

**SENATE BILL NO. 2163**

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Medical Examiners)

1 A BILL for an Act to amend and reenact subsection 9 of section 43-17-31, sections 43-17-31.1  
2 and 43-17-32.1, and subsection 1 of section 43-17.1-02 of the North Dakota Century Code,  
3 relating to references to commission on medical competency, ex parte temporary suspension  
4 orders issued by the state board of medical examiners, and investigative panels of the state  
5 board of medical examiners.

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

7 **SECTION 1. AMENDMENT.** Subsection 9 of section 43-17-31 of the 1999 Supplement  
8 to the North Dakota Century Code is amended and reenacted as follows:

9 9. The violation of any provision of a medical practice act or the rules and regulations  
10 of the board, or any action, stipulation, condition, or agreement imposed by the  
11 board or ~~the commission on medical competency~~ its investigative panels.

12 **SECTION 2. AMENDMENT.** Section 43-17-31.1 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **43-17-31.1. Costs of prosecution - Disciplinary proceedings.** In any order or  
15 decision issued by the board in resolution of a disciplinary proceeding in which disciplinary  
16 action is imposed against a physician, the board may direct any physician to pay the board a  
17 sum not to exceed the reasonable and actual costs, including attorney's fees, incurred by the  
18 board and ~~the commission on medical competency~~ its investigative panels in the investigation  
19 and prosecution of the case. When applicable, the physician's license may be suspended until  
20 the costs are paid to the board.

21 **SECTION 3. AMENDMENT.** Section 43-17-32.1 of the 1999 Supplement to the North  
22 Dakota Century Code is amended and reenacted as follows:

23 **43-17-32.1. Temporary suspension - Appeal.**

- 1           1.    When, based on verified evidence, the board has probable cause to believe that  
2                    the suspension of a physician's license is required to reasonably protect the public  
3                    from imminent or critical harm, the board may order a temporary suspension  
4                    ex parte.
- 5           2.    An ex parte temporary suspension remains in effect for not more than sixty days,  
6                    unless otherwise terminated by the board or extended by agreement of the parties.
- 7           3.    The board shall ~~set the date of a full hearing for suspension or revocation of the~~  
8                    ~~physician's license for~~ conduct a hearing on the merits of the allegations to  
9                    determine what disciplinary action, if any, shall be taken against the physician who  
10                   is the subject of the ex parte suspension. That hearing must be held not later than  
11                   sixty fifty days from the issuance of the ex parte temporary suspension order  
12                   unless an extension of time has been agreed to by the parties to the action. Within  
13                    three days after the issuance of the ex parte suspension order the board shall  
14                    serve the physician with a copy of the order along with a copy of the complaint and  
15                    notice of the date set for the full hearing.
- 16           4.    The physician may appeal the ex parte temporary suspension order prior to the full  
17                    hearing. For purposes of appeal, the district court shall decide whether the board  
18                    acted reasonably or arbitrarily. The court shall give priority to the appeal for  
19                    prompt disposition thereof.

20           **SECTION 4. AMENDMENT.** Subsection 1 of section 43-17.1-02 of the 1999

21 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 22           1.    For the purpose of investigating complaints or other information that might give rise  
23                    to a disciplinary proceeding against a physician, a physician assistant, or a  
24                    fluoroscopy technologist, the president of the board must designate two  
25                    investigative panels, each comprised of five members of the board, ~~excluding the~~  
26                    ~~president.~~ Four members of each panel must be physician members of the board.  
27                    One member of each panel must be a public member of the board. ~~In addition, the~~  
28                    The president of the board shall serve on ~~both~~ neither investigative ~~panels~~ panel.