

HOUSE BILL NO. 1258

Introduced by

Representative Porter

1 A BILL for an Act to create and enact two new sections to chapter 43-20 of the North Dakota
2 Century Code, relating to a scope of practice and continuing education requirements for dental
3 assistants; and to amend and reenact subsection 2 of section 43-20-05, sections 43-20-06,
4 43-20-12, and 43-20-12.1, subsection 3 of section 43-28-01, subsection 2 of section 43-28-02,
5 subsection 3 of section 43-28-06, subsection 2 of section 43-28-10, sections 43-28-12.2,
6 43-28-17, and 43-28-18, subsection 2 of section 43-28-22, and subsection 9 of section
7 43-28-25 of the North Dakota Century Code, relating to the regulation of dentists, dental
8 hygienists, and dental assistants.

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

10 **SECTION 1. AMENDMENT.** Subsection 2 of section 43-20-05 of the North Dakota
11 Century Code is amended and reenacted as follows:

12 2. Failure, neglect, or refusal to renew a license ~~annually~~ biennially.

13 **SECTION 2. AMENDMENT.** Section 43-20-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-20-06. License - Fees Cancellation - Display Inactive status.** ~~In the month prior~~
16 ~~to expiration, every licensed dental hygienist shall pay to the board of dental examiners a~~
17 ~~registration fee as required by the board of dental examiners, and in default of the payment, the~~
18 ~~board, upon thirty days' notice, may revoke or suspend the license of the hygienist in default.~~
19 At least thirty days before January first of each even-numbered year, the board of dental
20 examiners shall send a renewal notice that includes a form for continuing education reporting
21 and an application for license renewal to each licensee at the licensee's last place of residence
22 as noted in the records of the board. If a licensee fails to pay the biennial fee for the renewal of
23 the certificate of registration on or before the due date of the payment, after thirty days written
24 notice of the default, the board may cancel the license without a hearing. The board shall

1 record the cancellation and notify the dental hygienist of the cancellation. The payment of the
2 biennial fee within that thirty-day period, with an additional sum determined by the board,
3 excuses the default. ~~The board may collect the fee by suit. Each licensed hygienist shall~~
4 ~~display conspicuously at the place of employment the annual registration license.~~ Upon
5 payment of a fee determined by the board, a licensee may request to have the licensee's
6 license placed on inactive status upon expiration of the license. While on inactive status, the
7 individual may not engage in the practice of dental hygiene in the state until the individual
8 submits a renewal application, pays the renewal fee, and meets any additional requirements
9 established by rule of the board.

10 **SECTION 3. AMENDMENT.** Section 43-20-12 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-20-12. Dental hygienist - ~~Dental assistant~~ - Scope of permitted practice.**

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

24 2. ~~A dental assistant may perform such delegated procedures over which a dentist~~
25 ~~exercises direct supervision as are established by rules adopted by the state board~~
26 ~~of dental examiners.~~ The board of dental examiners may adopt rules governing
27 the scope of practice of dental hygienists.

28 **SECTION 4. AMENDMENT.** Section 43-20-12.1 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **43-20-12.1. Continuing educational requirement for dental hygienists.** ~~Upon the~~
2 ~~second anniversary of the issuance of a certificate of registration to practice dental hygiene and~~
3 ~~each two years thereafter, each person~~

4 1. At least thirty days before January first of each even-numbered year, the board of
5 dental examiners shall send a renewal notice that includes an affidavit for reporting
6 of continuing education and an application for license renewal to each licensee at
7 the licensee's last place of residence as noted in the records of the board. Each
8 individual licensed to practice dental hygiene in this state shall provide the state
9 board of dental examiners evidence, of a nature suitable to the board, that the
10 ~~licensed person~~ licensee has attended, or participated in, the amount of continuing
11 education in dental hygiene as is required by the board. The minimum requirement
12 may not be less than sixteen hours during the preceding two years of licensure.
13 The board may accept for compliance with ~~this~~ the continuing education
14 requirement any of the following which, in the opinion of the board, contributes
15 directly to the dental education of the licensee:

16 4. a. ~~Attendance~~ Proof of attendance at lectures, study clubs, college postgraduate
17 courses, or scientific sessions of conventions.

18 2. b. ~~Research~~ Proof of research, graduate study, teaching, or service as a
19 clinician.

20 3. c. ~~Any~~ Proof of any other evidence of continuing education approved by the
21 board.

22 2. The board may select a random sample of the license renewal applications for
23 audit of continuing education credits. Each licensee shall maintain certificates or
24 records of credit from continuing education activities. If a licensee is selected for
25 an audit of the licensee's continuing education activities, the licensee shall provide
26 satisfactory documentation of attendance at or participation in the continuing
27 education activities listed on the licensee's sworn affidavit. The failure to comply
28 with the audit may be grounds for nonrenewal of the licensee's license. Any
29 ~~licensed person~~ licensee who fails to comply with ~~this~~ the continuing education
30 requirement may, at the discretion of the board, be reexamined to determine the
31 ~~person's~~ individual's competency to continue licensure. If, in the opinion of the

1 board, the ~~licensed person~~ individual does not qualify for further licensed practice,
2 the board shall suspend the license until the dental hygienist provides acceptable
3 evidence to the board of the hygienist's competency to practice.

4 **SECTION 5.** A new section to chapter 43-20 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Dental assistant - Scope of committed practice.** A dentist may delegate to a dental
7 assistant procedures over which the dentist exercises full responsibility. A dental assistant may
8 perform any delegated procedure over which the dentist exercises direct, indirect, or general
9 supervision as permitted by rules adopted by the board of dental examiners.

10 **SECTION 6.** A new section to chapter 43-20 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Continuing education requirement for registered dental assistants.**

13 1. At least thirty days before January first of each year the board of dental examiners
14 shall send a renewal notice that includes an affidavit for continuing education
15 reporting and an application for registration renewal to each registrant at the
16 registrant's last place of residence as noted in the records of the board. Each
17 individual registered as a dental assistant shall provide the board evidence
18 satisfactory to the board that the individual has attended or participated in the
19 amount of continuing education as is required by the board. The board may
20 establish a minimum continuing education requirement which may not be less than
21 eight hours during a twelve-month registration. The board may accept for
22 compliance with the continuing education requirement any of the following activities
23 which may contribute directly to the dental education of the registrant:

24 a. Proof of attendance at a lecture, study club, college postgraduate course, or
25 scientific session of a convention.

26 b. Proof of research, graduate study, teaching, or service as a clinician.

27 c. Proof of any other continuing education approved by the board.

28 2. The board may select a random sample of the registrants for audit of continuing
29 education credits. Each registrant shall maintain certificates or records of
30 continuing education credit. The board shall notify a registered dental assistant
31 selected for a continuing education audit. If a registered dental assistant is

1 selected for a continuing education audit, the dental assistant shall provide
2 satisfactory documentation of attendance at or participation in the continuing
3 education activities included on the registrant's sworn affidavit. The failure to
4 comply with an audit may be grounds for nonrenewal of the registration. A dental
5 assistant who fails to comply with the continuing education requirements may be
6 reexamined by the board to determine the individual's competency to continue
7 engaging in dental assisting activities. If the board determines that the dental
8 assistant is not qualified, the board shall suspend the registration until the
9 individual provides acceptable evidence to the board of the individual's
10 competency to practice as a dental assistant.

11 **SECTION 7. AMENDMENT.** Subsection 3 of section 43-28-01 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 3. "Certificate of registration" means a written statement of the board declaring that a
14 licensed dentist has paid the ~~annual~~ biennial registration fee required by this
15 chapter.

16 **SECTION 8. AMENDMENT.** Subsection 2 of section 43-28-02 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 2. To students enrolled in and regularly attending any dental college or dental
19 hygiene or dental assisting program recognized as such by the board, if their acts
20 are done in dental college or the dental hygiene or dental assisting program and
21 under the direct supervision of their instructor; or to students who are in training in
22 dental ~~colleges~~ programs recognized as such by the board and who are continuing
23 their training and performing the duties of an extern under the supervision of a
24 licensed and registered dentist who has received approval to supervise ~~such~~
25 ~~externships~~ an externship by the appropriate accrediting committee, including the
26 board.

27 **SECTION 9. AMENDMENT.** Subsection 3 of section 43-28-06 of the North Dakota
28 Century Code is amended and reenacted as follows:

29 3. Issue, suspend, revoke, limit, cancel, restrict, and reinstate licenses to practice
30 dentistry or dental hygiene and the ~~annual~~ biennial certificates of registration upon
31 any grounds authorized by this chapter.

1 **SECTION 10. AMENDMENT.** Subsection 2 of section 43-28-10 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 2. The person holds a valid ~~annual~~ biennial certificate of registration.

4 **SECTION 11. AMENDMENT.** Section 43-28-12.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-28-12.2. Continuing educational requirement for dentists - Audit.** ~~Upon the~~
7 ~~second anniversary of the issuance of a certificate of registration to practice dentistry and each~~
8 ~~two years thereafter, each person~~

9 1. At least thirty days before January first of each even-numbered year, the board
10 shall send a renewal notice that includes a form for continuing education reporting
11 and an application for license renewal to each licensee at the licensee's last place
12 of residence as noted in the records of the board. Each individual licensed to
13 practice dentistry in this state shall provide the board evidence, of a nature suitable
14 to the board, that the ~~licensed person~~ licensee has attended, or participated in, the
15 amount of continuing education in dentistry required by the board. The minimum
16 requirement may not be less than thirty-two hours during the preceding two years
17 of licensure. The board may accept for compliance with ~~this~~ the continuing
18 education requirement any of the following which, in the opinion of the board,
19 contributes directly to the dental education of the licensee:

20 4. a. ~~Attendance~~ Proof of attendance at lectures, study clubs, college postgraduate
21 courses, or scientific sessions of conventions.

22 2. b. ~~Research~~ Proof of research, graduate study, teaching, or service as a
23 clinician.

24 3. c. ~~Any~~ Proof of any other evidence of continuing education approved by the
25 board.

26 2. The board may select a random sample of the license renewal applications for
27 audit of continuing education credits. Each licensee shall maintain certificates or
28 records of continuing education activities. Upon receiving notice of an audit from
29 the board, a licensee shall provide satisfactory documentation of attendance at or
30 participation in the continuing education activities listed on the licensee's
31 continuing education form. The failure to comply with the audit is grounds for

1 nonrenewal of the license. Any licensed dentist who fails to comply with this
2 requirement may, at the discretion of the board, be reexamined to determine the
3 dentist's competency to continue licensure. If, in the opinion of the board, the
4 licensed dentist does not qualify for further licensed practice, the board shall
5 suspend the license until the dentist provides acceptable evidence to the board of
6 the dentist's competency to practice.

7 **SECTION 12. AMENDMENT.** Section 43-28-17 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-28-17. Failure to pay annual fee - ~~Revocation~~ Cancellation of license - Inactive**
10 **status.** ~~Whenever~~ If a licensed dentist fails to pay the ~~annual~~ biennial fee for the renewal of the
11 certificate of registration on or before the due date of the payment, after thirty days' written
12 notice of the default without proper payment, the board may ~~revoke~~ cancel the license ~~to~~
13 ~~practice dentistry and notify the dentist of the revocation,~~ notify the dentist of the cancellation,
14 and record the cancellation. The payment of the ~~annual~~ biennial fee within the thirty-day
15 period, with an additional sum determined by the board, will excuse the default. Upon payment
16 of a fee determined by the board, a licensee may request to have the licensee's license placed
17 on inactive status upon expiration of the license. While on inactive status, the licensee may not
18 engage in the practice of dentistry in the state until the individual submits a reinstatement
19 application, pays a renewal fee, and meets any additional requirements established by rule of
20 the board.

21 **SECTION 13. AMENDMENT.** Section 43-28-18 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-28-18. Grounds for revocation or suspension of license and certificate.** The
24 board may revoke, suspend, limit, or restrict the scope of the license and the certificate of
25 registration of any dentist who has:
26 1. Been guilty of dishonorable, unprofessional, or immoral conduct.
27 2. Been convicted of an offense determined by the board to have a direct bearing
28 upon ~~a person's~~ the individual's ability to serve the public as a dentist, or the board
29 determines, following conviction for any offense, that ~~a person~~ the individual is not
30 sufficiently rehabilitated under section 12.1-33-02.1.

Fifty-ninth
Legislative Assembly

- 1 3. Been adjudged mentally ill and not judicially restored by the regularly constituted
- 2 authorities.
- 3 4. Been guilty of habitual intemperance or addicted to the use of drugs.
- 4 5. Employed or permitted an unlicensed ~~persons~~ individual to practice dentistry in the
- 5 office under the dentist's control.
- 6 6. Become grossly negligent in the practice of the profession.
- 7 7. Practiced fraud and deceit in obtaining the license or in the practice of dentistry.
- 8 8. Willfully betrayed confidential relations.
- 9 9. ~~Practiced dentistry under a trade name or a false name other than a partnership~~
- 10 ~~name containing the names of one or more of the partners or deceased partners.~~
- 11 ~~However, a licensed dentist, who is associated with an ethical medical clinic, may~~
- 12 ~~announce the fact of the association.~~
- 13 ~~40.~~ 10. Shared any professional fee with anyone or paid anyone for sending or referring
- 14 patients to the dentist. However, this does not prohibit licensed dentists from
- 15 practicing in a partnership and sharing one another's professional fees, nor prohibit
- 16 a licensed dentist from employing any other licensed dentist or licensed dental
- 17 hygienist.
- 18 ~~44.~~ 10. Used any advertising of any character tending to mislead and deceive the public.
- 19 ~~42.~~ 11. Failed to demonstrate minimum professional competency in certain areas of
- 20 clinical practice if the clinical deficiency represents a threat to the public but is not
- 21 so severe as to be termed gross negligence. When those deficiencies are noted,
- 22 the license and registration may be suspended or restricted in scope until the
- 23 dentist obtains additional professional training that is acceptable to the board and
- 24 has demonstrated sufficient improvement in clinical competency to justify
- 25 reissuance of an unrestricted license and registration.
- 26 ~~43.~~ 12. Prescribed medications for reasons or conditions outside the scope of dental
- 27 practice.
- 28 ~~44.~~ 13. Fraudulently, carelessly, negligently, or inappropriately prescribed drugs or
- 29 medications.
- 30 ~~45.~~ 14. Directed auxiliary personnel to perform acts or provide dental services for which
- 31 the personnel are not licensed or qualified or are prohibited by law or rule.

- 1 ~~46.~~ 15. Willfully engaged in fraudulent submission of insurance claims.
- 2 ~~47.~~ 16. Made any false or untrue statements in the application for an examination to obtain
3 a license to practice dentistry.
- 4 ~~48.~~ 17. Made any false representations that the ~~person~~ individual is the holder of a license
5 or certificate of registration to practice dentistry.
- 6 ~~49.~~ 18. Made any false claims that the ~~person~~ individual is a graduate of a dental college
7 or the holder of any diploma or degree from a dental college.
- 8 ~~20.~~ 19. Failed to comply with commonly accepted national infection control guidelines and
9 standards.
- 10 20. Abandoned the dentist's practice as defined by rules adopted by the board.
- 11 21. Violated this chapter.

12 **SECTION 14. AMENDMENT.** Subsection 2 of section 43-28-22 of the North Dakota
13 Century Code is amended and reenacted as follows:

- 14 2. Where the license and certificate of registration has been revoked for nonpayment
15 of ~~annual~~ biennial registration fees required by this chapter, the dentist may be
16 reinstated upon payment to the board of the amount of renewal fees then in
17 default, with an additional administrative fee to be fixed by the board. However,
18 the board, after an investigation, may require a dentist whose license has been
19 revoked for nonpayment of the ~~annual~~ biennial registration fee to submit to a
20 reexamination as to the ~~person's~~ individual's qualification to practice dentistry
21 before the ~~person~~ individual is reinstated, if the board ~~in the exercise of its~~
22 ~~discretion finds and~~ determines that the best interests of the public, and the
23 applicant, will be served thereby.

24 **SECTION 15. AMENDMENT.** Subsection 9 of section 43-28-25 of the North Dakota
25 Century Code is amended and reenacted as follows:

- 26 9. For any person, except a North Dakota licensed practicing dentist, to own more
27 than forty-nine percent of an office practice or business where dental operations,
28 dental oral surgery, or dental services are performed. This provision does not
29 apply to medical clinics ~~and~~, public health settings where, or humanitarian entities
30 authorized by the board in which dentists are associated ~~and~~, or to the heir of a

Fifty-ninth
Legislative Assembly

- 1 deceased dentist who may operate an office under the name of the deceased
- 2 dentist for a period of not longer than two years from the date of death.