

OCCUPATIONS AND PROFESSIONS

CHAPTER 342

HOUSE BILL NO. 1279

(Representatives Beadle, Buffalo)
(Senator J. Roers)

AN ACT to amend and reenact sections 43-06-03 and 43-06-04 of the North Dakota Century Code, relating to membership of the board of chiropractic examiners; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-06-03 of the North Dakota Century Code is amended and reenacted as follows:

43-06-03. State board of chiropractic examiners - Members - Appointment - Qualifications.

1. The state board of chiropractic examiners shall consist of five consists of seven members appointed by the governor. The members are:
 - a. Five doctors of chiropractic;
 - b. One certified chiropractic clinical assistant; and
 - c. One consumer member.
2. Each person~~doctor~~ of chiropractic appointed must:
 1. a. Have a license to practice chiropractic in North Dakota.
 2. b. Have been a resident of this state and have practiced chiropractic in this state for at least five consecutive years immediately before appointment to the board.
 3. c. Remain a resident of this state and continue in active practice in this state during the term of office.
 - d. Be a licensee in good standing and must not be the subject of a pending investigation by the board for violations under this chapter.
3. Each certified chiropractic clinical assistant appointed must:
 - a. Be certified as a chiropractic clinical assistant and meet the requirements of section 43-06-16.1.

- b. Be actively engaged in the practice of a certified chiropractic clinical assistant in the state for at least one year immediately preceding appointment to the board.
- 4. Each consumer member appointed:
 - a. Must be a resident of the state for at least five years immediately preceding appointment to the board.
 - b. May not have personal or familial financial relationships to the chiropractic profession.
 - c. May not be, and may not be a spouse of, a doctor of chiropractic, certified chiropractic clinical assistant, or licensed health care professional.
- 5. An individual appointed to the board as a certified chiropractic clinical assistant may not participate in any activities related to the clinical examination of chiropractic licensure applicants.
- 6. An individual appointed to the board as a consumer may not participate in any activities related to the clinical examination of chiropractic or certified chiropractic clinical assistant licensure applicants.

SECTION 2. AMENDMENT. Section 43-06-04 of the North Dakota Century Code is amended and reenacted as follows:

43-06-04. Board of chiropractic examiners - Members - Term of office.

- 1. Each member of the board shall qualify by taking the oath of office required of civil officers and shall hold office for a term of five years and until the member's successor is appointed and qualified. The terms of office of the members of the board must be so arranged that ~~one term and only one term~~ expires on the thirty-first day of August of ~~each~~ any year ~~except~~.
- a. Every fifth year, the governor shall appoint a doctor of chiropractic and a certified chiropractic clinical assistant to the board.
- b. Two years after the appointments in subdivision a, the governor shall appoint a doctor of chiropractic and a consumer member to the board.
- 2. A member may not serve for more than two consecutive five-year terms.
- 3. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy. Vacancies on the board must be filled by appointment by the governor. ~~When a vacancy occurs on the board by expiration of the term, death, or resignation of a member, or removal for other cause, the North Dakota chiropractic association shall nominate, by procedure adopted in the bylaws of said association, to the governor three qualified persons for each vacancy. The governor shall appoint a member to fill the vacancy on the board from the three nominees.~~

SECTION 3. APPLICATION. This Act applies to appointments made to the board of chiropractic examiners after July 31, 2019.

Approved April 10, 2019

Filed April 11, 2019

CHAPTER 343

SENATE BILL NO. 2235

(Senator Dever)

AN ACT to amend and reenact sections 43-07-01, 43-07-03, 43-07-07, 43-07-09, 43-07-09.1, 43-07-10, 43-07-11.1, 43-07-12, 43-07-13, and 43-07-19 of the North Dakota Century Code, relating to the regulation of contractors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-07-01 of the North Dakota Century Code is amended and reenacted as follows:

43-07-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Contractor" means any person engaged in the business of construction, repair, alteration, dismantling, or demolition of bridges, highways, roads, streets, buildings, airports, dams, drainage or irrigation ditches, sewers, water or gas mains, water filters, tanks, towers, oil, gas, or water pipelines, and every other type of structure, project, development, or improvement coming within the definition of real or personal property, including the construction, alteration, or repair of property to be held either for sale or rental, and ~~shall include~~includes subcontractor, public contractor, and nonresident contractor.
2. "Contractor year" means March second through March first.
3. "Nonresident contractor" means any contractor who ~~has~~does not have an established and maintained place of business within this state, or who has not made reports to North Dakota workforce safety and insurance within the previous year of employees within this state, and who has not made contributions to the North Dakota workforce safety and insurance fund accordingly, or who, during a like period has not made an income tax return in this state.
3. "~~Person~~" ~~includes any individual, firm, copartnership, association, corporation, limited liability company, or other group or combination thereof acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed clearly by the context thereof.~~
4. "Public contract" means a contract with the state of North Dakota or any board, commission, or department thereof, or with any board of county commissioners, or with any city council or board of city commissioners, board of township supervisors, school board, or with any state or municipal agency, or with any other public board, body, commission, or agency authorized to let or award contracts for the construction or reconstruction of public work when the contract cost, value, or price exceeds the sum of four thousand dollars and includes subcontracts undertaken to perform work covered by the original contract or any part thereof when the contract cost, value, or price of the work included in the subcontract exceeds the sum of four thousand dollars.

5. "Registrar" means the secretary of state of the state of North Dakota.

SECTION 2. AMENDMENT. Section 43-07-03 of the North Dakota Century Code is amended and reenacted as follows:

43-07-03. Registrar designated authority.

The secretary of state as registrar has authority to may employ such assistance and procure such records, supplies, and equipment as may be necessary to carry out the provisions of this chapter.

SECTION 3. AMENDMENT. Section 43-07-07 of the North Dakota Century Code is amended and reenacted as follows:

43-07-07. Classes of licenses - License fees - License renewal fees.

1. Four classes of licenses may be issued under this chapter, which must be designated as class A, B, C, and D licenses. A holder of a license may engage in the contracting business within this state subject to the following limitations:
 - a. The holder of a class A license is subject to no limitation as to the value of any single contract project.
 - b. The holder of a class B license is not entitled to engage in the construction of any single contract project of a value in excess of five hundred thousand dollars.
 - c. The holder of a class C license is not entitled to engage in the construction of any single contract project of a value in excess of three hundred thousand dollars.
 - d. The holder of a class D license is not entitled to engage in the construction of any single contract project of a value in excess of one hundred thousand dollars.
2. ~~When~~ If applying for a license as described and required in this chapter, the applicant shall pay to the registrar the following fees:
 - a. For a class A license, the sum of four hundred fifty dollars.
 - b. For a class B license, the sum of three hundred dollars.
 - c. For a class C license, the sum of two hundred twenty-five dollars.
 - d. For a class D license, the sum of one hundred dollars.
3. For a ~~certificate of renewal for~~ a license, the licensee shall pay to the registrar the following fees:
 - a. For a class A license, the sum of ninety dollars.
 - b. For a class B license, the sum of sixty dollars.
 - c. For a class C license, the sum of forty-five dollars.
 - d. For a class D license, the sum of thirty dollars.

4. Twenty-five percent of all moneys collected by the registrar under this chapter must be deposited in the secretary of state's general services operating fund to pay the cost to administer this chapter and the balance of the moneys collected must be deposited with the state treasurer, who shall credit ~~them~~that amount to the general fund of the state.

SECTION 4. AMENDMENT. Section 43-07-09 of the North Dakota Century Code is amended and reenacted as follows:

43-07-09. Duty of registrar - Expiration of license.

Within fifteen days from the date of application, the registrar may investigate and determine each applicant's eligibility to act in the capacity of a contractor as provided in section 43-07-04.1, and no license may be issued to such applicant until the registrar receives all documentation necessary to obtain a license and the appropriate fee. The license issued on an original application entitles the licensee to act as a contractor within this state, subject to the limitations of such license, until the expiration of the then current ~~fiscal contractor~~ year ending March first, except that an initial license issued to a licensee in January or February is valid until March first of the subsequent year.

SECTION 5. AMENDMENT. Section 43-07-09.1 of the North Dakota Century Code is amended and reenacted as follows:

43-07-09.1. Name changes.

Not later than ten days after the date of a change in a contractor's name, the licensee ~~must~~shall notify the registrar of the name change on a form provided by the registrar. A name change must be accompanied by a ten dollar fee. A licensee may not change ~~its~~the name of the licensee if the change is associated with a change in the legal status other than a change in marital status. A corporation, limited liability company, limited liability partnership, or limited partnership registered with the ~~secretary of state~~registrar is not subject to this section.

SECTION 6. AMENDMENT. Section 43-07-10 of the North Dakota Century Code is amended and reenacted as follows:

43-07-10. Renewal of license - Grounds for nonrenewal - Time requirements - Invalidity of license for failure to renew.

1. Any license issued under this chapter may be renewed for each successive ~~fiscal contractor~~ year by obtaining from the registrar a certificate ~~of renewal for the current contractor year~~. To obtain a certificate ~~of renewal for the current contractor year~~, the licensee shall file with the registrar an application that includes a listing of each project, contract, or subcontract completed by the licensee during the preceding calendar year in this state over the amount of twenty-five thousand dollars and the nature of the work of each project, contract, or subcontract. The registrar ~~shall~~, within a reasonable time, shall forward a copy of the list to the state tax commissioner. The applicant shall include with the application a copy of a certificate of liability insurance naming the ~~secretary of state~~registrar as the certificate holder unless the registrar has a current valid certificate of insurance on file, and a certification that the applicant has submitted all payroll taxes, including North Dakota income tax, workforce safety and insurance premiums, and unemployment insurance premiums due at the time of renewal, which documents need not be notarized.

2. The registrar may refuse to renew a license if the registrar determines the application contains false, misleading, or incomplete information or if the contractor's license is not in good standing for any of the reasons listed in subsection 3 of section 43-07-04. The registrar shall notify the applicant in writing if the registrar does not grant the license and shall provide the applicant an opportunity to respond to or cure the defect in the application for a period of ten days from the date of the written notification. An applicant aggrieved by a decision of the registrar not to grant the license may appeal the decision to the district court of the applicant's county of residence or Burleigh County.
3. The application for a certificate of renewal for the current contractor year must be made to the registrar on or before the first day of March second of each year, except as provided otherwise under this chapter. At the time of filing the application for a certificate of renewal for the current contractor year, the applicant shall pay to the registrar the renewal fee established in section 43-07-07. If any contractor applies for a renewal under a class different from the license previously issued, the new class license may be issued upon the payment of the fee required for the issuance of the license of the class applied for. If any contractor fails to file an application for a certificate of renewal for the current contractor year by the March first deadline, the contractor's license is not in good standing and the contractor ~~must be~~ deemed to be unlicensed within the meaning of section 43-07-02. Within sixty days after March first, the registrar shall notify the contractor ~~must be notified~~ by mail that the contractor's license is not in good standing. The contractor then has until June first to renew by paying a penalty fee of fifty dollars, filing an application for a certificate of renewal for the current contractor year, and paying the renewal fee. A contractor who applies for a certificate of renewal for the current contractor year before or within ninety days of the filing deadline is not subject to the investigation authorized in section 43-07-09. After the June first deadline any licenses not renewed are ~~revoked~~ expired. Any application for a certificate of renewal for the current contractor year must be fully completed within sixty days of the date the application is received by the registrar or the registrar shall return the application to the contractor who then is subject to section 43-07-09. The registrar may destroy all renewals provided for in this section after ~~they~~ the renewals have been on file for six years.

SECTION 7. AMENDMENT. Section 43-07-11.1 of the North Dakota Century Code is amended and reenacted as follows:

43-07-11.1. Contracts with state.

1. ~~No~~ A contractor, resident or nonresident, is not eligible to enter into a public contract with any department of the state of North Dakota, ~~nor~~ or any political or governmental subdivision of the state until satisfactory showing is made that ~~said~~ the contractor has paid all delinquent income, sales or use taxes, if any, owed to the state pursuant to the provisions of the income, sales or use tax laws, and which have been assessed either by the filing of an income or sales and use tax return by the contractor, or by an assessment of additional income, sales or use taxes against the contractor by the commissioner ~~that~~ which has become finally and irrevocably fixed, before the date that the contract was executed by the parties thereto. ~~"Contractor" and "public contract" have the same definition for purposes of this section as in chapter 43-07 relating to issuance of licenses to contractors to the contract.~~

2. A certificate from and by the tax commissioner ~~shall satisfy~~satisfies the requirement of subsection 1. Upon failure to file such a certificate, ~~such the~~ department or political or governmental subdivision shall refuse to execute ~~said the~~ public contract.
3. The provisions of this section apply ~~only~~ to contracts executed after July 1, 1965.

SECTION 8. AMENDMENT. Section 43-07-12 of the North Dakota Century Code is amended and reenacted as follows:

43-07-12. Bids to show license issued.

All bids and proposals for the construction of any public contract project subject to the ~~provisions of~~ this chapter must contain a copy of the license or certificate of ~~renewal thereof for the current contractor year of the license~~ issued by the ~~secretary of state~~registrar, enclosed in the required bid bond envelope. ~~No~~A contract may ~~not~~ be awarded to any contractor unless the contractor is the holder of a license in the class within which the value of the project falls as ~~hereinbefore~~ provided under this section. A contractor must be the holder of a license at least ten days ~~prior to~~before the date set for receiving bids, to be a qualified bidder. A bid submitted without this information properly enclosed in the bid bond envelope may not be read ~~nor~~or considered and must be returned to the bidder. This section does not apply to bids submitted:

1. To the department of transportation;
2. For use of municipal, rural, and industrial water supply funds authorized by Public Law No. 99-294 [100 Stat. 418];
3. To the public service commission; or
4. For use of federal aid highway funds authorized by Public Law No. 85-767 [72 Stat. 885; 23 U.S.C. 101 et seq.].

SECTION 9. AMENDMENT. Section 43-07-13 of the North Dakota Century Code is amended and reenacted as follows:

43-07-13. Records and certified copies thereof of records.

The registrar shall maintain in the registrar's office, open to public inspection during office hours, a complete indexed record of all applications, licenses, ~~certificates of renewal for the current contractor year~~, revocations, expirations, and other information maintained on contractors. The registrar may dispose of an inactive contractor file after two years if no attempts have been made to apply for a new license or renew the license. Disposal of the license will proceed according to the provisions of chapter 54-46. Before disposal and upon request, the registrar shall furnish a certified copy of any information maintained upon receipt of the fees prescribed in section 54-09-04. Any certificate or certified copy issued by the ~~secretary of state~~registrar under this section has the same force and effect as provided in section 54-09-02.1.

SECTION 10. AMENDMENT. Section 43-07-19 of the North Dakota Century Code is amended and reenacted as follows:

43-07-19. Nonresident contractors - Agent for service of process.

Every applicant for a contractor's license who is not a resident of the state of North Dakota, by signing and filing the application, appoints the ~~secretary of state~~ registrar as the applicant's true and lawful agent upon whom may be served all lawful process in any action or proceeding against such nonresident contractor. ~~Such~~ The appointment in writing is evidence of the contractor's consent that any ~~such~~ process against the contractor which is so served upon the ~~secretary of state~~ shall be served upon the registrar is of the same legal force and effect as if served upon the contractor personally within this state. Registered foreign corporations entitled to do business in this state according to chapter 10-19.1, registered foreign limited liability companies entitled to do business in the state according to chapter 10-32.1, foreign limited liability partnerships entitled to do business in the state according to chapter 45-22, and foreign limited partnerships entitled to do business in the state according to chapter 45-10.2 and having a current registered agent and registered address on file in the ~~secretary of state's~~ registrar's office do not need ~~not~~ to appoint the ~~secretary of state~~ registrar as agent for service of process under this section. Within ten days after service of the summons upon the ~~secretary of state~~ registrar, notice of ~~such~~ the service with the summons and complaint in the action shall ~~must~~ be sent to the defendant contractor at the defendant contractor's last-known address by registered or certified mail with return receipt requested and proof of ~~such~~ the mailing shall ~~must~~ be attached to the summons. The ~~secretary of state~~ registrar shall keep a record of all process served upon the ~~secretary of state~~ registrar under this section, showing the day and hour of service. ~~Whenever~~ If service of process was made under this section, the court, before entering a default judgment, or at any stage of the proceeding, may order ~~such~~ the continuance as may be necessary to afford the defendant contractor reasonable opportunity to defend any action pending against the defendant contractor.

Approved March 14, 2019

Filed March 14, 2019

CHAPTER 344

HOUSE BILL NO. 1157

(Representative B. Koppelman)

AN ACT to amend and reenact sections 43-09-01, 43-09-05, 43-09-09, 43-09-09.2, 43-09-10, 43-09-11, 43-09-12, 43-09-13.2, 43-09-15, 43-09-15.1, 43-09-16, 43-09-18, 43-09-20, 43-09-21, 43-09-22, and 43-09-23 of the North Dakota Century Code, relating to regulation by the state electrical board; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-09-01 of the North Dakota Century Code is amended and reenacted as follows:

43-09-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Apprentice electrician" means ~~a person~~ an individual who is learning the trade under the personal supervision of a state-licensed electrician.
2. "Board" means the state electrical board.
3. "Class B electrician" means ~~a person having~~ an individual who has the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment in accordance with the standard rules and regulations governing such work, ~~and shall have~~ who has eighteen months' experience in farmstead or residential wiring, and ~~shall have~~ passed an examination before the state electrical board based upon the national electrical code as it applies to farmstead or residential wiring.
4. "Journeyman electrician" means ~~a person having~~ an individual who has the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment and power limited systems in accordance with the standard rules and regulations governing such work.
5. "Licensee" means an individual who holds a valid license issued by the board.
6. "Master electrician" means ~~a person having~~ an individual who has the necessary qualifications, training, experience, and technical knowledge to plan, lay out, and supervise the installation and repair of electrical wiring apparatus, and equipment for electric light, heat, ~~and power,~~ and power limited systems, in accordance with the standard rules and regulations governing such work.
7. "Nonelectrical system" means a system as defined by the articles contained in chapter 8 and other articles which contains class II or class III circuits and systems as defined by the national electrical code, as adopted by the board. Although the board may expand this definition, the board may not narrow this definition. The term does not include a circuit or system that is installed:

- a. Within an area of special occupancies, as defined under articles 500 through 517 of the national electrical code.
 - b. For heat, light, or power.
 - c. For the control of heat, light, or power, unless the circuit or system employs digital communication.
8. "Power limited electrician" means an individual who has the necessary qualifications, training, experience, and technical knowledge to plan, layout, and supervise the installation and repair of a power limited system.
9. "Power limited system" means a system as defined by the articles contained in chapter 8 and other articles which contains class II or class III circuits and systems as defined by the national electrical code, as adopted by the board. Although the board may expand this definition, the term does not include a nonelectrical system.

SECTION 2. AMENDMENT. Section 43-09-05 of the North Dakota Century Code is amended and reenacted as follows:

43-09-05. Powers and duties of state electrical board - Biennial report.

The board shall adopt a seal and may adopt reasonable rules to carry out this chapter. The board may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. The board shall appoint qualified inspectors. Upon receipt of notice of completion of any electrical wiring or power limited system installation involving a value of five hundred dollars or more, the inspectors shall inspect the electrical or power limited system installation and approve or condemn that installation. The inspector shall make a report of the inspection on forms prescribed by the board.

SECTION 3. AMENDMENT. Section 43-09-09 of the North Dakota Century Code is amended and reenacted as follows:

43-09-09. License required - Examination - Board to issue license.

Every

1. ~~A person, partnership, company, corporation, limited liability company, or association that undertakes or offers~~ may not undertake or plan to undertake with another person to plan, lay out, supervise, install, make additions, make alterations, or make repairs, in the installation of wiring, apparatus, or equipment for electric light, heat, or power or for a power limited system, shall apply to unless licensed by the board for a license.
2. The board shall examine ~~the~~ an applicant for licensure and if, upon a technical and practical examination, the applicant is found to possess the required knowledge and skill and to be versed in the laws of electricity, the applicant shall be issued a license in the class for which the applicant was examined. The license ~~shall~~ must be signed by the president and the secretary of the board and attested by the seal of the board.
3. Each licensee or permitholder shall report that ~~person's individual's~~ person's individual's licensing or renewals to the electrical inspector, if there is one, in the ~~municipality~~ city in which that ~~person individual~~ person individual operates.

SECTION 4. AMENDMENT. Section 43-09-09.2 of the North Dakota Century Code is amended and reenacted as follows:

43-09-09.2. Advertising prohibited - Exceptions - Liability - Penalty.

1. Except as provided in this section, if ~~an electrical~~ license is required under section 43-09-09 ~~or by local ordinance~~, a person may not advertise to contract for electrical services without being licensed as or being associated with a class B ~~electrician~~, master electrician, or power limited electrician, unless that person intends to contract the electrical services with a licensed electrical contractor.
2. If a person associates with ~~a class B or master~~an electrician under subsection 1 and that association ends, that person is jointly and severally liable for any ~~electrical services~~ contracts entered under that association.
3. a. A person violating this section is guilty of a class B misdemeanor for a first conviction, but no fine in excess of one hundred dollars and no term of imprisonment may be imposed.
b. A person violating this section is guilty of a class A misdemeanor for a second or subsequent conviction, but the penalties are as follows:
 - (1) For a second conviction, no fine in excess of one thousand dollars and no term of imprisonment may be imposed.
 - (2) For a third or subsequent conviction, a fine not to exceed one thousand dollars, or imprisonment not to exceed thirty days, or both, may be imposed.

SECTION 5. AMENDMENT. Section 43-09-10 of the North Dakota Century Code is amended and reenacted as follows:

43-09-10. Types of licenses.

The classes of electricians who may be licensed under section 43-09-09 are:

1. Master electrician.
2. Journeyman electrician.
3. Class B electrician.
4. Power limited electrician.

¹³⁸ **SECTION 6. AMENDMENT.** Section 43-09-11 of the North Dakota Century Code is amended and reenacted as follows:

43-09-11. Qualifications.

An applicant for an electrician's license must have the following experience and training:

¹³⁸ Section 43-09-11 was also amended by section 1 of Senate Bill No. 2056, chapter 345.

1. For licensure as a master electrician, an applicant must have completed one year's experience as a licensed journeyman electrician.
2. For licensure as a journeyman electrician, an applicant must have:
 - a. Completed eight thousand hours' experience in installing and repairing electrical wiring, apparatus, and equipment, which experience may not be obtained in less than three years.
 - b. Effective for an applicant who registered with the board as an apprentice after January 31, 2008, completed at least one of the following:
 - (1) Successfully completed apprenticeship training approved by the federal bureau of apprenticeship and training and completed eight thousand hours' experience in installing and repairing electrical wiring, apparatus, and equipment.
 - (2) Successfully completed an appropriate course of study, which may not be less than two years or the equivalent of two years, at a board-approved institution of higher education and completed eight thousand hours' experience in installing and repairing electrical wiring, apparatus, and equipment. The board may determine equivalent hours of education that may be applied as a credit against the eight thousand hours' experience requirement under this paragraph.
3. For licensure as a class B electrician, eighteen months' experience in farmstead or residential wiring.
4. For licensure as a power limited electrician:
 - a. Hold a valid board-recognized tradesman certification; or
 - b. Possess the necessary work experience and training, as approved by the board.

SECTION 7. AMENDMENT. Section 43-09-12 of the North Dakota Century Code is amended and reenacted as follows:

43-09-12. Examination - Requirements.

Each applicant for an electrician's license shall pay the examination fee and shall take an oath and submit written evidence that the applicant has had the required experience. ~~If a partnership, corporation, or limited liability company applies for a license, an officer or manager thereof shall make the application and take the oath and submit evidence as to experience.~~

SECTION 8. AMENDMENT. Section 43-09-13.2 of the North Dakota Century Code is amended and reenacted as follows:

43-09-13.2. Electrical inspectors Inspectors - License required - Exception.

~~A person~~An individual employed by the state electrical board or a political subdivision to inspect electrical or power limited system installations must be licensed as a journeyman electrician or master electrician. ~~This section does not apply to an inspector employed by the electrical board or a political subdivision as of July 2, 1989.~~

¹³⁹ **SECTION 9. AMENDMENT.** Section 43-09-15 of the North Dakota Century Code is amended and reenacted as follows:

43-09-15. Renewal of license - Denial, suspension, or revocation of licenses.

1. An electrician's license may be issued for a term of only one year, but may be renewed without examination upon the payment of the proper fee. If the licensee fails to renew the license for a period of three consecutive years or more, the licensee is required to appear for re-examination. The state electrical board may deny, suspend, revoke, or refuse to renew any license issued or applied for under the provisions of this chapter for any of the following reasons:
 - 1-a. Failure or refusal to maintain or adhere to the minimum standards set forth in the electrical code referred to in section 43-09-21.
 - 2-b. Any cause for which the issuance of the license could have been refused had ~~it~~that information then existed and been known to the board.
 - 3-c. Commitment of any act of gross negligence, incompetency, or misconduct in the practice of ~~a master or journeyman electrician or the business of an electrical contractor~~the profession regulated under this chapter.
 - 4-d. Material misstatement, misrepresentation, or fraud in obtaining the license.
 - 5-e. After due notice, failed or refused to correct, within the specified time, any electrical installation not in compliance with the provisions of this chapter.
 - 6-f. Failure or refusal to make a deposit or acquire public liability insurance as required by ~~sections 43-09-14 and~~section 43-09-20.
 - 7-g. Failure to ~~repay~~pay or enter into a written contract for repayment, under a payment schedule acceptable to the board, ~~of money disbursed from the fund as provided under section 43-09-14, or failure to make timely payments under a payment contract entered into under the board's policy for administering the undertaking fund~~any financial obligation to the board.
 - 8-h. Failure to furnish certification of completion of continuing education as required under section 43-09-15.1.

Any person whose

2. ~~If an individual's license is denied or whose license is, suspended, or revoked by the board, or who~~that individual is refused a license by the board, that individual may appeal to the appropriate court.

¹⁴⁰ **SECTION 10. AMENDMENT.** Section 43-09-15.1 of the North Dakota Century Code is amended and reenacted as follows:

43-09-15.1. Continuing education.

¹³⁹ Section 43-09-15 was also amended by section 2 of Senate Bill No. 2056, chapter 345.

¹⁴⁰ Section 43-09-15.1 was also amended by section 3 of Senate Bill No. 2056, chapter 345.

~~After March 31, 1990, each~~An applicant for renewal of an electrician's license pursuant to section 43-09-15 must have successfully completed ~~prior thereto~~ at least ~~four hours, and thereafter~~ eight hours each biennium, of continuing education relating to the standards set forth in section 43-09-21 or as otherwise prescribed by the board. The board may not require more than sixteen hours of continuing education in each biennium. The board shall conduct education sessions ~~for licensees~~ each year at not ~~less~~fewer than six locations throughout the state. Attendance at such sessions, or attendance at other education sessions certified by the board as approved, fulfills the educational requirements of this section. The board may charge a fee ~~to licensees~~ for attendance at the education sessions at an amount to be determined by the board, but not to exceed ten dollars per ~~person~~attendee for each session.

SECTION 11. AMENDMENT. Section 43-09-16 of the North Dakota Century Code is amended and reenacted as follows:

43-09-16. When license not required.

The following persons ~~may not be~~not required to hold ~~an electrician's license~~licensed by and are not subject to regulation by the board under this chapter:

1. Employees of public utilities engaged in the manufacture and distribution of electrical energy ~~when~~while engaged in work directly pertaining to the manufacture and distribution of electrical energy. This exemption terminates at the first point of service attachment, except for the installing or testing of electric meters and measuring devices and the maintenance of ~~their~~service~~electric meters and measuring devices.~~
2. Employees, independent contractors, or subcontractors of a company that operates or installs telephone and radio communication systems when engaged in work pertaining directly to the installation of telephone and radio communication conductors on premises where the installations are made for use exclusively for the transmission of telephone and radio signals is a telecommunication carrier as defined under section 57-34-01 or that is a satellite or cable systems provider, while acting in the scope of employment or the terms of the contract.
3. Employees, independent contractors, or subcontractors of dealers in household appliances, such as room air-conditioners, clothes dryers, dishwashers, freezers, garbage disposals, refrigerators, stoves, washing machines, water heaters, and similar appliances when such employees are~~are~~while installing and connecting such appliances to an existing electrical receptacle.
4. A representative of a manufacturing firm that is installing or modifying controls of wiring solely on industrial machinery that is for use by the firm itself, and performed by or under the direction of a registered professional engineer who issues a state-accepted evaluation, which is to be maintained with the equipment.
5. An individual who is installing a nonelectrical system.
6. An individual who is installing a power limited system that is installed within a residential dwelling or is installed with a factory connector or cord powered by an existing electrical receptacle.

SECTION 12. AMENDMENT. Section 43-09-18 of the North Dakota Century Code is amended and reenacted as follows:

43-09-18. Apprentice to master electrician.

~~Any person~~An individual may serve as an apprentice under a licensed master electrician or power limited electrician, but a master electrician or power limited electrician may not allow an apprentice to work on any installation without personal supervision of a licensed electrician.

SECTION 13. AMENDMENT. Section 43-09-20 of the North Dakota Century Code is amended and reenacted as follows:

~~43-09-20. Contract for installation of electrical wiring and installation of electrical equipment~~Installations made with master electrician, class B electrician, or power limited electrician - Requirement for liability insurance.

No

1. ~~A contract, agreement, or undertaking with another person for the installation of electrical wiring or power limited wiring or the installation of electrical or power limited system parts of other apparatus may not be entered into by anyone not other than a master electrician or power limited electrician. A class B electrician, as herein defined, is authorized to may not enter into a contract, undertaking, or agreement for the installation of farmstead electrical wiring, except for:~~
 - a. ~~Farmstead electrical wiring; or residential~~
 - b. ~~Residential electrical wiring in one or two family dwellings located in municipalities a city with a population of two thousand five hundred or less population, and the electrician's authority under the contract, undertaking, or agreement is limited to the actual installation by that electrician of farmstead electrical wiring or residential electrical wiring in one or two family dwellings located in municipalities of two thousand five hundred or less population, and the installation of electrical equipment, appliances, and apparatus used on farmsteads and such residences. Before an electrician referred to in this section enters into a contract for installation of electrical wiring, the electrician shall deposit with the board fewer.~~
2. ~~If a licensee is acting as a contractor, that licensee shall submit to the board evidence of the existence of public liability insurance with a licensed insurance carrier, with policy limits of at least five hundred thousand dollars for a master electrician, and two hundred fifty thousand dollars for a class B electrician.~~

SECTION 14. AMENDMENT. Section 43-09-21 of the North Dakota Century Code is amended and reenacted as follows:

43-09-21. Standards for electrical wiring, apparatus, and equipment.

All electrical and power limited wiring, apparatus, or equipment must comply with the rules of the board made under authority of the laws of this state and in conformity with the approved methods of construction for safety to life and property. The regulations in the national electrical code and the national electrical safety code as approved by the American national standards institute are prima facie evidence of these approved methods. ~~Any municipality~~Although a city may make more stringent requirements by ordinance, application of the ordinance must be limited to individuals

licensed by the board under this chapter. An electrical or power limited system installation may not be connected for use until proof has been furnished to the person, firm, corporation, or limited liability company supplying electrical energy that there is compliance with the applicable regulations. The manufacturer of a new manufactured building or modular unit shall make any changes required for the proof within fourteen days from the notice that the building or unit does not comply with the applicable regulations. This section does not apply to the movement of a new manufactured building or modular unit into or within this state before the process of being connected for use.

SECTION 15. AMENDMENT. Section 43-09-22 of the North Dakota Century Code is amended and reenacted as follows:

43-09-22. Inspection of installation - Condemnation.

1. The board has jurisdiction over and shall provide inspection for all electrical installations. Inspectors~~The board has jurisdiction over and shall provide inspection for all power limited system installations. If there is a disagreement between an electrician and an inspector over interpretation or over a correction for violation issued by any inspector, the executive director of the board shall review the identified disagreement and render a final decision, which either party may appeal to the board.~~
2. The executive director of the board, as authorized by the board, may condemn installations hazardous to life and property or may order specific corrections to be made. Inspectors~~The executive director may order disconnection of service thereto discontinued after notice to the owner of the property. The order is subject to the owner's right of appeal to the board. No~~ condemned installation may not be reconnected for service until proof has been furnished that the installation has been brought up to the required standards.
3. The board may charge the~~a~~ master electrician, class B electrician, or power limited electrician responsible for the installation a fee ~~to cover the cost of inspection for inspections.~~ Cities
4. A city may make provisions for inspection of all electrical work done and power limited systems installed within the~~the~~ corporate limits of the city. City inspectors~~A city shall register their names~~the name of the inspector with the board within ten days after their~~of~~ appointment. A city may not require inspection of an installation that is outside the jurisdiction of the board.

SECTION 16. AMENDMENT. Section 43-09-23 of the North Dakota Century Code is amended and reenacted as follows:

43-09-23. Criminal penalty - Civil proceedings.

Any person who~~A person that~~ violates any of the provisions of this chapter is guilty of a class B misdemeanor. In addition to criminal proceedings, the board may commence administrative or civil court proceedings as follows:

1. The board may issue a cease and desist order against a person allegedly making or offering to make electrical installations in violation of section 43-09-09 or 43-09-09.2 based upon information provided to the board by its electrical inspectors or other persons, by investigation reports, affidavits, complaints of witnesses, or oral testimony given to the board at a regular or special board meeting. Violation of the cease and desist order may be

considered by the court in issuing a temporary or permanent restraining order and in ordering the payment of costs and attorney's fees in proceedings authorized under this section.

2. The board may apply to the district court in the county in which the violations have occurred for a temporary or permanent injunction under chapter 32-06, enjoining persons from performing, advertising, or contracting for making electrical installations without a valid license issued by the board in violation of section 43-09-09 or 43-09-09.2. The court may not require a written undertaking, security, or bond as a basis for issuing any temporary or permanent restraining order under this section unless the court specifically orders and states the basis for requiring the security. Upon a determination that a violation of section 43-09-09 or 43-09-09.2 has occurred, the court may assess against the defendants the actual costs incurred and reasonable attorney's fees necessary for the investigation and court proceedings against the unlicensed person.
3. After an administrative hearing has been conducted by the board under chapter 28-32, an appeal from an order of the board or from the assessment of costs and attorney's fees may be taken to the district court under chapter 28-32.

Approved May 1, 2019

Filed May 2, 2019

CHAPTER 345

SENATE BILL NO. 2056

(Senators Kannianen, Klein, Burckhard)
(Representatives Keiser, Kempenich, Devlin)

AN ACT to amend and reenact subsection 2 of section 43-09-11 and sections 43-09-15 and 43-09-15.1 of the North Dakota Century Code, relating to electrician qualifications and license renewal; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴¹ **SECTION 1. AMENDMENT.** Subsection 2 of section 43-09-11 of the North Dakota Century Code is amended and reenacted as follows:

2. For licensure as a journeyman electrician, an applicant must have:
 - a. Completed eight thousand hours' experience in installing and repairing electrical wiring, apparatus, and equipment, which experience may not be obtained in less than three years.
 - b. Effective for an applicant who registered with the board as an apprentice after January 31, 2008, completed at least one of the following:
 - (1) Successfully completed apprenticeship training approved by the ~~federal bureau of apprenticeship and training board~~ and completed eight thousand hours' experience in installing and repairing electrical wiring, apparatus, and equipment.
 - (2) Successfully completed an appropriate course of study, which may not be less than two years or the equivalent of two years, at a board-approved institution of higher education and completed eight thousand hours' experience in installing and repairing electrical wiring, apparatus, and equipment. The board may determine equivalent hours of education that may be applied as a credit against the eight thousand hours' experience requirement under this paragraph.

¹⁴² **SECTION 2. AMENDMENT.** Section 43-09-15 of the North Dakota Century Code is amended and reenacted as follows:

43-09-15. Renewal of license - Denial, suspension, or revocation of licenses.

1. An electrician's license may be issued for a term of only one year, but may be renewed without examination upon the payment of the proper fee. If the licensee fails to renew the license for a period of three consecutive years or more, the licensee is required to appear for re-examination. The state

¹⁴¹ Section 43-09-11 was also amended by section 6 of House Bill No. 1157, chapter 344.

¹⁴² Section 43-09-15 was also amended by section 9 of House Bill No. 1157, chapter 344.

electrical board may deny, suspend, revoke, or refuse to renew any license issued or applied for under ~~the provisions of~~ this chapter for any of the following reasons:

1. a. Failure or refusal to maintain or adhere to the minimum standards set forth in the electrical code referred to in section 43-09-21.
 2. b. Any cause for which the issuance of the license could have been refused had it then existed and been known to the board.
 3. c. Commitment of any act of gross negligence, incompetency, or misconduct in the practice of a master or journeyman electrician or the business of an electrical contractor.
 4. d. Material misstatement, misrepresentation, or fraud in obtaining the license.
 5. e. After due notice, failed or refused to correct, within the specified time, any electrical installation not in compliance with ~~the provisions of~~ this chapter.
 6. f. Failure or refusal to make deposit or acquire public liability insurance as required by ~~sections 43-09-14 and~~ section 43-09-20.
 7. g. Failure to repay or enter into a written contract for repayment, under a payment schedule acceptable to the board, ~~of money disbursed from the fund as provided under section 43-09-14,~~ or failure to make timely payments under a payment contract entered into under the board's policy ~~for administering the undertaking fund.~~
 8. h. Failure to furnish certification of completion of ~~continuing~~ education as required under section 43-09-15.1.
2. Any person whose license is denied or whose license is suspended or revoked by the board, or who is refused a license by the board, may appeal to the appropriate court.

¹⁴³ **SECTION 3. AMENDMENT.** Section 43-09-15.1 of the North Dakota Century Code is amended and reenacted as follows:

43-09-15.1. Continuing education~~Education~~.

After ~~March 31, 1990,~~ Each applicant for renewal of an electrician's license pursuant to section 43-09-15 must have successfully completed ~~prior thereto~~ at least four hours, and thereafter eight hours each biennium, of ~~continuing~~ education relating to the standards set forth in section 43-09-21 or as otherwise prescribed by the board. The board may not require more than sixteen hours of continuing education in each biennium. The board shall conduct education sessions for licensees each year at not less than six locations throughout the state. Attendance at such sessions, or attendance at other education sessions certified by the board as approved, fulfills the educational requirements of this section. The board may charge a fee to licensees for attendance at the education sessions at an amount to be determined by the board, but not to exceed ten dollars per person for each session. The board may expend funds to educate and encourage potential electricians into the trade.

¹⁴³ Section 43-09-15.1 was also amended by section 10 of House Bill No. 1157, chapter 344.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 6, 2019

Filed March 7, 2019

CHAPTER 346

HOUSE BILL NO. 1078

(Representatives J. Nelson, Nathe)

AN ACT to amend and reenact section 43-10-15.4 of the North Dakota Century Code, relating to intern embalmer applications and qualifications; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-10-15.4 of the North Dakota Century Code is amended and reenacted as follows:

43-10-15.4. Intern embalmer - Application - Qualifications.

1. The board shall issue a certificate of registration as an intern embalmer to each applicant who files an application upon a form and in a manner the board prescribes, accompanied by a fee not to exceed fifty dollars, and who furnishes sufficient evidence to the board that the applicant:
 1. a. Is at least eighteen years of age;
 2. b. Is of good moral character; and
 3. c. Has completed an accredited four-year high school course of study ~~and one year of accredited college or university studies;~~
 - d. Has completed one year of accredited college or university studies; and
 - e. Has been accepted to attend or is enrolled in an accredited college of mortuary science, or has graduated from an accredited college of mortuary science.
2. An intern embalmer may not practice for more than six months before attending an accredited college of mortuary science.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 13, 2019

Filed March 14, 2019

CHAPTER 347

HOUSE BILL NO. 1345

(Representative Nathe)

AN ACT to amend and reenact section 43-11-01 of the North Dakota Century Code, relating to the practice of natural hair braiding and threading.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-11-01 of the North Dakota Century Code is amended and reenacted as follows:

43-11-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the state board of cosmetology.
2. "Booth space" means that part of a licensed salon that is operated independently by an individual licensed under this chapter.
3. "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.
4. "Cosmetology" means any one or a combination of practices generally and usually performed by and known as the occupation of beauty culturists or cosmeticians or cosmetologists or hairdressers, or of any other person holding out as practicing cosmetology by whatever designation and within the meaning of this chapter and in and upon whatever place or premises; ~~and in particular cosmetology.~~
 - a. The term includes the following or any one or a combination of these practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, upon the hair of any ~~person~~individual by any means or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, exercising, performing noninvasive hair removal, beautifying, or similar work on the body, manipulation of eyelashes, or manicuring the nails of any ~~person~~individual.
 - b. The term does not include natural hair braiding or threading.
5. "Cosmetology salon" includes that part of any building in which the occupation of a cosmetologist is practiced.
6. "Esthetician" means ~~a person~~an individual who is licensed by the board to engage in the practice of skin care.
7. "Homebound" means ~~any person~~an individual who is ill, disabled, or otherwise unable to travel to a salon.

8. "Instructor" means any person of the age of eighteen years or more an individual who is at least eighteen years old, who is a licensed cosmetologist, who teaches cosmetology or any practices taught in a duly registered school of cosmetology, and who has met the requirements of section 43-11-27 and has applied for and received an instructor's license.
9. "Invasive care" means any procedure that invades the live tissue of the dermis, including:
 - a. Laser use; and
 - b. Chemical peels using:
 - (1) Thirty percent or higher concentration of alpha hydroxy acid;
 - (2) Twenty percent or higher concentration of beta hydroxy acid;
 - (3) Two percent or higher concentration of resorcinol;
 - (4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or
 - (5) Fifteen percent or higher concentration of phenol.
10. "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the hands, feet, or nails of any ~~person~~individual.
11. "Manicurist" means ~~a person~~an individual who is licensed by the board to engage in the practice of manicuring.
12. "Master cosmetologist" means ~~any person~~an individual who has met the requirements of section 43-11-26 and has applied for and received a managing cosmetologist license.
13. "Mechanical device" means a clip, comb, crochet hook, curler, curling iron, hairpin, roller, scissors, blunt-tipped needle, thread, and hair binder.
14. "Natural hair braiding" means the service of twisting, wrapping, weaving, extending, locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is commonly known as "African-style hair braiding" but is not limited to any particular cultural, ethnic, racial, or religious forms of hairstyles.
 - a. The term includes:
 - (1) The use of natural or synthetic hair extensions, natural or synthetic hair and fibers, and decorative beads and other hair accessories;
 - (2) Minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair;
 - (3) The making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions; and
 - (4) The use of topical agents, such as conditioners, gels, moisturizers, oils, pomades, and shampoos, in conjunction with performing services under paragraph 1 or 2.

b. The term does not include:

- (1) The application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair; or
- (2) The use of chemical hair joining agents, such as synthetic tape, keratin bonds, or fusion bonds.

15. "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology.

14-16. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, performing noninvasive hair removal, beautifying, or similar work on the body of any person. The term does not include invasive care or threading.

15-17. "Student" means any person who is engaged in the learning or acquiring of any or all the practices of cosmetology and while so learning, performs or assists in any of the practices of cosmetology in any school registered or licensed and under the immediate supervision of an instructor licensed as such under this chapter.

16-18. "Student instructor" means a cosmetologist who is receiving instruction in teacher's training in a duly registered school of cosmetology.

17-19. "Threading" means the method of removing hair from the eyebrows, upper lip, or other body part by using cotton thread to pull hair from follicles.

a. The term may include the use of an over-the-counter astringent, gel, and powder, tweezers, and scissors, incidental to the removal of hair by threading.

b. The term does not include the use of chemicals, heat, or any type of wax.

20. "Tuition" means the total cost of a person's cosmetology studies, and does not include books or demonstration kits.

Approved April 10, 2019

Filed April 11, 2019

CHAPTER 348

SENATE BILL NO. 2143

(Senators K. Roers, Anderson, Oban)
(Representatives D. Anderson, P. Anderson, Rohr)

AN ACT to amend and reenact subsection 1 of section 43-12.3-06 of the North Dakota Century Code, relating to the health care professional student loan repayment program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 43-12.3-06 of the North Dakota Century Code is amended and reenacted as follows:

1. The health council shall enter into a contract with a selected health care professional. The health council shall agree to provide student loan repayments on behalf of the selected health care professional subject to the requirements and limitations of this section.
 - a. For a physician:
 - (1) The loan repayment ~~must be equal to~~ may not exceed twenty thousand dollars per year, ~~and may not exceed one hundred thousand dollars over five years;~~ and
 - (2) The matching funds must equal fifty percent of the amount required in paragraph 1.
 - b. For a clinical psychologist:
 - (1) The loan repayment ~~must be equal to~~ may not exceed twelve thousand dollars per year, ~~and may not exceed sixty thousand dollars over five years;~~ and
 - (2) The matching funds must equal twenty-five percent of the amount required in paragraph 1.
 - c. For an advanced practice registered nurse or a physician assistant:
 - (1) The loan repayment ~~must be equal to~~ may not exceed four thousand dollars per year, ~~and may not exceed twenty thousand dollars over five years;~~ and
 - (2) The matching funds must equal ten percent of the amount required in paragraph 1.
 - d.(1) For a behavioral health professional:
 - (a)(1)The loan repayment ~~must be equal to~~ may not exceed four thousand dollars per year, ~~and may not exceed twenty thousand dollars over five years;~~ and

-
- ~~(b)(2)~~The matching funds must equal ten percent of the amount required in ~~subparagraph a~~paragraph 1.
- ~~(2)~~e. For purposes of this ~~subdivision~~section, a behavioral health professional means an individual who practices in the behavioral health field and is:
- ~~(a)~~(1)A licensed addiction counselor;
 - ~~(b)~~(2)A licensed professional counselor;
 - ~~(c)~~(3)A licensed social worker;
 - ~~(d)~~(4)A registered nurse; or
 - ~~(e)~~(5)A specialty practice registered nurse.

Approved March 14, 2019

Filed March 14, 2019

CHAPTER 349

SENATE BILL NO. 2323

(Senators Oban, Davison, Meyer)
(Representatives P. Anderson, C. Johnson, Vetter)

AN ACT to amend and reenact sections 43-13-19, 43-13-20, 43-13-21.1, 43-13-22, and 43-13-26.1 of the North Dakota Century Code, relating to optometry licenses; and to repeal section 43-13-23, 43-13-24, 43-13-25, 43-13-26, and 43-13-32 of the North Dakota Century Code, relating to the state board of optometry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-13-19 of the North Dakota Century Code is amended and reenacted as follows:

43-13-19. License - When issued - Fee ~~–Failure to pass examination–~~ Re-examination.

Every applicant for a license to practice optometry in this state who meets the standards required for licensure, including successfully passes ~~passing~~ the required examination shall receive a license and, must be licensed upon payment to the secretary of the board of a reasonable sum fixed by the board. ~~If the applicant fails to pass the first examination, within fourteen months thereafter the applicant may have another examination upon the payment of fifty percent of the current application fee. The examination must be given at such time and place as may be designated by the board.~~

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

43-13-20. Term of license - Renewal - Annual license fee - Continuing educational requirements.

A license to practice optometry in the state may be issued for one year only, ~~but may be.~~ A license may be renewed by ~~paying~~ submitting to the secretary of the board, during the ~~month of~~ December of each year, the license fee for the following year, by submitting and satisfactory proof to the board that within the preceding three-year period the applicant ~~licensee~~ has attended optometric educational programs as required ~~met all continuing education conditions set~~ by the board. The board shall grant an applicant an additional year in which to attend the education programs if an applicant furnishes the board with sufficient proof that the applicant has been unable to attend the education programs during a year, which proof must include a physician's certificate stating that the applicant was ill and that it would have been hazardous to the applicant's health to attend the educational programs. The license fee for each year must be determined annually by the North Dakota state board of optometry and be a reasonable sum fixed by the board. The board shall adopt reasonable rules that must state the type of optometric educational programs which are approved. The board also shall designate the number of classroom hours which must be attended, which must be a reasonable amount for each three-year period. Any person who does not meet these requirements by January first of the year in which the license fee becomes due and payable is in default and may be reinstated

~~by the board upon the payment of an additional sum reasonably fixed by the board, and upon the acceptance by the board of satisfactory evidence that the person has sufficiently attended approved optometric educational programs, and upon the compliance with other reasonable conditions the board may impose. This section does not require an applicant to become a member of the North Dakota optometric association or any other association of optometrists.~~

SECTION 3. AMENDMENT. Section 43-13-21.1 of the North Dakota Century Code is amended and reenacted as follows:

43-13-21.1. Disciplinary powers of the board.

1. ~~The board may conduct investigations for the purpose of determining whether violations of this chapter or grounds for disciplining licensees exist. The board may establish an investigative panel to conduct an investigation under this section and may subpoena records.~~
2. ~~A complaint, response, and any record received by the board during the course of the board's investigation into a complaint are exempt records, as defined in section 44-04-17.1, until the board concludes whether to pursue disciplinary action.~~
3. In addition to any other disciplinary actions available to the board, the board may take one or more of the following actions against an optometrist who violates the provisions of this chapter or the board's rules:
 - a. Letters of concern.
 - b. Letters of censure.
 - c. Reprimands.
 - d. Fines, including costs and attorney's fees.
 - e. Stipulations, limitations, and conditions relating to practice such as additional education and counseling.
 - f. Probation.
 - g. Suspension of the license.
 - h. Revocation of the license.
- 2-4. The board may require a licensee to be examined on optometric knowledge and skills, if the board has just cause to believe the licensee may be so deficient in knowledge and skills as to jeopardize the health, welfare, and safety of the citizens of this state.
- 3-5. The board may require a physical or mental evaluation as provided in section 43-13-26.1 if it has reason to believe the licensee's physical or mental condition may adversely affect the public welfare.
6. Disciplinary action must occur through an administrative hearing conducted in accordance with chapter 28-32.

SECTION 4. AMENDMENT. Section 43-13-22 of the North Dakota Century Code is amended and reenacted as follows:

43-13-22. License - When revoked.

The

1. ~~After an administrative hearing conducted in accordance with chapter 28-32, the board may restrict, revoke, or suspend any license granted by it under the provisions of this chapter when it appears to the satisfaction of the majority of the members that the board determines~~ the holder of the license:
1. a. Has violated any provisions of this chapter, the rules and regulations of the board, or committed an offense determined by the board to have a direct bearing upon a holder's ability to serve the public as an optometrist, or when the board determines, following conviction of a holder for any other offense, that the holder is not sufficiently rehabilitated under section 12.1-33-02.1;
2. b. Has sold or distributed any drug legally classified as a controlled substance or as an addictive or dangerous drug;
3. c. Has been addicted to the excessive use of intoxicating liquor or a controlled substance for at least six months immediately prior to the filing of the charges;
4. d. Is afflicted with any contagious or infectious disease;
5. e. Is grossly incompetent to discharge the holder's duties in connection with the practice of optometry;
6. f. Has employed fraud, deceit, misrepresentation, or fraudulent advertising in the practice of optometry; or
7. g. Is engaged in the practice of optometry by being directly or indirectly employed by any person other than a licensed optometrist, a physician licensed under chapter 43-17, a hospital, or a clinic operated by licensed optometrists or by licensed physicians.
2. Any person whose license has been revoked or suspended may have the same reinstated upon satisfactory proof that the disqualification has ceased or that the disability has been removed and upon such conditions as established by the board.

SECTION 5. AMENDMENT. Section 43-13-26.1 of the North Dakota Century Code is amended and reenacted as follows:

43-13-26.1. Impaired optometrists.

~~The~~After a hearing conducted pursuant to chapter 28-32, the board may restrict, suspend, or revoke the license of any licensed optometrist whose mental or physical ability to practice optometry with reasonable skill and safety is impaired.

1. For the purpose of this section, "impairment" means the inability of a licensee to practice optometry with reasonable skill and safety by reason of:

- a. Mental illness; or
 - b. Physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills.
2. The board may, upon probable cause, require a licensee or applicant to submit to a mental or physical examination by appropriate health care providers designated by the board. The results of the examination are admissible in any hearing ~~before the board~~, despite any claim of privilege under any contrary rule or statute. Every person who receives a license to practice optometry or who files an application for a license to practice optometry is deemed to have given consent to submit to the admissibility of the results in any hearing ~~before the board~~. If a licensee or applicant fails to submit to an examination when properly directed to do so by the board, unless the failure was due to circumstances deemed to be beyond the licensee's control, the board may enter a final disciplinary order upon proper notice, hearing, and proof of such refusal.
 3. If the board finds, after examination and administrative hearing, that a licensee is impaired, it may take one or more of the following actions:
 - a. Direct the licensee to submit to care, counseling, or treatment acceptable to the board; and
 - b. Suspend, limit, or restrict the optometrist's license for the duration of the impairment.
 4. Any licensee or applicant who is prohibited from practicing optometry under this section must be afforded an opportunity, at reasonable intervals, to demonstrate to the satisfaction of the board that the licensee or applicant can resume or begin the practice of optometry with reasonable skill and safety. Licensure ~~will~~may not be reinstated without the payment of ~~fifty percent of the~~ current license fee and may be subject to such reasonable restrictions as may be imposed by the board.

SECTION 6. REPEAL. Sections 43-13-23, 43-13-24, 43-13-25, 43-13-26, and 43-13-32 of the North Dakota Century Code are repealed.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 350

HOUSE BILL NO. 1498

(Representatives Vigesaa, D. Anderson, Becker, Dockter, Kasper, Mock, Rohr)
(Senators Hogue, O. Larsen, Piepkorn)

AN ACT to amend and reenact subsection 1 of section 43-15-01 and section 43-15-31.5 of the North Dakota Century Code, relating to pharmacist administration of drugs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 43-15-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Administration" means the direct application of a drug to the body of a patient.
 - a. The term includes:
 - (1)~~a.~~ The emergency maintenance of a drug delivery device used in home infusion therapy by a qualified home pharmacist ~~when~~if nursing service is not available;
 - (2)~~b.~~ Upon an order by a ~~physician, a physician assistant, or nurse practitioner~~ authorized to prescribe such a drug or by written protocol with a physician or nurse practitioner and subsequently reported as a childhood immunization and other information if required to the state's immunization information system pursuant to section 23-01-05.3:
 - (a)~~(1)~~Immunization and vaccination by injection of an individual who is at least eleven years of age; and
 - (b)~~(2)~~Influenza vaccination by injection or by live, attenuated influenza vaccine of an individual who is at least five years of age; and
 - (3)~~c.~~ Provision of other drugs ~~by subcutaneous, intradermal, and intramuscular injection~~ to an individual who is at least eighteen years of age upon the order of a ~~physician, a physician assistant, or nurse practitioner~~ authorized to prescribe such a drug.
 - b. ~~The term does not include the regular ongoing delivery of a drug to the patient in a health care setting and other parenteral administration of a drug; and~~
 - d. Provision of drugs to an individual receiving emergency services in a health care facility upon an order or by established written protocol.

SECTION 2. AMENDMENT. Section 43-15-31.5 of the North Dakota Century Code is amended and reenacted as follows:

43-15-31.5. InjectionAdministration of drugs - Rules.

~~Any~~A pharmacist who administers drugs by injection must have a certificate of authority from the board. The authority to administer a drug by injection may not be delegated. The board shall adopt rules to establish educational and operational requirements for a pharmacist to obtain and maintain a certificate of authority to administer drugs by injection. Rules adopted by the board under this section must include:

1. Educational requirements of a minimum of twenty hours, which include, at a minimum:
 - a. Basic immunology, including the human immune response;
 - b. The mechanism of immunity, adverse effects, dose, and administration schedule of available vaccines and approved medication and immunization;
 - c. Current immunization guidelines and recommendations of the centers for disease control and prevention;
 - d. Management of adverse events, including identification, appropriate response, documentation, and reporting;
 - e. How to educate patients on the need for immunizations;
 - f. Physiology and techniques for ~~subcutaneous, intradermal, and intramuscular injection~~of administration of drugs; and
 - ~~g-f.~~ Recordkeeping requirements established by law, rule, and regulation or established standards of care.
2. A requirement that an authorized pharmacist ~~must~~shall obtain and maintain current certification in cardiopulmonary resuscitation or basic cardiac life support.
3. Requirements to maintain continuing competency with completion of a minimum of six hours of education dedicated to this area of practice every two years.
4. Requirements for content of ~~physician~~practitioner orders and protocols.
- ~~5-4.~~ Requirements relating to the reporting of the administration by injection to a patient's primary health care provider and to the state department of health.
- ~~6-5.~~ Requirements relating to environments in which ~~injections~~drugs may be administered.

Approved March 13, 2019

Filed March 14, 2019

CHAPTER 351

SENATE BILL NO. 2155

(Senators Anderson, J. Lee, Oban)
(Representatives Beadle, Dobervich, J. Nelson)

AN ACT to create and enact a new subsection to section 43-15-02 of the North Dakota Century Code, relating to an exemption from the practice of pharmacy; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 43-15-02 of the North Dakota Century Code is created and enacted as follows:

An individual licensed as a registered nurse under chapter 43-12.1, in the course of dispensing oral contraceptive pills, transdermal contraceptive patches, and vaginal contraceptive rings, pursuant to an order of an authorized prescriber, in the course of working in a Title X clinic.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 20, 2019

Filed March 21, 2019

CHAPTER 352

SENATE BILL NO. 2231

(Senators Poolman, Heckaman, Klein, J. Lee)
(Representatives Devlin, Keiser)

AN ACT to amend and reenact section 43-15-31.4 of the North Dakota Century Code, relating to pharmacists limited prescriptive practices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-15-31.4 of the North Dakota Century Code is amended and reenacted as follows:

43-15-31.4. Limited prescriptive practices.

1. A pharmacist has limited prescriptive practices to initiate or modify drug therapy following diagnosis or established protocols by a licensed physician or an advanced practice registered nurse, under the supervision of the licensed physician or advanced practice registered nurse, in accordance with this section. The licensed physician ~~or the, advanced practice registered nurse,~~ and the pharmacist must have access to the patient's appropriate medical records. The care provided to the patient by the pharmacist must be recorded in the patient's medical records and communicated to the licensed physician or the advanced practice registered nurse.
2. The licensed physician or ~~the advanced practice registered nurse,~~ and the pharmacist, shall prepare a collaborative agreement concerning the scope of the pharmacist's prescriptive practices and shall update the agreement ~~at least every four years or when they modify~~ if the scope of the pharmacist's prescriptive practices is modified. The collaborative agreement, or an amendment to the agreement, is effective ~~when approved by the North Dakota board of medicine or board of nursing and the board of pharmacy~~ if executed by the licensed physician or advanced practice registered nurse, and the pharmacist.
3. The collaborative agreement may be between a medical director and pharmacist-in-charge. The medical director and pharmacist-in-charge shall ~~report to the respective board of~~ document and update the agreement for any physician, advanced practice registered nurse, and pharmacist covered under the agreement.
4. ~~If there is a change in personnel under the collaborative agreement, a pharmacist, physician, and advanced practice registered nurse under the collaborative agreement shall send immediate notice of the change to the respective licensing board of that individual. Unless necessary, a change in personnel does not necessitate board approval of the collaborative agreement.~~ A collaborative agreement must be made available to the respective licensing boards of the parties to the agreement.

5. The collaborative agreement must include a provision that requires the pharmacist to immediately notify the licensed physician or advanced practice registered nurse ~~when~~if the pharmacist initiates or modifies a drug therapy.
6. ~~Any rules to implement this section must be jointly adopted by the board of medicine or the board of nursing and the board of pharmacy.~~

Approved March 26, 2019

Filed March 27, 2019

CHAPTER 353

SENATE BILL NO. 2327

(Senators Anderson, Cook)
(Representatives Porter, Toman)

AN ACT to create and enact a new subsection to section 43-15.3-13 of the North Dakota Century Code, relating to license exception for outsourcing facility regarding certain sales; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 43-15.3-13 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding contrary provisions of this chapter, an outsourcing facility may compound and sell in the state a compounded calcium gluconate product intended for the emergency treatment of hydrofluoric acid exposure without obtaining a license under this chapter.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 19, 2019

Filed March 20, 2019

CHAPTER 354

SENATE BILL NO. 2094

(Human Services Committee)

(At the request of the North Dakota Board of Medicine)

AN ACT to create and enact sections 43-17-44, 43-17-45, and 43-62-14.1 of the North Dakota Century Code, relating to the practice of telemedicine and the regulation of fluoroscopy technologists; to amend and reenact sections 43-17-01, 43-17-02, and 43-17-02.3, subsection 1 of section 43-17.1-02, and sections 43-17.1-05, 43-17.1-05.1, and 43-17.1-06 of the North Dakota Century Code, relating to the definitions of the practice of medicine and telemedicine, the practice of medicine, and the regulation of fluoroscopy technologists; to provide a penalty; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁴ **SECTION 1. AMENDMENT.** Section 43-17-01 of the North Dakota Century Code is amended and reenacted as follows:

43-17-01. Definitions.

1. "Board" means the North Dakota board of medicine.
2. "Licensee" means a physician or physician assistant licensed to practice in North Dakota.
3. "Physician" includes physician and surgeon (M.D.) and osteopathic physician and surgeon (D.O.).
- ~~3.4.~~ "Practice of medicine" includes the practice of medicine, surgery, and obstetrics. The following persons must be regarded as practicing medicine:
 - a. One who holds out to the public as being engaged within this state in the diagnosis or treatment of diseases or injuries of human beings.
 - b. One who suggests, recommends, or prescribes any form of treatment for the intended relief or cure of any physical or mental ailment of any person, with the intention of receiving, directly or indirectly, any fee, gift, or compensation.
 - c. One who maintains an office for the examination or treatment of persons afflicted with disease or injury of the body or mind.
 - d. One who attaches the title M.D., surgeon, doctor, D.O., osteopathic physician and surgeon, or any other similar word or words or abbreviation to the person's name, indicating that the person is engaged in the treatment or diagnosis of the diseases or injuries of human beings ~~must~~shall be held to be engaged in the practice of medicine.

¹⁴⁴ Section 43-17-01 was also amended by section 1 of House Bill No. 1175, chapter 355.

5. "Telemedicine" means the practice of medicine using electronic communication, information technologies, or other means between a licensee in one location and a patient in another location, with or without an intervening health care provider. "Telemedicine" includes direct interactive patient encounters, asynchronous store-and-forward technologies, and remote monitoring.

¹⁴⁵ **SECTION 2. AMENDMENT.** Section 43-17-02 of the North Dakota Century Code is amended and reenacted as follows:

43-17-02. Persons exempt from the provisions of chapter.

The provisions of this chapter do not apply to the following:

1. Students of medicine or osteopathy who are continuing their training and performing the duties of a resident in any hospital or institution maintained and operated by the state, an agency of the federal government, or in any residency program accredited by the accreditation council on graduate medical education, provided that the North Dakota board of medicine may adopt rules relating to the licensure, fees, qualifications, activities, scope of practice, and discipline of such persons.
2. The domestic administration of family remedies.
3. Dentists practicing their profession when properly licensed.
4. Optometrists practicing their profession when properly licensed.
5. The practice of christian science or other religious tenets or religious rules or ceremonies as a form of religious worship, devotion, or healing, if the person administering, making use of, assisting in, or prescribing, such religious worship, devotion, or healing does not prescribe or administer drugs or medicines and does not perform surgical or physical operations, and if the person does not hold out to be a physician or surgeon.
6. Commissioned medical officers of the armed forces of the United States, the United States public health service, and medical officers of the veterans administration of the United States, in the discharge of their official duties, and licensed physicians from other states or territories if called in consultation with a person licensed to practice medicine in this state.
7. Doctors of chiropractic duly licensed to practice in this state pursuant to the statutes regulating such profession.
8. Podiatrists practicing their profession when properly licensed.
9. Any person rendering services as a physician assistant, if such service is rendered under the supervision, control, and responsibility of a licensed physician. However, sections 43-17-02.1 and 43-17-02.2 do apply to physician assistants. The North Dakota board of medicine shall prescribe rules governing the conduct, licensure, fees, qualifications, discipline, activities, and supervision of physician assistants. Physician assistants may not be authorized to perform any services which must be performed by persons

¹⁴⁵ Section 43-17-02 was also amended by section 2 of House Bill No. 1175, chapter 355.

licensed pursuant to chapters 43-12.1, 43-13, 43-15, and 43-28 or services otherwise regulated by licensing laws, notwithstanding the fact that medical doctors need not be licensed specifically to perform the services contemplated under such chapters or licensing laws.

10. A nurse practicing the nurse's profession when properly licensed by the North Dakota board of nursing.
11. ~~A person rendering fluoroscopy services as a radiologic technologist if the service is rendered under the supervision, control, and responsibility of a licensed physician and provided that the North Dakota board of medicine prescribes rules governing the conduct, permits, fees, qualifications, activities, discipline, and supervision of radiologic technologists who provide these services.~~
12. A naturopath duly licensed to practice in this state pursuant to the statutes regulating such profession.
13. An individual duly licensed to practice medical imaging or radiation therapy in this state under chapter 43-62.
14. An acupuncturist duly licensed to practice in this state pursuant to the statutes regulating such profession.

SECTION 3. AMENDMENT. Section 43-17-02.3 of the North Dakota Century Code is amended and reenacted as follows:

43-17-02.3. Practice of medicine or osteopathy by holder of permanent, unrestricted license - Exceptions.

The practice of medicine is deemed to occur in the state the patient is located. A practitioner providing medical care to a patient located in this state is subject to the licensing and disciplinary laws of this state and shall possess an active North Dakota license for the practitioner's profession. Notwithstanding anything in this chapter to the contrary, any physician who is the holder of a permanent, unrestricted license to practice medicine or osteopathy in any state or territory of the United States, the District of Columbia, or a province of Canada may practice medicine or osteopathy in this state without first obtaining a license from the North Dakota board of medicine under one or more of the following circumstances:

1. As a member of an organ harvest team;
2. On board an air ambulance and as a part of its treatment team;
3. To provide one-time consultation on a diagnosis for a patient to a physician licensed in the state, or teaching assistance for a period of not more than twenty-four hours seven days; or
4. To provide consultation or teaching assistance previously approved by the board for charitable organizations.

SECTION 4. Section 43-17-44 of the North Dakota Century Code is created and enacted as follows:

43-17-44. Standard of care and professional ethics.

A licensee is held to the same standard of care and same ethical standards, whether practicing traditional in-person medicine or telemedicine. The following apply in the context of telemedicine:

1. Professional ethical standards require a practitioner to practice only in areas in which the practitioner has demonstrated competence, based on the practitioner's training, ability, and experience. In assessing a licensee's compliance with this ethical requirement, the board shall give consideration to board certifications and specialty groups' telemedicine standards.
2. A licensee practicing telemedicine shall establish a bona fide relationship with the patient before the diagnosis or treatment of a patient. A licensee practicing telemedicine shall verify the identity of the patient seeking care and shall disclose, and ensure the patient has the ability to verify, the identity and licensure status of any licensee providing medical services to the patient.
3. Before initially diagnosing or treating a patient for a specific illness or condition, an examination or evaluation must be performed. An examination or evaluation may be performed entirely through telemedicine, if the examination or evaluation is equivalent to an in-person examination.
 - a. An examination utilizing secure videoconferencing or store-and-forward technology for appropriate diagnostic testing and use of peripherals that would be deemed necessary in a like in-person examination or evaluation meets this standard, as does an examination conducted with an appropriately licensed intervening health care provider, practicing within the scope of the provider's profession, providing necessary physical findings to the licensee. An examination or evaluation consisting only of a static online questionnaire or an audio conversation does not meet the standard of care.
 - b. Once a licensee conducts an acceptable examination or evaluation, whether in-person or by telemedicine, and establishes a patient-licensee relationship, subsequent followup care may be provided as deemed appropriate by the licensee, or by a provider designated by the licensee to act temporarily in the licensee's absence. In certain types of telemedicine utilizing asynchronous store-and-forward technology or electronic monitoring, such as teleradiology or intensive care unit monitoring, it is not medically necessary for an independent examination of the patient to be performed.
4. A licensee practicing telemedicine is subject to all North Dakota laws governing the adequacy of medical records and the provision of medical records to the patient and other medical providers treating the patient.
5. A licensee must have the ability to make appropriate referrals of patients not amenable to diagnosis or complete treatment through a telemedicine encounter, including a patient in need of emergent care or complementary in-person care.

SECTION 5. Section 43-17-45 of the North Dakota Century Code is created and enacted as follows:

43-17-45. Prescribing - Controlled substances.

1. A licensee who has performed a telemedicine examination or evaluation meeting the requirements of this chapter may prescribe medications according to the licensee's professional discretion and judgment. Opioids may only be prescribed through telemedicine if prescribed as a federal food and drug administration approved medication assisted treatment for opioid use disorder or to a patient in a hospital or long-term care facility. Opioids may not be prescribed through a telemedicine encounter for any other purpose.
2. A licensee who, pursuant to this chapter, prescribes a controlled substance, as defined by North Dakota law, shall comply with all state and federal laws regarding the prescribing of a controlled substance, and shall participate in the North Dakota prescription drug monitoring program.

SECTION 6. AMENDMENT. Subsection 1 of section 43-17.1-02 of the North Dakota Century Code is amended and reenacted as follows:

1. For the purpose of investigating complaints or other information that might give rise to a disciplinary proceeding against a physician, ~~a or physician assistant, or a fluoroscopy technologist,~~ the president of the board ~~must~~shall designate two investigative panels, each ~~comprised~~composed of six members of the board. Five members of each panel must be physician members of the board. One member of each panel must be a public member of the board.

SECTION 7. AMENDMENT. Section 43-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-17.1-05. Complaints.

1. Any person may make or refer written complaints to the investigative panels with reference to the acts, activities, or qualifications of any physician, ~~or physician assistant, or fluoroscopy technologist~~ licensed to practice in this state, or to request that an investigative panel review the qualifications of any physician, ~~or physician assistant, or fluoroscopy technologist~~ to continue to practice in this state. Any person ~~who~~that, in good faith, makes a report to the investigative panels under this section is not subject to civil liability for making the report. For purposes of any civil proceeding, the good faith of any person ~~who~~that makes a report pursuant to this section is presumed. Upon receipt of any complaint or request, the investigative panel shall conduct the investigation as ~~if the panel~~ it deems necessary to determine whether any physician, ~~or physician assistant, or fluoroscopy technologist~~ has committed any of the grounds for disciplinary action provided for by law. Upon completion of ~~its~~the investigation ~~of the investigative panel,~~ the investigative panel shall make a finding that the investigation discloses that:
 - a. There is insufficient evidence to warrant further action;
 - b. The conduct of the physician, ~~or physician assistant, or fluoroscopy technologist~~ does not warrant further proceedings but the investigative panel determines ~~that possible errant conduct occurred that could lead to significant consequences if not corrected.~~ In such a case, a confidential letter of concern may be sent to the physician, ~~or physician assistant, or fluoroscopy technologist;~~ or
 - c. The conduct of the physician, ~~or physician assistant, or fluoroscopy technologist~~ indicates ~~that the physician, or physician assistant, or fluoroscopy technologist~~ may have committed any of the grounds for

disciplinary action provided for by law and which warrants further proceedings.

2. If the investigative panel determines ~~that~~ a formal hearing should be held to determine whether any licensed physician; ~~or~~ physician assistant; ~~or~~ ~~fluoroscopy~~ ~~technologist~~ has committed any of the grounds for disciplinary action provided for by law, ~~it~~ the panel shall inform the respondent physician; ~~or~~ physician assistant; ~~or~~ ~~fluoroscopy~~ ~~technologist~~ involved of the specific charges to be considered by serving upon that ~~person~~ individual a copy of a formal complaint filed with the board for disposition pursuant to the provisions of chapter 28-32. The board members who have served on the investigative panel may not participate in any proceeding before the board relating to ~~said~~ the complaint. The complaint must be prosecuted before the board by the attorney general or one of the attorney general's assistants.
3. If an investigative panel finds ~~that~~ there are insufficient facts to warrant further investigation or action, the complaint must be dismissed and the matter is closed. The investigative panel shall provide written notice to the ~~individual or entity~~ person filing the original complaint and the ~~person~~ individual who is the subject of the complaint of the investigative panel's final action or recommendations, if any, concerning the complaint.

SECTION 8. AMENDMENT. Section 43-17.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-17.1-05.1. Reporting requirements - Penalty.

1. A physician, a physician assistant, ~~or a fluoroscopy technologist~~, a health care institution in the state, a state agency, or a law enforcement agency in the state having actual knowledge that a licensed physician; ~~a~~ or physician assistant; ~~or a fluoroscopy technologist~~ may have committed any of the grounds for disciplinary action provided by law or by rules adopted by the board promptly shall ~~promptly~~ report that information in writing to the investigative panel of the board. A medical licensee or any institution from which the medical licensee voluntarily resigns or voluntarily limits the licensee's staff privileges shall report that licensee's action to the investigative panel of the board if that action occurs while the licensee is under formal or informal investigation by the institution or a committee of the institution for any reason related to possible medical incompetence, unprofessional conduct, or mental or physical impairment.
2. Upon receiving a report concerning a licensee an investigative panel shall, or on its own motion an investigative panel may, investigate any evidence that appears to show a licensee is or may have committed any of the grounds for disciplinary action provided by law or by rules adopted by the board.
3. A person required to report under this section ~~whethat~~ makes a report in good faith is not subject to criminal prosecution or civil liability for making the report. For purposes of any civil proceeding, the good faith of any person ~~whothat~~ makes a report pursuant to this section is presumed. A physician who obtains information in the course of a physician-patient relationship in which the patient is another physician is not required to report if the treating physician successfully counsels the other physician to limit or withdraw from practice to the extent required by the impairment. A physician who obtains information in the course of a professional peer review pursuant to chapter 23-34 is not required to report pursuant to this section. A physician who does not report

information obtained in a professional peer review is not subject to criminal prosecution or civil liability for not making a report. For purposes of this section, a person has actual knowledge if that person acquired the information by personal observation or under circumstances that cause that person to believe there exists a substantial likelihood that the information is correct.

4. An agency or health care institution that violates this section is guilty of a class B misdemeanor. A physician, or physician assistant, ~~or fluoroscopy technologist~~ who violates this section is subject to administrative action by the board as specified by law or by administrative rule.

¹⁴⁶ **SECTION 9. AMENDMENT.** Section 43-17.1-06 of the North Dakota Century Code is amended and reenacted as follows:

43-17.1-06. Powers of the board's investigative panels.

The board's investigative panels may:

1. Subpoena witnesses and physician and hospital records relating to the practice of any physician, or physician assistant, ~~or fluoroscopy technologist~~ under investigation. The confidentiality of the records by any other statute or law does not affect the validity of an investigative panel's subpoena nor the admissibility of the records in board proceedings; however, the proceedings and records of a committee ~~that~~which are exempt from subpoena, discovery, or introduction into evidence under chapter 23-34 are not subject to this subsection.
2. Hold preliminary hearings.
3. Upon probable cause, require any physician, or physician assistant, ~~or fluoroscopy technologist~~ under investigation to submit to a physical, psychiatric, or competency examination or chemical dependency evaluation.
4. Appoint special masters to conduct preliminary hearings.
5. Employ independent investigators ~~when~~if necessary.
6. Hold confidential conferences with any complainant or any physician, or physician assistant, ~~or fluoroscopy technologist~~ with respect to any complaint.
7. File a formal complaint against any licensed physician, or physician assistant, ~~or fluoroscopy technologist~~ with the board.

SECTION 10. Section 43-62-14.1 of the North Dakota Century Code is created and enacted as follows:

43-62-14.1. Fluoroscopy technologist.

1. Effective August 1, 2019, an individual licensed or permitted as a fluoroscopy technologist by the North Dakota board of medicine who is in good standing on that date, automatically becomes licensed as a fluoroscopy technologist by the North Dakota medical imaging and radiation therapy board.

¹⁴⁶ Section 43-17.1-06 was also amended by section 15 of Senate Bill No. 2240, chapter 225.

- a. Effective August 1, 2019, the North Dakota board of medicine shall expire every active fluoroscopy technologist's license issued by that board.
- b. Effective August 1, 2019, the North Dakota medical imaging and radiation therapy board shall issue a fluoroscopy technologist license to every individual qualified under this subsection to be automatically licensed.
2. The scope of practice of a licensed fluoroscopy technologist is limited to gastrointestinal fluoroscopy of the esophagus, stomach, and small and large intestines.
3. Fluoroscopy services provided by a licensed fluoroscopy technologist must be provided under the supervision of a primary supervising physician.
4. If a fluoroscopy technologist performs a fluoroscopy procedure outside the presence of the technologist's primary supervising physician, the technologist must be supervised by an onsite supervising physician who is immediately available to the technologist for consultation and supervision at all times the technologist is performing a fluoroscopy procedure.
5. Under this section, a supervising physician may not designate the fluoroscopy technologist to take over the physician's duties or cover the physician's practice. During an absence or temporary disability of a primary supervising physician, the fluoroscopy technologist is responsible to the substitute primary supervising physician.
6. To qualify for biennial license renewal, a fluoroscopy technologist shall submit to the board with radiography license renewal:
 - a. Evidence of completion of at least six hours of continuing education on fluoroscopy safety and relevant radiation protection; and
 - b. A copy of an agreement with a primary supervising physician.
7. A licensee under this section is subject to the disciplinary authority of the board under section 43-62-19.

SECTION 11. APPLICATION. To facilitate application of sections 2 and 6 through 10 of this Act, the North Dakota board of medicine shall provide the North Dakota medical imaging and radiation therapy board with the files regarding all active fluoroscopy technologists licensed by the North Dakota board of medicine necessary for the North Dakota medical imaging and radiation therapy board to take over licensure and regulation of these technologists.

Approved April 24, 2019

Filed April 24, 2019

CHAPTER 355

HOUSE BILL NO. 1175

(Representatives Devlin, Holman, Kading, Vigesaa)
(Senators Bekkedahl, Heckaman, O. Larsen, Unruh)

AN ACT to amend and reenact section 43-17-01, subsection 9 of section 43-17-02, sections 43-17-02.1 and 43-17-02.2, subdivision aa of subsection 1 of section 43-17-31, and section 43-17-31.1 of the North Dakota Century Code, relating to regulation of physician assistants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁷ **SECTION 1. AMENDMENT.** Section 43-17-01 of the North Dakota Century Code is amended and reenacted as follows:

43-17-01. Definitions.

1. "Board" means the North Dakota board of medicine.
2. "Physician" includes physician and surgeon (M.D.) and osteopathic physician and surgeon (D.O.).
3. "Physician assistant" means an individual issued a physician assistant license under this chapter.
4. "Practice of medicine" includes the practice of medicine, surgery, and obstetrics. The following persons ~~must be~~ regarded as practicing medicine:
 - a. ~~One who~~ A person that holds out to the public as being engaged within this state in the diagnosis or treatment of diseases or injuries of human beings.
 - b. ~~One who~~ A person that suggests, recommends, or prescribes any form of treatment for the intended relief or cure of any physical or mental ailment of any ~~person~~ individual, with the intention of receiving, directly or indirectly, any fee, gift, or compensation.
 - c. ~~One who~~ A person that maintains an office for the examination or treatment of ~~persons~~ individuals afflicted with disease or injury of the body or mind.
 - d. ~~One who~~ A person that attaches the title M.D., surgeon, doctor, D.O., osteopathic physician and surgeon, or any other similar word or words or abbreviation to the person's name, indicating that the person is engaged in the treatment or diagnosis of the diseases or injuries of human beings ~~must be held to be~~ is engaged in the practice of medicine.

¹⁴⁷ Section 43-17-01 was also amended by section 1 of Senate Bill No. 2094, chapter 354.

¹⁴⁸ **SECTION 2. AMENDMENT.** Subsection 9 of section 43-17-02 of the North Dakota Century Code is amended and reenacted as follows:

9. ~~Any person~~An individual rendering services as a physician assistant, ~~if such service is rendered under the supervision, control, and responsibility of a licensed physician.~~ However, sections 43-17-02.1 and 43-17-02.2 ~~do~~ apply to physician assistants. The North Dakota board of medicine shall ~~prescribe~~adopt rules governing the conduct, licensure, fees, qualifications, and discipline, ~~activities, and supervision~~ of physician assistants. Physician assistants ~~may~~are not be authorized to perform any services ~~which that~~ must be performed by persons licensed pursuant to chapters 43-12.1, 43-13, 43-15, and 43-28 or services otherwise regulated by licensing laws, notwithstanding ~~the fact that~~ medical doctors need not be licensed specifically to perform the services contemplated under such chapters or licensing laws.

SECTION 3. AMENDMENT. Section 43-17-02.1 of the North Dakota Century Code is amended and reenacted as follows:

43-17-02.1. Physician assistant - ~~Limitations on prescribing drugs~~Scope of practice.

1. ~~A physician assistant may prescribe medications as delegated to do so by a supervising physician. This may include schedule II through V controlled substances. A physician assistant who is a delegated prescriber of controlled substances must register with the federal drug enforcement administration.:~~
- a. Provide a legal medical service for which a physician assistant is prepared by education, training, and experience and is competent to perform, including:
- (1) Obtaining and performing a comprehensive health history and physical examination;
 - (2) Evaluating, diagnosing, managing, and providing medical treatment;
 - (3) Ordering and evaluating a diagnostic study and therapeutic procedure;
 - (4) Performing a diagnostic study or therapeutic procedure not involving the use of medical imaging as defined in section 43-62-01 or radiation therapy as defined in section 43-62-01;
 - (5) Performing limited sonography on a focused imaging target to assess specific and limited information about a patient's medical condition or to provide real-time visual guidance for another procedure;
 - (6) Educating a patient on health promotion and disease prevention;
 - (7) Providing consultation upon request; and
 - (8) Writing a medical order;
- b. Obtain informed consent;

¹⁴⁸ Section 43-17-02 was also amended by section 2 of Senate Bill No. 2094, chapter 354.

- c. Supervise, delegate, and assign therapeutic and diagnostic measures not involving the use of medical imaging as defined in section 43-62-01 or radiation therapy as defined in section 43-62-01 to licensed or unlicensed personnel;
 - d. Certify the health or disability of a patient as required by any local, state, or federal program;
 - e. Authenticate any document with the signature, certification, stamp, verification, affidavit, or endorsement of the physician assistant if the document may be authenticated by the signature, certification, stamp, verification, affidavit, or endorsement of a physician; and
 - f. Pronounce death.
2. A physician assistant shall collaborate with, consult with, or refer to the appropriate member of the health care team as indicated by the condition of the patient, the education, experience, and competence of the physician assistant, and the standard of care. The degree of collaboration must be determined at the practice which may include decisions made by the employer, group, hospital service, and the credentialing and privileging systems of a licensed facility. A physician assistant is responsible for the care provided by that physician assistant and a written agreement relating to the items in this chapter is not required.
3. A physician assistant:
- a. May prescribe, dispense, administer, and procure drugs and medical devices;
 - b. May plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including durable medical equipment, nutrition, blood and blood products, and diagnostic support services, including home health care, hospice, and physical and occupational therapy;
 - c. May prescribe and dispense schedule II through V substances as designated by the federal drug enforcement agency and all legend drugs;
 - d. May not dispense a drug, unless pharmacy services are not reasonably available, dispensing is in the best interest of the patient, or an emergency exists;
 - e. May request, receive, and sign for a professional sample, and may distribute a professional sample to a patient; and
 - f. If prescribing or dispensing a controlled substance, shall register with the federal drug enforcement administration and shall comply with appropriate state and federal laws.
4. A physician assistant shall practice at a licensed health care facility, facility with a credentialing and privileging system, physician-owned facility or practice, or facility or practice approved by the board.

5. Notwithstanding subsections 2 and 4, a physician assistant with less than four thousand hours of practice approved by the board under subsection 4 shall execute a written collaborative agreement that:
 - a. Is between a physician and a physician assistant with less than four thousand hours practice;
 - b. Describes how collaboration required under subsection 2 must occur; and
 - c. Is available to the board on request.
6. A physician assistant shall comply with any privileging and credentialing systems at the facility at which the physician assistant practices.

SECTION 4. AMENDMENT. Section 43-17-02.2 of the North Dakota Century Code is amended and reenacted as follows:

43-17-02.2. Physician assistant - Use of certain words or initials prohibited.

The terms "physician assistant" and "certified physician assistant" and the initials "PA-C" may only be used to identify a person who has been issued a certificate of qualification by the North Dakota board of medicine. A person who uses those terms or initials as identification without having received a certificate of qualification is engaging in the practice of medicine without a license.

1. A person that is not a physician assistant may not:
 - a. Represent oneself as a physician assistant or act as a physician assistant;
or
 - b. Use any combination or abbreviation of the term or title "physician assistant" or "PA" to indicate or imply the person is a physician assistant.
2. However, an individual who is not licensed as a physician assistant under this chapter but who meets the qualifications for licensure as a physician assistant under this chapter may use the title "physician assistant" or "PA" but may not act or practice as a physician assistant unless licensed under this chapter.

SECTION 5. AMENDMENT. Subdivision aa of subsection 1 of section 43-17-31 of the North Dakota Century Code is amended and reenacted as follows:

- aa. The failure to properly monitor a ~~physician assistant~~, a fluoroscopy technologist, or an emergency medical technician.

SECTION 6. AMENDMENT. Section 43-17-31.1 of the North Dakota Century Code is amended and reenacted as follows:

43-17-31.1. Costs of prosecution - Disciplinary proceedings.

In any order or decision issued by the board in resolution of a disciplinary proceeding in which disciplinary action is imposed against a physician or physician assistant, the board may direct any physician or physician assistant to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board and its investigative panels of the board in the investigation and prosecution of the case. ~~When~~If applicable, the physician's or physician assistant's license may be suspended until the costs are paid to the board.

A physician or physician assistant may challenge the reasonableness of any cost item in a hearing under chapter 28-32 before an administrative law judge. The administrative law judge may approve, deny, or modify any cost item, and the determination of the judge is final. The hearing must occur before the physician's license or physician assistant's license may be suspended for nonpayment.

Approved April 4, 2019

Filed April 5, 2019

CHAPTER 356

SENATE BILL NO. 2059

(Senators Clemens, Oehlke, Holmberg)
(Representatives Damschen, B. Koppelman, Paur)

AN ACT to create and enact section 43-17-02.4 of the North Dakota Century Code, relating to licensure exemption for certain physicians.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 43-17-02.4 of the North Dakota Century Code is created and enacted as follows:

43-17-02.4. Licensure exemption for certain physicians.

1. A physician licensed in good standing to practice in another state is exempt from the licensure requirements of this chapter if the physician:
 - a. Has a written or oral agreement with a sports team to provide care to team members and coaching staff traveling with the team for a specific sporting event in this state; or
 - b. Has been invited by a national sport governing body to provide services to team members and coaching staff at a national sport training center in this state or to provide services at an event or competition in this state which is sanctioned by the national sport governing body if:
 - (1) The physician's practice in this state is limited to the practice required by the national sport governing body; and
 - (2) The services provided by the physician are within the physician's scope of practice.
2. A physician exempt under this section may not:
 - a. Provide care or consultation to an individual residing in this state, other than an individual specified in subsection 1; or
 - b. Practice at a licensed health care facility in this state.
3. An exemption under subdivision a of subsection 1 is valid while the physician is traveling with the sports team. This exemption may not exceed ten days for each sporting event. A physician may apply to the board to receive an exemption of twenty additional days per sporting event.
4. The board may enter an agreement with a medical and osteopathic licensing board of another state to implement this section. An agreement may include a procedure for reporting a potential medical license violation.
5. The board may adopt rules to implement this section.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 357

SENATE BILL NO. 2173

(Senators J. Lee, Anderson, Mathern)
(Representatives Lefor, Schneider, Westlind)

AN ACT to create and enact a new section to chapter 43-17 and a new chapter to title 43 of the North Dakota Century Code, relating to the interstate medical licensure compact and the payment of fees under the compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 43-17 of the North Dakota Century Code is created and enacted as follows:

Fees levied under subsection 1 of article XIII of the interstate medical licensure compact by the interstate medical licensure compact commission to the state of North Dakota must be paid by the board through the board's funding mechanism, and the board may not request funds deposited in the general fund for the fee.

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

ARTICLE I - PURPOSE

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

ARTICLE II - DEFINITIONS

In this compact:

1. "Bylaws" means those bylaws established by the interstate commission pursuant to article XI for its governance, or for directing and controlling its actions and conduct.
2. "Commissioner" means the voting representative appointed by each member board pursuant to article XI.

3. "Conviction" means a finding by a court, that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court must be considered final for purposes of disciplinary action by a member board.
4. "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.
5. "Interstate commission" means the interstate commission created pursuant to article XI.
6. "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.
7. "Medical practice act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.
8. "Member board" means a state agency in a member state which acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.
9. "Member state" means a state that has enacted the compact.
10. "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.
11. "Physician" means any individual who:
 - a. Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college accreditation, or a medical school listed in the international medical education directory or its equivalent;
 - b. Passed each component of the United States medical licensing examination (USMLE) or the comprehensive osteopathic medical licensing examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;
 - c. Successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association;
 - d. Holds specialty certification or a time-unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's bureau of osteopathic specialists;
 - e. Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;
 - f. Has never been convicted or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

- g. Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;
 - h. Has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and
 - i. Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.
12. "Practice of medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.
13. "Rule" means a written statement by the interstate commission promulgated pursuant to article XII of the compact, that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.
14. "State" means any state, commonwealth, district, or territory of the United States.
15. "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

ARTICLE III - ELIGIBILITY

1. A physician must meet the eligibility requirements as defined in subsection 11 of article II to receive an expedited license under the terms and provisions of the compact.
2. A physician who does not meet the requirements of subsection 11 of article II may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

ARTICLE IV - DESIGNATION OF STATE OF PRINCIPAL LICENSE

1. A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:
 - a. The state of primary residence for the physician;
 - b. The state where at least twenty-five percent of the practice of medicine occurs;
 - c. The location of the physician's employer; or

- d. If no state qualifies under subdivision a, b, or c, the state designated as state of residence for purpose of federal income tax.
2. A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection 1.
3. The interstate commission may develop rules to facilitate redesignation of another member state as the state of principal license.

ARTICLE V - APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

1. A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.
2. Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.
 - a. Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the interstate commission through rule, may not be subject to additional primary source verification if already primary source verified by the state of principal license.
 - b. The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with title 5, Code of Federal Regulations, section 731.202.
 - c. Appeal on the determination of eligibility must be made to the member state where the application was filed and must be subject to the law of that state.
3. Upon verification in subsection 2, physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection 1, including the payment of any applicable fees.
4. After receiving verification of eligibility under subsection 2 and any fees under subsection 3, a member board shall issue an expedited license to the physician. This license must authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.
5. An expedited license must be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

6. An expedited license obtained through the compact must be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.
7. The interstate commission may develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

ARTICLE VI - FEES FOR EXPEDITED LICENSURE

1. A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.
2. The interstate commission may develop rules regarding fees for expedited licenses.

ARTICLE VII - RENEWAL AND CONTINUED PARTICIPATION

1. A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:
 - a. Maintains a full and unrestricted license in a state of principal license;
 - b. Has not been convicted or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
 - c. Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and
 - d. Has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.
2. Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.
3. The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.
4. Upon receipt of any renewal fees collected in subsection 3, a member board shall renew the physician's license.
5. Physician information collected by the interstate commission during the renewal process must be distributed to all member boards.
6. The interstate commission may develop rules to address renewal of licenses obtained through the compact.

ARTICLE VIII - COORDINATED INFORMATION SYSTEM

1. The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under article V.
2. Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.
3. Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.
4. Member boards may report any nonpublic complaint, disciplinary, or investigatory information not required by subsection 3 to the interstate commission.
5. Member boards shall share complaint or disciplinary information about a physician upon request of another member board.
6. All information provided to the interstate commission or distributed by member boards must be confidential, filed under seal, and used only for investigatory or disciplinary matters.
7. The interstate commission may develop rules for mandated or discretionary sharing of information by member boards.

ARTICLE IX - JOINT INVESTIGATIONS

1. Licensure and disciplinary records of physicians are deemed investigative.
2. In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.
3. A subpoena issued by a member state must be enforceable in other member states.
4. Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.
5. Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

ARTICLE X - DISCIPLINARY ACTIONS

1. Any disciplinary action taken by any member board against a physician licensed through the compact must be deemed unprofessional conduct, which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.
2. If a license granted to a physician by the member board in the state of principal license is revoked, surrendered, or relinquished in lieu of discipline or

suspended, all licenses issued to the physician by member boards must automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board must remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

3. If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:
 - a. Impose the same or lesser sanction against the physician so long as such sanctions are consistent with the medical practice act of that state; or
 - b. Pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.
4. If a license granted to a physician by a member board is revoked, surrendered, or relinquished in lieu of discipline, or suspended, any license issued to the physician by any other member board must be suspended, automatically and immediately without further action necessary by the other member board, for ninety days upon entry of the order by the disciplining board, to permit the member board to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued before the completion of the ninety-day suspension period in a manner consistent with the medical practice act of that state.

ARTICLE XI - INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

1. The member states hereby create the interstate medical licensure compact commission.
2. The purpose of the interstate commission is the administration of the interstate medical licensure compact, which is a discretionary state function.
3. The interstate commission must be a body corporate and joint agency of the member states and must have all the responsibilities, powers, and duties set forth in the compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.
4. The interstate commission must consist of two voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner must be:
 - a. An allopathic or osteopathic physician appointed to a member board;
 - b. An executive director, executive secretary, or similar executive of a member board; or

- c. A member of the public appointed to a member board.
5. The interstate commission shall meet at least once each calendar year. A portion of this meeting must be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.
6. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.
7. Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner may not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another individual from that state who must meet the requirements of subsection 4.
8. The interstate commission shall provide public notice of all meetings and all meetings must be open to the public. The interstate commission may close a meeting, in full or in portion, if it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to:
- a. Relate solely to the internal personnel practices and procedures of the interstate commission;
 - b. Discuss matters specifically exempted from disclosure by federal statute;
 - c. Discuss trade secrets, commercial, or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime, or formally censuring a person;
 - e. Discuss information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Discuss investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the participation in a civil action or other legal proceeding.
9. The interstate commission shall keep minutes that fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.
10. The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.
11. The interstate commission shall establish an executive committee, which must include officers, members, and others as determined by the bylaws. The executive committee must have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. If acting on behalf of the interstate

commission, the executive committee shall oversee the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.

12. The interstate commission may establish other committees for governance and administration of the compact.

ARTICLE XII - POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has the duty and power to:

1. Oversee and maintain the administration of the compact;
2. Promulgate rules that must be binding to the extent and in the manner provided for in the compact;
3. Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions;
4. Enforce compliance with compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including the use of judicial process;
5. Establish and appoint committees including, an executive committee as required by article XI which may act on behalf of the interstate commission in carrying out its powers and duties;
6. Pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the interstate commission;
7. Establish and maintain one or more offices;
8. Borrow, accept, hire, or contract for services of personnel;
9. Purchase and maintain insurance and bonds;
10. Employ an executive director who must have such powers to employ, select, or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;
11. Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
12. Accept donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;
13. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed;
14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
15. Establish a budget and make expenditures;

16. Adopt a seal and bylaws governing the management and operation of the interstate commission;
17. Report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports must also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;
18. Coordinate education, training, and public awareness regarding the compact, its implementation, and its operation;
19. Maintain records in accordance with the bylaws;
20. Seek and obtain trademarks, copyrights, and patents; and
21. Perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

ARTICLE XIII - FINANCE POWERS

1. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.
2. The interstate commission may not incur obligations of any kind before securing the funds adequate to meet the same.
3. The interstate commission may not pledge the credit of any of the member states, except by, and with the authority of, the member state.
4. The interstate commission must be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit must be included in the annual report of the interstate commission.

ARTICLE XIV - ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

1. The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within twelve months of the first interstate commission meeting.
2. The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice chairperson, and a treasurer, each of whom must have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission.
3. Officers selected in subsection 2 shall serve without remuneration from the interstate commission.

4. The officers and employees of the interstate commission must be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such individual had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided that such individual may not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such individual.
 - a. The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such individual's employment or duties for acts, errors, or omissions occurring within such individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection may not be construed to protect such individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such individual.
 - b. The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such individual.
 - c. To the extent not covered by the state involved, member state, or the interstate commission, the representatives, or employees of the interstate commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such individuals had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such individuals.

ARTICLE XV - RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

1. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, if the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted under the compact, such an action by the interstate commission must be invalid and have no force or effect.

2. Rules deemed appropriate for the operations of the interstate commission must be made pursuant to a rulemaking process that substantially conforms to the model state administrative procedure act of 2010, and subsequent amendments thereto.
3. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition may not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

ARTICLE XVI - OVERSIGHT OF INTERSTATE COMPACT

1. The executive, legislative, and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated under the compact must have standing as statutory law but may not override existing state authority to regulate the practice of medicine.
2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact which may affect the powers, responsibilities, or actions of the interstate commission.
3. The interstate commission must be entitled to receive all service of process in any such proceeding, and must have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission renders a judgment or order void as to the interstate commission, the compact, or promulgated rules.

ARTICLE XVII - ENFORCEMENT OF INTERSTATE COMPACT

1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.
2. The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States district court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation including reasonable attorney's fees.
3. The remedies in this chapter may not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XVIII - DEFAULT PROCEDURES

1. The grounds for default, include failure of a member state to perform such obligations or responsibilities imposed upon it by the compact or the rules and bylaws of the interstate commission promulgated under the compact.
2. If the interstate commission determines a member state has defaulted in the performance of its obligations or responsibilities under the compact, or the bylaws or promulgated rules, the interstate commission shall:
 - a. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and
 - b. Provide remedial training and specific technical assistance regarding the default.
3. If the defaulting state fails to cure the default, the defaulting state must be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges, and benefits conferred by the compact must terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
4. Termination of membership in the compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate must be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
5. The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state or the withdrawal of a member state.
6. The member state that has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination, including obligations the performance of which extends beyond the effective date of termination.
7. The interstate commission may not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.
8. The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party must be awarded all costs of such litigation including reasonable attorney's fees.

ARTICLE XIX - DISPUTE RESOLUTION

1. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states or member boards.
2. The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

ARTICLE XX - MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state of the compact.
2. The compact must become effective and binding upon legislative enactment of the compact into law by no less than seven states. Thereafter, the compact must become effective and binding on a state upon enactment of the compact into law by that state.
3. The governors of nonmember states, or their designees, must be invited to participate in the activities of the interstate commission on a nonvoting basis before adoption of the compact by all states.
4. The interstate commission may propose amendments to the compact for enactment by the member states. An amendment may not become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XXI - WITHDRAWAL

1. Once effective, the compact must continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.
2. Withdrawal from the compact must be by the enactment of a statute repealing the same, but may not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.
3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.
4. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt of notice provided under subsection 3.
5. The withdrawing state is responsible for all dues, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.
6. Reinstatement following withdrawal of a member state must occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

7. The interstate commission may develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

ARTICLE XXII - DISSOLUTION

1. The compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.
2. Upon the dissolution of the compact, the compact becomes null and void and must be of no further force or effect, and the business and affairs of the interstate commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XXIII - SEVERABILITY AND CONSTRUCTION

1. The provisions of the compact must be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact must be enforceable.
2. The provisions of the compact must be liberally construed to effectuate its purposes.
3. The compact may not be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XXIV - BINDING EFFECT OF COMPACT AND OTHER LAWS

1. This chapter does not prevent the enforcement of any other law of a member state that is not inconsistent with the compact.
2. All laws in a member state in conflict with the compact are superseded to the extent of the conflict.
3. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.
4. All agreements between the interstate commission and the member states are binding in accordance with their terms.
5. If any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision must be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 358

HOUSE BILL NO. 1387

(Representatives Beadle, Boschee, Klemin, Satrom)
(Senators Burckhard, Dotzenrod, Unruh)

AN ACT to create and enact section 43-19.1-16.2 of the North Dakota Century Code, relating to qualifications of land surveyor interns; to amend and reenact sections 43-19.1-16 and 43-19.1-16.1 of the North Dakota Century Code, relating to regulation of land surveyors and land surveyor interns; to repeal section 43-19.1-16.1 of the North Dakota Century Code, relating to qualifications of land surveyor interns; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-19.1-16 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-16. Registration - Professional land surveyor.

~~Any~~An individual who shows, to the satisfaction of the board, that the individual is otherwise qualified and is over the age of eighteen years is eligible for registration as a professional land surveyor, if the individual has passed a board-approved examination regarding state laws and rules or other surveying issues specific to the state and:

1. Holds a certificate of registration to engage in the practice of land surveying ~~issued on the basis of a minimum sixteen-hour written examination by proper authority of a state, territory, possession of the United States, the District of Columbia, or any foreign country, based on requirements and qualifications as shown by the individual's application which, in the opinion of the board, are equal to or higher than the requirements of this chapter;~~
2. ~~Has~~ Holds a baccalaureate degree in engineering or surveying from an institution that offers accredited programs approved by the board, followed by ~~at least four years of certificate as a land surveying experience of a character satisfactory to~~ surveyor intern issued by the board, who has passed a written examination of at least sixteen hours designed to show that the individual is qualified to practice land surveying; and:
 - a. In addition to experience that may be required to qualify for certification as a land surveyor intern, completed at least four years of land surveying experience of a character satisfactory to the board; and
 - b. Passed a board-approved written examination in the principles and practice of land surveying; or
3. ~~Has at least eight years of active experience in land surveying of a character satisfactory to the board, and who has passed a written examination of at least sixteen hours designed to show that the individual is qualified to practice land surveying; or~~

4. Is registered as a land surveyor by the state of North Dakota, under the provisions of former chapter 43-24, on the thirtieth day of June 1967.

SECTION 2. AMENDMENT. Section 43-19.1-16.1 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-16.1. Qualifications of land surveyor interns.

1. Before July 1, 2028, an applicant for certification as a land surveyor intern may qualify for certification by meeting the requirements of this section or section 43-19.1-16.2. After June 30, 2028, a qualified applicant for certification as a land surveyor intern must meet the requirements of section 43-19.1-16.2.
2. An applicant for certification as a land surveyor intern who has at least four years of qualifying land surveying experience of a character satisfactory to the board, of which a formal education in an accredited engineering or land surveying curriculum may constitute a part thereof, may receive from the board, upon passing a written examination on the fundamentals of mathematics and the basic principles of land surveying, a certificate stating that the applicant has passed the examination and been recorded as a land surveyor intern.

SECTION 3. Section 43-19.1-16.2 of the North Dakota Century Code is created and enacted as follows:

43-19.1-16.2. Qualifications of land surveyor interns.

The board shall certify as a land surveyor intern an otherwise qualified applicant who has passed a board-approved written examination on the fundamentals of mathematics and the basic principles of land surveying and:

1. Has a baccalaureate degree in land surveying from an institution that offers board-approved accredited programs;
2. Has a baccalaureate degree in a board-approved program other than land surveying and:
 - a. Has board-approved educational training in land surveying in connection with the baccalaureate degree or other program; and
 - b. Has at least two years of qualifying land surveying experience of a character satisfactory to the board;
3. Has an associate degree in land surveying from a board-approved program and has at least two years of qualifying land surveying experience of a character satisfactory to the board; or
4. Has a certificate in land surveying from an institution that offers a board-approved program and has at least four years of qualifying land surveying experience of a character satisfactory to the board.

SECTION 4. REPEAL. Section 43-19.1-16.1 of the North Dakota Century Code is repealed.

SECTION 5. EFFECTIVE DATE. Section 4 of this Act becomes effective July 1, 2028.

Approved March 20, 2019

Filed March 21, 2019

CHAPTER 359

HOUSE BILL NO. 1250

(Representative Louser)

AN ACT to amend and reenact section 43-23-05.1 of the North Dakota Century Code, relating to licensure of organization of a real estate salesperson, broker, or broker associate.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-05.1. Organization of salesperson, broker, or broker associate permitted to be licensed - Fees.

1. The commission may license an organization of a salesperson, broker, or broker associate if:
 - a. The organization is owned solely by an individual who is licensed as a salesperson, broker, or broker associate, or by that individual and that individual's spouse, or by that individual and other salespersons, brokers, and broker associates within the same firm as that individual;
 - b. The organization does not engage in any real estate transactions as a third-party agent or in any other capacity requiring a license under this chapter; and
 - c. The organization does not advertise or otherwise portray to the public that the organization is a real estate broker or real estate brokerage firm.
2. The employing or associating broker of a salesperson, broker, or broker associate who is part of an organization is not relieved of any obligation to supervise the employed or associated salesperson, broker, or broker associate or of any other requirements under this chapter.
3. An individual who forms an organization is not by nature of that act relieved of any personal liability for licensed activities.
4. The commission may adopt rules establishing a one-time license fee for an organization licensed as a salesperson, broker, or broker associate.

Approved March 12, 2019

Filed March 13, 2019

CHAPTER 360

HOUSE BILL NO. 1281

(Representatives Beadle, Boschee, Louser)
(Senator Meyer)

AN ACT to amend and reenact subsection 4 of section 43-23-08 of the North Dakota Century Code, relating to the required number of continuing education hours for a real estate salesperson; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 43-23-08 of the North Dakota Century Code is amended and reenacted as follows:

4. As a prerequisite for licensure, an applicant for a salesperson's license shall furnish to the commission evidence the applicant has successfully completed at least ~~forty-five~~^{ninety} hours in courses of study approved by the commission. ~~Within one year after initial licensure as a salesperson, the salesperson's broker shall furnish to the commission evidence of the salesperson's successful completion of fifteen postlicensure hours in courses of study approved by the commission.~~ An applicant for a broker's license must have successfully completed an additional sixty hours in courses of study approved by the commission. An applicant for a salesperson's license may take the licensing examination before fulfillment of the prerequisite educational requirement; however, the commission may not issue a salesperson's license to an applicant unless satisfactory evidence of completion of this prerequisite educational requirement is furnished to the commission. An applicant for a broker's license must have satisfactorily fulfilled the educational requirement before taking the broker's licensing examination.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 2021.

Approved March 12, 2019

Filed March 13, 2019

CHAPTER 361

SENATE BILL NO. 2075

(Industry, Business and Labor Committee)

(At the request of the North Dakota Real Estate Appraiser Qualifications and Ethics Board)

AN ACT to amend and reenact sections 43-23.5-07, 43-23.5-08, and 43-23.5-12 of the North Dakota Century Code, relating to appraisal management companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23.5-07 of the North Dakota Century Code is amended and reenacted as follows:

43-23.5-07. Exemptions.

The provisions of this chapter ~~shall~~do not apply to:

1. An appraisal firm.
2. A financial institution, including a department or unit within the institution, that is regulated by an agency of this state or the United States government.
3. A person ~~who~~that enters an agreement with an appraiser for the performance of an appraisal that upon completion results in a report signed by both the appraiser who completed the appraisal and the appraiser who requested completion of the appraisal.
4. An appraisal management company with an appraisal panel of ~~not more~~fewer than ~~fifteen~~sixteen certified or licensed appraisers in this state or fewer than twenty-five ~~or more~~ nationally within a given year.
5. An appraisal management company that is a subsidiary owned and controlled by a financial institution that is subject to appraisal independence standards at least as stringent as those under chapter 43-23.5-21, if regulated by an agency of this state, or the Truth in Lending Act [15 U.S.C. 1601 et seq.], if regulated by the United States government.

SECTION 2. AMENDMENT. Section 43-23.5-08 of the North Dakota Century Code is amended and reenacted as follows:

43-23.5-08. Owner requirements.

1. An appraisal management company applying for, holding, or renewing a registration under this chapter ~~shall~~may not be ~~more than ten percent~~ owned by:
 - a. ~~A person~~An individual who has had an appraiser license or certification in this state or in any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

- b. An entity that is ~~more than ten percent~~ owned by any person ~~individual~~ who has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.
2. Each person that owns more than ten percent of an appraisal management company applying for, holding, or renewing a registration under this chapter shall:
 - a. ~~Be~~Must be of good moral character.
 - b. ~~Submit~~Shall submit to a criminal background investigation for an initial application or as required by the board.
3. Each appraisal management company applying for a registration or for renewal of a registration under this chapter shall certify to the board on a form prescribed by the board that the company has reviewed each entity that owns ~~more than ten percent~~ of the appraisal management company and that no entity that owns ~~more than ten percent~~ of the appraisal management company is ~~more than ten percent~~ owned by any person that has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

SECTION 3. AMENDMENT. Section 43-23.5-12 of the North Dakota Century Code is amended and reenacted as follows:

43-23.5-12. Appraisal review.

Any employee of, or independent contractor to, the appraisal management company that performs an appraisal review for a property located in this state must be:

1. A certified or licensed appraiser in good standing in this state; or
2. A certified or licensed appraiser in good standing in another state.

Approved March 14, 2019

Filed March 14, 2019

CHAPTER 362

HOUSE BILL NO. 1172

(Representative Keiser)

AN ACT to amend and reenact section 43-25-05.1 of the North Dakota Century Code, relating to reporting requirements of the board of massage therapy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-25-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-25-05.1. Powers and duties of the board.

The board has the following powers and duties:

1. The board may adopt and enforce rules as necessary to implement this chapter.
2. The board periodically shall inspect or cause to be inspected all massage establishments. The board and the board's agents may enter and inspect any massage establishment at any time during which the establishment is open for the transaction of business.
3. ~~The~~In accordance with the guidelines established for reports under section 54-06-04, the board shall prepare and submit to ~~the governor~~ a biennial report detailing income and expenses and a list of licensed massage therapists.
4. The board may hire office personnel deemed necessary by the board for carrying on the board's official duties and shall set the compensation to be paid to the personnel.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 363

SENATE BILL NO. 2125

(Senators Burckhard, Anderson, Oban)
(Representatives D. Anderson, Dobervich, Karls)

AN ACT to create and enact a new subsection to section 43-26.1-10, a new subsection to section 43-26.1-13, and a new subsection to section 43-26.1-15 of the North Dakota Century Code, relating to the regulation of the practice of physical therapy; and to amend and reenact sections 43-26.1-01, 43-26.1-02, 43-26.1-03, 43-26.1-04, 43-26.1-05, 43-26.1-08, 43-26.1-11, and 43-26.1-14 of the North Dakota Century Code, relating to the board of physical therapy and physical therapy licensure; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-26.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the North Dakota board of physical therapy.
2. "Competence" is the application of knowledge, skills, and behaviors required to function effectively, safely, ethically, and legally within the context of the patient's or client's environment.
3. "Continuing competence" is the lifelong process of maintaining and documenting competence through ongoing self-assessment, development, and implementation of a personal learning plan along with subsequent reassessment.
4. "Direct supervision" means the supervising physical therapist is physically present on the premises and immediately available for direction and supervision, has direct contact with the patient during each visit, and completes all components of care requiring skilled therapy services. Telehealth does not meet the requirement for direct supervision.
5. "Electronic communications" means the science and technology of communication over a distance by electronic transmission of impulses, including activities involving or using electronic communications to store, organize, send, retrieve, and convey information.
6. "Examination" means a national examination approved by the board for the licensure of a physical therapist or the licensure of a physical therapist assistant.
- 3-7. "General supervision" means the supervising physical therapist is onsite and present where services are provided or is immediately available to the physical therapist assistant being supervised by means of electronic

communications, maintains continual involvement in the appropriate aspects of patient care, and has primary responsibility for all patient care services rendered by a physical therapist assistant.

8. "Manual therapy" means the use of techniques such as mobilization or manipulation, manual lymphatic drainage, and manual traction on one or more regions of the body.
- 4-9. "Onsite supervision" means the supervising physical therapist is onsite and present in the department or facility where services are provided, is immediately available to the ~~person~~individual being supervised, and maintains continued involvement in appropriate aspects of each treatment session in which a student physical therapist or a student physical therapist assistant or a physical therapy aide is involved in components of care.
- 5-10. "Physical therapist" means a ~~person~~an individual licensed under this chapter to practice physical therapy. The term "physiotherapist" is synonymous with "physical therapist" under this chapter.
- 6-11. "Physical therapist assistant" means a ~~person who is~~an individual licensed under this chapter and who assists the physical therapist in selected components of physical therapy intervention.
- 7-12. "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist licensed under this chapter.
- 8-13. "Physical therapy aide" means a ~~person~~an individual trained under the direction of a physical therapist who performs designated and supervised routine tasks related to physical therapy.
- 9-14. "Practice of physical therapy" means:
- Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement and mobility, and disabilities or other health and movement-related conditions ~~in order~~ to determine a diagnosis for physical therapy, prognosis, and plan of therapeutic intervention, and to assess the ongoing effects of intervention.
 - Alleviating impairments, functional limitations in movement and mobility, and disabilities by designing, implementing and modifying therapeutic interventions that may include, ~~but are not limited to~~, therapeutic exercise; neuromuscular education; functional training related to positioning, movement, and mobility in self-care and in-home, community, or work integration or reintegration; manual therapy; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective, and supportive devices and equipment related to positioning, movement, and mobility; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physiotherapy; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction.

- c. Engaging as a physical therapist in reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health, and wellness in populations of all ages.
- d. Engaging as a physical therapist in administration, consultation, education, and research.

40-15. "Restricted license" for a physical therapist or physical therapist assistant means a license on which the board places restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client to whom the licensee may provide services.

44-16. "Telehealth" is the use of electronic communications to provide and deliver health-related information and health care services, including physical therapy related information and services, over any distance. Telehealth encompasses health care and health promotion activities, including education, advice, reminders, interventions, and the monitoring of interventions.

17. "Testing" means standard methods and techniques used to gather data about the patient.

SECTION 2. AMENDMENT. Section 43-26.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-02. Board of physical therapy - Members - Appointments - Vacancies.

1. The board of physical therapy shall administer this chapter. The board consists of three licensed physical therapists, ~~two~~one licensed ~~physicians~~physician, one licensed physical therapist assistant, and ~~a citizen who is not a health care professional~~two public members. The governor shall appoint the board members for a term of five years, staggered so the terms of no more than two members expire each year. A ~~person~~individual may not serve more than two full consecutive terms. Terms begin on July first. Appointments to the board to fill a vacancy occurring for other than the expiration of a term may only be made for the remainder of the unexpired term.
2. Each physical therapist and physical therapist assistant appointed must have had at least three years of physical therapy experience in North Dakota immediately ~~prior to~~before appointment and must practice in North Dakota during the term. ~~Each~~The physician appointed must have practiced medicine at least three years in North Dakota immediately ~~prior to~~before appointment and must practice in North Dakota during the term. Each board member shall take and file with the secretary of state the oath of office prescribed for state officials before entering upon the discharge of the member's duties.
3. Each board member is entitled to mileage reimbursement as provided in section 54-06-09 and reimbursement for actual and necessary expenses in the amounts provided by law for state officers in section 44-08-04.

SECTION 3. AMENDMENT. Section 43-26.1-03 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-03. Powers of the board.

The board may:

1. Evaluate the qualifications of applicants for licensure.
2. Provide for the examination of physical therapists and physical therapist assistants and adopt passing scores for the examinations.
3. Issue licenses to persons who meet the requirements of this chapter.
4. Regulate the practice of physical therapy by interpreting and enforcing this chapter.
5. Adopt and revise rules consistent with this chapter.
6. Meet at least annually and ~~such~~ other times as deemed necessary. A majority of board members ~~shall constitute~~constitutes a quorum for the transaction of business.
7. Establish mechanisms for assessing the continuing professional competence of physical therapists and physical therapist assistants to engage in the practice of physical therapy.
8. Establish and collect fees for sustaining the necessary operation and expenses of the board.
9. Elect officers from its members necessary for the operations and obligations of the board. Terms of office ~~shall be~~are one year.
10. Provide for the timely orientation and training of new professional and public appointees to the board regarding board licensing and disciplinary procedures, this chapter, and board rules, policies, and procedures.
11. Maintain a current list of all ~~persons~~individuals regulated under this chapter. This contact information includes the ~~person's~~individual's name, current business address, business telephone number, electronic mail address, and board license number.
12. Provide information to the public regarding the complaint process.
13. Employ necessary personnel to carry out the administrative work of the board.
14. Enter ~~into~~ contracts for services necessary for enforcement of this chapter.
15. Report final disciplinary action taken against a licensee to a national disciplinary database recognized by the board or as required by law.
16. Review and investigate all complaints the board receives against licensees concerning violations of this chapter. The board shall keep all information relating to the receipt and investigation of the complaint confidential until the information is disclosed in the course of the investigation or any subsequent proceeding or until disclosure is required by law. However, patient records, including clinical records, files, any report or oral statement relating to diagnostic findings of a patient or treatment of a patient, any information from which a patient or the patient's family might be identified, or information received and records or reports kept by the board as a result of its investigation, are confidential.

SECTION 4. AMENDMENT. Section 43-26.1-04 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-04. Qualifications for licensure.

1. Before being approved for a license as a physical therapist or physical therapist assistant, an applicant shall:
 - a. ~~Be~~Must be of good moral character.
 - b. ~~Complete~~Shall complete the application process.
 - c. ~~Be~~Must be a graduate of a professional physical therapy~~therapist or physical therapist assistant~~ education program accredited by a national accreditation agency approved by the board.
 - d. ~~Pass~~Shall pass the examination approved by the board.
2. An applicant for a license as a physical therapist ~~or a physical therapist assistant~~ who has been educated outside of the United States shall:
 - a. ~~Be~~Must be of good moral character.
 - b. ~~Complete~~Shall complete the application process.
 - c. ~~Provide~~Shall provide satisfactory evidence ~~that~~ the applicant's education is substantially equivalent to the requirements of ~~a physical therapist~~therapist or physical therapist assistant educated in an accredited education program as determined by the board. For the purpose of this section, "substantially equivalent" means ~~that~~ an applicant for licensure educated outside of the United States ~~shall~~must have:
 - (1) Graduated from a physical therapist ~~or physical therapist assistant~~ education program that prepares the applicant to engage in the practice of physical therapy without restriction.
 - (2) Provided written proof ~~that~~ the applicant's school of physical therapy ~~or physical therapy assistant~~ education is recognized by its ~~own~~ ministry of education ~~or other appropriate education agency~~.
 - (3) Undergone a credentials evaluation as directed by the board ~~that determines that~~determining the candidate has met uniform criteria for educational requirements as further established by rule.
 - (4) Completed any additional education or clinical experience as required by the board.
 - d. ~~Pass~~Shall pass the board-approved English proficiency examinations if the applicant's native language is not English.
 - e. ~~Pass~~Shall pass the examination approved by the board.
 - f. Shall obtain a criminal background check as referenced in section 43-26.1-05.1 and required under article III of chapter 43-26.2.

3. Notwithstanding the provisions of subsection 2, if the applicant is educated outside of the United States and is a graduate of a professional physical therapy ~~therapist or physical therapist assistant~~ educational program accredited by a national accrediting agency approved by the board, the board may waive the requirements in subdivision c of subsection 2.

SECTION 5. AMENDMENT. Section 43-26.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-05. Application and examination.

1. An applicant for licensure shall file a complete application as required by the board. The applicant shall include application fees as ~~prescribed~~provided in this chapter and under applicable rules.
2. The board shall provide examinations at times and places ~~it~~the board determines. The board shall determine the passing score.
3. An applicant for licensure as a physical therapist may take the examination after the application process has been completed. The examination ~~shall~~must test entry-level competence related to physical therapy theory, examination and evaluation, diagnosis, prognosis, treatment intervention, prevention, and consultation.
4. An applicant for licensure as a physical therapist assistant may take the examination after the application process has been completed. The examination ~~shall~~must test for requisite knowledge and skills in the technical application of physical therapy services.
5. An applicant for licensure who does not pass the examination on the first attempt may retake the examination ~~one additional time without reapplication for licensure within six months of the first failure. Before the board may approve an applicant for subsequent testing beyond two attempts, an applicant shall reapply for licensure and shall submit evidence satisfactory to the board of having successfully completed additional clinical training or coursework, or both, as the board determines, not to exceed six attempts. There is a limit of two attempts for scores below four hundred.~~
6. If the board determines that an applicant or examinee has engaged, or has attempted to engage, in conduct that subverts or undermines the integrity of the examination process, the board may disqualify the applicant or examinee from taking the examination.

SECTION 6. AMENDMENT. Section 43-26.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-08. License renewal - Changes.

A licensee shall renew the license annually pursuant to board rules. A licensee who fails to renew the license on or before the expiration date ~~shall~~may not practice as a physical therapist or physical therapist assistant in this state, and may be subject to a late renewal fee. ~~Each~~A licensee is responsible for reporting shall report to the board a name change and other changes in business and home address~~contact information~~ within thirty days of the date of change.

SECTION 7. A new subsection to section 43-26.1-10 of the North Dakota Century Code is created and enacted as follows:

Forty dollars for the compact privilege.

SECTION 8. AMENDMENT. Section 43-26.1-11 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-11. Patient care management.

1. A physical therapist ~~is responsible for managing~~shall manage all aspects of each patient's physical therapy. A physical therapist shall provide:
 - a. Each patient's initial evaluation and documentation.
 - b. Periodic re-evaluation and documentation of each patient.
 - c. The documented discharge of the patient, including the response to therapeutic intervention at the time of discharge.
2. If the diagnostic process reveals findings ~~that are~~ outside the scope of a physical therapist's knowledge, experience, or expertise, a physical therapist shall ~~so~~ inform the patient or client and refer the patient or client to an appropriate practitioner.
3. A physical therapist shall assure the qualifications of ~~all~~a physical therapist ~~assistants~~assistant and physical therapy ~~aides~~aide under the physical therapist's direction and supervision.
4. For each patient on each date of service, a physical therapist shall provide all of the therapeutic intervention that requires the expertise of a physical therapist and shall determine the use of physical therapist assistants ~~or physical therapy aides~~ that provide for the delivery of care that is safe, effective, and efficient.
 - a. A physical therapist assistant shall work under the supervision of a physical therapist. A physical therapist assistant may document care provided without the cosignature of the supervising physical therapist.
 - b. A physical therapist may use physical therapy aides for designated routine tasks. A physical therapy aide shall work under the direct supervision of a physical therapist. This supervision may extend to ~~offsite~~general supervision of the physical therapy aide only when the physical therapy aide is accompanying and working directly with a physical therapist assistant with a specific patient or when performing non-patient-related tasks.
5. A physical therapist's ~~or physical therapist assistant's~~ responsibility for patient care management ~~shall include~~includes accurate documentation and billing of the services provided.
6. The physical therapist shall communicate the overall plan of care with the patient or the patient's legally authorized representative.

SECTION 9. A new subsection to section 43-26.1-13 of the North Dakota Century Code is created and enacted as follows:

Attempting to engage in conduct that subverts or undermines the integrity of the examination or the examination process, including a violation of security and copyright provisions related to the national licensure examination; utilizing recalled or memorized examination questions from or with any person; communicating or attempting to communicate with other examinees during the examination; or copying or sharing examination questions or portions of questions.

SECTION 10. AMENDMENT. Section 43-26.1-14 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-14. Lawful practice.

1. A physical therapist or physical therapist assistant licensed under this chapter is fully authorized to practice physical therapy ~~as defined herein~~. The board shall require each licensee to provide the board with evidence of competence regarding the various elements of manual therapy the licensee practices so ~~that~~ the board may determine satisfactory competency levels and requirements as provided under section 43-26.1-03.
2. A physical therapist or physical therapist assistant shall adhere to the standards of ethics of the physical therapy profession as established by rule.
3. A physical therapist may purchase, store, and administer topical medications, including aerosol medications as part of the practice of physical therapy ~~as defined herein~~, but ~~shall~~may not dispense or sell any of the medications to patients. A physical therapist shall comply with any regulation adopted by the United States pharmacopoeia specifying protocols for storage of medications.

SECTION 11. A new subsection to section 43-26.1-15 of the North Dakota Century Code is created and enacted as follows:

A physical therapist who graduated from a doctor of physical therapy program may use the title "doctor of physical therapy". A physical therapist holding a doctor of physical therapy or other doctoral degree may not use the title "doctor" without clearly informing the public of the physical therapist's licensure as a physical therapist.

SECTION 12. APPLICATION. Notwithstanding section 2 of this Act, any member of the North Dakota board of physical therapy serving a term on the board when this Act becomes effective whose term does not expire on June 30, 2019, may serve the remainder of that member's term. For a board position expiring on June 30, 2019, and for the new positions to the board created by section 2 of this Act, the governor shall appoint individuals to fill those positions in accordance with section 2 of this Act, and the terms of those appointees may be staggered. To accomplish the staggering, the initial term of those appointees may be less than five years.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 364

SENATE BILL NO. 2236

(Senators J. Lee, Anderson)
(Representative Beadle)

AN ACT to create and enact chapter 43-64 of the North Dakota Century Code, relating to the licensure and regulation of behavior analyst professionals; to amend and reenact sections 43-32-01, 43-32-02, 43-32-08, 43-32-08.1, 43-32-08.2, 43-32-09, 43-32-12, 43-32-13, 43-32-14, 43-32-16, 43-32-17, 43-32-19.1, 43-32-20, 43-32-27, 43-32-27.1, 43-32-30, 43-57-01, 43-57-03, and 43-57-06, subsection 2 of section 43-57-07, and section 43-57-11 of the North Dakota Century Code, relating to the regulation of applied behavioral analysts of psychologist examiners and to the board of integrative health care; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-32-01 of the North Dakota Century Code is amended and reenacted as follows:

43-32-01. Definitions.

1. ~~"Applied behavior analyst" means an individual licensed under this chapter as an applied behavior analyst. The term does not include a registered applied behavior analyst.~~
2. "Board" means the North Dakota state board of psychologist examiners.
- 3-2. "Industrial-organizational psychologist" means an individual who is licensed under this chapter to engage in the practice of industrial-organizational psychology.
- 4-3. "Industrial-organizational psychology" means the provision of psychological research services or consultation services to a group or an organization. The term does not include the delivery or supervision of services to individuals who are themselves, rather than the group or organization, the intended beneficiaries of the services, regardless of the source or extent of payment for services rendered.
- 5-4. "Industrial-organizational psychology resident" means an individual who has met the requirement of subdivision b of subsection 2 of section 43-32-20, is involved in supervised employment in industrial-organizational psychology, and has registered with the board.
- 6-5. "Licensee" means an industrial-organizational psychologist, ~~an applied behavior analyst,~~ or a psychologist.
7. "Practice of applied behavior analysis":
 - a. ~~Means the application of the principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis, including~~

~~principles of operant and respondent learning. The term includes applications of those principles, methods, and procedures to:~~

- ~~(1) Design, supervise, evaluate, and modify treatment programs to change the behavior of individuals diagnosed with an autism spectrum disorder;~~
- ~~(2) Design, supervise, evaluate, and modify treatment programs to change the behavior of individuals;~~
- ~~(3) Design, supervise, evaluate, and modify treatment programs to change the behavior of groups; and~~
- ~~(4) Consult with individuals and organizations.~~

~~b. The term does not include diagnosis, counseling, psychological testing, personality assessment, intellectual assessment, neuropsychological assessment, psychotherapy, cognitive therapy, sex therapy, family therapy, coordination of care, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.~~

8-6. "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The term includes psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychotherapy, biofeedback, behavior analysis and therapy, clinical applications of hypnosis, and other therapeutic techniques based on psychological principles; diagnosis and treatment of mental and emotional disorder or disability, compulsive disorders, disorders of habit or conduct as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. The term includes providing psychological services to individuals, families, groups, organizations, institutions, and the public regardless of whether payment is received for services rendered. The term includes supervising others who are engaged in the practice of psychology.

9-7. "Psychologist" means an individual who is licensed under this chapter in the practice of psychology.

10-8. "Psychology resident" means an individual who is registered by the board and is actively engaged in supervised practice.

11. "Registered applied behavior analyst" or "registrant" means an individual who is registered under this chapter as a registered applied behavior analyst and is supervised by a psychologist or applied behavior analyst. The term does not include an applied behavior analyst.

12-9. "School or college" means any university or other institution of higher learning which is accredited by a regional accrediting association, offering a full-time

graduate course of study in industrial-organizational psychology, or psychology, ~~or applied behavior analysis~~, as appropriate.

SECTION 2. AMENDMENT. Section 43-32-02 of the North Dakota Century Code is amended and reenacted as follows:

43-32-02. State board of psychologist examiners - How appointed - Qualifications.

The governor shall appoint a state board of psychologist examiners consisting of seven members, all of whom are residents of the state. One board member must be designated a public member who is a resident of this state, is at least twenty-one years of age, and is not affiliated with any group or profession that provides or regulates health care in any form. Of the remaining six board members, at least one member must be engaged primarily in providing service in psychology ~~or applied behavior analysis~~, and at least one member must be engaged primarily in teaching, training, or research in psychology ~~or applied behavior analysis~~. Except the public member, each member must be licensed under this chapter for at least five years.

SECTION 3. AMENDMENT. Section 43-32-08 of the North Dakota Century Code is amended and reenacted as follows:

43-32-08. Rules.

The board may adopt rules as necessary to enable the board to carry into effect the provisions of this chapter. The rules may include a code of ethics for licensees and ~~registrants~~. The board shall adopt rules defining what programs of study are substantially psychological in nature; ~~and what educational programs are acceptable for the licensing of psychologists and applied behavior analysts and for registering registered applied behavior analysts; and what educational programs are acceptable for the licensing of industrial-organizational psychologists.~~

SECTION 4. AMENDMENT. Section 43-32-08.1 of the North Dakota Century Code is amended and reenacted as follows:

43-32-08.1. Continuing education requirements.

The board shall adopt rules establishing requirements for the continuing education of all licensees, psychology residents, ~~registrants~~, and industrial-organizational psychology residents. The board may refuse to renew, suspend, revoke, or place on probationary status any license ~~or registration~~ issued under this chapter if the licensee ~~or registrant~~ fails to meet applicable continuing education requirements. Sponsors of continuing education courses, classes, or activities may be charged a reasonable fee determined by the board.

SECTION 5. AMENDMENT. Section 43-32-08.2 of the North Dakota Century Code is amended and reenacted as follows:

43-32-08.2. Continuing education requirements - Renewal.

Absent a showing of good cause, the board may not renew a license ~~or registration~~ issued under this chapter without proof the continuing education requirements under section 43-32-08.1 have been met. An individual whose license ~~or registration~~ is not renewed because of failure to meet the continuing education requirements must be reinstated and the license ~~or registration~~ renewed if, within one year from the date of nonrenewal, the individual demonstrates to the secretary of the

board the continuing education requirements have been satisfied, pays the renewal fee, and pays a late fee to be determined by rule of the board.

SECTION 6. AMENDMENT. Section 43-32-09 of the North Dakota Century Code is amended and reenacted as follows:

43-32-09. Examination of qualifications of applicants.

The board shall examine for, deny, approve, revoke, suspend, and renew the licensing and registration of applicants as provided under this chapter.

SECTION 7. AMENDMENT. Section 43-32-12 of the North Dakota Century Code is amended and reenacted as follows:

43-32-12. Application and fee for licensure and registration.

The board shall adopt rules establishing the amount of the application fee for licensure and registration. A fee is not refundable.

SECTION 8. AMENDMENT. Section 43-32-13 of the North Dakota Century Code is amended and reenacted as follows:

43-32-13. Annual license and registration fee.

Annually, the board shall mail or transmit by electronic mail a renewal notice and application to each licensee and registrant at the address or electronic mail address on file with the board. Before November fifteenth of each year, every licensee and registrant shall apply for renewal on a renewal application form provided by the board and pay to the secretary of the board an annual fee determined by the board by rule. Upon confirmation by the board the renewal application is complete, the criteria for renewal have been met, and the secretary of the board has received payment of the annual fee, the secretary shall issue the licensee or registrant a certificate of annual renewal, which commences on January first. An individual may not hold out as an industrial-organizational psychologist, an applied behavior analyst, a registered applied behavior analyst, or a psychologist until the annual fee is paid. The board may deny renewal of the license or registration of an individual who violates this section. Annually, the board shall mail or electronically mail a renewal notice to each licensee and registrant at the address or electronic mail address on file with the board.

SECTION 9. AMENDMENT. Section 43-32-14 of the North Dakota Century Code is amended and reenacted as follows:

43-32-14. Payment of delinquent annual fee - Reinstatement.

If an individual's license or registration issued under this chapter expires for failure to pay the annual fee, the board shall reinstate that individual and renew the license or registration if, within one year from the date of expiration, the individual pays to the secretary of the board the amount of the annual fees in default and a late fee in the amount established by the board by rule and demonstrates all continuing education requirements have been met or the board has granted an extension of the period in which to meet the continuing education requirements.

SECTION 10. AMENDMENT. Section 43-32-16 of the North Dakota Century Code is amended and reenacted as follows:

43-32-16. Board to keep records.

1. The board shall keep a record of its proceedings and a register of all applicants for licensing ~~or registration~~ which must show:
 - a. The name, date of birth, and residence of each applicant.
 - b. The date of each applicant's application.
 - c. The place of business of each applicant.
 - d. A summary of the educational and other qualifications of each applicant.
 - e. Whether an examination was required of an applicant.
 - f. Whether a license ~~or registration~~ was granted to an applicant.
 - g. The date of the action of the board.
 - h. Any information the board determines necessary or advisable in aid of the requirements of this subsection.
2. Except as otherwise provided by law, the records of the board are public records and evidence of the proceedings of the board, and a transcript of board proceedings, duly certified by the secretary of the board is admissible in evidence with the same effect as if the original were produced.

SECTION 11. AMENDMENT. Section 43-32-17 of the North Dakota Century Code is amended and reenacted as follows:

43-32-17. License required for practice - Titles.

1. Except as otherwise provided under this chapter, a person may not engage in the practice of psychology unless that person is licensed as a psychologist or is registered as a psychology resident under this chapter. Except as otherwise provided by this chapter, a person may not engage in the practice of industrial-organizational psychology unless that person is licensed as a psychologist or industrial-organizational psychologist or is registered as a psychology resident or industrial-organizational psychology resident under this chapter. ~~Except as otherwise provided under this chapter, a person may not engage in the practice of applied behavior analysis unless that person is a licensee or is registered and supervised as an applied behavior analyst as provided under this chapter.~~
2. A person may not use the title "psychologist" or similar title unless that person is licensed as a psychologist. A person may not use the titles "industrial psychologist", "organizational psychologist", or "industrial-organizational psychologist" unless that person is licensed as a psychologist or industrial-organizational psychologist. ~~A person may not use the title "licensed applied behavior analyst" or similar title unless that person is an applied behavior analyst. A person may not use the title "registered applied behavioral analyst" or similar title unless that person is registered and supervised as a registered applied behavior analyst.~~
3. A person may not use the title "psychology resident" or similar title unless that person is registered as a psychology resident. A person may not use the titles "industrial psychology resident", "organizational psychology resident", or

"industrial-organizational psychology resident" unless that person is registered as a psychology resident or industrial-organizational psychology resident.

SECTION 12. AMENDMENT. Section 43-32-19.1 of the North Dakota Century Code is amended and reenacted as follows:

43-32-19.1. Expedited licensure - Licensing ~~or registering~~ applicants licensed or registered in other jurisdictions.

1. The board may grant a license ~~or registration~~ to an applicant who is an individual licensed, certified, or registered in another jurisdiction and who files a completed application on a form and in a manner the board prescribed, submits the required fee, and submits documentation:
 - a. Confirming graduation from an accredited program in the degree of licensure ~~or registration~~ for which the individual is applying in this state;
 - b. Confirming completion of a national examination required by the board related to competence in psychology ~~or applied behavior analysis~~;
 - c. Identifying all professional licenses, certifications, or registrations previously obtained by the applicant in any jurisdiction;
 - d. Explaining any professional or personal conduct that reasonably may be interpreted as indicating an inability to adhere to this chapter, including the code of ethical conduct adopted by the board; and
 - e. Providing the board with a release by which the board may obtain from the applicant's current jurisdiction, confirmation of the educational degree the applicant's licensure or registration required, documentation of any disciplinary action related to the applicant's license or registration, and an explanation of all levels in the applicant's profession the current jurisdiction licenses or registers.
2. As a condition to qualify for licensure ~~or registration~~ under subsection 1, the board may require the applicant pass an examination on the ethics, laws, and rules regulating the practice of psychology; or industrial-organizational psychology; ~~or applied behavior analysis~~, as appropriate to the licensure ~~or registration~~ sought by the applicant.
3. Notwithstanding any contrary provision of this chapter, the board may issue a license ~~or registration~~ as authorized under chapter 43-51.
4. The board may grant a provisional license ~~or registration~~ to an expedited licensure applicant while the application is pending. ~~The board may grant a provisional registration to an individual who is applying for registration as an applied behavior analyst if the individual is certified by a professional organization that is identified by the board by rule.~~ The board may deny or place restrictions on a provisional license ~~or registration~~ under this subsection if in another jurisdiction, within the previous five years, the applicant had a disciplinary action against the applicant's license or registration.
5. Except as otherwise provided under this chapter, and in accordance with rules adopted by the board, the board may issue a limited practice certificate to an applicant who is licensed or registered in another jurisdiction to practice psychology; or industrial-organizational psychology; ~~or applied behavior~~

~~analysis.~~ A limited practice certificate issued under this subsection authorizes the practice of psychology; or industrial-organizational psychology; ~~or applied behavior analysis~~ in this state for no more than thirty days in a calendar year.

SECTION 13. AMENDMENT. Section 43-32-20 of the North Dakota Century Code is amended and reenacted as follows:

43-32-20. Licensing - Written and oral examination - Qualifications of applicants.

The board may issue a license ~~or registration~~ to each applicant who files a completed application upon a form and in a manner the board prescribes, submits the required fee, and meets the requirements of subsection 1; or 2; ~~or 3.~~

1. An applicant for licensure as a psychologist shall demonstrate all of the following:
 - a. The applicant will adhere to the code of ethical conduct adopted by the board by rule.
 - b. The applicant has received, from a school or college, a doctorate degree in a program that is accredited as a doctoral program in psychology by an accrediting body approved by the board by rule.
 - c. The applicant has passed the examinations, written or oral, or both, as the board determines necessary.
 - d. The applicant has completed at least two full years of supervised professional experience, one year of which must be an internship program, and one year of which may be postdoctoral. Both years of experience must comply with the board's rules.
2. An applicant for licensure as an industrial-organizational psychologist shall demonstrate all of the following:
 - a. The applicant will adhere to the code of ethical conduct adopted by the board by rule.
 - b. The applicant has received, from a school or college, a doctorate degree in a program of studies accredited by an accrediting body approved by the board by rule.
 - c. The applicant has passed the examinations, written or oral, or both, as the board determines necessary.
 - d. The applicant has completed the professional experience requirements established by the board. The requirements may not exceed the professional experience requirements for psychologists. If the professional experience requirements include a supervised experience requirement:
 - (1) The board must allow an applicant to submit to the board a personalized plan for supervised experience which may include distance-supervision by a qualified industrial-organizational psychologist.

- (2) The board may adopt rules to establish who is qualified to perform supervision, supervision requirements, and reporting.
- 3- ~~An applicant for licensure as an applied behavior analyst or registration as a registered applied behavior analyst shall:~~
- a- ~~Submit written documentation confirming the applicant will adhere to the code of ethical conduct adopted by the board by rule.~~
 - b- ~~Demonstrate the applicant meets board-approved education requirements adopted by the board by rule.~~
 - c- ~~Demonstrate the applicant passed examinations demonstrating professional competence adopted by the board by rule.~~
 - d- ~~Provide documentation indicating the applicant has established supervision requirements as determined by the board by rule. The board's rule must allow for supervision of board-certified behavioral analysts by professionals with equivalent or greater training.~~

SECTION 14. AMENDMENT. Section 43-32-27 of the North Dakota Century Code is amended and reenacted as follows:

43-32-27. Denial - Revocation or suspension of license ~~or registration~~ - Grounds.

1. The board, after notice, hearing, and an affirmative vote of at least a majority of board members, may withhold, deny, revoke, or suspend any license ~~or registration~~ issued or applied for under this chapter and may otherwise discipline a licensee, ~~a registrant~~, or an applicant upon proof the applicant, ~~registrant~~, or licensee:
 - a. Has been convicted of an offense determined by the board to have a direct bearing upon an individual's ability to serve the public in the practice of psychology ~~or applied behavior analysis~~, or if the board finds, after the conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
 - b. Is unable to practice psychology ~~or applied behavior analysis~~ with reasonable skill and safety to clients or patients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.
 - c. Has impersonated another individual holding a license ~~or registration~~ issued under this chapter or allowed another person to use the licensee's license ~~or registration~~.
 - d. Has used fraud or deception in applying for a license ~~or registration~~ or in taking an examination under this chapter.
 - e. Has allowed the licensee's ~~or registrant's~~ name or license ~~or registration~~ issued under this chapter to be used in connection with any person who performs psychological ~~or applied behavior analysis~~ services outside of the area of that person's training, experience, or competence.

- f. Is legally adjudicated insane or mentally incompetent. The record of the adjudication is conclusive evidence of that fact.
 - g. Has engaged in any form of unethical conduct as defined in the code of ethical conduct adopted by the board by rule.
 - h. Has become grossly negligent in the practice of psychology or ~~applied behavior analysis~~.
 - i. Has willfully or negligently violated this chapter.
 - j. Has engaged in an act in violation of rules adopted by the board.
 - k. Has had a license or ~~registration~~ revoked or suspended or was disciplined in another jurisdiction.
2. The board shall state in writing the board's reason for denying a license or ~~registration~~.
 3. The board may assess costs incurred by the board related to investigations and disciplinary actions. By rule, the board may set fees or fines, not to exceed five hundred dollars, for minor infractions of this chapter.
 4. An individual whose license or ~~registration~~ has been revoked under this section may not reapply for licensure or ~~registration~~ for at least two years after the date of revocation.
 5. Other than the term "in good standing", by rule, the board shall define terms related to license status, such as "revoked", "suspended", "inactive", and "probationary".

SECTION 15. AMENDMENT. Section 43-32-27.1 of the North Dakota Century Code is amended and reenacted as follows:

43-32-27.1. Complaints - Investigations.

1. A person aggrieved by the actions of a licensee, ~~registrant~~, or psychology resident may file a written statement with the board citing the specific allegations of misconduct. The board shall notify the licensee, ~~registrant~~, or psychology resident of the allegation and request a written response. The board may establish procedural exceptions for processing multiple allegations from the same person.
2. The board shall determine if the information in an allegation warrants investigation as a complaint, without requiring the source of the information to be made a matter of public record, if the board concludes that good cause exists for preserving the confidentiality of the source.
3. A licensee, ~~registrant~~, or psychology resident 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 or client records if reasonably requested by the board and accompanied by the appropriate release.

4. In order to pursue an investigation, the board may subpoena and examine witnesses and records, including patient and client records, and may copy, photograph, or take samples of the records. The board may require the licensee, ~~registrant~~, or psychology resident to give statements under oath, to submit to a physical or psychological examination, or both, by a physician or other qualified evaluation professional selected by the board, if requiring an examination is in the best interest of the public. The patient and client records released to the board are not public records. The board may adopt rules to assign, define duties, and compensate an investigator to assist the board to process a complaint.
5. Unless a patient or client release is on file allowing the release of information at the public hearing, patient and client records acquired by the board in the board's investigation are confidential and closed to the public. All board meetings at which patient or client testimony or records are taken or reviewed are confidential and closed to the public. If patient or client testimony or records are not taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

SECTION 16. AMENDMENT. Section 43-32-30 of the North Dakota Century Code is amended and reenacted as follows:

43-32-30. Persons exempt from this chapter.

This chapter does not apply to:

1. A student or intern pursuing a course of study in psychology, or industrial-organizational psychology, ~~or applied behavior analysis~~ at a school or college, if the activities and services are a part of the individual's supervised course of study and are under the supervision of a licensed psychologist who meets the required supervision and continuing education requirements and demonstrates competency in the area of the student's or intern's practice; or industrial-organizational psychologist, ~~or applied behavior analyst~~. The student or intern may not use the title "psychologist"; or "industrial-organizational psychologist", "~~licensed behavior analyst~~", or "~~registered applied behavior analyst~~". The student or intern status and the supervisor must be clearly stated.
2. A lecturer, from any school or college, who uses an academic or research title when lecturing to institutions or organizations. However, the lecturer may not engage in the practice of psychology, ~~applied behavior analysis~~, or industrial-organizational psychology unless the lecturer is licensed or registered under this chapter.
3. An individual employed by a public school if that individual's activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption applies only if the individual has received a master's degree in school psychology from an accredited graduate training program. Standards must be established by mutual consent of the board and the education standards and practices board.
4. ~~A person~~An individual certified, licensed, or registered in this state in another health care profession, or as a member of the clergy functioning in a ministerial capacity, whose scope of practice is consistent with the accepted standards of that ~~person's~~individual's profession. ~~A person~~An individual

claiming an exemption under this subsection may not represent to be rendering psychological or ~~applied behavior analysis~~ services.

5. ~~A person~~An individual employed by an agency, a nonprofit corporation, or an institution if that ~~person~~individual is currently exempt from licensure. A ~~person~~individual exempt under this subsection continues to be exempt if the ~~person~~individual continues employment in the same position with the agency, nonprofit corporation, or institution that applied for and received the exemption.
6. ~~An individual providing applied behavior analysis services to an individual in a public school setting.~~
7. ~~An individual who is implementing applied behavior analysis services to an immediate family member or as a paid or volunteer caregiver implementing procedures established by the family or by the individual served in any setting, if the individual or caregiver does not represent as a registrant or an applied behavior analyst.~~

SECTION 17. AMENDMENT. Section 43-57-01 of the North Dakota Century Code is amended and reenacted as follows:

43-57-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the state board of integrative health care.
2. "Licensee" means an individual licensed by the board under this chapter and under chapter 43-58, 43-59, or 43-61, or 43-64.

SECTION 18. AMENDMENT. Section 43-57-03 of the North Dakota Century Code is amended and reenacted as follows:

43-57-03. Powers and duties of board.

1. The board shall adopt rules:
 - a. To administer and enforce this chapter and chapters 43-58, 43-59, and 43-61, and 43-64;
 - b. That specify the scope of practice, which must be consistent with the required education for each profession regulated by the board;
 - c. To establish any exemptions from licensure;
 - d. That endorse equivalent licensure examinations of another state or foreign country and which may include licensure by reciprocity;
 - ~~d-e.~~ That establish educational standards for each profession regulated by the board as appropriate; and
 - e-f. That set fees for licensure, which may include:
 - (1) Application fee;

- (2) License fee;
 - (3) Renewal fee;
 - (4) Late fee;
 - (5) Administrative fees; and
 - (6) Continuing education fees.
2. The board shall produce an annual list of the names and level of licensure of all individuals licensed by the board and make the list available upon request.
 3. The board may employ staff and provide for staff compensation.
 4. The board shall receive all moneys collected under this chapter, ~~chapter and chapters 43-58, 43-59, and 43-61, and 43-64~~ and shall deposit and disburse all fees and moneys collected in accordance with section 54-44-12.
 5. The board may establish continuing education requirements for license renewal.
 6. The board may adopt a code of ethics for each profession regulated by the board.
 7. The board may adopt rules allowing students to practice under licensed supervision.

SECTION 19. AMENDMENT. Section 43-57-06 of the North Dakota Century Code is amended and reenacted as follows:

43-57-06. Issuance of license - Expedited.

1. If the board determines that an applicant possesses the qualifications required under this chapter and under chapter 43-58, 43-59, or 43-61, or 43-64, the board shall issue a license to the applicant.
2. The board shall establish an expedited procedure for licensure of an applicant who is certified by a professional organization identified by the board by rule or who holds a valid license or certificate of registration in another jurisdiction. The board may grant a provisional license to an expedited licensure applicant while the expedited license application is pending.

SECTION 20. AMENDMENT. Subsection 2 of section 43-57-07 of the North Dakota Century Code is amended and reenacted as follows:

2. A license issued under chapter 43-58 or 43-59 expires on December thirty-first of every odd-numbered year. A license issued under chapter 43-61 or 43-64 expires on December thirty-first of every even-numbered year.

SECTION 21. AMENDMENT. Section 43-57-11 of the North Dakota Century Code is amended and reenacted as follows:

43-57-11. Enforcement - Penalty.

A person that violates this chapter or chapter 43-58, 43-59, or 43-61, or 43-64 is guilty of a class B misdemeanor. In addition to the criminal penalties provided under this section, the civil remedy of injunction is available to restrain and enjoin any violation of this chapter or chapter 43-58, 43-59, or 43-61, or 43-64 without proof of actual damages sustained by any person.

SECTION 22. Chapter 43-64 of the North Dakota Century Code is created and enacted as follows:

43-64-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Board" means the state board of integrative health care created under chapter 43-57.
2. "Licensed assistant behavior analyst" means an individual who is licensed under this chapter as a licensed assistant behavior analyst and is supervised by a licensed behavior analyst.
3. "Licensed behavior analyst" means an individual licensed under this chapter as a licensed behavior analyst.
4. "Practice of applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The term includes the empirical identification of functional relations between behavior and environmental factors. The term does not include the diagnosis of disorders, psychological testing, psychotherapy, cognitive therapy, psychoanalysis, and counseling.

43-64-02. License required - Title restrictions.

1. Effective January 1, 2020, an individual may not practice applied behavior analysis without a current license issued by the board under this chapter.
2. A licensed behavior analyst may use the title "licensed behavior analyst." A licensed assistant behavior analyst may use the title "licensed assistant behavior analyst." Effective January 1, 2020, an individual who uses these terms as identification without having received a license as required under this chapter is engaging in the practice of applied behavior analysis without a license.

43-64-03. Qualifications for licensure.

To obtain a license to practice applied behavior analysis in this state, an applicant shall submit an application to the board. The application must be upon the form adopted by the board and must be made in the manner prescribed by the board.

43-64-04. Application for licensure.

1. An applicant for licensure shall file an application on forms provided by the board showing to the board's satisfaction the applicant is of good moral character and has satisfied the requirements of this chapter and chapter 43-57, including:
 - a. Successful completion of education, examination, and experience requirements established by the board, such as certification from the

behavior analyst certification board or a certifying entity accredited by the national commission for certifying entities or the American national standards institute;

- b. Physical, mental, and professional capability for the practice of applied behavior analysis in a manner acceptable to the board; and
 - c. A history free of any finding by the board, any other state licensure board, or any court of competent jurisdiction of the commission of any act that would constitute grounds for disciplinary action under this chapter and chapter 43-57. The board may modify this restriction for cause.
2. The application must be accompanied by the board-established license fees and application fees and by the documents, affidavits, and certificates necessary to establish the applicant possesses the necessary qualifications.
 3. The board shall establish standards for licensed behavior analysts supervising licensed assistant behavior analysts.

43-64-05. Initial applications - Grandfather provision.

Notwithstanding the education, experience, and examination requirements for licensure under this chapter, if on December 31, 2019, an applicant held a valid license or registration issued by the state board of psychologist examiners under chapter 43-32, the applicant is deemed to have met the education, experience, and examination requirements for licensure.

SECTION 23. EFFECTIVE DATE. Sections 1 through 16 of this Act become effective on January 1, 2020.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 365

HOUSE BILL NO. 1377

(Representatives Magrum, Ertelt, Headland, Jones, Kiefert, Pollert)
(Senators Dwyer, Erbele, Schaible, Wanzek)

AN ACT to amend and reenact sections 43-35-03, 43-35-17, and 43-35-23 of the North Dakota Century Code, relating to state board of water well contractors and continuing education requirements for water well pump and pitless unit installers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-35-03 of the North Dakota Century Code is amended and reenacted as follows:

43-35-03. State board of water well contractors - Members' appointment - Qualification.

The state board of water well contractors consists of the state engineer and the state health officer, or their duly authorized designees, two water well contractors appointed by the governor, one geothermal system driller or one monitoring well contractor appointed by the governor, one water well pump and pitless unit installer appointed by the governor, and one member appointed at large by the governor.

(Contingent effective date - See note) State board of water well contractors - Members' appointment - Qualification. The state board of water well contractors consists of the state engineer and the director of the department of environmental quality, or their duly authorized designees, two water well contractors appointed by the governor, one geothermal system driller or one monitoring well contractor appointed by the governor, one water well pump and pitless unit installer appointed by the governor, and one member appointed at large by the governor.

SECTION 2. AMENDMENT. Section 43-35-17 of the North Dakota Century Code is amended and reenacted as follows:

43-35-17. Renewal of certificate - Continuing education.

1. A certificate issued under this chapter is valid for up to one year and expires on the thirty-first day of December in the year of issuance. ~~The~~ To renew a certificate may be renewed by, a certificate holder shall submit to the board upon a completed renewal application. Every two years the application must include reporting information that the applicant completed six hours of continuing education during the two-year reporting cycle which meets continuing education standards adopted by the board. ~~The completed renewal application must be made:~~
 - a. Submitted to the board before April first in the year following the certificate's expiration, ~~must be accompanied;~~
 - b. Accompanied by a fee in an amount set by the board not to exceed two hundred dollars, ~~and must be accompanied;~~

- c. Accompanied by any continuing education reporting information required under this section; and
 - d. Accompanied by a bond as provided in section 43-35-14.
2. Except as provided under subsection 3, every two years the renewal application must include reporting information verifying the applicant completed six hours of board-approved continuing education during the two-year reporting cycle.
 3. A renewal application for certification as a water well pump and pitless unit installer must include reporting information verifying the applicant completed two hours of board-approved continuing education during the two-year reporting cycle.
 4. The board shall adopt rules establishing continuing education standards.

SECTION 3. AMENDMENT. Section 43-35-23 of the North Dakota Century Code is amended and reenacted as follows:

43-35-23. Continuing education - Preapproval requirements.

Each

1. As provided under section 43-35-17, each certificate holder shall earn at least ~~six hours~~ of board-approved continuing education during every two-year reporting cycle to qualify for certificate renewal, except a new certificate holder is not required to earn continuing education until the second renewal year following initial certification.
2. Continuing education coursework may be provided by the national ground water association, the North Dakota well drillers association, incorporated, a board-sponsored workshop, the state department of health, the state water commission, or by any board-approved course provider.
3. A continuing education course must be preapproved by the board unless otherwise provided under this section. A continuing education course provider or a certificate holder shall request preapproval of continuing education coursework by submitting to the board a course outline, the instructor's name, the length of the training, and an explanation of how the training relates to the construction and service of water wells.
4. A certificate holder may request approval of education that was not preapproved by submitting to the board verification of attendance, a course outline, and an explanation of why preapproval was not obtained. The board shall determine on a case-by-case basis whether to approve education that was not preapproved.

(Contingent effective date - See note) Continuing education - Preapproval requirements. Each

1. As provided under section 43-35-17, each certificate holder shall earn at least ~~six hours~~ of board-approved continuing education during every two-year reporting cycle to qualify for certificate renewal, except a new certificate holder is not required to earn continuing education until the second renewal year following initial certification.

2. Continuing education coursework may be provided by the national ground water association, the North Dakota well drillers association, incorporated, a board-sponsored workshop, the department of environmental quality, the state water commission, or by any board-approved course provider.
3. A continuing education course must be disapproved by the board unless otherwise provided under this section. A continuing education course provider or a certificate holder shall request disapproval of continuing education coursework by submitting to the board a course outline, the instructor's name, the length of the training, and an explanation of how the training relates to the construction and service of water wells.
4. A certificate holder may request approval of education that was not preapproved by submitting to the board verification of attendance, a course outline, and an explanation of why preapproval was not obtained. The board shall determine on a case-by-case basis whether to approve education that was not preapproved.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 366

SENATE BILL NO. 2361

(Senators Anderson, Mathern)
(Representative J. Nelson)

AN ACT to create and enact subsection 8 of section 43-41-11 and three new sections to chapter 43-41 of the North Dakota Century Code, relating to the licensing of social workers; to amend and reenact subsections 9 and 10 of section 25-01-01, section 43-41-01, subsection 2 of section 43-41-02, subsection 1 of section 43-41-03, and sections 43-41-04, 43-41-05, 43-41-08, 43-41-10, and 43-41-12, of the North Dakota Century Code, relating to the licensing of social workers; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 9 and 10 of section 25-01-01 of the North Dakota Century Code are amended and reenacted as follows:

9. "Tier 2 mental health professional" means a tier 2a or a tier 2b mental health professional.
 - a. A tier 2a mental health professional is an independent clinician who is a licensed ~~independent~~ clinical social worker licensed under chapter 43-41, a licensed professional clinical counselor licensed under chapter 43-47, or a licensed marriage and family therapist licensed under chapter 43-53.
 - b. A tier 2b mental health professional is an addiction counselor licensed under chapter 43-45 or a registered nurse licensed under chapter 43-12.
10. "Tier 3 mental health professional" means a licensed associate professional counselor licensed under chapter 43-47, a licensed ~~certified~~master social worker ~~or licensed baccalaureate social worker~~ licensed under chapter 43-41, a licensed professional counselor licensed under chapter 43-47, an associate marriage and family therapist licensed under chapter 43-53, an occupational therapist licensed under chapter 43-40, a licensed practical nurse licensed under chapter 43-12, a behavior analyst licensed or registered under chapter 43-32, a vocational rehabilitation counselor practicing under chapter 50-06.1, a school psychologist, or a human relations counselor.

SECTION 2. AMENDMENT. Section 43-41-01 of the North Dakota Century Code is amended and reenacted as follows:

43-41-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the North Dakota board of social work examiners.
2. ~~"College or university" means an institution of higher education whose social work program has been accredited by an accrediting body approved by the board.~~

3. ~~"Licensed certified social worker" means an individual who has a doctorate or master's degree in social work from a college or university and who has fulfilled the requirements for licensure.~~
4. ~~"Licensed independent clinical social worker" means an individual who has a doctorate or master's degree in social work from a college or university and who has fulfilled the requirements for licensure or has been registered by the board for third-party reimbursement before August 1, 1997.~~
5. ~~"Licensed social worker" means an individual who has a baccalaureate degree in social work from a college or university and who has fulfilled the requirements for licensure.~~

"Client" means the individual, couple, family, group, organization, or community that seeks or receives social work services from an individual licensed social worker or an organization, regardless of whether the licensed social worker or organization bills or accepts or requests the payment of fees for the services.

3. "Clinical supervision for licensure" means an interactional professional relationship between a clinical supervisor which meets the standards adopted by the board and a social worker and which provides evaluation and direction over the supervisee's practice of clinical social work in preparation for the social worker's licensure as a licensed clinical social worker, in accordance with the requirements adopted by the board, and promotes development of the social worker's knowledge, skills, and abilities to engage in the practice of clinical social work in an ethical and competent manner.
4. "Consultation" means an advisory professional relationship between a social worker and an individual with particular expertise, with the social worker legally and ethically maintaining responsibility for all judgments and decisions regarding service to the client.
5. "Counseling" means a method used by a social worker to assist an individual, couple, family, or group in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.
6. "Electronic social work services" means the use of a computer, including the internet, social media, online chat, text, and electronic mail, or other electronic means, such as a wireless communications device, landline telephone, or video technology, to provide information to the public, deliver social work services to a client, communicate with a client, manage confidential information and case records, store and access information about clients, and arrange payment for professional services.
7. "Licensed baccalaureate social worker" means an individual licensed under this chapter to practice baccalaureate social work.
8. "Licensed clinical social worker" means an individual licensed under this chapter to practice clinical social work.
9. "Licensed master social worker" means an individual licensed under this chapter to practice masters social work.

6-10. "Private practice of social work" means the independent practice of social work by a qualified individual licensee who is practicing within that licensee's scope of practice, and who is self-employed on a full-time or part-time basis and is responsible for that independent practice. Consultation services provided to an organization or an agency are not considered to be the private practice of social work.

7-11. "Social work practice" consists of the professional application of social work values, principles, and techniques in helping people obtain tangible services; counseling; psychotherapy with individuals, families, and groups; helping communities or groups to improve social and health services; providing social casework; directly supervising programs providing social work services; social work education; social work research; or any combination of these. The practice of social work requires knowledge of human development and behavior, of social, economic, and cultural institutions, and the interaction of all these factors means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. The scope of practice for licensees of the board consist of the following:

- a. The practice of baccalaureate social work, which includes the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is generalist practice that includes assessment, planning, implementation, intervention, evaluation, research, social work case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities.
- b. The practice of masters social work, which includes, in addition to the practice of baccalaureate social work, the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation, intervention, evaluation, social work case management information and referral, counseling, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities. Under the supervision of a licensed clinical social worker, the practice of masters social work may include the practices reserved to licensed clinical social workers.
- c. The practice of clinical social work, which includes, in addition to the practice of baccalaureate social work and the practice of masters social work, the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, treatment planning, implementation and evaluation, social work case management information and referral, counseling, supervision, consultation, education, research, advocacy, community organization, the development, implementation, intervention, and administration of policies, programs, and activities, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. Treatment methods include the provision of individual, marital, couple, family, and group counseling and

psychotherapy. The practice of clinical social work may include the provision of clinical supervision.

12. "Psychotherapy" means the use of treatment methods utilizing a specialized, formal interaction between a licensed clinical social worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, and sustained to understand unconscious processes; intrapersonal, interpersonal, and psychosocial dynamics; and the assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions, or addictions.
13. "Social work case management" means a method to plan, provide, evaluate, and monitor services by a licensed social worker from a variety of resources on behalf of and in collaboration with a client.

SECTION 3. AMENDMENT. Subsection 2 of section 43-41-02 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~Nothing in this~~ This chapter may not be construed to prevent students who are enrolled in programs of study leading to social work degrees from interning with a licensed baccalaureate social worker, a licensed certifiedmaster social worker, or a licensed ~~independent~~ clinical social worker.

SECTION 4. AMENDMENT. Subsection 1 of section 43-41-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Only those persons licensed to practice under this chapter may represent themselves as a licensed baccalaureate social worker, licensed certifiedmaster social worker, or licensed ~~independent~~ clinical social worker.

SECTION 5. AMENDMENT. Section 43-41-04 of the North Dakota Century Code is amended and reenacted as follows:

43-41-04. Licenses - Rules.

1. Except as otherwise provided in this chapter, ~~nea~~ person may not engage in social work practice in this state unless that person is a licensed baccalaureate social worker, a licensed certifiedmaster social worker, or a licensed ~~independent~~ clinical social worker.
2. ~~The board shall issue a license as a licensed social worker to an applicant who~~ To obtain a license to engage in the practice of social work, an applicant shall submit an application to the board in the form prescribed by the board and provide evidence satisfactory to the board the applicant:
 - a. ~~Has a baccalaureate degree in social work from a college or university~~ attained the age of majority.
 - b. Has passed ~~an~~ the examination approved by the board for this purpose ~~the~~ license sought.
 - c. Has satisfied the board that the applicant agrees to adhere to the code of social work ethics adopted by the board.
3. ~~The board shall issue a license as a licensed certified social worker to an applicant who:~~

-
- a. ~~Has a doctorate or master's degree in social work from a college or university.~~
 - b. ~~Has passed an examination approved by the board for this purpose.~~
 - c. ~~Has satisfied the board that the applicant agrees to adhere to the code of social work ethics adopted by the board.~~
4. ~~To obtain a license to practice clinical social work, an applicant for licensure by examination shall submit to the board a written application in the form prescribed by the board and provide satisfactory evidence the applicant:~~
- a. ~~Has a doctorate or master's degree in social work from an approved social work program.~~
 - b. ~~Passed an examination approved by the board for this purpose.~~
 - c. ~~Within~~
 - d. Is of good moral character. As an element of good moral character, the board shall consider the applicant's adherence to values, principles, and ethical standards consistent with professional social work practice, and shall also consider information obtained through reports made under section 43-41-04.2 in licensure decisions to the extent permissible by all applicable laws.
 - e. Has paid all applicable fees specified by the board relative to the licensure process.
3. An applicant for licensure for the practice of:
- a. Baccalaureate social work must demonstrate having been awarded a baccalaureate degree in social work from a social work program approved by the board.
 - b. Masters social work must demonstrate having been awarded a doctorate or master's degree in social work from a social work program approved by the board.
 - c. Clinical social work must demonstrate:
 - (1) Having been awarded a doctorate or master's degree in social work from a social work program approved by the board.
 - (2) The successful completion, within a four-year period successfully completed, of three thousand hours of supervised post-master's clinical social work experience. The initial one thousand five hundred of the required hours must have been under the supervision of a licensed clinical social worker. Additional hours of supervision may be under other qualified mental health professionals approved by the board if barriers due to the geographical location, disability, or other factors determined by the board to create a hardship exist for the applicant. The qualified professional must be registered or otherwise qualified as a clinical supervisor by the board that licenses the other professional. However, if an applicant began supervised post-master's

clinical social work experience before August 1, 2009, a ~~master's~~licensed master social worker who has two years of experience, a licensed psychologist with a doctorate degree, or a licensed psychiatrist may have supervised the required hours. The applicant may demonstrate to the board's satisfaction that experience in the practice of clinical social work meets or exceeds the minimum supervisory requirements of the board.

- d. ~~Agrees to adhere to the code of social work ethics adopted by the board.~~
- e. ~~Is of good moral character. In determining the character of an applicant in a licensure decision, the board shall consider information obtained through reports made under section 43-41-04.2.~~
- f. ~~Paid all applicable fees specified by the board regarding the licensure process~~

4. The board may adopt rules pertaining to the supervision required under this section.

SECTION 6. AMENDMENT. Section 43-41-05 of the North Dakota Century Code is amended and reenacted as follows:

43-41-05. Private practice of social work.

A person may not engage in the private practice of social work unless that person has been licensed by the board as a licensed ~~independent~~ clinical social worker.

SECTION 7. AMENDMENT. Section 43-41-08 of the North Dakota Century Code is amended and reenacted as follows:

43-41-08. Board of social work examiners - Qualifications - Appointment - Term of office - Compensation.

1. The governor shall appoint the North Dakota board of social work examiners, which must consist of ~~six~~seven members, two of whom must be, at the time of initial appointment, licensed ~~baccalaureate~~ social workers; one of whom must be, at the time of initial appointment, a licensed ~~certified~~master social worker; ~~one~~two of whom must be, at the time of initial appointment, a licensed ~~independent~~ clinical social worker; and two of whom must be laypersons. Board members must demonstrate no conflict of interest.
2. The term of office of each board member must be for three years with ~~two~~no more than three members appointed annually. ~~No~~A member may not serve more than two consecutive terms.
3. The governor may remove any board member for good cause after giving that member a written statement of the reasons for removal and after that member has had an opportunity for a hearing.
4. ~~Each board member shall serve without compensation but shall~~of the board is entitled to receive as compensation a sum not to exceed the daily compensation of members of the legislative assembly per day for each day during which the member is engaged in performance of the official duties of the board, and is entitled to be reimbursed for all reasonable and necessary

expenses incurred in connection with the discharge of the official duties as provided in section 54-06-09 and per diem as must be fixed by the board.

5. ~~Board~~Annually, board members shall ~~annually~~ elect by a majority vote of the board a chairperson who shall preside at meetings of the board and a vice chairperson who shall preside at meetings of the board in the chairperson's absence. A majority of the members of the board constitutes a quorum.

SECTION 8. AMENDMENT. Section 43-41-10 of the North Dakota Century Code is amended and reenacted as follows:

43-41-10. Grounds for disciplinary proceedings.

1. The board may deny, refuse to renew, suspend, revoke, ~~reprimand, restrict, or limit the license of,~~ or place on probationary status any license issued under this chapter on proof at a hearing that the applicant or licensed person:
 1. a. Has been convicted of an offense determined by the board to have a direct bearing upon that individual's ability to practice social work or is not sufficiently rehabilitated as determined by the board in accordance with section 12.1-33-02.1.
 2. b. Is addicted to the habitual use of alcoholic beverages, narcotics, or stimulants ~~to such an extent as to incapacitate that individual from the or other addictive substances that impair the social worker's ability to practice of social work.~~
 3. c. Has been grossly negligent in the practice of social work.
 4. d. Has violated one or more of the rules and regulations of the board.
 5. e. Has violated the code of social work ethics adopted by the board.
 6. f. ~~Has failed to make a report to the board as required under section 12 of this Act.~~
- 6-2. In order to pursue the investigation, the board may subpoena and examine witnesses and records, including client records, and copy, photograph, or take samples. The board may require a licensed social worker to give statements under oath ~~and, The board may require a licensed social worker to submit to a physical, chemical, or mental examination, or both, by a physician or physicians and/or other qualified evaluation professionals selected by the board if it appears to be in the best interests of the public that an evaluation examination be secured. The board may require a licensee to enroll in a treatment or monitoring program approved by the board if the board determines in good faith to do so would be beneficial to the licensee or protect the public. Failure to satisfactorily undergo an examination or enroll in a treatment and monitoring program must be reported to the board by the treating professional. Treating professionals are immune from any liability for reporting made in good faith. A licensee is deemed to consent to the treating professional of the approved evaluation, or the approved treatment and monitoring program, reporting to the board on the results of the examination or the progress of the treatment or monitoring program, at such intervals the board deems necessary. The approved examination, or treatment or monitoring program, may release examination information, or treatment or monitoring information, to the board so the board may evaluate the results of~~

the examination or the licensee's progress in and the effectiveness of the treatment or monitoring program. A written request from the board constitutes authorization to release information. Absent a client release on file allowing the release of information, all client records released to the board are confidential and are not public records.

- 7-3. Unless there is a client release on file allowing the release of information at the public hearing, client and juvenile records introduced or client and juvenile testimony of a personal nature taken at a public hearing is confidential and closed to the public. The portions of board meetings at which client and juvenile testimony or records are taken or reviewed are confidential and closed to the public. If no client or juvenile testimony or records are taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.
4. Until the board proceeds with disciplinary action, the complaint, the response, and any record received by the board during an investigation of a complaint under this section are exempt records, as defined in section 44-04-17.1.

SECTION 9. Subsection 8 of section 43-41-11 of the North Dakota Century Code is created and enacted as follows:

8. The board shall recover costs of the board resulting from a hearing or disciplinary process:
- a. If an order is issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct a licensee found as a result of the proceeding to have violated any laws or rules to pay to the board a sum not to exceed the costs of the investigation and fees of the attorneys representing the board in the matter. The costs to be assessed must be fixed by the administrative law judge and may not be increased by the board.
- b. If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for payment in the district court of Burleigh County. This right of enforcement is in addition to any other rights the board may have as to any person directed to pay costs. In any action for recovery of costs, proof of the board's decision is conclusive proof of the validity of the order of payment and the terms for payment.

SECTION 10. AMENDMENT. Section 43-41-12 of the North Dakota Century Code is amended and reenacted as follows:

43-41-12. Renewal of licenses.

1. All licenses are effective when granted by the board.
2. All licenses of licensed ~~baccalaureate~~ social workers, licensed ~~certified~~ master social workers, and licensed ~~independent~~ clinical social workers expire on December thirty-first of every odd-numbered year.
3. 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 43-41-10 do not exist.

4. If the application for renewal is not received on or before the expiration date, the license expires and the person may not practice social work until a new application is made and a license is granted by the board.
5. At the time of renewal the board ~~shall~~may require each applicant to present satisfactory evidence ~~that~~ the applicant ~~has~~ completed the continuing education requirements specified by the board.
6. If a license has not been renewed as a result of nonpayment of the renewal fee or the failure of the licensee to present satisfactory evidence of completion of the continuing education requirements, the licensee must reapply for licensure.
7. The board may extend the renewal deadline for an applicant having proof of medical or other hardship rendering the applicant unable to meet the renewal deadline.

SECTION 11. A new section to chapter 43-41 of the North Dakota Century Code is created and enacted as follows:

Electronic social work services.

1. The practice of social work in this state through electronic social work services or other means, regardless of the location of the practitioner, constitutes the practice of social work and is subject to this chapter.
2. The practice of social work by a practitioner in this jurisdiction through electronic social work services or other means, regardless of the location of the client, constitutes the practice of social work and is subject to this chapter.
3. A social worker providing electronic social work services shall take all necessary measures to ensure compliance with relevant practice standards as established by the board.

SECTION 12. A new section to chapter 43-41 of the North Dakota Century Code is created and enacted as follows:

Permission to report - Immunity.

An individual who has knowledge of conduct by an applicant or a licensee which may constitute grounds for disciplinary action under this chapter or the rules of the board or of any unlicensed practice under this chapter may report the violation to the board. An individual is immune from civil liability or criminal prosecution for submitting in good faith a report under this chapter or for otherwise reporting, providing information, or testifying about violations or alleged violations of this chapter.

SECTION 13. A new section to chapter 43-41 of the North Dakota Century Code is created and enacted as follows:

Duty to report - Immunity.

A licensed social worker who has substantial evidence a licensee has an active addictive disease for which the licensee is not receiving treatment under a program approved by the board under an agreement entered under this section, is diverting a controlled substance, or is mentally or physically incompetent to carry out the duties of the license, shall report the evidence to the board. An individual who reports under this section in good faith and without malice is immune from any civil or criminal

liability arising from the report. Failure to provide a report within a reasonable time may be considered grounds for disciplinary action against the licensee.

SECTION 14. EFFECTIVE DATE. This Act is effective on February 1, 2020.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 367

SENATE BILL NO. 2339

(Senator Anderson)
(Representative Westlind)

AN ACT to amend and reenact section 43-45-05.1 of the North Dakota Century Code, relating to qualification for addiction counseling licensure for an applicant licensed in another jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-45-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-45-05.1. Initial licenses - Licensure of applicant licensed in another jurisdiction.

1. The board shall issue an initial license as an addiction counselor, licensed clinical addiction counselor, or masters addiction counselor to an applicant who has met all of the following requirements:
 - a. Successfully completed board-approved coursework at an accredited college or university.
 - b. Successfully completed one or more oral or written examinations approved by the board for this purpose.
 - c. Successfully completed a clinical training program approved by the board or accumulated experience as established by the board by rule.
 - d. Satisfied to the board that the applicant agrees to adhere to the code of professional conduct adopted by the board.
2. For the clinical training program or accumulated experience required of an intern seeking initial licensure, at least fifty percent of the required supervision must be provided by a supervising licensed addiction counselor, and the additional supervision may be with other professionals who are designated by the supervising addiction counselor, approved by the board, and competent in the area of practice being supervised. The other professional must be registered as a clinical supervisor by the board that licenses the other professional.
3. The board may ~~grant reciprocity, on such terms and conditions as it may determine necessary, issue a license~~ to an applicant for licensure who is in good standing as a licensed, approved, or certified addiction counselor, licensed clinical addiction counselor, or masters addiction counselor under the laws of another jurisdiction ~~that imposes~~:
 - a. Upon satisfactory proof to the board the laws of the other jurisdiction impose at least substantially the same requirements ~~that are~~ imposed under this chapter; or

- b. Upon a determination by the board the applicant possesses qualifications or experiences in the practice of addiction counseling which are substantially similar to the minimum requirements for licensure under this chapter.
4. If the board denies a licensure application, the board shall notify the applicant in writing of the reasons for denial and of the applicant's right to a hearing before the board, under chapter 28-32, if a hearing is requested within thirty days.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 368

SENATE BILL NO. 2170

(Senators Oban, Hogan, K. Roers)
(Representatives Lefor, Rohr, M. Ruby)

AN ACT to amend and reenact section 43-48-03 of the North Dakota Century Code, relating to clinical laboratory personnel exemptions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-48-03 of the North Dakota Century Code is amended and reenacted as follows:

43-48-03. Exemptions.

The provisions of this chapter do not apply to the following:

1. Physicians duly and currently licensed to practice medicine.
2. Nurses duly and currently licensed to practice nursing and practicing within the scope of the nursing license.
3. Persons performing clinical testing for teaching or research, provided that the results of any examination performed in such laboratories are not used in health maintenance, diagnosis, or treatment of disease.
4. Persons employed by the United States government, or any bureau, division, or agency thereof, and working in a licensed laboratory.
5. Any person in the pursuit of a supervised course of study leading to a degree at an accredited or educational program approved by the board.
6. Phlebotomy personnel performing phlebotomy procedures.
7. Persons performing testing for their own personal use and persons performing screening tests for mass screening under appropriate supervision.
8. Agents of the state or federal government performing hematological tests for anemia upon participants of the special supplemental food program for women, infants, and children.
9. An individual performing exempt tests identified by rules adopted by the board. The individual must be supervised by an individual who is licensed by the board and who performs tests and uses, a physician licensed by the board of medicine, an advanced practice registered nurse licensed by the board of nursing, or other categories of individuals approved by the board by rule. The supervisor and individual shall adhere to the methods identified by rules adopted by the board.
10. Perfusionists performing clinical laboratory tests for hematology, coagulation, and chemistry during the course of a patient's perfusion procedures.

11. Personnel of the division of laboratory services of the state department of health participating in the centers for disease control and prevention's chemical terrorism toxic metals determination program.
12. A person licensed or registered under another chapter of this title and carrying out the therapy or practice for which the person is licensed or registered.
13. Personnel performing whole blood glucose waived tests as categorized by the food and drug administration based on the criteria established by the Clinical Laboratory Improvement Act of 1988 [42 U.S.C. 263a et seq.].

(Contingent effective date - See note) Exemptions. The provisions of this chapter do not apply to the following:

1. Physicians duly and currently licensed to practice medicine.
2. Nurses duly and currently licensed to practice nursing and practicing within the scope of the nursing license.
3. Persons performing clinical testing for teaching or research, provided that the results of any examination performed in such laboratories are not used in health maintenance, diagnosis, or treatment of disease.
4. Persons employed by the United States government, or any bureau, division, or agency thereof, and working in a licensed laboratory.
5. Any person in the pursuit of a supervised course of study leading to a degree at an accredited or educational program approved by the board.
6. Phlebotomy personnel performing phlebotomy procedures.
7. Persons performing testing for their own personal use and persons performing screening tests for mass screening under appropriate supervision.
8. Agents of the state or federal government performing hematological tests for anemia upon participants of the special supplemental food program for women, infants, and children.
9. An individual performing exempt tests identified by rules adopted by the board. The individual must be supervised by an individual who is licensed by the board and who performs tests and uses, a physician licensed by the board of medicine, an advanced practice registered nurse licensed by the board of nursing, or other categories of individuals approved by the board by rule. The supervisor and individual shall adhere to the methods identified by rules adopted by the board.
10. Perfusionists performing clinical laboratory tests for hematology, coagulation, and chemistry during the course of a patient's perfusion procedures.
11. Personnel of the division of laboratory services of the state department of health or department of environmental quality who are participating in the centers for disease control and prevention's chemical terrorism toxic metals determination program.
12. A person licensed or registered under another chapter of this title and carrying out the therapy or practice for which the person is licensed or registered.

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13. Personnel performing whole blood glucose waived tests as categorized by the food and drug administration based on the criteria established by the Clinical Laboratory Improvement Act of 1988 [42 U.S.C. 263a et seq.].

Approved March 20, 2019

Filed March 21, 2019

CHAPTER 369

SENATE BILL NO. 2306

(Senators Meyer, Anderson, Burckhard, Hogue)
(Representatives Nathe, M. Ruby)

AN ACT to create and enact a new section to chapter 15.1-13, a new section to chapter 15.1-18, and a new section to chapter 43-51 of the North Dakota Century Code, relating to occupational licensure of military members and military spouses; to amend and reenact sections 15.1-13-13, 15.1-13-17, 43-51-01, and 43-51-11.1 of the North Dakota Century Code, relating to occupational licensure of military members and spouses; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-13-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-13. Provisional teaching license - Period of effectiveness - Renewal.

1. The board may issue a provisional teaching license to an applicant, pending completion of the background check required by section 15.1-13-14 or pending the receipt of official transcripts or other original, signed, or certified documents. The Except as otherwise provided under section 43-51-11.1, the provisional license is valid for a period of forty days and may be renewed with the approval of the board.
2. The board ~~may~~shall adopt rules governing the issuance of a provisional teaching license. An Except as provided under section 43-51-11.1, an individual applying for a provisional teaching license may be charged a fee established by the board. However, an individual applying for the renewal of a provisional teaching license may not be charged a fee.

SECTION 2. AMENDMENT. Section 15.1-13-17 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-17. Teaching license - Requirements - Exceptions.

1. An individual may not engage in the profession of teaching unless:
 - a. The individual holds a teaching license issued by the board; or
 - b. The individual is approved to teach by the board.
2. An individual may be approved to teach by the board only if the individual has previously held a North Dakota teaching certificate or license, holds a teaching certificate or license issued by another state, or has filed a completed application for licensure with the board.
3. The board shall grant a teaching license to an applicant who is a military spouse who meets the requirements of section 43-51-11.1.

4. The board shall adopt rules establishing the terms and conditions under which an individual may be approved to teach, as provided for in this section. The terms and conditions may include the payment of a fine to the board in an amount not exceeding two hundred fifty dollars per incident, enrollment in and completion of continuing education courses, and submission of a completed application for licensure by a date certain.

SECTION 3. A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

Members of the military - Military spouses.

1. Notwithstanding contrary provisions of this chapter regarding licensure and licensure renewal, sections 43-51-11 and 43-51-11.1, regarding licensure renewal of a military member and licensure of a military spouse, apply to a license issued or renewed under this chapter.
2. Rules adopted by the board under this chapter must comply with sections 43-51-11 and 43-51-11.1.

SECTION 4. A new section to chapter 15.1-18 of the North Dakota Century Code is created and enacted as follows:

Military spouses.

Notwithstanding contrary provisions of this chapter regarding licensure qualifications, section 43-51-11.1, regarding licensure of a military spouse, applies to an applicant's qualifications for licensure.

SECTION 5. AMENDMENT. Section 43-51-01 of the North Dakota Century Code is amended and reenacted as follows:

43-51-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Board" means a board, commission, or other agency of state government created or identified in this title to regulate a particular occupation or profession and the education standards and practices board.
 - a. The term does not include the:
 - (1) State board of accountancy;
 - (2) State electrical board;
 - (3) North Dakota real estate appraiser qualifications and ethics board;
 - (4) State real estate commission;
 - (5) Secretary of state with respect to contractor licensing;
 - (6) North Dakota board of medicine; and
 - (7) State board of dental examiners.

- b. ~~"Board"~~ The term includes any other agency of state government which is created or identified outside this title to regulate a particular occupation or profession if the agency elects, by administrative rule, to invoke the authority in this chapter.
2. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.
 3. "Good standing" means a foreign practitioner holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.
 4. "License" means a license, certificate, permit, or similar authorization to practice an occupation or profession which is issued by a government agency in another state or jurisdiction that imposes requirements for obtaining and maintaining a license which are ~~at least as stringent as~~ comparable to the requirements imposed in this state to obtain and maintain a license to practice the same profession or occupation.
 5. "Military spouse" means a foreign practitioner who is the spouse of a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in this state in accordance with military orders or stationed in this state before a temporary assignment to duties outside of this state.
 6. "Occupation or profession" means activity for which a license is required from a board or similar activity for which a license is required in another state or jurisdiction.

SECTION 6. AMENDMENT. Section 43-51-11.1 of the North Dakota Century Code is amended and reenacted as follows:

43-51-11.1. Military spouses - Licensure.

1. A board shall adopt rules regarding licensure of a military spouse or shall grant on a case-by-case basis exceptions to the board's licensing standards to allow a military spouse to practice the occupation or profession in the state if upon application to the board:
 - a. The military spouse demonstrates competency in the occupation or profession through methods or standards determined by the board which must include experience in the occupation or profession for at least two of the four years preceding the date of application under this section; and
 - b. ~~The military spouse pays any fees required by the board from which the applicant is seeking a license; and~~
 - e. The board determines the exception issuance of the license will not substantially increase the risk of harm to the public. A board with authority to require an applicant to submit to a statewide and national criminal history record check under section 12-60-24 may order such a record check under this subdivision.

2. ~~Under subsection 1, a~~ board ~~may~~ shall issue a provisional license or temporary permit to a military spouse for which ~~one or more of the licensure requirements under subsection 1 have not been substantially met. A board may not charge a military spouse any fees for a provisional license or temporary permit under this subsection.~~ A provisional license or temporary permit issued under this subsection may not exceed two years and remains valid while the military spouse is making progress toward satisfying the necessary unmet licensure requirements. A military spouse may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:
 - a. The board grants or denies the military spouse a North Dakota license under subsection 1 or grants a North Dakota license under the traditional licensure method;
 - b. The provisional license or temporary permit expires; ~~or~~
 - c. The military spouse fails to comply with the terms of the provisional license or temporary permit; ~~or~~
 - d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.
3. ~~A board that is exempted from this chapter under subdivision a of subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spouse in the same manner as provided under subsections 1 and 2. A board that may elect to subject the board to this chapter under subdivision b of subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spouse in the same manner as provided under subsections 1 and 2 regardless of whether the board has adopted rules to subject the board to this chapter. The state board of architecture and landscape architecture is exempt from the mandate in subsection 1; however, the board voluntarily may issue a license, provisional license, or temporary permit under subsections 1 and 2.~~
4. A military spouse issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.
5. If within thirty days of receipt of a completed application under subsection 1 the board does not grant or deny a license under subsection 1 or does not issue a provisional license or temporary permit under subsection 2, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 1 or issues a provisional license or temporary permit under subsection 2.
6. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

SECTION 7. A new section to chapter 43-51 of the North Dakota Century Code is created and enacted as follows:

Members of the military and military spouses - Licensure applications.

1. On each licensure application and renewal form, a board shall inquire and maintain a record of whether an applicant or licensee is a member of the military or military spouse. If an applicant self-identifies as and provides the board with satisfactory proof of being a military spouse, the board immediately shall commence the process to issue a license, provisional license, or temporary permit under section 43-51-11.1.
2. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

SECTION 8. OCCUPATIONAL LICENSURE BOARDS - REPORT TO DEPARTMENT OF COMMERCE. During the 2019-20 interim, each occupational and professional board shall review its licensure laws and rules to determine whether the laws and rules are consistent with sections 43-51-11 and 43-51-11.1 and section 7 of this Act. Before August 2020, on a form developed by the department of commerce, each occupational and professional board shall submit a report to the department of commerce on the status and outcome of that board's review of its laws and rules.

Approved April 25, 2019

Filed April 26, 2019