 2. "Behavioral addiction counseling" means the provision of counseling or assessment of
10 an individual regarding the individual's compulsion to engage in a rewarding activity,
11 such as gambling, sex, or internet use.

12 3. "Board" means the board of addiction counseling examiners.

13 ~~3.4.~~ "Clinical training" means training in addiction counseling, approved by the board.

14 ~~4.5.~~ "Internship" means work experience in a licensed addiction treatment facility under the
15 supervision of a clinical supervisor registered by the board.

16 ~~5.6.~~ "Private practice of addiction counseling" means the independent practice of addiction
17 counseling by a qualified individual who is self-employed on a full-time or part-time
18 basis and is responsible for that independent practice. Consultation services provided
19 to an organization or agency are not the private practice of addiction counseling.

20 **SECTION 9. AMENDMENT.** Section 43-45-04 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-45-04. Board power, duties, and authority.**

23 1. The board shall:

24 a. Administer and enforce the provisions of this chapter.

25 b. Evaluate the qualifications of applicants for a license to practice addiction
26 counseling and issue licenses under this chapter.

27 c. Establish ethical standards of practice for ~~persons an~~individual holding a license
28 to practice addiction counseling in this state.

29 d. Establish continuing education requirements and approve providers of continuing
30 education.

31 e. Approve clinical training programs.

- 1 f. Register clinical trainees.
- 2 g. Register interns.
- 3 h. Register clinical supervisors.
- 4 i. Register licensees for private practice.
- 5 j. Approve and administer examinations.
- 6 k. Periodically evaluate initial licensure coursework requirements and clinical
7 training requirements to ensure the requirements are up to date and do not serve
8 as an undue barrier to licensure.
- 9 l. Evaluate the qualifications of applicants for certification to practice behavioral
10 addiction counseling and issue certificates under this chapter.
- 11 m. Establish ethical standards of practice for an individual certified to practice
12 behavioral addiction counseling in this state.
- 13 2. The board may:
 - 14 a. Adopt rules under chapter 28-32 to implement this chapter.
 - 15 b. Issue subpoenas, examine witnesses, and administer oaths, and may investigate
16 allegations of practices violating the provisions of this chapter.
 - 17 c. Recommend prosecution for violations of this chapter to the appropriate state's
18 attorney.
 - 19 d. Recommend that the attorney general bring civil actions to seek injunctive and
20 other relief against violations of this chapter.
 - 21 e. Collect fees for examinations, initial licensures and certifications, renewal of
22 licenses and certificates, late license and certificate renewals, private practice
23 registrations, renewal of private practice registrations, approval of continuing
24 education providers, and administrative fees. The fees must be established by
25 rule in amounts necessary to compensate the board for administration and
26 enforcement of this chapter.
 - 27 f. Employ persons to assist the board in carrying out its duties under this chapter.

28 **SECTION 10.** Section 43-45-05.1.1 of the North Dakota Century Code is created and
29 enacted as follows:

1 **43-45-05.1.1. Initial certification.**

- 2 1. The board shall certify a qualified applicant as a behavioral addiction counselor. To
3 qualify for certification under this section, an applicant must hold, at a minimum, a
4 baccalaureate degree in a board-approved course of study, such as social work, and
5 must meet additional standards the board establishes by rule. The board may require
6 a qualified certificate holder be certified in behavioral addiction counseling by a
7 nationally recognized entity approved by the board.
8 2. Although a certificate holder may hold concurrent licensure as an addiction counselor,
9 concurrent licensure is not a requirement for certification.

10 **SECTION 11. AMENDMENT.** Section 43-45-05.2 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-45-05.2. Representation to the public.**

- 13 1. A person may not represent to the public ~~that the person is an addiction counselor or~~
14 engage in the practice of addiction counseling in this state unless the person is a
15 ~~licensed~~an addiction counselor licensed under this chapter.
16 2. A person may not represent to the public the person is a behavioral addiction
17 counselor or engage in the practice of behavioral addiction counseling in this state
18 unless the person is a behavioral addiction counselor certified under this chapter.
19 3. The license or certificate, or both license and certificate, issued by the board under the
20 provisions of this chapter must be prominently displayed at the principal place of
21 business where the addiction counselor or behavioral addiction counselor practices.

22 **SECTION 12. AMENDMENT.** Section 43-45-06 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-45-06. Addiction counseling and behavioral addiction counseling practice -**
25 **Exemptions.**

- 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 licensed
28 profession and/or that individual's calling, provided that the person individual does not
29 represent to the public, by title or by use of the initials L.A.C., that the ~~person~~individual
30 is engaging in addiction counseling or behavioral addiction counseling.

- 1 2. ~~Nothing in this~~This chapter may not be construed to prevent addiction counseling
2 trainees or interns in board-approved programs from engaging in addiction counseling
3 related to training.

4 **SECTION 13. AMENDMENT.** Section 43-45-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-45-07. Renewal of license and certificate.**

- 7 1. All licenses and certificates are effective ~~when granted~~on the date of issuance by the
8 board.
- 9 2. All licenses of licensed addiction counselors and certificates of certified behavioral
10 addiction counselors expire on December thirty-first of every odd-numbered year.
- 11 3. A license or certificate issued under this chapter may be renewed by payment of the
12 renewal fee and completion of the continuing education requirements set by the
13 board, ~~provided the.~~ However, to qualify for renewal of a license, an applicant's license
14 ~~is may not be~~ currently revoked ~~or~~and grounds for denial under section 43-45-07.1
15 ~~do may~~ not exist.
- 16 4. At the time of renewal the board shall require each applicant to present satisfactory
17 evidence ~~that~~ the applicant has completed the continuing education requirements
18 specified by the board.
- 19 5. If the board does not receive a completed application for renewal ~~is not received~~ by
20 December first of the odd-numbered year, the board shall charge a late fee ~~will be~~
21 charged.
- 22 6. If the board does not receive the completed application for renewal ~~is not received~~ on
23 or before the expiration date, the license expires and the ~~person~~individual may not
24 practice addiction counseling or the certificate expires and the individual may not
25 practice behavioral addiction counseling. The license or certificate may be renewed
26 within thirty days from the date of expiration of the license or certificate if the
27 completed application for renewal and the late fee are received by the board within
28 thirty days from the date of expiration of the license or certificate.
- 29 7. If a completed application for renewal of license or certificate is not received by the
30 board within thirty days from the date of expiration of the license or certificate, the
31 licensee or certificate holder must reapply for licensure or certification.

- 1 8. The board may extend the renewal deadline for an applicant having proof of medical
2 or other hardship rendering the applicant unable to meet the renewal deadline.

3 **SECTION 14. AMENDMENT.** Section 43-45-07.1 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-45-07.1. Grounds for disciplinary proceedings.**

- 6 1. The board may deny an application, refuse to renew, suspend, revoke, or place on
7 probationary status any license issued under this chapter on proof at a hearing ~~that~~
8 the applicant or holder of the license has engaged in unprofessional conduct.

9 Unprofessional conduct includes:

- 10 4. a. Obtaining an initial license or renewal by means of fraud, misrepresentation, or
11 concealment of material facts.
12 2. b. Violating rules set by the board.
13 3. c. Violating a provision of this chapter.
14 4. d. Violating the professional code of conduct as adopted by the board.
15 5. e. Being adjudged guilty of an offense determined by the board to have a direct
16 bearing on an applicant's or holder of the license's ability to serve the public as
17 an addiction counselor or being adjudged guilty of any offense and being
18 insufficiently rehabilitated as determined by the board under section
19 12.1-33-02.1.
20 2. One year from the date of the revocation, the licenseholder may make application for
21 initial licensure.
22 3. The board may deny an application or refuse to renew a certificate issued under this
23 hearing upon proof at a hearing the applicant or certificate holder obtained the initial
24 certification or a renewal by means of fraud, violated rules set by the board, or violated
25 a provision of this chapter.

26 **SECTION 15. AMENDMENT.** Section 43-45-07.2 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-45-07.2. Reporting obligations.**

- 29 1. A person who has knowledge of any conduct constituting grounds for discipline under
30 this chapter may report the violation to the board.

- 1 2. The hospital, clinic, or other health care institution, facility, or organization shall report
2 to the board any action taken by the hospital, clinic, or other health care facility,
3 institution, or organization to revoke, suspend, restrict, or condition an addiction
4 counselor's or behavioral addiction counselor's privilege to practice or treat patients in
5 the hospital, clinic, or other health care facility or institution, or as part of the
6 organization, any denial of privileges or any other disciplinary action.

7 **SECTION 16. AMENDMENT.** Section 43-45-07.3 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-45-07.3. Complaints - Investigations.**

- 10 1. A person may file a written complaint with the board citing the specific allegations of
11 unprofessional conduct by an addiction counselor or violation of this chapter by a
12 behavioral addiction counselor. The board shall notify the addiction counselor or
13 behavioral addiction counselor of the complaint and request a written response from
14 the addiction counselor or behavioral addiction counselor.
- 15 2. The board may investigate a complaint on its own motion, without requiring the identity
16 of the complainant to be made a matter of public record, if the board concludes that
17 good cause exists for preserving the confidentiality of the complainant.
- 18 3. An addiction counselor or behavioral addiction counselor who is the subject of an
19 investigation by the board shall cooperate fully with the investigation. Cooperation
20 includes responding fully and promptly to any reasonable question raised by or on
21 behalf of the board relating to the subject of the investigation, and providing copies of
22 patient records when reasonably requested by the board and accompanied by the
23 appropriate release.
- 24 4. In order to pursue the investigation, the board ~~has the power to~~ may subpoena and
25 examine witnesses and records, including patient records, and to copy, photograph, or
26 take samples. ~~†~~The board may require the licensed addiction counselor or behavioral
27 addiction counselor to give statements under oath, to submit to a physical or mental
28 examination, or both, by a physician ~~or physicians~~ and other qualified evaluation
29 professionals selected by the board if it appears to be in the best interest of the public
30 that this evaluation be secured. A written request from the board constitutes

1 authorization to release information. The patient records that are released to the board
2 are not public records.

3 5. Unless there is a patient release on file allowing the release of information at the
4 public hearing, all data and information, including patient records, acquired by the
5 board in its investigation are confidential and closed to the public. All board meetings
6 wherein patient testimony or records are taken or reviewed are confidential and closed
7 to the public. If no patient testimony or records are taken or reviewed, the remainder of
8 the meeting is an open meeting unless a specific exemption is otherwise applicable.

9 **SECTION 17. AMENDMENT.** Section 43-45-08 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-45-08. Penalty.**

12 Any person who violates subsection 1 or 2 of section 43-45-05.2 is guilty of a class B
13 misdemeanor.

14 **SECTION 18. AMENDMENT.** Subsection 1 of section 50-25.1-03 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 1. Any physician, nurse, dentist, optometrist, dental hygienist, medical examiner or
17 coroner, or any other medical or mental health professional, religious practitioner of
18 the healing arts, schoolteacher or administrator, school counselor, addiction counselor,
19 behavioral addiction counselor, social worker, child care worker, foster parent, police
20 or law enforcement officer, juvenile court personnel, probation officer, division of
21 juvenile services employee, or member of the clergy having knowledge of or
22 reasonable cause to suspect that a child is abused or neglected, or has died as a
23 result of abuse or neglect, shall report the circumstances to the department if the
24 knowledge or suspicion is derived from information received by that person in that
25 person's official or professional capacity. A member of the clergy, however, is not
26 required to report such circumstances if the knowledge or suspicion is derived from
27 information received in the capacity of spiritual adviser.

28 **SECTION 19. AMENDMENT.** Subsection 1 of section 50-25.2-03 of the North Dakota
29 Century Code is amended and reenacted as follows:

30 1. Any medical or mental health professional or personnel, law enforcement officer,
31 firefighter, member of the clergy, or caregiver having knowledge that a vulnerable adult

1 has been subjected to abuse or neglect, or who observes a vulnerable adult being
2 subjected to conditions or circumstances that reasonably would result in abuse or
3 neglect, shall report the information to the department or the department's designee or
4 to an appropriate law enforcement agency if the knowledge is derived from information
5 received by that person in that person's official or professional capacity. A member of
6 the clergy, however, is not required to report the information if the knowledge is
7 derived from information received in the capacity of spiritual adviser. For purposes of
8 this subsection, "medical or mental health professional or personnel" means a
9 professional or personnel providing health care or services to a vulnerable adult, on a
10 full-time or part-time basis, on an individual basis or at the request of a caregiver, and
11 includes a physician, nurse, medical examiner, coroner, dentist, dental hygienist,
12 optometrist, pharmacist, chiropractor, podiatrist, physical therapist, occupational
13 therapist, addiction counselor, behavioral addiction counselor, counselor, marriage and
14 family therapist, social worker, mental health professional, emergency medical
15 services personnel, hospital personnel, nursing home personnel, congregate care
16 personnel, or any other person providing medical and mental health services to a
17 vulnerable adult.