

SENATE BILL NO. 2293
with House Amendments
SENATE BILL NO. 2293

Sixty-fifth
Legislative Assembly
of North Dakota

Introduced by

Senators Rust, Bekkedahl, Mathern

Representatives B. Anderson, D. Anderson, J. Nelson

1 A BILL for an Act to create and enact sections 43-41-15, 43-41-16, 43-41-17, 43-41-18,
2 43-41-19, 43-41-20, 43-41-21, and 43-41-22 of the North Dakota Century Code, relating to the
3 regulation of social work; to amend and reenact sections 43-41-01, 43-41-02, 43-41-03,
4 43-41-04, 43-41-07, 43-41-08, 43-41-09, 43-41-10, 43-41-12, and 43-14-14 of the North Dakota
5 Century Code, relating to the regulation of social work; to repeal section 43-41-05 of the North
6 Dakota Century Code, relating to private practice of social work; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 43-41-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-41-01. Definitions.**

11 In this chapter, unless the context or subject matter otherwise requires:

- 12 1. "Approved clinical supervisor" means a licensed clinical social worker who has met the
13 qualifications to be a clinical supervisor for licensure as determined by the board.
- 14 2. "Approved provider of continuing education" means a person approved by the board to
15 conduct educational programs.
- 16 3. "Approved social work program" means a school of social work or a social work
17 educational program approved by the board.
- 18 4. "Baccalaureate social worker" means an individual duly licensed to practice
19 baccalaureate social work.
- 20 5. "Board" means the North Dakota board of social work examiners.
- 21 2. ~~"College or university" means an institution of higher education whose social work-~~
22 ~~program has been accredited by an accrediting body approved by the board.~~

- 1 3. ~~"Licensed certified social worker" means an individual who has a doctorate or master's~~
2 ~~degree in social work from a college or university and who has fulfilled the~~
3 ~~requirements for licensure.~~
- 4 4. ~~"Licensed independent clinical social worker" means an individual who has a doctorate~~
5 ~~or master's degree in social work from a college or university and who has fulfilled the~~
6 ~~requirements for licensure or has been registered by the board for third-party~~
7 ~~reimbursement before August 1, 1997.~~
- 8 5. ~~"Licensed social worker" means an individual who has a baccalaureate degree in~~
9 ~~social work from a college or university and who has fulfilled the requirements for~~
10 ~~licensure.~~
- 11 6. "Client" means the individual, couple, family, group, organization, or community that
12 seeks or receives social work services from an individual social worker or an
13 organization regardless of whether the social worker or organization bills or accepts or
14 requests the payment of fees for the services.
- 15 7. "Clinical social worker" means an individual duly licensed to practice clinical social
16 work under this chapter.
- 17 8. "Clinical supervision for licensure" means an interactional professional relationship
18 between an approved clinical supervisor and a social worker which provides
19 evaluation and direction over the supervisee's practice of clinical social work in
20 preparation for the social worker's licensure as a clinical social worker in accordance
21 with the requirements adopted by the board and promotes development of the social
22 worker's knowledge, skills, and abilities to engage in the practice of clinical social work
23 in an ethical and competent manner.
- 24 9. "Continuing education" means education and training oriented to maintain, improve, or
25 enhance competent social work practice.
- 26 10. "Continuing education contact hour" means a fifty-minute clock hour of instruction, not
27 including breaks or meals.
- 28 11. "Consultation" means an advisory professional relationship between a social worker
29 and an individual with particular expertise, with the social worker legally and ethically
30 maintaining responsibility for all judgments and decisions regarding service to the
31 client.

- 1 12. "Convicted" means conviction of a crime by a court of competent jurisdiction and
2 includes a finding or verdict of guilt, regardless of whether the adjudication of guilt is
3 withheld or not entered on admission of guilt, a no contest plea, a plea of nolo
4 contendere, or a guilty plea.
- 5 13. "Counseling" means a method used by a social worker to assist an individual, couple,
6 family, or group in learning how to solve problems and make decisions about personal,
7 health, social, educational, vocational, financial, and other interpersonal concerns.
- 8 14. "Electronic social work services" means the use of a computer, including the internet,
9 social media, online chat, text, and electronic mail, or other electronic means, such as
10 a wireless communications device, landline telephone, or video technology, to provide
11 information to the public, deliver social work services to a client, communicate with a
12 client, manage confidential information and case records, store and access
13 information about clients, and arrange payment for professional services.
- 14 15. "Examination" means a standardized test or examination of social work knowledge,
15 skills, and abilities approved by the board.
- 16 16. "Felony" means a criminal act as defined by this state or any other state or by
17 definition under federal law.
- 18 17. "Final adverse action" means any action taken or order entered by the board, whether
19 through a consent agreement, as the result of a contested hearing, issued through a
20 letter of reprimand, admonition, or warning, or other action against a licensee,
21 applicant, or individual which is public information under applicable law and which
22 impacts the licensure status, or record, practice status or record, or other related
23 practice privileges. The term includes denial of a licensure application, denial of a
24 licensure renewal application, and surrender of licensure. A board action or order is a
25 final adverse action regardless of any pending appeal. To the extent applicable, a final
26 adverse action is intended to encompass any action that requires reporting to state or
27 federal authorities, including the national practitioner data bank.
- 28 18. "Licensee" means an individual duly licensed or registered under this chapter.
- 29 19. "Master's social worker" means an individual duly licensed to practice master's social
30 work.

1 ~~6-20.~~ "Private practice of social work" means the independent practice of social work by a
2 ~~qualified individual licensee within that licensee's scope of practice as described in~~
3 ~~sections 43-41-15, 43-41-16, or 43-41-17, and~~ who is self-employed on a full-time or
4 part-time basis and is responsible for that independent practice. Consultation services
5 provided to an organization or an agency are not considered to be the private practice
6 of social work.

7 ~~7. "Social work practice" consists of the professional application of social work values,~~
8 ~~principles, and techniques in helping people obtain tangible services; counseling;~~
9 ~~psychotherapy with individuals, families, and groups; helping communities or groups to~~
10 ~~improve social and health services; providing social casework; directly supervising~~
11 ~~programs providing social work services; social work education; social work research;~~
12 ~~or any combination of these. The practice of social work requires knowledge of human~~
13 ~~development and behavior, of social, economic, and cultural institutions, and the~~
14 ~~interaction of all these factors.~~

15 21. "Program of continuing education" means an educational program offered by an
16 approved provider of continuing education.

17 22. "Psychotherapy" means the use of treatment methods utilizing a specialized, formal
18 interaction between a clinical social worker and an individual, couple, family, or group
19 in which a therapeutic relationship is established, maintained, and sustained to
20 understand unconscious processes; intrapersonal, interpersonal, and psychosocial
21 dynamics; and the assessment, diagnosis, and treatment of mental, emotional, and
22 behavioral disorders, conditions, and addictions.

23 23. "Social work case management" means a method to plan, provide, evaluate, and
24 monitor services by a licensed social worker from a variety of resources on behalf of
25 and in collaboration with a client.

26 **SECTION 2. AMENDMENT.** Section 43-41-02 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-41-02. Social work practice - Exceptions.**

29 1. Nothing in this chapter may be construed to prevent any person from doing work
30 within the standards and ethics of that person's profession and calling, provided that

- 1 the person does not present to the public, by title or description of services, that the
2 person is engaging in social work practice.
- 3 2. Nothing in this chapter may be construed to prevent students who are enrolled in
4 programs of study leading to social work degrees from interning with a licensed
5 **baccalaureate** social worker, a licensed ~~certified~~**master's** social worker, or a licensed
6 **independent** clinical social worker.
- 7 3. Nothing in this chapter prevents the employment of, or volunteering by, individuals in
8 nonprofit agencies or community organizations provided these persons do not hold
9 themselves out to the public as being social workers.
- 10 4. Nothing in this chapter prevents the employment of social work designees by
11 hospitals, basic care facilities, or skilled nursing facilities, provided these individuals
12 work under the direction of a social worker or social work consultant licensed under
13 this chapter and that the board be notified of the name of the designee's employer and
14 the name of the licensee who is providing direction or consultation to the designees.
15 The board may adopt requirements by rule for licensees providing direction or
16 consultation to designees under this section.
- 17 5. This chapter does not require public or appointed officials or administrators, acting in
18 that capacity, or any other social or human service administrators who do not hold
19 themselves out to the public as social workers, by title or description of services, to be
20 licensed under this chapter.
- 21 6. This chapter does not prevent individuals with master's or doctoral degrees in the field
22 of counseling with specialization in mental health from serving as counselors or
23 therapists in mental health in state institutions or regional human service centers, if
24 they do not hold themselves out to the public as social workers.
- 25 7. In response to a disaster or emergency declared by the governor or other appropriate
26 authority, an individual licensed and in good standing to practice social work in another
27 jurisdiction who is providing social work services within the scope of practice
28 designated by the license and whose professional licenses in all other disciplines are
29 current and in good standing may, upon prior written notice to the board and without
30 otherwise applying for a license, provide services in this state for the time the
31 emergency or disaster declaration is effective. An individual exercising rights under

1 this section is deemed to have submitted to the jurisdiction of the applicable board or
2 state agency and to be bound by the laws of this state in addition to other applicable
3 laws by virtue of licensure status in other states. An individual who has at any time
4 surrendered any professional license under threat of administrative disciplinary
5 sanction or in response to administrative investigation or has any professional license
6 under suspension or revocation or agency order restricting or limiting practice
7 privilege, with the exception of an expired or lapsed license due to voluntary
8 nonrenewal of the license, may not practice under this section.

9 **SECTION 3. AMENDMENT.** Section 43-41-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-41-03. Representation to the public.**

- 12 1. Only those persons licensed to practice under this chapter may represent themselves
13 as a licensed baccalaureate social worker, licensed ~~certified~~master's social worker, or
14 licensed ~~independent~~ clinical social worker.
- 15 2. The license issued by the board under the provisions of this chapter must be
16 prominently displayed at the principal place of business where the social worker
17 practices.

18 **SECTION 4. AMENDMENT.** Section 43-41-04 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **43-41-04. Licenses.**

- 21 1. Except as otherwise provided in this chapter, no person may engage in social work
22 practice in this state unless that person is a licensed baccalaureate social worker, a
23 licensed ~~certified~~master's social worker, or a licensed ~~independent~~ clinical social
24 worker.
- 25 2. ~~The board shall issue a license as a licensed social worker to an applicant who~~To
26 obtain a license to engage in the practice of baccalaureate social work, an applicant
27 for licensure by examination shall submit a written application to the board in the form
28 prescribed by the board and provide evidence satisfactory to the board the applicant:
- 29 a. Has attained the age of majority.
- 30 b. Has a baccalaureate degree in social work from a college or university an
31 approved social work program.

- 1 ~~b-c.~~ Has passed an examination approved by the board for this purpose.
- 2 ~~e-d.~~ Has satisfied the board that within a four-year period the applicant has
- 3 successfully completed three thousand hours of supervised post-master's clinical
- 4 social work experience. The initial one thousand five hundred of the required
- 5 hours must have been under the supervision of a ~~licensed-independent~~ clinical
- 6 social worker, ~~or~~. If the board determines a hardship exists due to geographical
- 7 location, disability, or other factors, the applicant may complete the remaining
- 8 hours under the supervision of other qualified mental health professionals
- 9 approved by the board. The qualified professional must be registered or
- 10 otherwise qualified as a clinical supervisor by the board that licenses the other
- 11 professional. However, if an applicant began that supervised post-master's
- 12 clinical social work experience before August 1, 2009, a ~~licensed-certified-~~
- 13 ~~master's~~ social worker who has two years of experience, a licensed psychologist
- 14 with a doctorate degree, or a licensed psychiatrist may have supervised the
- 15 required hours. The applicant may demonstrate to the board's satisfaction that
- 16 experience in the practice of clinical social work meets or exceeds the minimum
- 17 supervisory requirements of the board.
- 18 ~~d-e.~~ Has satisfied the board that the applicant agrees to adhere to the code of social
- 19 work ethics adopted by the board.
- 20 ~~f.~~ Is of good moral character. As an element of good moral character, the board
- 21 shall consider the information obtained through reports made under section
- 22 43-41-04.2 in licensure decisions to the extent permissible by all applicable laws.
- 23 ~~g.~~ Has paid all applicable fees specified by the board relative to the licensure
- 24 process.

25 **SECTION 5. AMENDMENT.** Section 43-41-07 of the North Dakota Century Code is

26 amended and reenacted as follows:

27 **43-41-07. Qualification for licensure by an applicant licensed in another jurisdiction.**

28 ~~An applicant may be granted a license upon satisfactory proof to the board that the~~

29 ~~applicant is licensed in good standing under the laws of another jurisdiction that imposes~~

30 ~~substantially the same requirements as this chapter.~~ A social worker licensed in another

31 jurisdiction may obtain a license as a social worker by license transfer if the applicant submits a

1 written application in the form prescribed by the board and provides evidence satisfactory to the
2 board the applicant:

3 1. Has attained the age of majority.

4 2. Is of good moral character. As an element of good moral character, the board shall
5 consider the information obtained through reports made under section 43-41-04.2 in
6 licensure decisions to the extent permissible by all applicable laws.

7 3. Has possessed at the time of initial licensure as a social worker all other qualifications
8 necessary to have been eligible for licensure at that time in this state or has
9 possessed at the time of initial licensure as a social worker qualifications the board
10 determines to be substantially similar to those required for licensure in this state. The
11 board may determine an applicant for licensure under this section possesses
12 qualifications or experience in the practice of social work which meet or exceed the
13 minimum requirements for licensure of the board.

14 4. Has proof any social work or any other professional license or other credential granted
15 to the applicant by any other state has not been suspended or revoked or have action
16 pending, or is otherwise restricted for any reason except nonrenewal or for the failure
17 to obtain the required continuing education credits in any state in which the applicant
18 is or has been licensed.

19 5. Has paid the fees specified by the board.

20 **SECTION 6. AMENDMENT.** Section 43-41-08 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-41-08. Board of social work examiners - Qualifications - Appointment - Term of**
23 **office - Compensation.**

24 1. The governor shall appoint the North Dakota board of social work examiners which
25 must consist of six members, two of whom must be, at the time of initial appointment,
26 licensed social workers; one of whom must be, at the time of initial appointment, a
27 licensed certified social worker; one of whom must be, at the time of initial
28 appointment, a licensed independent clinical social worker; and two of whom must be
29 laypersons. Board members must demonstrate no conflict of interest.

30 2. The term of office of each board member must be for three years with two members
31 appointed annually. No member may serve more than two consecutive terms.

- 1 3. The governor may remove any board member for good cause after giving that
2 member a written statement of the reasons for removal and after that member has had
3 an opportunity for a hearing.
- 4 4. ~~Each board member shall serve without compensation but shall~~of the board is entitled
5 to receive as compensation the sum of two hundred dollars per day for each day
6 during which the member is engaged in performance of the official duties of the board,
7 and is entitled to be reimbursed for all reasonable and necessary expenses incurred in
8 connection with the discharge of the official duties as provided in section 54-06-09 and
9 ~~per diem as must be fixed by the board.~~
- 10 5. Board members shall annually elect by a majority vote of the board a chairperson who
11 shall preside at meetings of the board and a vice chairperson who shall preside at
12 meetings of the board in the chairperson's absence. A majority of the members of the
13 board constitutes a quorum.

14 **SECTION 7. AMENDMENT.** Section 43-41-09 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-41-09. Duties and responsibilities of board.**

17 In addition to the duties set forth elsewhere in this chapter, the board shall:

- 18 1. ~~Adopt~~Shall adopt rules to administer and carry out the provisions of this chapter.
- 19 2. ~~Produce~~ Is responsible for the control and regulation of the practice of social work in
20 this state, including the following:
 - 21 a. The licensing by examination or by licensure transfer of applicants who are
22 qualified to engage in the practice of social work under this chapter.
 - 23 b. The renewal of licenses to engage in the practice of social work.
 - 24 c. The establishment and enforcement of compliance with professional standards of
25 practice and rules of conduct of social workers engaged in the practice of social
26 work.
- 27 3. Shall determine and issue standards for recognition and approval of degree programs
28 of schools and colleges of social work of which graduates are eligible for licensure in
29 this state, and the specification and enforcement of requirements for practical training.
- 30 4. Shall enforce the provisions of this chapter relating to the conduct or competence of
31 social workers practicing in this state; investigate any such activities related to the

1 practice or unauthorized practice of social work; and suspend, revoke, or restrict
2 licenses to engage in the practice of social work.

3 5. With probable cause an applicant or licensee has engaged in conduct prohibited by
4 this chapter or a statute or rule enforced by the board, may issue an order directing
5 the applicant or licensee to submit to a mental or physical examination or chemical
6 dependency evaluation. For the purpose of this subsection, every applicant or licensee
7 is deemed to have consented to submit to a mental or physical examination or
8 chemical dependency evaluation if ordered to do so in writing by the board and to
9 have waived all objections to the admissibility of the examiner's or evaluator's
10 testimony or reports on the grounds the testimony or reports constitute a privileged
11 communication.

12 6. With probable cause that an applicant or licensee has engaged in conduct prohibited
13 by this chapter or a statute or rule enforced by the board, may issue an order directing
14 the applicant or licensee to submit to a mental or physical examination or chemical
15 dependency evaluation. For the purpose of this section, every applicant or licensee is
16 deemed to have consented to submit to a mental or physical examination or chemical
17 dependency evaluation if ordered to do so in writing by the board and to have waived
18 all objections to the admissibility of the examiner's or evaluator's testimony or reports
19 on the grounds the testimony or reports constitute a privileged communication.

20 7. Shall collect professional demographic data.

21 8. Shall issue and renew licenses of all individuals engaged in the practice of social work.

22 9. May inspect any licensee at all reasonable hours for the purpose of determining if any
23 provisions of the laws governing the practice of social work are being violated. The
24 board, its officers, inspectors, and representatives shall cooperate with all agencies
25 charged with the enforcement of the laws of the United States, of this state, and of all
26 other states relating to the practice of social work.

27 10. Shall recover its costs in the following circumstances:

28 a. If an order is issued in resolution of a disciplinary proceeding before the board,
29 the board may request the administrative law judge to direct a licensee found as
30 a result of the proceeding to have violated any laws or rules to pay to the board a
31 sum not to exceed the costs of the investigation and fees of the attorneys

- 1 representing the board in the matter. The costs to be assessed must be fixed by
2 the administrative law judge and may not be increased by the board.
- 3 b. If an order for recovery of costs is made and timely payment is not made as
4 directed in the board's decision, the board may enforce the order for payment in
5 the district court of Burleigh County. This right of enforcement is in addition to any
6 other rights the board may have as to any person directed to pay costs. In any
7 action for recovery of costs, proof of the board's decision is conclusive proof of
8 the validity of the order of payment and the terms for payment.
- 9 11. May join professional organizations and associations organized exclusively to promote
10 the improvement of the standards of the practice of social work for the protection of
11 the health and welfare of the public or which provide activities to assist and facilitate
12 the work of the board.
- 13 12. Shall produce an annual list of the names and level of licensure of all persons licensed
14 under this chapter and make the list available upon request.
- 15 ~~3. At its discretion,~~
- 16 13. May employ staff and provide for staff compensation.
- 17 ~~4. Approve~~
- 18 14. Shall approve examinations for licensing social workers.
- 19 ~~5. Establish~~
- 20 15. Shall establish fees and receive all moneys collected under this chapter.
- 21 ~~6. Deposit~~
- 22 16. Shall deposit and disburse all fees and moneys collected by the board in accordance
23 with section 54-44-12.
- 24 ~~7. Recommend~~
- 25 17. May recommend prosecution for violations of this chapter to the appropriate state's
26 attorney. This subsection may not be construed to require the board to recommend
27 prosecution or report violations if the board believes the public's interest will be
28 adequately served in the circumstances by a suitable written notice or warning.
- 29 ~~8. Recommend~~
- 30 18. Shall recommend the attorney general bring civil actions to seek injunctive and other
31 relief against violations of this chapter.

1 9. Establish

2 19. Shall establish continuing education requirements for license renewal.

3 ~~40.~~ Adopt

4 20. Shall adopt a code of social work ethics.

5 21. Shall establish such requirements for supervised practice for licensure or any other
6 experiential program necessary to qualify an applicant for a licensure examination
7 under this chapter and shall determine the qualifications of supervisors for licensure
8 used in supervision programs for licensure.

9 22. Shall require a licensee to enroll in a treatment and monitoring program approved by
10 the board if the board determines in good faith that to do so would be beneficial to the
11 licensee or protect the public. Failure to satisfactorily progress in the treatment and
12 monitoring program must be reported to the board by the treating professional who is
13 immune from any liability for reporting made in good faith. A licensee is deemed to
14 consent to the treating physician or professional of the approved treatment and
15 monitoring program reporting to the board on the progress of the licensee at such
16 intervals the board deems necessary and the person making the report is not liable if
17 the report is made in good faith. The approved treatment program may release
18 treatment information to the board necessary for the board to evaluate the licensee's
19 progress in and the effectiveness of the treatment program.

20 **SECTION 8. AMENDMENT.** Section 43-41-10 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-41-10. Grounds for disciplinary proceedings.**

23 1. The board may deny, refuse to renew, suspend, revoke, reprimand, restrict, or limit the
24 license of, or place on probationary status any license issued under this chapter on
25 proof at a hearing that the applicant or licensed person:

26 4. a. Has engaged in unprofessional, unethical, immoral, improper, or dishonorable
27 conduct as determined by the board.

28 b. Has practiced outside the scope of practice applicable to that individual.

29 c. Has an incapacity or impairment that prevents a licensee from engaging in the
30 practice of social work with reasonable skill, competence, and safety to the
31 public.

- 1 d. Has engaged in any act involving moral turpitude or gross immorality.
- 2 e. Has violated the laws or rules of this state or the laws or rules of any other state
- 3 or of the federal government.
- 4 f. Has misrepresented a material fact in securing or attempting to secure the
- 5 issuance or renewal of a license, or in statements regarding the social worker's
- 6 skills or efficiency or value of any treatment provided or to be provided or has
- 7 used any false, fraudulent, or deceptive statement connected with the practice of
- 8 social work, including false or misleading advertising.
- 9 g. Has engaged in fraud in connection with the practice of social work, including
- 10 engaging in fraudulent billing practices or intentionally or with gross negligence
- 11 violating laws related to fraud.
- 12 h. Has engaged in or aided and abetted an individual to engage in the practice of
- 13 social work without a license, or falsely used the title of social worker.
- 14 i. Has failed to pay the costs assessed in a disciplinary matter under section
- 15 43-41-09 or failed to comply with any stipulation or agreement involving probation
- 16 or settlement of any disciplinary matter with the board or with any order entered
- 17 by the board.
- 18 j. Has been found by the board to be in violation of this chapter or rules adopted
- 19 under this chapter.
- 20 k. Has engaged in conduct that violates the security of any licensure examination
- 21 materials; has removed from the examination room any examination materials
- 22 without authorization; has reproduced by any means without authorization any
- 23 portion of the actual licensing examination; has aided by any means the
- 24 unauthorized reproduction of any portion of the actual licensing examination; has
- 25 paid or used professional or paid examination takers for the purpose of
- 26 reconstructing any portion of the licensing examination; has obtained
- 27 examination questions or other examination material, except by specific
- 28 authorization either before, during, or after an examination; has used or
- 29 purported to use any examination questions or materials improperly removed or
- 30 taken from any examination; or has sold, distributed, bought, received, or had

- 1 unauthorized possession of any portion of a future, current, or previously
2 administered licensing examination.
- 3 l. Has communicated improperly with any other examinee during the administration
4 of a licensing examination; has copied answers from another examinee or
5 permitted answers to be copied by another examinee; has in possession during
6 the administration of the licensing examination any books, equipment, notes,
7 written or printed materials, or data of any kind, other than the examination
8 materials distributed, or otherwise authorized to be in possession during the
9 examination; or has impersonated any examinee or has caused an impersonator
10 to take the licensing examination on the individual's behalf.
- 11 m. Has been the subject of the revocation, suspension, surrender, or other
12 disciplinary sanction of a social work or related license or of other adverse action
13 related to a social work or related license in another jurisdiction or country or has
14 failed to report such adverse action to the board.
- 15 n. Has been adjudicated by a court of competent jurisdiction, within or without this
16 state, as incapacitated, mentally incompetent or mentally ill, chemically
17 dependent, or mentally ill and dangerous to the public.
- 18 o. Has failed to make a report to the board as required under section 43-41-21.
- 19 p. Has been convicted of an offense determined by the board to have a direct
20 bearing upon that individual's ability to practice social work or is not sufficiently
21 rehabilitated as determined by the board in accordance with section
22 12.1-33-02.1.
- 23 ~~2.~~ q. Is addicted to the habitual use of alcoholic beverages, narcotics, or stimulants to
24 such an extent as to incapacitate that individual from the other addictive
25 substances that impair the social worker's ability to practice of social work.
- 26 ~~3.~~ r. Has been grossly negligent in the practice of social work.
- 27 ~~4.~~ s. Has violated one or more of the rules and regulations of the board.
- 28 ~~5.~~ t. Has violated the code of social work ethics adopted by the board.
- 29 ~~6-2.~~ In order to pursue the investigation, the board may subpoena and examine witnesses
30 and records, including client records, and copy, photograph, or take samples. The
31 board may require a licensed social worker to give statements under oath and to

1 submit to a physical or mental examination, or both, by a physician or physicians and
2 other qualified evaluation professionals selected by the board if it appears to be in the
3 best interests of the public that an evaluation be secured. A written request from the
4 board constitutes authorization to release information. Absent a client release on file
5 allowing the release of information, all client records released to the board are
6 confidential and are not public records.

7 7.3. Unless there is a client release on file allowing the release of information at the public
8 hearing, client and juvenile records introduced or client and juvenile testimony of a
9 personal nature taken at a public hearing is confidential and closed to the public. The
10 portions of board meetings at which client and juvenile testimony or records are taken
11 or reviewed are confidential and closed to the public. If no client or juvenile testimony
12 or records are taken or reviewed, the remainder of the meeting is an open meeting
13 unless a specific exemption is otherwise applicable.

14 **SECTION 9. AMENDMENT.** Section 43-41-12 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-41-12. Renewal of licenses.**

- 17 1. All licenses are effective when granted by the board.
- 18 2. All licenses of licensed baccalaureate social workers, licensed ~~certified~~ master's social
19 workers, and licensed ~~independent~~ clinical social workers expire on
20 December thirty-first of every odd-numbered year.
- 21 3. A license may be renewed by payment of the renewal fee and completion of the
22 continuing education requirements set by the board, provided the applicant's license is
23 not currently revoked or grounds for denial under section 43-41-10 do not exist.
- 24 4. If the application for renewal is not received on or before the expiration date, the
25 license expires and the person may not practice social work until a new application is
26 made and a license is granted by the board.
- 27 5. At the time of renewal the board shall require each applicant to present satisfactory
28 evidence that the applicant has completed the continuing education requirements
29 specified by the board.

1 6. If a license has not been renewed as a result of nonpayment of the renewal fee or the
2 failure of the licensee to present satisfactory evidence of completion of the continuing
3 education requirements, the licensee must reapply for licensure.

4 7. The board may extend the renewal deadline for an applicant having proof of medical
5 or other hardship rendering the applicant unable to meet the renewal deadline.

6 **SECTION 10. AMENDMENT.** Section 43-41-14 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-41-14. Penalty.**

9 1. Any person ~~who~~that violates subsection 1 of section 43-41-04 is guilty of a class B
10 misdemeanor.

11 2. Any individual who, after hearing, is found to have unlawfully engaged in the practice
12 of social work by holding themselves out as a social worker and practicing within the
13 scope of practice of a licensed social worker is subject to a civil fine to be imposed by
14 the board not to exceed two thousand five hundred dollars for each violation in
15 addition to the costs involved in investigating the matter and collecting the fee, plus
16 any additional legal and attorney's fees. The hearing must be held before the office of
17 administrative hearings acting on behalf of the board under chapter 28-32. The
18 administrative law judge shall make a final decision. The final decision may be
19 appealed to the district court under chapter 28-32.

20 **SECTION 11.** Section 43-41-15 of the North Dakota Century Code is created and enacted
21 as follows:

22 **43-41-15. Baccalaureate social work - Scope of practice.**

23 The practice of baccalaureate social work is the application of social work theory,
24 knowledge, methods, ethics, and the professional use of self to restore or enhance social,
25 psychosocial, or biopsychosocial functioning of individuals, couples, families, groups,
26 organizations, and communities. Baccalaureate social work is generalist practice that includes
27 assessment, treatment planning, implementation, intervention, evaluation, research, social work
28 case management, information and referral, counseling, supervision, consultation, education,
29 advocacy, community organization, and the development, implementation, and administration of
30 policies, programs, and activities.

1 **SECTION 12.** Section 43-41-16 of the North Dakota Century Code is created and enacted
2 as follows:

3 **43-41-16. Master's social work - Scope of practice.**

4 The practice of master's social work is the application of social work theory, knowledge,
5 methods, and ethics, and the professional use of self to restore or enhance social,
6 psychosocial, or biopsychosocial functioning of individuals, couples, families, groups,
7 organizations, and communities. Master's social work practice includes the application of
8 specialized knowledge and advanced practice skills in the areas of assessment, treatment
9 planning, implementation, intervention, evaluation, social work case management information
10 and referral, counseling, supervision, consultation, education, research, advocacy, community
11 organization, and the development, implementation, and administration of policies, programs,
12 and activities. Under the supervision of a clinical social worker, the practice of master's social
13 work may include the practices reserved to clinical social workers.

14 **SECTION 13.** Section 43-41-17 of the North Dakota Century Code is created and enacted
15 as follows:

16 **43-41-17. Clinical social work - Scope of practice.**

17 The practice of clinical social work is the application of social work theory, knowledge,
18 methods, and ethics and the professional use of self to restore or enhance social, psychosocial,
19 or biopsychosocial functioning of individuals, couples, families, groups, organizations, and
20 communities. The practice of clinical social work requires the application of specialized clinical
21 knowledge and advanced clinical skills in the areas of assessment, treatment planning,
22 implementation and evaluation, social work case management information and referral,
23 counseling, supervision, consultation, education, research, advocacy, community organization,
24 the development, implementation, intervention, and administration of policies, programs, and
25 activities, and the diagnosis and treatment of mental, emotional, and behavioral disorders,
26 conditions, and addictions. Treatment methods include the provision of individual, marital,
27 couple, family and group counseling, and psychotherapy. The practice of clinical social work
28 may include the provision of clinical supervision.

29 **SECTION 14.** Section 43-41-18 of the North Dakota Century Code is created and enacted
30 as follows:

1 **43-41-18. Electronic social work services.**

2 1. The practice of social work in this state through electronic social work services or other
3 means, regardless of the location of the practitioner, constitutes the practice of social
4 work and is subject to this chapter.

5 2. The practice of social work by a practitioner in this jurisdiction through electronic social
6 work services or other means, regardless of the location of the client, constitutes the
7 practice of social work and is subject to this chapter.

8 3. A social worker providing electronic social work services shall take all necessary
9 measures to ensure compliance with relevant practice standards.

10 **SECTION 15.** Section 43-41-19 of the North Dakota Century Code is created and enacted
11 as follows:

12 **43-41-19. Applicability of terms.**

13 1. Except as otherwise provided in this chapter, reference to the practice of social work is
14 applicable to the practice of baccalaureate social work, master's social work, and
15 clinical social work.

16 2. Except as otherwise provided in this chapter, reference to the term social work
17 includes baccalaureate social work, master's social work, and clinical social work.

18 **SECTION 16.** Section 43-41-20 of the North Dakota Century Code is created and enacted
19 as follows:

20 **43-41-20. Permission to report and immunity.**

21 An individual who has knowledge of any conduct by an applicant or a licensee which may
22 constitute grounds for disciplinary action under this chapter or the rules of the board or of any
23 unlicensed practice under this chapter may report the violation to the board. An individual is
24 immune from civil liability or criminal prosecution for submitting in good faith a report under this
25 chapter or for otherwise reporting, providing information, or testifying about violations or alleged
26 violations of this chapter.

27 **SECTION 17.** Section 43-41-21 of the North Dakota Century Code is created and enacted
28 as follows:

29 **43-41-21. Duty to report and immunity.**

30 A social worker who has substantial evidence a licensee has an active addictive disease for
31 which the licensee is not receiving treatment under a program approved by the board under an

1 agreement entered under this section, is diverting a controlled substance, or is mentally or
2 physically incompetent to carry out the duties of the license, shall report the evidence to the
3 board. An individual who reports under this section in good faith and without malice is immune
4 from any civil or criminal liability arising from the report. Failure to provide a report within a
5 reasonable time from receipt of knowledge may be considered grounds for disciplinary action
6 against the licensee failing to report.

7 **SECTION 18.** Section 43-41-22 of the North Dakota Century Code is created and enacted
8 as follows:

9 **43-41-22. Temporary suspension - Appeal.**

- 10 1. If, based on verified evidence, the board determines by a clear and convincing
11 standard the evidence presented to the board indicates the continued practice by the
12 licensee would create a significant risk of serious and ongoing harm to the public while
13 a disciplinary proceeding is pending, and immediate suspension of the licensee's
14 license is required to reasonably protect the public from that risk of harm, the board
15 may order a temporary suspension ex parte. For purposes of this section, "verified
16 evidence" means testimony taken under oath and based on personal knowledge. The
17 board shall give prompt written notice of the suspension to the licensee, which must
18 include a copy of the order and complaint, the date set for a full hearing, and a specific
19 description of the nature of the evidence, including a list of all known witnesses and a
20 description of any documents relied upon by the board in ordering the temporary
21 suspension which, upon request, must be made available to the social worker.
- 22 2. An ex parte temporary suspension remains in effect until a final order is issued after a
23 full hearing or appeal under this section or until the suspension is otherwise terminated
24 by the board.
- 25 3. The board shall conduct a hearing on the merits of the allegations to determine what
26 disciplinary action, if any, must be taken against the licensee who is the subject of the
27 ex parte suspension. That hearing must be held not later than thirty days from the
28 issuance of the ex parte temporary suspension order. The licensee is entitled to a
29 continuance of the thirty-day period upon request for a period determined by the
30 hearing officer.

- 1 4. The licensee may appeal the ex parte temporary suspension order before the full
2 hearing. For purposes of appeal, the district court shall decide whether the board
3 acted reasonably or arbitrarily. The court shall give priority to the appeal for prompt
4 disposition.
- 5 5. A progress note of a client, or other document containing personal information as
6 defined in section 44-04-18.1 relating to a patient, which is obtained by the board is an
7 exempt record as defined under section 44-04-17.1.
- 8 **SECTION 19. REPEAL.** Section 43-41-05 of the North Dakota Century Code is repealed.