

SENATE BILL NO. 2161

Introduced by

Industry, Business and Labor Committee

(At the request of the Board of Dental Examiners)

1 A BILL for an Act to amend and reenact section 43-20-02, subsection 2 of section 43-20-03,
2 sections 43-20-06 and 43-20-07, subsection 1 of section 43-20-12, sections 43-20-12.1,
3 43-28-05, 43-28-12.2, 43-28-16, and 43-28-17, and subsection 1 of section 43-28-25 of the
4 North Dakota Century Code, relating to dentists and dental hygienists registration, licensure,
5 and practice.

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

7 **SECTION 1. AMENDMENT.** Section 43-20-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-20-02. Dental hygienists - Qualifications - Examinations - Registration and**
10 **license.** Any person who is of good moral character, who is not already a licensed dental
11 hygienist of this state, who is a graduate of an accredited high school or its equivalent, and who
12 is a graduate of a school of dental hygiene which is approved or provisionally approved by the
13 commission on dental accreditation of the American dental association and which provides a
14 minimum of two academic years of dental hygiene curriculum, upon applying for a license and
15 paying an amount determined by the state board of dental examiners, may be examined by the
16 board, on the subjects considered essential by it for a dental hygienist. The examinations must
17 be conducted by the board or by a designee of the board, or by a regional dental testing service
18 in which the board participates, or by other national or regional dental testing services that the
19 board recognizes. If the applicant, in the opinion of the board, successfully passes the
20 examination, the applicant may be registered and licensed as a dental hygienist. Applicants
21 who fail to pass a satisfactory initial examination may be reexamined upon payment of the fee
22 determined by the board for each subsequent examination. ~~An applicant may not be allowed to~~
23 ~~take more than three examinations.~~ The board shall determine the number of times an
24 applicant may be reexamined. However, if the applicant fails on three occasions to pass the

1 examination given by the board or an equivalent examination under section 43-28-12.1, the
2 applicant shall provide evidence of additional education as required by the board before
3 applying for another examination in this state. Applicants for examination shall submit their
4 credentials to the board at least thirty days before the examination date. The examination date
5 must correspond to the date of examination for applicants for a license to practice dentistry in
6 this state.

7 The state board of dental examiners may accept the results of the national board
8 examination as the equivalent to the testing of an applicant by the board in all areas covered by
9 the national board examination.

10 **SECTION 2. AMENDMENT.** Subsection 2 of section 43-20-03 of the 1999 Supplement
11 to the North Dakota Century Code is amended and reenacted as follows:

12 2. The patient is being treated at the primary or satellite practice location of the
13 supervising dentist, a public health setting, a hospital, a long-term care facility, or in
14 an institutional type setting;

15 **SECTION 3. AMENDMENT.** Section 43-20-06 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-20-06. License - Fees - Display.** ~~On or before January first of each year~~ In the
18 month prior to expiration, every licensed dental hygienist shall pay to the board of dental
19 examiners a registration fee as required by the board of dental examiners, and in default of the
20 payment, the board, upon thirty days' notice, may revoke or suspend the license of the
21 hygienist in default. The payment of the fee within that thirty-day period, with an additional sum
22 determined by the board, excuses the default. The board may collect the fee by suit. Each
23 licensed hygienist shall display conspicuously at the place of employment the annual
24 registration license.

25 **SECTION 4. AMENDMENT.** Section 43-20-07 of the 1999 Supplement to the North
26 Dakota Century Code is amended and reenacted as follows:

27 **43-20-07. Licensure by credential review.** Any dental hygienist who is a graduate of
28 a school of dental hygiene which is approved or provisionally approved by the commission on
29 dental accreditation of the American dental association and which provides a minimum of two
30 academic years of dental hygiene curriculum, who has been licensed and who has been
31 actively practicing dental hygiene for at least three years prior to the application to practice in

1 this state, who is of good moral character and desirous of removing to this state, who deposits
2 with the board of dental examiners a license from the examining board of the state in which the
3 dental hygienist is licensed, certifying to the fact of being licensed, and who provides reference
4 letters from three dentists or hygienists attesting to the dental hygienist's clinical competence,
5 good moral character, and professional attainment, may upon the payment of the fee
6 determined by the board, in the discretion of the board, and upon the satisfactory passing of
7 such examinations as the board deems necessary and proper, be granted a license to practice
8 in this state.

9 **SECTION 5. AMENDMENT.** Subsection 1 of section 43-20-12 of the 1999 Supplement
10 to the North Dakota Century Code is amended and reenacted as follows:

11 1. A licensed dentist may delegate to a competent dental hygienist or dental assistant
12 those procedures over which the dentist exercises full responsibility, except those
13 procedures that require professional judgment and skill such as diagnosis and
14 treatment planning, the cutting of hard or soft tissue, or any intraoral procedure
15 which would lead to the fabrication of any appliance that, when worn by the patient,
16 would come in direct contact with hard or soft tissue and which could result in
17 tissue irritation or injury. A dental hygienist or dental assistant may take
18 impressions for athletic mouthguards, for rapid palatal expanders, and for passive
19 posttreatment orthodontic retainers that do not replace missing teeth. A dental
20 hygienist may prepare oral hygiene treatment plans to be approved by the
21 supervising dentist.

22 **SECTION 6. AMENDMENT.** Section 43-20-12.1 of the 1999 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

24 **43-20-12.1. Continuing educational requirement for dental hygienists.** Upon the
25 ~~fifth~~ second anniversary of the issuance of a ~~license~~ certificate of registration to practice dental
26 hygiene and each ~~five~~ two years thereafter, each person licensed to practice dental hygiene in
27 this state shall provide the state board of dental examiners evidence, of a nature suitable to the
28 board, that the licensed person has attended, or participated in the amount of continuing
29 education in dental hygiene as is required by the board. The minimum requirement may not be
30 less than ~~forty~~ sixteen hours during the preceding ~~five~~ two years of licensure. The board may

1 accept for compliance with this requirement any of the following which, in the opinion of the
2 board, contributes directly to the dental education of the licensee:

- 3 1. Attendance at lectures, study clubs, college postgraduate courses, or scientific
4 sessions of conventions.
- 5 2. Research, graduate study, teaching, or service as a clinician.
- 6 3. Any other evidence of continuing education approved by the board.

7 Any licensed person who fails to comply with this requirement may, at the discretion of the
8 board, be reexamined to determine the person's competency to continue licensure. If, in the
9 opinion of the board, the licensed person does not qualify for further licensed practice, the
10 board shall suspend the license until the dental hygienist provides acceptable evidence to the
11 board of the hygienist's competency to practice.

12 **SECTION 7. AMENDMENT.** Section 43-28-05 of the 1999 Supplement to the North
13 Dakota Century Code is amended and reenacted as follows:

14 **43-28-05. Meeting of board - Officers - Bond - Compensation of members -**

15 **Quorum.** The board shall hold a regular annual meeting, at a place designated by the board
16 and special meetings when necessary. At the regular meeting of the board, the members shall
17 elect from their number a president, ~~vice president~~, a member who has at least two years
18 remaining on that member's term, president elect, a member who has at least three years
19 remaining on that member's term, and a secretary-treasurer. The ~~secretary-treasurer~~ executive
20 director shall furnish a bond in the amount fixed by the board. Each member of the board shall
21 receive as compensation the sum of ~~ninety~~ one hundred ten dollars for each day actually
22 engaged in the duties of the office and reimbursement for expenses as provided in section
23 54-06-09 while attending meetings of the board. The ~~secretary-treasurer~~ executive director
24 may be paid an annual salary in an amount determined by the board. Four members of the
25 board constitute a quorum but a smaller number may adjourn from time to time.

26 **SECTION 8. AMENDMENT.** Section 43-28-12.2 of the 1999 Supplement to the North
27 Dakota Century Code is amended and reenacted as follows:

28 **43-28-12.2. Continuing educational requirement for dentists.** Upon the ~~fifth~~ second
29 anniversary of the issuance of a ~~license~~ certificate of registration to practice dentistry and each
30 ~~five~~ two years thereafter, each person licensed to practice dentistry in this state shall provide
31 the board evidence, of a nature suitable to the board, that the licensed person has attended, or

1 participated in the amount of continuing education in dentistry required by the board. The
2 minimum requirement may not be less than ~~eighty~~ thirty-two hours during the preceding ~~five~~
3 two years of licensure. The board may accept for compliance with this requirement any of the
4 following which, in the opinion of the board, contributes directly to the dental education of the
5 licensee:

- 6 1. Attendance at lectures, study clubs, college postgraduate courses, or scientific
7 sessions of conventions.
- 8 2. Research, graduate study, teaching, or service as a clinician.
- 9 3. Any other evidence of continuing education approved by the board.

10 Any licensed dentist who fails to comply with this requirement may, at the discretion of the
11 board, be reexamined to determine the dentist's competency to continue licensure. If, in the
12 opinion of the board, the licensed dentist does not qualify for further licensed practice, the board
13 shall suspend the license until the dentist provides acceptable evidence to the board of the
14 dentist's competency to practice.

15 **SECTION 9. AMENDMENT.** Section 43-28-16 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-28-16. Certificate - Term - Displayed in place of business - Renewal - Fee.** A
18 certificate of registration issued under this chapter is valid for ~~only one year~~ two years and must
19 be renewed ~~on or before the first day of January in each year~~ in the month prior to expiration.
20 The fee for renewal of the certificate must be determined by the board and must be submitted
21 ~~before January first~~ at the time of renewal. The holder of a license and certificate of registration
22 shall display the license and certificate conspicuously in the holder's place of business. The
23 certificate of registration or the renewal of the certificate is prima facie evidence of the right of
24 the holder to practice dentistry in this state during the time for which it is issued. All fees
25 provided for in this chapter may be collected by the board in a civil action.

26 **SECTION 10. AMENDMENT.** Section 43-28-17 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-28-17. Failure to pay annual fee - Revocation of license.** Whenever a licensed
29 dentist fails to pay the annual fee for the renewal of the certificate of registration ~~before January~~
30 ~~first~~ on or before the due date of the payment, after thirty days' written notice of the default
31 without proper payment, the board may revoke the license to practice dentistry and notify the

1 dentist of the revocation. The payment of the annual fee within the thirty-day period, with an
2 additional sum determined by the board will excuse the default.

3 **SECTION 11. AMENDMENT.** Subsection 1 of section 43-28-25 of the 1999
4 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5 1. For any dentist, dental hygienist, legal entity, or unlicensed person, who owns,
6 operates, or controls any room or office where dental work of any kind is done or
7 contracted for, to employ, keep, or retain any unregistered dentist ~~or~~ dental
8 hygienist, dental assistant, or other ~~unlicensed~~ unregistered persons to do any
9 dental work whatsoever, except as otherwise provided by statute or rule.