

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2240
(Senator O. Larsen)

AN ACT to create and enact a new section to chapter 43-53 of the North Dakota Century Code, relating to temporary emergency suspension of marriage and family therapists; and to amend and reenact section 43-53-03 of the North Dakota Century Code, relating to exceptions from licensure for marriage and family therapists.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-53-03 of the North Dakota Century Code is amended and reenacted as follows:

43-53-03. Exemptions.

1. An individual is exempt from the requirements of this chapter if:
 - a. The individual is practicing marriage and family therapy as part of that individual's duties as an employee of a recognized academic institution or a governmental institution or agency while performing those duties for which the individual is employed by such a facility, institution, or agency.
 - b. The individual is a marriage and family therapy intern or individual preparing for the practice of marriage and family therapy under qualified supervision in a training institution or facility or supervisory arrangement recognized and approved by the board if:
 - (1) The individual is a student in a master's or doctorate program of marriage and family therapy; and
 - (2) The individual is designated by a title such as "marriage and family therapy intern", "marriage therapy intern", "family therapy intern", or other title clearly indicating such training status.
 - c. The individual is a member of the clergy of any religious denomination and providing services within the scope of ministerial duties.
 - d. The individual is a volunteer for or is employed by a nonprofit agency or community organization and the individual does not hold out to the public that the individual is a licensed marriage and family therapist.
2. This chapter does not prevent any person licensed by the state from doing work within the standards and scope of practice of that person's profession, including the practice and advertising of marriage and family therapy services.

SECTION 2. A new section to chapter 43-53 of the North Dakota Century Code is created and enacted as follows:

Temporary suspension - Appeal.

1. If, based on verified evidence, the board determines by a clear and convincing standard that the evidence presented to the board indicates the continued practice by a licensed marriage and family therapist or an associate marriage and family therapist would create significant risk of serious and ongoing harm to the public while a disciplinary proceeding is pending, and that immediate suspension of the licensed marriage and family therapist's license or the associate

marriage and family therapist's license is required to reasonably protect the public from this risk of harm, the board may order a temporary suspension ex parte.

- a. For purposes of this section, "verified evidence" means testimony taken under oath and based on personal knowledge.
 - b. The board shall give prompt written notice of the suspension to the licensed marriage and family therapist or associate marriage and family therapist which must include a copy of the order and complaint, the date set for a full hearing, and, upon request, a specific description of the nature of the evidence, including a list of all known witnesses.
 - c. The board shall make available to the licensed marriage and family therapist or associate marriage and family therapist a specific description of any documents relied upon by the board in ordering the temporary suspension.
2. An ex parte suspension remains in effect until a final order is issued after an administrative hearing or appeal to the district court under this section or until the suspension is otherwise terminated by the board.
 3. The board shall conduct an administrative hearing on the merits of the allegations to determine what disciplinary action, if any, will be taken against the licensed marriage and family therapist or associate marriage and family therapist who is the subject of the ex parte suspension. The administrative hearing must be held not later than thirty days from the issuance of the ex parte temporary suspension order. The licensed marriage and family therapist or associate marriage and family therapist is entitled to a continuance of the thirty-day period upon request for a period determined by the hearing officer.
 4. The licensed marriage and family therapist or associate marriage and family therapist may appeal the ex parte temporary suspension order to the district court. On appeal, the district court shall decide whether the board acted reasonably or arbitrarily. The district court shall give priority to the appeal for prompt disposition.
 5. Any medical record of a patient, or other document containing personal information about a patient, which is obtained by the board is an exempt record.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2240.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State