Sixty-fifth Legislative Assembly of North Dakota

SENATE BILL NO. 2088

Introduced by

Senators Anderson, J. Lee

Representatives Seibel, Westlind

- 1 A BILL for an Act to amend and reenact sections 43-45-01, 43-45-02, 43-45-03, 43-45-04,
- 2 43-45-05, 43-45-05.1, 43-45-05.2, 43-45-05.3, 43-45-05.4, 43-45-06, 43-45-07, 43-45-07.1,
- 3 43-45-07.2, and 43-45-07.3 of the North Dakota Century Code, relating to the scope of practice
- 4 for addiction counselors and the licensure authority of the board of addiction counseling
- 5 examiners.

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

- SECTION 1. AMENDMENT. Section 43-45-01 of the North Dakota Century Code is
 amended and reenacted as follows:
- 9 **43-45-01. Definitions.**
- As used in this chapter, unless the context or subject matter otherwise requires:
- 1. "Addiction counseling" means the provision of counseling or assessment of
 personsindividuals regarding their use:
- 13 <u>a. Use or abuse of tobacco, nicotine, alcohol, or a controlled other harmful</u>
 14 substance; or
- b. Gambling, or other behavior identified by the board by rule which like gambling,
- produces some behavioral symptoms that appear comparable to those produced
- by the substance use disorders, as provided under the "Diagnostic and Statistical"

activates reward systems similar to those activated by drugs of abuse and

- 19 <u>Manual of Mental Disorders" (5th edition, text revision; American psychiatric</u>
- 20 <u>association, 2010)</u>.
- 2. "Board" means the board of addiction counseling examiners.
- 22 3. "Clinical training" means training in addiction counseling, approved by the board.
- 4. "Internship" means work experience in a licensed addiction treatment facility under the supervision of a clinical supervisor registered by the board.

1 "Licensee" means an individual licensed by the board to practice addiction counseling. 2 "Private practice of addiction counseling" means the independent practice of addiction <u>6.</u> 3 counseling by a qualified individual who is self-employed on a full-time or part-time 4 basis and is responsible for that independent practice. Consultation services provided 5 to an organization or agency are not the private practice of addiction counseling. 6 **SECTION 2. AMENDMENT.** Section 43-45-02 of the North Dakota Century Code is 7 amended and reenacted as follows: 8 43-45-02. Board of addiction counseling examiners - Composition. 9 The governor shall appoint a seven-member board of addiction counseling examiners. The 10 members shallmembership must include: 11 Five members who are licensed addiction counselors licensees actively engaged in the 12 practice of addiction counseling, one of whom must be actively engaged in the private 13 practice of addiction counseling. 14 Two members who are laypersons. 15 SECTION 3. AMENDMENT. Section 43-45-03 of the North Dakota Century Code is 16 amended and reenacted as follows: 17 43-45-03. Board member terms. 18 The governor shall appoint new board members. Appointments must be for three-year 19 terms, but no personan individual may not be appointed to serve for more than two consecutive 20 terms. Terms begin on the first day of the calendar year and end on the last day of the calendar 21 year or until successors are appointed. 22 SECTION 4. AMENDMENT. Section 43-45-04 of the North Dakota Century Code is 23 amended and reenacted as follows: 24 43-45-04. Board power, duties, and authority. 25 1. The board shall: 26 Administer and enforce the provisions of this chapter. a. 27 b. Evaluate the qualifications of applicants for a license to practice addiction 28 counseling and issue addiction counselor and masters addiction counselor 29 licenses under this chapter. 30 Establish ethical standards of practice for persons holding a licensea licensee to

practice addiction counseling in this state.

1 Establish continuing education requirements and approve providers of continuing 2 education. 3 e. Approve clinical training programs. 4 f. Register clinical trainees and addiction counselor trainees. 5 Register interns. g. 6 h. Register clinical supervisors. 7 Register licensees for private practice. i. 8 Approve and administer examinations. j. 9 Periodically evaluate initial licensure coursework requirements and clinical k. 10 training requirements to ensure the requirements are up to date and do not serve 11 as an undue barrier to licensure. 12 2. The board may: 13 Adopt rules under chapter 28-32 to implement this chapter. 14 Issue subpoenas, examine witnesses, and administer oaths, and may investigate b. 15 allegations of practices violating the provisions of this chapter. 16 Recommend prosecution for violations of this chapter to the appropriate state's C. 17 attorney. 18 d. Recommend that the attorney general bring civil actions to seek injunctive and 19 other relief against violations of this chapter. 20 Collect fees for examinations, initial licensures, renewal of licenses, late e. 21 renewals, private practice registrations, renewal of private practice registrations, 22 approval of continuing education providers, and administrative fees. The fees 23 must be established by rule in amounts necessary to compensate the board for 24 administration and enforcement of this chapter. 25 Employ persons to assist the board in carrying out its the board's duties under this 26 chapter. 27 **SECTION 5. AMENDMENT.** Section 43-45-05 of the North Dakota Century Code is 28 amended and reenacted as follows: 29 43-45-05. Board meetings. 30 The board shall meet at least quarterly. A majority of the members constitute a 31 quorum.

1	2.	Each board member shall serve without compensation but shall is entitled to receive			
2		expenses as provided in section 54-06-09.			
3	SECTION 6. AMENDMENT. Section 43-45-05.1 of the North Dakota Century Code is				
4	amended and reenacted as follows:				
5	43-45-05.1. Initial licenses.				
6	1.	The board shall issue an initial license as an addiction counselor or masters addiction			
7		counselor to an applicant who has met all of the following requirements:			
8		a. Has successfully completed coursework, approved by the board, at an accredited			
9		college or university.			
10		b. Has successfully completed one or more oral or written examinations approved			
11		by the board for this purpose.			
12		c. Has successfully completed a clinical training program approved by the board or			
13		accumulated experience as established by the board by rule.			
14		d. Has satisfied the board that the applicant agrees to adhere to the code of			
15		professional conduct adopted by the board.			
16	2.	The board may grant reciprocity, issue a license on such the terms and conditions as it			
17		may determinethe board determines necessary, to an applicant for licensure who is in			
18		good standing as ais licensed, approved, or certified addiction counselorto perform			
19		addiction counseling under the laws of another jurisdiction that imposes at least			
20		substantially the same requirements that are imposed under this chapter.			
21	3.	AnIf an applicant who is denied licensure must be notified, the board shall notify that			
22		applicant in writing of the reasons for denial and of the right to a hearing before the			
23		board, under chapter 28-32, if a hearing is requested within thirty days.			
24	SECTION 7. AMENDMENT. Section 43-45-05.2 of the North Dakota Century Code is				
25	amended and reenacted as follows:				
26	43-45-05.2. Representation to the public.				
27	1.	A person may not represent to the public that the person is an addiction counselor $\underline{\text{or a}}$			
28		masters addiction counselor or engage in the practice of addiction counseling in this			
29		state unless the person is a licensed addiction counselor <u>licensee</u> .			

amended and reenacted as follows:

1	2.	The	license issued by the board under the provisions of this chapter must be		
2		pror	minently displayed at the principal place of business where the addiction-		
3		cou	nselor <u>licensee</u> practices.		
4	SECTION 8. AMENDMENT. Section 43-45-05.3 of the North Dakota Century Code is				
5	amended and reenacted as follows:				
6	43-45-05.3. Private practice of addiction counseling.				
7	A person may not engage in the private practice of addiction counseling unless that person				
8	is an individual registered with the board as eligible for private practice under criteria				
9	established by board rule.				
10	SECTION 9. AMENDMENT. Section 43-45-05.4 of the North Dakota Century Code is				
11	amended and reenacted as follows:				
12	43-45-05.4. Addiction counseling internship - Loan program - Revolving fund -				
13	Continuing appropriation.				
14	1.	a.	The Bank of North Dakota shall develop and implement a program under which		
15			loans may be provided to qualified individuals participating in a paid or unpaid		
16			internship at a licensed substance abuse treatment facility in this state, in order to		
17			obtain licensure as an addiction counselorby the board.		
18		b.	The Bank of North Dakota shall determine all terms applicable to the time and		
19			manner in which loans made under this section must be repaid.		
20		C.	Interest on outstanding loans under this section must accrue at the Bank of North		
21			Dakota's current base rate, but may not exceed six percent per annum.		
22		d.	The maximum loan for which an applicant may qualify under this section is seven		
23			thousand five hundred dollars.		
24		e.	This subsection is applicable only to individuals beginning an internship after		
25			June 30, 2015.		
26	2.	The	Bank of North Dakota shall maintain a revolving loan fund for the purpose of		
27		mak	king loans under this section. All moneys transferred into the fund, interest upon		
28	moneys in the fund, and payments to the fund of principal and interest on loans under				
29		this	section are appropriated to the Bank on a continuing basis.		
30	SECTION 10. AMENDMENT. Section 43-45-06 of the North Dakota Century Code is				

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1 43-45-06. Addiction counseling practice - Exemptions.

- 1. Nothing in this This chapter may not be construed to prevent any personan individual from doing work within the standards and ethics of that person's individual's profession and calling, provided if that the person individual does not represent to the public, by title or by use of the initials L.A.C. or M.A.C., that the person individual is engaging in addiction counseling.
 - Nothing in this This chapter may not be construed to prevent addiction counseling trainees or interns in board-approved programs from engaging in addiction counseling related to training.
- 10 **SECTION 11. AMENDMENT.** Section 43-45-07 of the North Dakota Century Code is amended and reenacted as follows:

12 **43-45-07**. Renewal of license.

- 1. All licenses are effective when granted by the board.
- All licenses of licensed addiction counselors issued by the board expire on December
 thirty-first of every odd-numbered year.
 - A license may be renewed by payment of the renewal fee and completion of the continuing education requirements set by the board, provided the applicant's license is not currently revoked or grounds for denial under section 43-45-07.1 do not exist.
 - 4. At the time of renewal the board shall require each applicant to present satisfactory evidence that the applicant has completed the continuing education requirements specified by the board.
 - If the completed application for renewal is not received by December first of the odd-numbered year, a late fee will be charged.
- 6. If the completed application for renewal is not received on or before the expiration
 date, the license expires and the personindividual may not practice addiction
 counseling. The license may be renewed within thirty days from the date of expiration
 of the license if the completed application for renewal and the late fee are received
 within thirty days from the date of expiration of the license.
 - 7. If a completed application for renewal of license is not received within thirty days from the date of expiration of the license, <u>relicensure requires</u> the <u>licensee mustformer</u> <u>licenseholder to</u> reapply for licensure.

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- 1 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 12. AMENDMENT. Section 43-45-07.1 of the North Dakota Century Code is 4 amended and reenacted as follows:

43-45-07.1. Grounds for disciplinary proceedings.

- 6 The board may deny an application, and may refuse to renew, suspend, revoke, or 7 place on probationary status any license issued under this chapter on proof at a 8 hearing that the applicant or holder of the license has engaged in unprofessional 9 conduct. Unprofessional conduct includes:
- 10 1. Obtaining an initial license or renewal by means of fraud, misrepresentation, or concealment of material facts.
- 12 2. <u>b.</u> Violating rules set by the board.
- 13 3. Violating a provision of this chapter. C.
- 14 4. Violating the professional code of conduct as adopted by the board. d.
- 15 5. <u>e.</u> 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 provide 17 addiction counseling to the public as an addiction counselora licensee or being 18 adjudged guilty of any offense and being insufficiently rehabilitated as determined 19 by the board under section 12.1-33-02.1.
 - <u>2.</u> One year from the date of the revocation, thea former licenseholder may make application for initial licensure.
 - SECTION 13. AMENDMENT. Section 43-45-07.2 of the North Dakota Century Code is amended and reenacted as follows:

43-45-07.2. Reporting obligations.

- A person who has with knowledge of any conduct constituting grounds for discipline under this chapter may report the violation to the board.
- 2. The hospital, clinic, or other health care institution, facility, institution, or organization shall report to the board any action taken by the hospital, clinic, or other health care facility, institution, or organization to revoke, suspend, restrict, or condition anaddiction counselor's a licensee's privilege to practice or treat patients in the hospital,

1 clinic, or other health care facility or institution, or as part of the organization, any 2 denial of privileges or any other disciplinary action.

SECTION 14. AMENDMENT. Section 43-45-07.3 of the North Dakota Century Code is amended and reenacted as follows:

43-45-07.3. Complaints - Investigations.

- A person may file a written complaint with the board citing the specific allegations of unprofessional conduct by an addiction counselora licensee. The board shall notify the addiction counselorlicensee of the complaint and request a written response from the addiction counselorlicensee.
- 2. The board may investigate a complaint on its own motion, without requiring the identity of the complainant to be made a matter of public record, if the board concludes that good cause exists for preserving the confidentiality of the complainant.
- 3. An addiction counselor A licensee who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation, and providing copies of patient records when reasonably requested by the board and accompanied by the appropriate release.
- 4. In order to pursue the investigation, the board has the power tomay subpoena and examine witnesses and records, including patient records, and to copy, photograph, or take samples. It The board may require the licensed addiction counselorlicensee to give statements under oath, to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interest of the public that this evaluation be secured. A written request from the board constitutes authorization to release information. The patient records that are released to the board are not public records.
- 5. Unless there is a patient release on file allowing the release of information at the public hearing, all data and information, including patient records, acquired by the board in its the board's investigation are confidential and closed to the public. All board meetings wherein at which patient testimony or records are taken or reviewed are confidential and closed to the public. If no patient testimony or records are taken or

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- 1 reviewed, the remainder of the meeting is an open meeting unless a specific
- 2 exemption is otherwise applicable.