

OCCUPATIONS AND PROFESSIONS

CHAPTER 307

SENATE BILL NO. 2060

(Industry, Business and Labor Committee)
(At the request of the State Board of Chiropractic Examiners)

AN ACT to amend and reenact sections 43-06-01, 43-06-02, 43-06-04, 43-06-04.1, 43-06-05, 43-06-08, 43-06-09, 43-06-10.1, 43-06-11, 43-06-13, 43-06-15, 43-06-16.1, and 43-06-18 of the North Dakota Century Code, relating to the state board of chiropractic examiners and the practice of chiropractic; and to repeal sections 43-06-10 and 43-06-12 of the North Dakota Century Code, relating to the state board of chiropractic examiners and the practice of chiropractic.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-06-01 of the North Dakota Century Code is amended and reenacted as follows:

43-06-01. Definitions.

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

1. "Approved and accredited doctor of chiropractic program" means a doctor of chiropractic program approved by the board and accredited by a board-approved entity, such as the council on chiropractic education or its successor or equivalent.
2. "Board" means the state board of chiropractic examiners.
- ~~2-3.~~ "Certified chiropractic clinical assistant" means an individual certified by the board who in accordance with section 43-06-16.1 assists with basic health care duties in the practice of chiropractic under the supervision of a licensed doctor of chiropractic in good standing with the board.
- ~~3-4.~~ a. "The practice of chiropractic" includes:
 - (1) The examination, evaluation, and diagnosis by means including x-ray, other appropriate diagnostic imaging, clinical laboratory procedures, or pertinent examinations taught by chiropractic colleges accredited by the council on chiropractic education or its successor or equivalent;
 - (2) The treatment of patients by means of the adjustment or manipulation of the spinal column, the vertebral articulations, the appendicular skeleton not excluding the skull, and of any displaced tissue of any kind or nature;
 - (3) The practice of physiotherapy, electrotherapy, or hydrotherapy;

- (4) All other procedures, treatments, and interventions taught by chiropractic colleges accredited by the council on chiropractic education or its successor;
- (5) The rating and reporting of any permanent impairment of function and the providing of professional opinions regarding any matter included in this definition of practice of chiropractic as set out herein; and
- (6) Delegation of basic health care duties in the practice of chiropractic to a certified chiropractic clinical assistant; and

(7) Telehealth.

- b. The practice of chiropractic does not include prescribing for, removal of, or administering to any person any medicine or drug to be taken internally which is now or hereafter included in materia medica, nor performing any surgery, except as is provided in this section, nor practicing obstetrics.

5. "Telehealth" means the use of electronic communications to provide and deliver chiropractic-related information and chiropractic services, including chiropractic-related information and services, over any distance. Telehealth encompasses chiropractic care and chiropractic promotion activities, including education, advice, reminders, interventions, and the monitoring of interventions.

SECTION 2. AMENDMENT. Section 43-06-02 of the North Dakota Century Code is amended and reenacted as follows:

43-06-02. Who is exempt from the provisions of this chapter.

This chapter does not apply to:

- 1. Chiropractors from the District of Columbia, or other states, territories, or countries who are in actual consultation in this state.
- 2. ~~Students duly enrolled in a college of chiropractic approved and accredited by the council on chiropractic education, or its successor or equivalent, who have completed chiropractic studies and who are continuing their training under a preceptorship program and performing the duties of an intern under the supervision of a chiropractor licensed in the state of North Dakota who has received approval to supervise such internship by the board and said students having received approval to participate in such internship by the board and by the chiropractic college or university.~~
- 3. ~~A graduate of any approved and accredited college of chiropractic who has for the first time made application for license by examination to practice chiropractic in the state of North Dakota, and who, under the supervision of a North Dakota licensed chiropractor, performs the duties of an intern, provided that a supervising chiropractor has certified to the board that the graduate is of good character and competent chiropractic ability. The enrolled in an approved and accredited doctor of chiropractic program, who qualify for the preceptorship program. Under this exception:~~
 - a. The student shall perform the duties of an intern under the supervision of a chiropractor licensed in the state of North Dakota.

- b. The student and the licensed chiropractor shall meet the requirements established for the preceptorship by an approved and accredited doctor of chiropractic program and must be approved by the program and by the board.
3. A graduate of a program who has not completed the examination requirements in section 43-06-10.1 who applies for a graduate internship under this exception:
 - a. The graduate, under the supervision of a North Dakota licensed chiropractor, shall perform the duties of an intern.
 - b. The graduate shall submit an initial application for North Dakota licensure.
 - c. The graduate must be sponsored by a chiropractor with a current and valid North Dakota license in good standing, including no active complaints, with at least three years of experience.
 - d. The graduate and the licenseholder shall provide proof of malpractice insurance.
 - e. The graduate intern authorization granted by the board terminates within fifteen months from the date issued by the board.
4. Nothing in this chapter is to be construed to impinge upon the practice of medicine by a physician and surgeon or an osteopathic physician and surgeon who has adequate training in the use of manipulative and adjustive procedures of the spine and appendicular skeleton.
5. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is teaching, demonstrating, or providing chiropractic in connection with teaching or participating in an educational seminar in the state for no more than sixty days in a calendar year.
6. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is practicing chiropractic in North Dakota as a member of the health care team for a sports, cultural, or performing arts group. Treatment may only be performed on members of the team or group the chiropractor is traveling with, for no more than sixty days in a calendar year.

SECTION 3. 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 only one term expires on the thirty-first day of August of 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~~One year 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.

SECTION 4. AMENDMENT. Section 43-06-04.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-04.1. Powers and duties of board.

1. The board shall administer the provisions of this chapter and the administrative rules of the board relating to the practice of chiropractic. ~~†The board~~ has all powers, rights, and duties as provided in chapter 28-32.
2. The board shall verify the qualifications of applicants for licenses to practice chiropractic and of applicants for certification to practice as a certified chiropractic clinical assistant. ~~†The board~~ shall examine and renew the licenses or certification of duly qualified applicants.
3. The board shall regulate the practice of chiropractic and shall enforce the provisions of this chapter and the rules of the board. The board shall investigate complaints of violations and cause the prosecution of persons violating the provisions of this chapter or the administrative rules of the board.
4. The board may appoint a peer review committee and employ ~~such~~ personnel and incur ~~such~~ expenses as may be necessary for the performance of the board's duties and the enforcement of this chapter.
5. The board may inspect upon probable cause, at all reasonable times, any chiropractic office or place where chiropractic services are performed.
6. The board may set fees for licensure and renewal.
7. The board may adopt and amend administrative rules and regulations, consistent with the provisions of this chapter governing the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter, and proper performance of ~~its~~the board's duties, including:
 - a. A code of ethical conduct governing the practice of chiropractic.
 - b. Requirements, standards, and examinations to determine the intellectual, educational, scientific, technical, and professional qualifications of applicants for license or certification.
 - c. Matters pertaining to the content and conduct of examination.
 - d. Matters pertaining to the operation and registration of chiropractic facilities.
 - e. Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic.

- f. The quantity, type, and character of postgraduate study to be done by any licensee in order to comply with ~~the provisions of this chapter.~~
- g. Set policies and procedures on what constitutes professional or unprofessional conduct.
- h. Any other rules or regulations as may be necessary to give this chapter full force and effect.

SECTION 5. AMENDMENT. Section 43-06-05 of the North Dakota Century Code is amended and reenacted as follows:

43-06-05. Meetings of board - When held - Place of meeting - Quorum - Officers - Seal - Compensation - Expenses - How paid.

The board shall hold regular meetings twice yearly at approximate six-month intervals and such special meetings as ~~the board~~ may deem necessary. The meetings ~~shall~~must be held at such places as the board may designate. ~~Three~~Four members of the board constitute a quorum. At the first meeting of the board of each calendar year, the members of the board shall elect from their membership a president, vice president, and secretary-treasurer. Each shall hold office for one year and until a successor is elected and qualified. The board shall have a seal and may adopt appropriate rules necessary to carry out the provisions of this chapter. A member of the board shall receive compensation in an amount to be fixed by regulation of the board for each day or portion ~~thereof~~ of a day spent in the discharge of duties, such mileage as is provided by section 54-06-09, and must be reimbursed for actual and necessary expenses incurred in the discharge of official duties in accordance with section 44-08-04. In addition to the compensation, expenses, and mileage, the secretary-treasurer of the board is entitled to receive such salary as must be fixed by a resolution of the board adopted at a regular meeting.

SECTION 6. AMENDMENT. Section 43-06-08 of the North Dakota Century Code is amended and reenacted as follows:

43-06-08. License required - Application - Examination required - Fee.

~~No~~A person may ~~not~~ practice chiropractic in this state unless that person has a license from the state board of chiropractic examiners. ~~Any~~A person who desires a license shall ~~apply to the board and submit to an examination.~~ Each applicant shall present with the application a diploma from a college of chiropractic accredited by the council on chiropractic education or its successor or equivalent, or a photocopy of the same, or a certificate from the college stating that the applicant is a student in good standing in the student's last trimester, and proof that the applicant has the required qualifications. ~~The board may allow an applicant to take the examination during the period that the applicant is attending the applicant's last trimester but may not issue a license until the applicant has graduated and has provided the board with a diploma as provided in this section. Before beginning the examination, the applicant shall pay:~~

1. Apply to the board;
2. Submit an official transcript of successful completion of all required examinations;
3. Submit an official transcript and diploma from an approved and accredited doctor of chiropractic program. The applicant may submit an application while the applicant is enrolled in the applicant's last term but the board may not

issue a license until the applicant has graduated and has provided the board with an official transcript and diploma as provided in this section; and

4. Pay to the board a fee, to be determined by the board from time to time, of an amount not to exceed five hundred dollars.

SECTION 7. AMENDMENT. Section 43-06-09 of the North Dakota Century Code is amended and reenacted as follows:

43-06-09. Chiropractor - Qualifications.

An applicant for examination~~licensure~~ to practice chiropractic in this state ~~shall~~must have a degree from ~~or a certificate proving enrollment~~be enrolled in the last ~~trimester~~term of college received ~~from~~at an approved and accredited college ~~of chiropractic. An approved and accredited college of chiropractic within the meaning of this chapter is a college of chiropractic that is approved by the board and accredited by the council on chiropractic education or its successor or equivalent~~doctor of chiropractic program.

SECTION 8. AMENDMENT. Section 43-06-10.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-10.1. National board examination.

The board ~~may in its discretion~~shall accept all parts of the national board examination ~~in lieu of part of an examination for a license, or its successor or equivalent,~~ providing all other requirements are met.

SECTION 9. AMENDMENT. Section 43-06-11 of the North Dakota Century Code is amended and reenacted as follows:

43-06-11. License - When issued - Who issues - Title used by licensed chiropractor.

A license to practice chiropractic in this state must be issued by the board to an applicant who has submitted proof of the required qualifications and passed the required examination. ~~No~~A license to practice chiropractic may not be granted except upon the affirmative vote of at least ~~three of the members~~a quorum of the board. A licensed chiropractor may use the title doctor of chiropractic, chiropractor, chiropractic physician, or D.C.

SECTION 10. AMENDMENT. Section 43-06-13 of the North Dakota Century Code is amended and reenacted as follows:

43-06-13. Term of license - Renewal - Fee - Requirements.

1. A license to practice chiropractic in this state is valid for one year ~~only~~ and must be renewed on or before the first day of September of each year.
2. A renewal applicant shall pay a fee for renewal of a license. The fee for renewal of a license must be determined by the board from time to time, but may not exceed five hundred dollars.
3. The board shall establish by rule the number of hours necessary for annual continuing education. ~~Before it issues a renewal license, the board shall require each applicant who has a license to practice in this state to attend a postgraduate course sponsored by a college of chiropractic, accredited by the~~

~~council on chiropractic education, or its successor or equivalent, a health-related seminar sponsored by an equally accredited college or university, a medical seminar qualifying for continuing education credits, or an educational program arranged by the North Dakota chiropractic association and approved by the board.~~

4. The board shall establish by rule the accepted programs for the annual continuing education requirement.
5. ~~A license which~~that has not been renewed, as a result of nonpayment of annual registration fees required by this chapter or as a result of the failure by the licensee to attend the required annual continuing education, may be reinstated ~~upon payment to the board of the amount of renewal fees then in default or by certification that the required continuing education has been completed after the expiration of the previous license~~by procedure adopted by the board in administrative rules. In either case, the board may charge an additional administrative fee to be fixed by the board at the time of consideration of the reinstatement, not to exceed four hundred dollars.
6. In addition to the payment of fees, the board, after an investigation, may require a chiropractor whose license has not been renewed to submit to a re-examination as to the applicant's qualifications to practice chiropractic before the applicant is reinstated, if the board in the exercise of ~~its~~the board's discretion finds and determines ~~that~~ the best interests of the public and the applicant will be served thereby.

SECTION 11. AMENDMENT. Section 43-06-15 of the North Dakota Century Code is amended and reenacted as follows:

43-06-15. Grounds for denial of licensure, revocation, or suspension of license or other action of the board - SwornSigned written statement - Investigation - Hearing.

1. The board may deny an application for licensure and may revoke, suspend, or take such other action as provided in this section regarding the license of any chiropractor in this state who:
 - a. Has a mental or physical condition such that the person is unable to safely engage in the practice of chiropractic.
 - b. Has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and thereafter has not been declared competent or released from supervision.
 - c. Is suffering from alcoholism or drug addiction which endangers the public by impairing the chiropractor's ability to practice safely.
 - d. Procured the license to practice by fraud or mistake.
 - e. Has engaged in unprofessional or dishonorable conduct, including false or misleading advertising, rendering excessive or inappropriate treatment, or charging unconscionable fees.
 - f. Has been convicted of a crime involving moral turpitudesexual misconduct, infliction of physical harm or bodily injury to another individual, corruption, dishonesty, illegal possession or distribution of drugs, or any crime that

- would affect the person's ability to practice as a licensed chiropractor. A copy of the record of conviction or plea of guilty or nolo contendere is conclusive evidence.
- g. Has aided, assisted, or enabled any unlicensed person to practice chiropractic contrary to this chapter or rule of the board.
 - h. Has engaged in the practice of abortion.
 - i. Has made use of any advertising statement of a character tending to deceive or mislead the public.
 - j. Has failed to maintain a chiropractic facility in safe and sanitary conditions.
 - k. Has incurred a disciplinary action, suspension, or revocation in another jurisdiction; has surrendered a license while a disciplinary complaint was pending in another jurisdiction; or has entered a settlement agreement to avoid or resolve a disciplinary complaint in another jurisdiction as a result of acts similar to acts described in this section or rule of the board. A certified copy of the suspension or revocation board order in the other jurisdiction is conclusive evidence.
 - l. Has committed any violation of the provisions of this chapter ~~and~~, the code of ethics, or rules as adopted by the board, including the failure to submit for physical or mental examination or to provide information as required by the board.
 - m. Has practiced chiropractic while the license to practice was suspended or revoked.
 - n. Has, while under probation, violated ~~its~~the terms of probation.
 - o. Has failed to properly supervise a certified chiropractic clinical assistant or who has delegated duties to a certified chiropractic clinical assistant which are beyond the assistant's education or training or which are beyond the scope of practice of a certified chiropractic clinical assistant.
2. Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a sworn signed written statement and other reports and information to the board under subsection 5 or for otherwise reporting to the board violations or alleged violations under this chapter. The reports are not public records.
 3. Members of the board and persons employed by the board or engaged in the investigation or prosecution of violations and in the preparation and management of charges of violations of this chapter on behalf of the board, including members of any peer review committee, are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.
 4. A doctor of chiropractic who is the subject of an investigation by, or on behalf of, the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by, or on behalf of, the board relating to the subject of the investigation and providing copies of

patient records or any pertinent information requested by the board, to assist the board in ~~its~~ the board's investigation.

5. Any person, including a member of the board, may file a signed written statement and other reports and information with any member of the board against a licensed chiropractor charging the chiropractor with any of the offenses or conditions set forth in subsection 1, ~~which~~. The statement must set forth a specification of the charges. When the statement has been filed, the board shall make an investigation as provided by subsection 6.
6. When the statement and other reports and information have been filed, the board shall notify the licensed chiropractor of the allegations and ~~shall thereafter make an investigation for the purpose of determining~~ shall investigate to determine whether the allegations in the statement constitute a basis for further proceedings. The investigation must be conducted in such manner and at such time and place as in the judgment of the board will best ascertain the facts. The board may appoint a peer review committee. The board, in order to pursue the investigation, ~~has the power to~~ may subpoena and examine witnesses and records, including patient records, and ~~to~~ copy, photograph, or take samples. ~~The board~~ may require the licensed chiropractor to give statements under oath, to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and review any relevant medical or psychological records, including test results and x-rays relative to the examination or treatment of the licensed chiropractor. A written request from the board constitutes authorization to release information. The medical or psychological information is not public record.
7. If, based on the investigation or report from a peer review committee, the board has reasonable cause to believe ~~that~~ there is a basis for further proceedings, the board shall prepare a complaint and serve ~~it~~ the complaint, along with a notice of hearing, on the licensed chiropractor and thereafter proceed with a hearing on the matter under chapter 28-32. All hearings must be held in Bismarck ~~at the state capitol~~ unless the board and the licensed chiropractor agree otherwise.
8. After the hearing, the board, under section 28-32-39, shall make and give notice of ~~its~~ the board's determination or decision as to whether the offenses charged have been committed or the conditions charged do not exist. If the finding is in the negative, the board shall dismiss the charges. If the finding is in the affirmative, the board shall:
 - a. ~~Revoke~~ Shall revoke the license;
 - b. ~~Suspend~~ Shall suspend the licensee's right to practice for a period not to exceed one year;
 - c. ~~Suspend its~~ Shall suspend the board's judgment of revocation on terms and conditions determined by the board;
 - d. ~~Place~~ Shall place the licensee on probation; or

- e. ~~Take~~Shall take any other disciplinary action which the board in ~~its~~the ~~board's~~ discretion considers proper, including the ordering of an adjustment to a patient's bill or refund of ~~such an~~ amount previously paid, including reasonable interest from the date of the order, to a patient or payer of any unconscionable fees for chiropractic services.
- f. In addition to the actions imposed in subdivisions a through e, ~~the board~~ may:
- (1) Require payment of all costs of proceedings resulting in a disciplinary action, including administrative costs, investigation costs, attorney's fees, peer review committee costs, witness costs and fees, the costs of the offices of administrative hearings services, and court costs.
 - (2) Impose a civil penalty not exceeding ten thousand dollars for each separate violation, to deprive the chiropractor of any economic advantage gained by reason of the violation found and to reimburse the board for the cost of the investigation and proceedings.
9. In cases of revocation, suspension, or probation, the board shall record the facts of the case and all actions of the board.
10. On the expiration of a term of suspension, the licensee must be reinstated by the board if the chiropractor applies to the board and furnishes evidence, satisfactory to the board, that the licensee is then of good character and conduct or restored to good health and ~~that the licensee has not practiced chiropractic during the term of suspension and is competent to practice in this state. If the evidence fails to establish those facts to the satisfaction of the board, the board may require the applicant to submit to an examination in accordance with sections 43-06-08 through 43-06-12~~this chapter or shall proceed to hearing on revocation with notice as provided in subsection 7.
11. Any licensed chiropractor may take corrective action or voluntarily relinquish the chiropractor's license to the board before a formal order of the board on such terms and conditions as may be agreed by the licensed chiropractor and the board.

SECTION 12. AMENDMENT. Section 43-06-16.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-16.1. Certified chiropractic clinical assistant.

1. A person may not practice as a certified chiropractic clinical assistant or claim to be a chiropractic assistant without certification from the board. The fee for initial certification ~~is fifty~~may not exceed one hundred dollars ~~per year and must be set by the board from time to time.~~ The board may grant a temporary certification to an initial applicant who is waiting for a criminal history background check to be completed. This temporary certification expires automatically upon the applicant receiving a regular certification or being notified the application has been denied.
2. To be certified to practice as a certified chiropractic clinical assistant, an applicant ~~must~~shall provide evidence satisfactory to the board the applicant:
 - a. Graduated from high school, or holds a graduate equivalency degree.

- b. Is at least eighteen years of age.
 - c. Successfully completed the certified chiropractic clinical assistant program and examination by the federation of chiropractic licensing boards. However, applicants for initial certification before March 1, 2018, and who have verified employment of two thousand hours as a chiropractic assistant within the three years before August 1, 2017, and submitted evidence of passing the certified chiropractic clinical assistant examination by the national board of chiropractic examiners via the federation of chiropractic licensing boards, qualify for certification without meeting the coursework requirement of the program.
 - d. Is of good moral character and submits documentation of good moral character as prescribed by the board, including criminal records review. Successfully completed a criminal history record check as authorized by section 43-06-11.1.
 - e. Completed an application in a manner and form provided by the board.
 - f. Paid all applicable fees relative to the application process as determined by the board.
 - g. Received practical experience to the extent required to demonstrate competency to safely provide patient care pertinent to the chiropractic office at which the certified chiropractic clinical assistant is employed.
3. A certified chiropractic clinical assistant who is certified in another jurisdiction may apply for certification. The applicant shall provide evidence satisfactory to the board the applicant:
 - a. Has current practice privilege in good standing as a certified chiropractic clinical assistant or equivalent granted by at least one jurisdiction with requirements similar to or greater than the ~~requirement~~requirements of this board; and
 - b. Presented to the board current documentation that any practice privilege granted by another jurisdiction as a certified chiropractic clinical assistant or equivalent has not been suspended, revoked, or otherwise restricted for any reason except nonrenewal.
 4. A minimum ~~passing examination score of seventy five percent~~result is required to obtain certification. ~~The examination must be provided by the national board of chiropractic examiners via the federation of chiropractic licensing boards or a board approved examination~~The board may accept a chiropractic clinical assistant program examination such as the federation of chiropractic licensing board-certified chiropractic clinical assistant program examination or its board-approved successor or equivalent.
 5. The fee for renewal of the certification ~~is fifty~~may not exceed one hundred dollars per year ~~and must be set by the board from time to time. Certificate renewal is~~A certificate in this state is valid for one year and must be renewed on or before March first of every year.
 - a. A certified chiropractic clinical assistant shall obtain ~~six~~three hours of continuing education every ~~two years~~year after the initial certification to

renew certification. These hours must be a program or seminar approved by providers of approved continuing education, ~~a seminar sponsored by the North Dakota chiropractic association and approved by the board, or a seminar approved for continuing education by another state's board of chiropractic examiners or equivalent, or a seminar otherwise approved by the board.~~ Proof of meeting continuing education requirements must be submitted with the certified chiropractic clinical assistant's renewal application ~~on the even-numbered years after initially receiving certification.~~

- b. For an applicant who first receives initial certification between ~~January~~December first of the year immediately before renewal and March first, the certification is deemed to be automatically renewed on March first for an additional year without payment of an additional renewal fee.
6. A certified chiropractic clinical assistant must be under the direct supervision of a North Dakota licensed chiropractor in good standing with the board. Direct supervision means the oversight provided by the chiropractor over the clinical services performed by a certified chiropractic clinical assistant, and requires the chiropractor to be on the premises at all times and readily available to instruct the certified chiropractic clinical assistant throughout the performance of the clinical services.
7. The certified chiropractic clinical assistant may assist the chiropractor in patient care involving physiotherapy, electrotherapy, hydrotherapy, chiropractic rehabilitative therapy, administrative processes, and other activities as needed to assist in the practice of chiropractic. The certified chiropractic clinical assistant may perform delegated duties commensurate with the certified chiropractic clinical assistant's education and training, but may not evaluate, interpret, design, or modify established treatment programs of chiropractic care or violate any statute. Certified chiropractic clinical assistants may not participate in clinical decisionmaking, render manipulative chiropractic care, create or change the course of a chiropractic treatment plan, or represent themselves as independent health care providers. A certified chiropractic clinical assistant may not perform medical imaging unless also licensed under chapter 43-62 ~~or upon meeting an exception from that chapter.~~
8. The board may deny certification of an applicant, or may revoke, suspend, or take other appropriate disciplinary or corrective action regarding the certification of any certified chiropractic clinical assistant who:
 - a. Has a mental or physical condition that renders the individual unable to safely engage in patient care.
 - b. Has been declared incompetent by a court.
 - c. Is suffering from alcoholism or drug addiction that endangers the public by impairing the certified chiropractic clinical assistant's ability to practice safely.
 - d. Procured the certification to practice by fraud or mistake.
 - e. Has engaged in unprofessional or dishonorable conduct.

-
- f. Has been convicted of a crime involving ~~moral turpitude~~ sexual misconduct, infliction of physical harm or bodily injury to another individual, corruption, or dishonesty which would affect the certified chiropractic clinical assistant's ability to safely engage in patient care.
 - g. Has aided or assisted a noncertified individual to practice as a certified chiropractic clinical assistant.
 - h. Has made advertising statements that are deceiving or misleading to the public.
 - i. Has had disciplinary action taken in another jurisdiction.
 - j. Has committed any violation of regulations regarding chiropractic found in this chapter or rules adopted by the board.
 - k. Has practiced as a certified chiropractic clinical assistant while the certification was suspended or revoked.
 - l. Is found ~~guilty of~~ to have committed unprofessional conduct that, which includes:
 - (1) Willfully harassing, abusing, or intimidating a patient either physically or verbally.
 - (2) Any conduct that has endangered or is likely to endanger the health or safety of the public.
 - (3) Conviction of a crime related to the qualification of a certified chiropractic clinical assistant.
 - (4) Conviction of a felony or any offense involving ~~moral turpitude~~ sexual misconduct, infliction of physical harm or bodily injury to another individual, dishonesty, or corruption.
 - (5) Conviction of violating any law or regulation concerning the dispensing or administration of narcotics, dangerous drugs, or controlled substances.
 - (6) Knowingly making or signing any false certificates related to the chiropractic care administered.
 - (7) Participation in any act of fraud.
 - (8) Except as required by law, the unauthorized disclosure of any information about a patient revealed or discovered during the course of examination or treatment.
 - (9) Delegating professional responsibilities to a person that is not certified to provide the services.
 - (10) Initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a current patient even if the patient attempts to sexualize the relationship, except when the patient is the certified chiropractic clinical assistant's spouse or significant other.

9. Disciplinary procedures will be conducted in accordance with chapter 28-32, with the following provisions:
 - a. Complaints must be filed and signed in written form or may be considered by the board on ~~its~~the board's own motion.
 - b. The board shall notify the certified chiropractic clinical assistant and the employer regarding any complaints filed. Full and timely cooperation is required in the investigation.
 - c. The board may appoint a peer review committee at ~~its~~the board's discretion. The peer review committee has the same authority as a peer review committee appointed under section 43-06-14.1.
 - d. If the board finds probable cause to impose disciplinary action, the board shall prepare a complaint and serve ~~it~~the complaint to the certified chiropractic clinical assistant and employer.
10. Certification is not required for individuals who solely perform administrative activities of a nonclinical nature.

SECTION 13. AMENDMENT. Section 43-06-18 of the North Dakota Century Code is amended and reenacted as follows:

43-06-18. State's attorney to enforce law.

The state's attorney of each county in this state shall enforce section 43-06-19 and prosecute all violations ~~thereof~~ this section, and the ~~secretary-treasurer~~executive director of the board, under the direction of the board, shall aid in the enforcement of this chapter.

SECTION 14. REPEAL. Sections 43-06-10 and 43-06-12 of the North Dakota Century Code are repealed.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 308

SENATE BILL NO. 2261

(Senators Patten, Hogue, K. Roers)
(Representative Lefor)

AN ACT to amend and reenact sections 43-10.1-01 and 43-10.1-03.1 of the North Dakota Century Code, relating to irrevocable itemized funeral contracts and Medicaid assets exempt for funeral expenses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-10.1-01. Definitions.

As used in this chapter:

1. "Cemetery association" means any person, ~~corporation, municipality, association, or organization~~ owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies.
2. "Cemetery merchandise" means all service or property to be used in funeral services or burials other than professional service or personal property to be used in funeral services.
3. "Commissioner" means the securities commissioner.
4. "Irrevocable itemized funeral contract" means an irrevocable pre-need funeral service contract that is an itemized listing of goods and services that will be received based on the contract.
5. "Licensed funeral establishment" means a funeral establishment as defined and licensed in accordance with sections 43-10-21 and 43-10-22.
5. "Person" means any natural person, ~~firm, association, corporation, limited-liability company, or agents or employees thereof.~~
6. "Pre-need funeral service contract" means any contract, other than an insurance contract, under which for a specified consideration paid in advance in a lump sum or by installments, a person promises, upon the death of a beneficiary named or implied in the contract, to furnish professional service or personal property to be used in funeral services, or to furnish cemetery merchandise.
7. "Professional service or personal property to be used in funeral services" means all personal property, services, supplies, and equipment normally performed or furnished by a licensed embalmer, a licensed funeral establishment, or a cemetery association including any inside interment receptacles or containers into which a dead human remains may be directly placed, caskets, crypt beds, catafalques, and all other articles of merchandise

incident to a funeral service, but excluding any outside interment receptacles into which any inside receptacle or container will be placed, grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums unless these items are sold by a companion agreement or in contemplation of a trade or barter which includes the sale or rental of any inside interment receptacles or containers into which a dead human remains may be directly placed, caskets, crypt beds, catafalques, or other articles of merchandise incident to a funeral service.

SECTION 2. AMENDMENT. Section 43-10.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

43-10.1-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage.

1. If payments are made to a person upon pre-need funeral service contracts, including irrevocable itemized funeral contracts, one hundred percent of the funds collected under the contracts for the sale of professional service or personal property to be used in funeral services and fifty percent of the funds collected under the contracts for the sale of cemetery merchandise must be deposited in or transferred to a trust company in this state or to a federally insured bank, credit union, or savings and loan association in this state, within ten days. The deposit must be placed in a federal deposit insurance corporation or national credit union administration insured account or certificate of deposit or negotiable debt obligation of the United States government. Payments received from the sale of professional service or personal property to be used in funeral services or cemetery merchandise which cannot or would not be serviced by a licensed funeral establishment or cemetery association in the area in which the service or property was sold are specifically included, regardless of whether the sales might otherwise be considered pre-need funeral service contracts, within the payments to be deposited under this section. If payments have been made under an irrevocable itemized funeral contract, the money must be carried in a separate account or separate certificate of deposit with the names of the depositor or transferor, cemetery association or licensed funeral establishment, and the person making payment on behalf of the individual for whose benefit payment is made.
 - a. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the depositor upon the death of the individual for whose benefit the funds were paid. A certified copy of the certificate of death must be furnished to the bank, credit union, savings and loan association, or trust company as prima facie evidence of death. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the person making the payment, before the death of the individual for whose benefit the funds are paid, upon a five-day written notice by registered or certified mail made by the bank, credit union, savings and loan association, or trust company to the depositor or transferor at the request of the person making the payment.
 - b. A purchaser of a pre-need funeral service contract may make a certain amount of the pre-need funds irrevocable by designating an irrevocable amount to be used to pay for the funeral of the beneficiary. The irrevocable amount may not exceed the amount itemized funeral service contract to pay for a funeral and is recognized as an allowable asset exclusion used

for determining eligibility for medical assistance under section 50-24.1-02.3 at the time the contract is entered. A purchaser of a pre-need funeral service contract an irrevocable itemized funeral contract has forty-five days from entering the contract to cancel the irrevocable part of the contract by giving notice to the cemetery association or licensed funeral establishment with which the contract was entered. Any pre-need funeral service contract held by a cemetery association or a licensed funeral establishment must be fully transferable to another cemetery association or funeral establishment licensed under chapter 43-10 or a substantially similar law of another jurisdiction which agrees to accept the obligations.

2. A bank, credit union, savings and loan association, or trust company receiving such a deposit or transfer shall keep a complete record of the deposit or transfer, showing the name of the depositor or transferor, name of the person making payment, name of the individual for whose benefit payment is made, and any other pertinent information.
3. Any personal property to be used in funeral services or cemetery merchandise which is sold to a purchaser on the basis it will be identified and marked as belonging to such purchaser, and stored or warehoused for the purchaser, must be stored or warehoused at some location within this state.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 309

SENATE BILL NO. 2092

(Industry, Business and Labor Committee)
(At the request of the State Board of Cosmetology)

AN ACT to create and enact section 43-11-16.1 and section 43-11-25.1 of the North Dakota Century Code, relating to internships and apprenticeship programs and international applicants for licensure; to amend and reenact sections 43-11-01, 43-11-02, 43-11-11, 43-11-11.1, 43-11-12, 43-11-13, 43-11-14, 43-11-15, 43-11-16, 43-11-17, 43-11-19, 43-11-20.1, 43-11-20.4, 43-11-21, 43-11-22, 43-11-23, 43-11-24, 43-11-25, 43-11-26, 43-11-27, 43-11-27.1, 43-11-28, 43-11-29, 43-11-30, 43-11-31, 43-11-33, 43-11-34, and 43-11-35 of the North Dakota Century Code, relating to the practice and licensure of cosmetologists, estheticians, and manicurists; to repeal sections 43-11-13.1, 43-11-13.2, and 43-11-20 of the North Dakota Century Code, relating to master esthetician and master manicurist licensure, homebound licensure, and student practice; and to provide a penalty.

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 operated independently by an individual licensed under this chapter.~~
3. "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.
- 4.3. "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~~~~individual~~ holding out as practicing cosmetology by whatever designation and within the meaning of ~~under~~ this chapter and in and upon whatever place or premises.
 - a. The term includes the following ~~or any one or a combination of these practices:~~
 - (1) ~~Hair care, including~~ arranging, dressing, curling, waving, permanent waving, cleansing, cutting, shaving, trimming, singeing, bleaching, coloring, straightening, or similar work, upon the hair of any 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 individual;~~

(2) Skin care;

(3) Manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening;

(4) Hair extensions using chemical hair joint agents, such as synthetic tape, keratin bonds, or fusion bonds; and

(5) Manicuring.

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.~~

~~6-4. "Esthetician" means an individual who is licensed by the board to engage in the under this chapter to practice esthetics and skin care.~~

~~7. "Homebound" means an individual who is ill, disabled, or otherwise unable to travel to a salon.~~

8-5. "Esthetics" means manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening and skin care.

6. "Independent licensee" is a licensed individual who maintains a separate salon license and operates independently from the establishment owner in which the individual's suite or chair is located.

7. "Instructor" means an individual who is at least eighteen years old, who is a licensed cosmetologist, esthetician, or manicurist who teaches cosmetology, esthetics, manicuring, or any other practices taught within the scope of the individual's license, 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.

9-8. "Invasive care" means any procedure that invades the live tissue of the dermis, including by any means, including cutting, puncturing, burning, insertion of instruments, and includes:

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.

~~40-9.~~ "Manicuring" means the ~~cleansing:~~

- ~~a. Cleansing, cutting, shaping, or beautifying, or massaging of the hands, feet, or nails;~~
- ~~b. Massaging from the elbow to the fingertips or knee to toes of any individual;~~
- ~~c. Caring for and treating the cuticles and nails; and~~
- ~~d. The application and removal of sculptured or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances.~~

~~44-10.~~ "Manicurist" means an individual ~~who is licensed by the board to engage in~~ the ~~under this chapter to practice of~~ manicuring.

~~42-11.~~ "Master cosmetologist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a ~~managing~~ master cosmetologist license.

~~43-12.~~ "Master esthetician" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master esthetician license.

13. "Master manicurist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master manicuring license.

14. "Mechanical device" means a clip, comb, crochet hook, curler, curling iron, hairpin, roller, scissors, blunt-tipped needle, thread, and hair binder.

~~44-15.~~ "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.
- 15-16. "Noninvasive care" includes treatments confined to the nonliving cells of the stratum corneum of the epidermis. Noninvasive care must be in a superficial mode and not for the treatment of medical disorders, and living cells may not be altered, cut, or damaged.
17. "Salon" means an establishment in a fixed location, not used as sleeping or living quarters, licensed under this chapter where cosmetology services are provided.
18. "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology.
- 16-19. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, performing noninvasive hair removal, including waxing and tweezing; beautifying, or similar noninvasive care and work on the body of any person/individual. The term does not include invasive care or threading.
- 17-20. "Student" means any person/individual 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.
- 18-21. "Student instructor" means a cosmetologist, esthetician, or manicurist who is receiving instruction in teacher's training within the scope of the individual's license in a duly registered school of cosmetology.
- 19-22. "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.
- 20-23. "Tuition" means the total cost of a person's/an individual's cosmetology studies, and does not include books or demonstration kits.

SECTION 2. AMENDMENT. Section 43-11-02 of the North Dakota Century Code is amended and reenacted as follows:

43-11-02. Exemptions from provisions of chapter.

This chapter does not apply to:

1. ~~Services in case of emergency.~~

2. Services provided by ~~persons~~individuals practicing cosmetology upon members of ~~their~~the individual's immediate families.
3. ~~Services by a person licensed by the state and working within the standards and ethics of that person's profession, if that person does not represent to the public that the person is a cosmetologist or manicurist.~~
- 4.2. Services by nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation.
- 5.3. Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, estheticians, or manicurists from which the general public is excluded. For purposes of this subsection, a "bona fide association of cosmetologists" means any organization whose constitution, bylaws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists.
- 6.4. Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration. The board may adopt rules to ensure sanitary conditions for services provided under this exemption.
- 7.5. Services provided in a licensed hospital or a nursing home by ~~a person~~an individual practicing cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 8.6. Skin care provided by a licensed cosmetologist or esthetician outside of a licensed salon if the services are being provided under the supervision, control, and responsibility of a physician or physician assistant practicing within the scope of the physician's or physician assistant's license under chapter 43-17, or nurse practicing within the scope of the nurse's license under chapter 43-12.1.

¹⁹⁷ **SECTION 3. AMENDMENT.** Section 43-11-11 of the North Dakota Century Code is amended and reenacted as follows:

43-11-11. Sanitary rules~~Rules of cleaning and disinfecting~~ - Practice outside salon.

The board with the approval of the state department of health shall adopt sanitary rules of cleaning and disinfecting necessary to prevent the creating and spreading of infectious and contagious diseases. ~~A cosmetology salon must be at a fixed location and may not be used for living or sleeping quarters.~~ A cosmetologist or esthetician, or manicurist may practice outside of the establishment under the direction and control of a master cosmetologist or master esthetician thereof a licensed salon under rules adopted by the board. The board shall inspect salons to assure compliance with the rules of cleaning and disinfecting.

SECTION 4. AMENDMENT. Section 43-11-11.1 of the North Dakota Century Code is amended and reenacted as follows:

¹⁹⁷ Section 43-11-11 was also amended by section 358 of House Bill No. 1247, chapter 352.

43-11-11.1. Use of brush rollers authorized.

~~A person~~An individual licensed under this chapter may use brush rollers in the performance of cosmetology and hairdressing or hairsetting services if the rollers are cleaned and ~~sanitized~~disinfected after each use in conformity with rules adopted by the board.

SECTION 5. AMENDMENT. Section 43-11-12 of the North Dakota Century Code is amended and reenacted as follows:

43-11-12. ~~Persons to aid~~Employees of board.

The board may employ a ~~secretary~~, support staff, and other ~~persons~~individuals knowledgeable in cosmetology for conducting examinations, inspections, and investigations of ~~persons~~licensees regulated ~~by~~under this chapter. Any ~~person~~individual employed by the board is entitled to receive expenses in the amounts payable under sections 44-08-04 and 54-06-09.

SECTION 6. AMENDMENT. Section 43-11-13 of the North Dakota Century Code is amended and reenacted as follows:

43-11-13. License required.

~~No person in this state may~~An individual may not:

1. Advertise, engage in, or attempt to engage in the occupation of cosmetology, manicuring, or skin care, nor conduct a cosmetology salon or booth or school of cosmetology, unless having first obtained a license.
2. Employ an unlicensed individual to perform cosmetology unless otherwise provided under this chapter.

SECTION 7. AMENDMENT. Section 43-11-14 of the North Dakota Century Code is amended and reenacted as follows:

43-11-14. Licenses - Board to issue - Form - Displayed.

The board may issue all licenses provided for ~~in~~under this chapter. Each license issued must be ~~signed~~;

1. Signed by the secretary of the board and attested;
2. Attested by the seal of the board. ~~A license is evidence that the person is entitled to follow all of the practices or occupations referred to in the license. A license must be displayed conspicuously in the principal office, place of business, or place of employment of the licensee; and~~
3. Displayed in clear view to the public where services are being provided.

SECTION 8. AMENDMENT. Section 43-11-15 of the North Dakota Century Code is amended and reenacted as follows:

43-11-15. Salon ownership and operation.

1. A salon may be owned by any person authorized to do business in this state.

- a. ~~A cosmetology salon must be operated and supervised by a master cosmetologist. A manicuring salon must be operated and supervised by a master cosmetologist or master manicurist.~~
 - b. ~~A salon providing only skin care or esthetics must be operated and supervised by a master cosmetologist or master esthetician.~~
 - c. A manicuring salon must be supervised by a master cosmetologist or master manicurist.
2. The board shall determine the qualifications by rule for licensure and license fees for a salon license.

SECTION 9. AMENDMENT. Section 43-11-16 of the North Dakota Century Code is amended and reenacted as follows:

43-11-16. Schools of cosmetology - Qualifications for licensure.

- 1. A license must be granted to a school of cosmetology upon an application to the board and the payment of the annual license fee; if the school:
 - 4. a. Is operated and maintained in premises separate from any cosmetology salon;
 - 2. b. Requires a minimum of one thousand ~~eight~~five hundred hours of training and instruction in cosmetology, six hundred hours of training and instruction in esthetics, or three hundred fifty hours of training and instruction in ~~manicure~~manicuring, not to exceed eight hours per day;
 - 3. c. Employs at least two full-time licensed instructors and maintains a maximum student-to-instructor ratio of twenty-four-to-one based on current enrollment, except a school that provides training and instruction limited to esthetics or ~~manicure~~manicuring shall maintain a maximum student-to-instructor ratio of twelve-to-one based on current enrollment;
 - 4. d. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;
 - 5. e. Maintains a record of the attendance and performance of each student;
 - 6. f. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audiovisual aids, and studies in sanitation, sterilization, and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology;
 - 7. g. Agrees not to:
 - a. (1) Permit any student to practice on any ~~person~~individual who is not an instructor or registered student of the school until the student has completed at least twenty percent of the total hours of instruction required ~~by~~under this chapter and only if the practice is under the immediate direction and supervision of a licensed instructor; or
 - b. (2) Compensate any of ~~its~~the school's basic students in any way; and

8. h. At the time of application for licensure and upon the renewal of a license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. The bond must run in favor of the board, as agent of the state, and must be furnished by a surety company authorized to do business in this state. It must be conditioned upon the bonded school's providing its registered students with the full course of instruction required under this chapter and must provide for a refund of a proportionate amount of each student's tuition fee upon default.
2. Any school that enrolls student instructors shall set up an adequate course of training; with the approval of the board; and may not have at any one time more than two student instructors for each licensed instructor actively engaged in the school.

SECTION 10. Section 43-11-16.1 of the North Dakota Century Code is created and enacted as follows:

43-11-16.1. Internships and apprenticeship programs.

The board may establish internships with the schools of cosmetology and may establish apprenticeship programs. The board may adopt rules related to the licensure and discipline of interns and apprentices practicing in programs established under this section.

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

43-11-17. Licenses issued for schools of cosmetology and cosmetology salons - Fee for annual registration.

The board ~~may~~shall issue an ~~annual, after inspection and approval,~~ a license for a school of cosmetology. The ~~annual~~ registration fee for a school must be determined by the board; as set forth in section 43-11-28. The board shall issue, after inspection and approval, issue a salon license, the ~~annual~~ fee for which must be determined by the board; as set forth in section 43-11-28.

SECTION 12. AMENDMENT. Section 43-11-19 of the North Dakota Century Code is amended and reenacted as follows:

43-11-19. Students - Registration.

1. A student ~~cosmetologist~~ must:
 4. a. Adhere to the laws and rules regarding the practice of cosmetology;
 2. b. Have educational qualifications equivalent to completion of four years of high school; and
 3. c. Have enrolled in a school of cosmetology and complied with the preliminary requirements thereof.
2. The names and qualifications of all students must be certified to the board by each school of cosmetology. The certification must be accompanied by a processing fee for each student in an amount as may be ~~fixed~~determined by the board under section 43-11-28.

SECTION 13. AMENDMENT. Section 43-11-20.1 of the North Dakota Century Code is amended and reenacted as follows:

43-11-20.1. Refund of student tuition fees upon cancellation of course.

Schools of cosmetology shall refund tuition and other charges paid by or on behalf of a student when written notice of cancellation is given by the student. Refunds must be made in accordance with the following schedule:

Hours	Tuition Retained
Enrolled	By School
0.0% - 4.9%	20%
5% - 9.9%	30%
10% - 14.9%	40%
15% - 24.9%	45%
25% - 49.9%	70%
Over 50%	100%

Notice of this section, and of sections 43-11-20.2 and 43-11-20.3, must be posted in a conspicuous place clear view to the public where services are being provided in each school of cosmetology. The notice must be in a form and contain information as prescribed by the board. The board shall take action necessary to enforce this section and sections 43-11-20.2 and 43-11-20.3, including revocation of the license issued pursuant to section 43-11-17. This section does not prejudice the right of any student to commence a civil action against any school of cosmetology for breach of contract or fraud.

SECTION 14. AMENDMENT. Section 43-11-20.4 of the North Dakota Century Code is amended and reenacted as follows:

43-11-20.4. Exemption from postsecondary license requirement - Solicitor's permit required.

Schools of cosmetology are exempt from the license requirement of chapter 15-20.4. All persons~~individuals~~ who solicit business for a school of cosmetology, or who sell any course of instruction, shall secure a solicitor's permit and bond in an amount and under conditions as established by the board.

SECTION 15. AMENDMENT. Section 43-11-21 of the North Dakota Century Code is amended and reenacted as follows:

43-11-21. Cosmetologist, esthetician, manicurist license - Examination required - Application - Examination - Fees.

Each person~~individual~~ who desires to secure a cosmetologist, esthetician, or manicurist license shall file with the secretary~~of the board~~ a written application under oath on a form supplied by the board. The application must be accompanied by all of the following:

1. An examination fee as may be fixed by the board pursuant to section 43-11-28.
2. Satisfactory proof that the applicant has completed the required training in a school of cosmetology.
3. A fee for original licensure as required by section 43-11-28.

SECTION 16. AMENDMENT. Section 43-11-22 of the North Dakota Century Code is amended and reenacted as follows:

43-11-22. Board to determine qualifications of applicants - Delegation of power.

The qualifications of applicants for admission to examination for registration, and for certification or licensure to practice under this chapter must be determined by the board. The board may delegate authority under this section to ~~the secretary~~support staff.

SECTION 17. AMENDMENT. Section 43-11-23 of the North Dakota Century Code is amended and reenacted as follows:

43-11-23. Examination.

The examination of applicants for license to practice under this chapter must be conducted under rules ~~prescribed~~adopted by the board and must include both practical demonstrations and written or oral tests in reference to the practices for which a license is desired and in reference to related studies or subjects as the board may determine necessary for the proper and efficient performance of a practice. The board may require the practical portion of the examination be conducted by schools of cosmetology as part of graduation requirements. The examination may not be confined to any specific system or method and must be consistent with the practical and theoretical requirements of cosmetology.

SECTION 18. AMENDMENT. Section 43-11-24 of the North Dakota Century Code is amended and reenacted as follows:

43-11-24. Cosmetologist, esthetician, or manicurist license - When issued - Failure to pass examination - Re-examination - ~~Retraining~~.

1. A cosmetologist, esthetician, or manicurist license must be issued to any ~~person~~individual who has met all the following requirements:
 1. a. Complied with section 43-11-21.
 2. b. Passed to the satisfaction of the board the examination of applicants for a license to practice under this chapter.
2. If the applicant fails to pass the examination, the examination fee may not be returned. If an applicant fails to pass an examination, the applicant may be examined again with the payment of a re-examination fee as set forth in section 43-11-28. ~~An applicant who fails to pass the practical examination twice must complete an additional one hundred sixty hours of training at a school of cosmetology before applying for a second re-examination.~~

SECTION 19. AMENDMENT. Section 43-11-25 of the North Dakota Century Code is amended and reenacted as follows:

43-11-25. License issued without examination -- Conditions of licensure by reciprocity.

The board may dispense with the examination of applicants for licenses to practice cosmetology and may grant licenses under this chapter upon the payment of a fee for original licensure and the reciprocity fee if the following requirements are met:

1. The applicant has:
 - a. ~~Complied with the requirements for registration of~~ Provided satisfactory proof of a license in good standing with the District of Columbia, or ~~another~~ any other state, territory, foreign country, or province where the requirements are ~~equal substantially~~ equally substantial to those in force in this state at the time the application for the license is filed; ~~or~~
 - b. ~~Provided satisfactory proof of completing the course curriculum hours required by the board and provided proof of successfully passing the theoretical and practical examinations substantially similar to those required in this state; or~~
 - e. Provided satisfactory proof:
 - (1) The applicant is licensed in good standing in any other state, territory, or jurisdiction of the United States to practice cosmetology, ~~manicuring, or esthetics;~~
 - (2) The applicant worked in the licensed profession for at least three of the past five years; and
 - (3) ~~The applicant graduated from a school of cosmetology, manicuring, or esthetics approved by the board which may be established by presentation of a diploma, transcript, or verification from the original licensing state, territory, or jurisdiction;~~
 - (4) ~~The applicant passed a theoretical and practical examination acceptable to the board; and~~
 - (5) A license granted to the applicant in any other state, territory, or jurisdiction of the United States is not subject to suspension or revocation, or otherwise restricted in any manner for disciplinary purposes.
2. The applicant passes to the satisfaction of the board an examination on ~~sanitary practices and cosmetology law in this state~~ North Dakota laws, rules, and regulations.

SECTION 20. Section 43-11-25.1 of the North Dakota Century Code is created and enacted as follows:

43-11-25.1. International applicants.

1. An applicant with training and credentials outside of the United States shall submit, at the applicant's own expense, qualifications, credentials, and work experience for review to a credentialing agency approved by the board.

2. Failure to have a review completed by the above credentialing agency may result in the board denying the application. The board may accept or refuse any recommendations made by the credentialing agency.

SECTION 21. AMENDMENT. Section 43-11-26 of the North Dakota Century Code is amended and reenacted as follows:

43-11-26. Master cosmetologist, master esthetician, and master manicurist - License - Qualifications.

An individual may obtain a ~~master cosmetologist~~ cosmetologist, master esthetician, or master manicurist license upon meeting all the following requirements:

1. Furnishing to the board evidence of having practiced as a cosmetologist, esthetician, or manicurist for at least one thousand hours. Cosmetologists may obtain hours under the direction and control of a master cosmetologist. Estheticians may obtain hours under the direction and control of a master cosmetologist or master esthetician. Manicurists may obtain hours under the direction and control of a master cosmetologist or master manicurist. Cosmetologists and estheticians may obtain a master license under the direction, control, and responsibility of a physician or physician assistant practicing within the scope of licensure under chapter 43-17 or a nurse practicing within the scope of the nurse's license under chapter 43-12.1.
2. Paying an original licensure fee as set forth in section 43-11-28.
3. Complying with the other requirements of under this chapter applicable to a ~~master cosmetologist~~ license.

SECTION 22. AMENDMENT. Section 43-11-27 of the North Dakota Century Code is amended and reenacted as follows:

43-11-27. Instructor's license - Student instructor's license - Registration - Qualifications.

1. ~~No person~~ individual may be licensed as an instructor of cosmetology unless ~~the person furnishes the board~~ individual passes a theory and a practical examination required by the board after paying the examination fee set forth in section 43-11-28 and provides evidence of having a general education equivalent to the completion of four years in high school. An applicant:
 - a. ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology. Under this subdivision the practical portion of the examination may be waived if the written examination is supplemented with videotapes of the applicant's teaching procedures;~~
 - b. Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have been actively engaged in the practice of cosmetology under the scope of the applicant's license for at least one year before application for an instructor's license, supplemented by not less than four hundred eighty hours instructor's training in a school of cosmetology or course of training approved by the board; or

- c. Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours instructor's training in a school of cosmetology or course of training approved by the board. No instructor or student instructor may be permitted to practice cosmetology on a patron other than that part of practical work which pertains directly to the teaching of practical operations to students.
2. Student instructors in ~~cosmetology~~ must be registered ~~upon enrollment in a school of cosmetology and upon certification by the school to~~with the board of. The board must record the name, age, and qualifications of the student instructor ~~which must be recorded in a register kept for that purpose~~. A student instructor shall ~~possess~~, at the time of enrollment, ~~possess~~ a general education equivalent to the completion of four years in high school and hold a license as a cosmetologist. Upon completion of the course prescribed for student instructors, the student instructor shall make application on a form provided by the board and pay a fee as provided in section 43-11-28. The board ~~then~~ shall ~~thereupon~~ cause the applicant to be examined for an instructor's license. The examination must be given by a special examining committee comprised of the board, assisted by one person designated by the board ~~possessing the minimum qualifications entitling the person to instruct in an institution of higher learning and who shall examine the applicant in teaching procedures only~~. Upon successfully passing the examination, the board shall issue an instructor's license to the applicant.
3. No ~~person~~individual is entitled to renew an instructor's license unless the instructor has furnished to the board evidence of completion of the continuing education established by the board by rule.
4. Licensed estheticians and manicurists may only provide instruction within the scope of practice of the respective licenses determined under this chapter.

SECTION 23. AMENDMENT. Section 43-11-27.1 of the North Dakota Century Code is amended and reenacted as follows:

43-11-27.1. Esthetician and manicurist licenses - Qualifications - Fees.

The board may issue ~~annual~~ licenses for estheticians and manicurists. The board shall determine the qualifications for licensure and ~~annual~~ license fees for estheticians and manicurists.

SECTION 24. AMENDMENT. Section 43-11-28 of the North Dakota Century Code is amended and reenacted as follows:

43-11-28. Fees.

1. Fees to be paid by applicants for original registrations, original licenses, ~~annual~~ renewals, licenses issued upon reciprocity, and examinations as required under this chapter may not exceed the following amounts:

a. Original registrations, licenses, and annual renewals:	MAXIMUM FEE:
(1) Salons, original registration	\$80.00 <u>per year</u>

(2)	Salons, annual renewal	\$30.00 <u>per year</u>
(3)	School of cosmetology, original registration	\$505.00 <u>per year</u>
(4)	School of cosmetology, annual renewal	\$205.00 <u>per year</u>
(5)	Cosmetologist, original license	\$15.00 <u>per year</u>
(6)	Cosmetologist, annual renewal	\$15.00 <u>per year</u>
(7)	Master cosmetologist, original license	\$25.00 <u>per year</u>
(8)	Master cosmetologist, annual renewal	\$20.00 <u>per year</u>
(9)	Instructor, original license	\$35.00 <u>per year</u>
(10)	Instructor, annual renewal	\$20.00 <u>per year</u>
(11)	Reciprocity license fee	\$105.00 <u>per year</u>
(12)	Registration fee for student instructor	\$15.00 <u>per year</u>
(13)	Duplicate license	\$10.00 <u>per year</u>
(14)	Certification fee	\$20.00 <u>per year</u>

b. Late fees:

(1)	<u>Late renewal within one year</u>	<u>\$50.00</u>
(2)	<u>Late renewal after one year but before five years</u>	<u>\$150.00</u>

c. Examinations:

(1)	Cosmetology practical examination	\$25.00
(2)	Instructors practical examination	\$55.00
(3)	Written examination fees are set and collected by the administrator of the examination and payment is the responsibility of the applicant.	

2. Fees are not prorated or returnable. ~~The board may charge a fifty dollar penalty for each license renewal application received after December thirty-first.~~

3. The board shall sponsor an educational program for licenseholders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled cosmetologists, ~~manicurists~~, estheticians, manicurists, and instructors. The board shall use such portion of the renewal fees as the board may determine for the purpose of providing the educational program.

SECTION 25. AMENDMENT. Section 43-11-29 of the North Dakota Century Code is amended and reenacted as follows:

43-11-29. License renewal - Failure to renew license at end of year - When it may be renewed.

A license issued by the board under this chapter, which has not been renewed prior to the thirty-first day of December in any year, expires on the thirty-first day of December in that year. The holder of an expired license, within one year from and after the date of its expiration, may obtain a license upon the payment of the required fee in addition to the current renewal fee and upon furnishing to the board satisfactory proof of the person's qualifications to resume practice. If a license is not renewed within one year from the date it expired, the applicant for reinstatement shall take and pass the examination that is required of new applicants:

1. A license issued by the board expires on December thirty-first. If the application for renewal is not received on or before the expiration date, the license expires.
2. The board may renew a license if:
 - a. An application for renewal is submitted as provided by the board;
 - b. The renewal fee is paid; and
 - c. Grounds for denial do not exist under section 43-11-31.
3. The holder of an expired license, within one year from and after the date of the license's expiration, may obtain a reinstatement of the license upon:
 - a. Payment of the required late fee; and
 - b. Payment of the current renewal fee.
4. The holder of an expired license, one year after the date of expiration but before five years, may obtain a reinstatement of the license upon:
 - a. Payment of the required late fee; and
 - b. Furnishing to the board satisfactory proof of passing the North Dakota law, rules, and regulations examination.
5. The board may not reinstate a license if more than five years has lapsed since the license expired. If a license has not been renewed within five years, the individual may reapply for licensure under the requirements of initial licensure as set forth under this chapter.

SECTION 26. AMENDMENT. Section 43-11-30 of the North Dakota Century Code is amended and reenacted as follows:

43-11-30. Revocation or suspension of license.

The board may place on probation, revoke and, or suspend a license upon proof of the violation ofunder this chapter or rules a rule adopted by the board.

SECTION 27. AMENDMENT. Section 43-11-31 of the North Dakota Century Code is amended and reenacted as follows:

43-11-31. License - Refusal to grant - Grounds.

The board may deny an application or discipline a licensee on any of the following grounds:

1. Fraud in passing the examination.
2. Conviction of an offense determined by the board to have a direct bearing upon a ~~person's~~ individual's ability to serve the public in a profession licensed by the board, or, following conviction of any offense, the board determines the ~~person~~individual is not sufficiently rehabilitated under section 12.1-33-02.1.
3. Grossly unprofessional or dishonest conduct.
4. Addiction to the use of intoxicating liquor or drugs to such an extent as to render the ~~person~~individual unfit to practice ~~cosmetology~~.
5. Advertising by means of knowingly false or deceptive statements.
6. Failure to display the license as provided ~~in~~under this chapter.
7. Violation of the provisions ~~of~~under this chapter or the rules adopted by the board.
8. Permitting an unlicensed ~~person~~individual to practice cosmetology, ~~manicuring, skin care,~~ or teaching in a cosmetology salon or school of cosmetology.
9. Advertising or providing services outside of the licensee's scope of practice as defined under this chapter.

SECTION 28. AMENDMENT. Section 43-11-33 of the North Dakota Century Code is amended and reenacted as follows:

43-11-33. Board may subpoena witnesses - Fees - How paid.

The board may require the attendance of witnesses and the production of books, records, and papers at any hearing or with reference to any matter which ~~it~~the board has authority to investigate; and, for that purpose, may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers. The fees and mileage of witnesses must be the same as may be allowed in the court in criminal cases. Fees and mileage must be paid in the same manner as expenses of the board.

SECTION 29. AMENDMENT. Section 43-11-34 of the North Dakota Century Code is amended and reenacted as follows:

43-11-34. Appeal from actions of the board.

An appeal may be taken from an action of the board under this chapter in refusing to grant; or in suspending or revoking a license; to the district court of the county of residence of the ~~person~~individual who has been refused a license or whose license has been suspended or revoked. The appeal must be taken in accordance with the provisions ~~of~~under chapter 28-32.

SECTION 30. AMENDMENT. Section 43-11-35 of the North Dakota Century Code is amended and reenacted as follows:

43-11-35. Penalty.

Any ~~person~~individual who, without a license, as required under this chapter willfully practices any of the occupations, maintains a school, or acts or advertises in any capacity, ~~wherein a license is required by~~ violates this chapter or rule adopted by the board, is guilty of a class B misdemeanor.

SECTION 31. REPEAL. Sections 43-11-13.1, 43-11-13.2, and 43-11-20 of the North Dakota Century Code are repealed.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 310

SENATE BILL NO. 2125

(Senators K. Roers, Heckaman, Poolman)
(Representatives Dobervich, M. Ruby)

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 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 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 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 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. For a behavioral health professional:
 - (1) The loan repayment 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.

- e. For purposes of this section, a behavioral health professional means an individual who practices in the behavioral health field and is:
- (1) A licensed addiction counselor;
 - (2) A licensed professional counselor;
 - (3) A licensed social worker;
 - (4) A registered nurse; ~~or~~
 - (5) A specialty practice registered nurse; or
 - (6) A licensed behavior analyst.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 311

HOUSE BILL NO. 1044

(Human Services Committee)
(At the request of the State Board of Nursing)

AN ACT to amend and reenact section 43-12.5-01 of the North Dakota Century Code, relating to the advanced practice registered nurse licensure compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-12.5-01 of the North Dakota Century Code is amended and reenacted as follows:

43-12.5-01. ~~Advance~~Advanced practice registered nurse licensure ~~company~~compact.

ARTICLE I - FINDINGS AND DECLARATION OF PURPOSE

1. The party states find that:
 - a. The health and safety of the public are affected by the degree of compliance with advanced practice registered nurse licensure requirements and the effectiveness of enforcement activities related to state advanced practice registered nurse licensure laws;
 - b. Violations of advanced practice registered nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
 - c. The expanded mobility of advanced practice registered nurses and the use of advanced communication and intervention technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of advanced practice registered nurse licensure and regulation;
 - d. New practice modalities and technology make compliance with individual state advanced practice registered nurse licensure laws difficult and complex;
 - e. The current system of duplicative advanced practice registered nurse licensure for advanced practice registered nurses practicing in multiple states is cumbersome and redundant for ~~both~~health care delivery systems, payors, state licensing boards, regulators, and advanced practice registered nurses ~~and states~~; and
 - f. Uniformity of advanced practice registered nurse licensure requirements throughout the states promotes public safety and public health benefits as well as providing a mechanism to increase access to care.
2. The general purposes of this compact are to:
 - a. Facilitate the states' responsibility to protect the public's health and safety;

- b. Ensure and encourage the cooperation of party states in the areas of advanced practice registered nurse licensure and regulation, including promotion of uniform licensure requirements;
- c. Facilitate the exchange of information between party states in the areas of advanced practice registered nurse regulation, investigation, and adverse actions;
- d. Promote compliance with the laws governing advanced practice registered nurse practice in each jurisdiction;
- e. Invest all party states with the authority to hold an advanced practice registered nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses/privileges to practice;
- f. Decrease redundancies in the consideration and issuance of advanced practice registered nurse licenses; and
- g. Provide opportunities for interstate practice by advanced practice registered nurses who meet uniform licensure requirements.

ARTICLE II - DEFINITIONS

As used in this compact:

1. "Advanced practice registered nurse" means a registered nurse who has gained additional specialized knowledge, skills, and experience through a program of study recognized or defined by the Interstate Commission of Advanced Practice Registered Nurse Compact Administrators ("commission"), and who is licensed to perform advanced nursing practice. An advanced practice registered nurse is licensed in an advanced practice registered nurse role that is congruent with an advanced practice registered nurse educational program, certification, and commission rules.
2. "Advanced practice registered nurse licensure" means the regulatory mechanism used by a party state to grant legal authority to practice as an advanced practice registered nurse.
3. "Advanced practice registered nurse uniform licensure requirements" means the minimum uniform licensure, education, and examination requirements as adopted by the commission set forth in subsection 2 of article III.
4. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an advanced practice registered nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting an advanced practice registered nurse's authorization to practice, including the issuance of a cease and desist action.
5. "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.

6. "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on advanced practice registered nurse licensure and enforcement activities related to advanced practice registered nurse licensure laws which is administered by a nonprofit organization composed of and controlled by licensing boards.
7. "Current significant investigatory information" means:
 - a. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the advanced practice registered nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - b. Investigative information that indicates that the advanced practice registered nurse represents an immediate threat to public health and safety regardless of whether the advanced practice registered nurse has been notified and had an opportunity to respond.
8. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board in connection with a disciplinary proceeding.
9. "Home state" means the party state that is the advanced practice registered nurse's primary state of residence.
10. "Licensing board" means a party state's regulatory body responsible for regulating the practice of advanced practice registered nursing.
11. "Multistate license" means an advanced practice registered nurse license to practice as an advanced practice registered nurse issued by a home state licensing board which authorizes the advanced practice registered nurse to practice as an advanced practice registered nurse in all party states under a multistate licensure privilege, in the same role and population focus as the advanced practice registered nurse is licensed in the home state.
12. "Multistate licensure privilege" means a legal authorization associated with an advanced practice registered nurse multistate license which permits an advanced practice registered nurse to practice as an advanced practice registered nurse in a remote state, in the same role and population focus as the advanced practice registered nurse is licensed in the home state.
13. "Noncontrolled prescription drug" means a device or drug that is not a controlled substance and is prohibited under state or federal law from being dispensed without a prescription. The term includes a device or drug that bears or is required to bear the legend "caution: federal law prohibits dispensing without prescription" or "prescription only" or other legend that complies with federal law.
14. "Party state" means any state that has adopted this compact.
15. "Population focus" means ~~a specific patient population that is congruent with the advanced practice registered nurse educational program, certification, and commission rules~~ one of the six population foci of family or individual across

the lifespan, adult-gerontology, pediatrics, neonatal, women's health or gender-related, and psychiatric mental health.

16. "Prescriptive authority" means the legal authority to prescribe medications and devices as defined by party state laws.
17. "Remote state" means a party state that is not the home state.
18. "Role" means one of the four recognized roles of certified registered nurse anesthetists, certified nurse midwives, clinical nurse specialists, and certified nurse practitioners.
19. "Single-state license" means an advanced practice registered nurse license issued by a party state which authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.
- 19-20. "State" means a state, territory, or possession of the United States and the District of Columbia.
- 20-21. "State practice laws" means a party state's laws, rules, and regulations that govern advanced practice registered nurse practice, define the scope of advanced nursing practice, ~~including prescriptive authority,~~ and create the methods and grounds for imposing discipline except that prescriptive authority must be treated in accordance with subsections 6 and 7 of article III. State practice laws do not include the:
 - a. A party state's laws, rules, and regulations requiring supervision or collaboration with a health care professional, except for laws, rules, and regulations regarding prescribing controlled substances; and
 - b. The requirements necessary to obtain and retain an advanced practice registered nurse license, except for qualifications or requirements of the home state.

ARTICLE III - GENERAL PROVISIONS AND JURISDICTION

1. A state must implement procedures for considering the criminal history records of applicants for initial advanced practice registered nurse licensure or advanced practice registered nurse licensure by endorsement. Such procedures must include the submission of fingerprints or other biometric-based information by advanced practice registered nurse applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.
2. ~~By rule, the commission shall adopt the advanced practice registered nurse uniform licensure requirements. The uniform licensure requirements must provide the minimum requirements for advanced practice registered nurse multistate licensure in party states, if the commission may adopt rules whereby an advanced practice registered nurse, with an unencumbered license on the effective date of this compact, may obtain, by endorsement~~Each party state shall require an applicant to satisfy the following advanced practice registered nurse uniform licensure requirements to obtain or otherwise, and retain a multistate license in a party~~the home state:~~

3. ~~In order to obtain or retain a multistate license, an advanced practice registered nurse shall meet, in addition to the uniform licensure requirements:~~
 - a. ~~Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable home state laws.~~
4. ~~By rule, the commission shall identify the approved advanced practice registered nurse roles and population foci for licensure as an advanced practice registered nurse:~~
 - b. ~~(1) Has completed an accredited graduate-level education program that prepares the applicant for one of the four recognized roles and population foci; or~~
 - (2) ~~Has completed a foreign advanced practice registered nurse education program for one of the four recognized roles and population foci that:~~
 - (a) ~~Has been approved by the authorized accrediting body in the applicable country; and~~
 - (b) ~~Has been verified by an independent credentials review agency to be comparable to a licensing board-approved advanced practice registered nurse education program;~~
 - c. ~~Has, if a graduate of a foreign advanced practice registered nurse program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;~~
 - d. ~~Has successfully passed a national certification examination that measures advanced practice registered nurse, role and population-focused competencies and maintains continued competence as evidenced by recertification in the role and population focus through the national certification program;~~
 - e. ~~Holds an active, unencumbered license as a registered nurse and an active, unencumbered authorization to practice as an advanced practice registered nurse;~~
 - f. ~~Has successfully passed an NCLEX-RN® examination or recognized predecessor, as applicable;~~
 - g. ~~Has practiced for at least two thousand eighty hours as an advanced practice registered nurse in a role and population focus congruent with the applicant's education and training. For purposes of this section, practice must not include hours obtained as part of enrollment in an advanced practice registered nurse education program;~~
 - h. ~~Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state or, if applicable, foreign country's criminal records;~~

- i. Has not been convicted or found guilty or, has entered into an agreed disposition of a felony offense under applicable state, federal, or foreign criminal law;
 - j. Has not been convicted or found guilty or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined by factors set forth in rules adopted by the commission;
 - k. Is not currently enrolled in an alternative program;
 - l. Is subject to self-disclosure requirements regarding current participation in an alternative program; and
 - m. Has a valid United States social security number.
3. An advanced practice registered nurse issued a multistate license must be licensed in an approved advanced-practice-registered-nurse role and at least one approved population focus.
 - 5-4. An advanced practice registered nurse multistate license issued by a home state to a resident in that state will be recognized by each party state as authorizing the advanced practice registered nurse to practice as an advanced practice registered nurse in each party state, under a multistate licensure privilege, in the same role and population focus as the advanced practice registered nurse is licensed in the home state. ~~If an applicant does not qualify for a multistate license, a single-state license may be issued by a home state.~~
 5. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license, except that an individual may apply for a single-state license, instead of a multistate license, even if otherwise qualified for the multistate license. However, the failure of such an individual to affirmatively opt for a single-state license may result in the issuance of a multistate license.
 6. Issuance of an advanced practice registered nurse multistate license must include prescriptive authority for noncontrolled prescription drugs, ~~unless the advanced practice registered nurse was licensed by the home state before the home state's adoption of this compact and has not previously held prescriptive authority:~~
 - a. ~~An advanced practice registered nurse granted prescriptive authority for noncontrolled prescription drugs in the home state may exercise prescriptive authority for noncontrolled prescription drugs in any remote state while exercising a multistate licensure privilege under an advanced practice registered nurse multistate license; the advanced practice registered nurse may not be required to meet any additional eligibility requirements imposed by the remote state in exercising prescriptive authority for noncontrolled prescription drugs.~~
 - b. ~~Prescriptive authority in the home state for an advanced practice registered nurse who was not granted prescriptive authority at the time of initial licensure by the home state, before the adoption of this compact, must be determined under home state law.~~

- e. ~~Prescriptive authority eligibility for an advanced practice registered nurse holding a single state license must be determined under the law of the licensing state.~~
7. For each state in which an advanced practice registered nurse seeks authority to prescribe controlled substances, the advanced practice registered nurse shall satisfy all requirements imposed by such state in granting ~~and/or~~and renewing such authority.
 8. An advanced practice registered nurse issued a multistate license may assume responsibility and accountability for patient care independent of ~~any~~ supervisory or collaborative relationship with a physician. This authority may be exercised in the home state and in any remote state in which the advanced practice registered nurse exercises a multistate licensure privilege. ~~For an advanced practice registered nurse issued a single state license in a party state, the requirement for a supervisory or collaborative relationship with a physician must be determined under applicable party state law.~~
 9. All party states are authorized, in accordance with state due process laws, to take adverse action against an advanced practice registered nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects an advanced practice registered nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it promptly shall notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system promptly shall notify the home state of any such actions by remote states.
 10. ~~An~~Except as otherwise expressly provided in this compact, an advanced practice registered nurse practicing in a party state shall comply with the state practice laws of the state in which the client is located at the time service is provided. Advanced practice registered nurse practice is not limited to patient care, but includes all advanced nursing practice as defined by the state practice laws of the party state in which the client is located. Advanced practice registered nurse practice in a party state under a multistate licensure privilege subjects the advanced practice registered nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.
 11. ~~This~~Except as otherwise expressly provided in this compact, this compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state must be recognized by other party states as satisfying any state law requirement for registered nurse licensure as a precondition for authorization to practice as an advanced practice registered nurse in that state.
 12. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state advanced practice registered nurse license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice as an advanced practice registered nurse in any other party state.

ARTICLE IV - APPLICATIONS FOR ADVANCED PRACTICE REGISTERED NURSE LICENSURE IN A PARTY STATE

1. Upon application for an advanced practice registered nurse multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held or is the holder of a licensed practical/vocational nursing license, a registered nursing license, or an advanced practice registered nurse license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.
2. An advanced practice registered nurse may hold a multistate advanced practice registered nurse license, issued by the home state, in only one party state at a time.
3. If an advanced practice registered nurse changes primary state of residence by moving between two party states, the advanced practice registered nurse shall apply for advanced practice registered nurse licensure in the new home state, and the multistate license issued by the prior home state must be deactivated in accordance with applicable commission rules.
 - a. The advanced practice registered nurse may apply for licensure in advance of a change in primary state of residence.
 - b. A multistate advanced practice registered nurse license may not be issued by the new home state until the advanced practice registered nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate advanced practice registered nurse license from the new home state.
4. If an advanced practice registered nurse changes primary state of residence by moving from a party state to a nonparty state, the advanced practice registered nurse multistate license issued by the prior home state converts to a single-state license, valid only in the former home state.

ARTICLE V - ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

1. In addition to the other powers conferred by state law, a licensing board may:
 - a. Take adverse action against an advanced practice registered nurse's multistate licensure privilege to practice within that party state.
 - (1) Only the home state may take adverse action against an advanced practice registered nurse's license issued by the home state.
 - (2) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct that occurred outside of the home state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

- b. Issue cease and desist orders or impose an encumbrance on an advanced practice registered nurse's authority to practice within that party state.
 - c. Complete any pending investigations of an advanced practice registered nurse who changes primary state of residence during the course of such investigations. The licensing board also may take any appropriate action and promptly shall report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system promptly shall notify the new home state of any such actions.
 - d. Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a party state licensing board for the attendance and testimony of witnesses ~~and/or~~ and the production of evidence from another party state must be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing licensing board shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses ~~and/or~~ and evidence are located.
 - e. Obtain and submit, for an advanced practice registered nurse licensure applicant, fingerprints or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions.
 - f. If otherwise permitted by state law, recover from the affected advanced practice registered nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that advanced practice registered nurse.
 - g. Take adverse action based on the factual findings of another party state, if the licensing board follows its own procedures for taking such adverse action.
2. If adverse action is taken by a home state against an advanced practice registered nurse's multistate licensure, the privilege to practice in all other party states under a multistate licensure privilege must be deactivated until all encumbrances have been removed from the advanced practice registered nurse's multistate license. All home state disciplinary orders that impose adverse action against an advanced practice registered nurse's multistate license must include a statement that the advanced practice registered nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.
 3. This compact does not override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any advanced practice registered nurse for the duration of the advanced practice registered nurse's participation in an alternative program.

ARTICLE VI - COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE INFORMATION

1. All party states shall participate in a coordinated licensure information system of all advanced practice registered nurses, licensed registered nurses, and licensed practical/vocational nurses. This system includes information on the licensure and disciplinary history of each advanced practice registered nurse, as submitted by party states, to assist in the coordinated administration of advanced practice registered nurse licensure and enforcement efforts.
2. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.
3. All licensing boards promptly shall report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials), and advanced practice registered nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic and/or and confidential under state law.
4. ~~Current significant investigative information and participation in nonpublic or confidential alternative programs must be transmitted through the coordinated licensure information system only to party state licensing boards.~~
5. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.
- ~~6.5.~~ Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.
- ~~7.6.~~ Any information contributed to the coordinated licensure information system which is subsequently required to be expunged by the laws of the party state contributing the information must be removed from the coordinated licensure information system.
- ~~8.7.~~ The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which must include, at a minimum:
 - a. Identifying information;
 - b. Licensure data;
 - c. Information related to alternative program participation information; and
 - d. Other information that may facilitate the administration of this compact, as determined by commission rules.

9-8. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

**ARTICLE VII - ESTABLISHMENT OF THE INTERSTATE COMMISSION OF
ADVANCED PRACTICE REGISTERED NURSE COMPACT ADMINISTRATORS**

1. The party states hereby create and establish a joint public agency known as the interstate commission of advanced practice registered nurse compact administrators.
 - a. The commission is an instrumentality of the party states.
 - b. Venue is proper, and judicial proceedings by or against the commission must be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
 - c. This compact may not be construed to be a waiver of sovereign immunity.
2. Membership, voting, and meetings.
 - a. Each party state must have and be limited to one administrator. The head of the state licensing board or designee is the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission must be filled in accordance with the laws of the party state in which the vacancy exists.
 - b. Each administrator is entitled to one vote with regard to the promulgation of rules and creation of bylaws and otherwise must have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.
 - c. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws or rules of the commission.
 - d. All meetings are open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in article VIII.
 - e. The commission may convene in a closed, nonpublic meeting if the commission must discuss:
 - (1) Noncompliance of a party state with its obligations under this compact;
 - (2) The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

- (3) Current, threatened, or reasonably anticipated litigation;
 - (4) Negotiation of contracts for the purchase or sale of goods, services, or real estate;
 - (5) Accusing any person of a crime or formally censuring any person;
 - (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - (7) Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (8) Disclosure of investigatory records compiled for law enforcement purposes;
 - (9) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
 - (10) Matters specifically exempted from disclosure by federal or state statute.
- f. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for those actions, including a description of the views expressed. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.
3. By a majority vote of the administrators, the commission shall prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including:
- a. Establishing the fiscal year of the commission;
 - b. Providing reasonable standards and procedures:
 - (1) For the establishment and meetings of other committees; and
 - (2) Governing any general or specific delegation of any authority or function of the commission;
 - c. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission shall make public a copy of the

- vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;
- d. Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;
 - e. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws exclusively govern the personnel policies and programs of the commission; and
 - f. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment ~~and/or~~ and reserving of all of its debts and obligations.
4. The commission shall publish its bylaws and rules, and any amendments to the bylaws and rules, in a convenient form on the website of the commission.
 5. The commission shall maintain its financial records in accordance with the bylaws.
 6. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.
 7. The commission may:
 - a. Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all party states;
 - b. Bring and prosecute legal proceedings or actions in the name of the commission. However, the standing of any licensing board to sue or be sued under applicable law may not be affected;
 - c. Purchase and maintain insurance and bonds;
 - d. Borrow, accept, or contract for services of personnel, including employees of a party state or nonprofit organizations;
 - e. Cooperate with other organizations that administer state compacts related to the regulation of nursing, including sharing administrative or staff expenses, office space, or other resources;
 - f. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
 - g. Accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same. However, at all times the commission shall strive to avoid any appearance of impropriety ~~and/or~~ and conflict of interest;

-
- h. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed. However, at all times the commission shall strive to avoid any appearance of impropriety;
 - i. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;
 - j. Establish a budget and make expenditures;
 - k. Borrow money;
 - l. Appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators, or their representatives, and consumer representatives, and other such interested persons;
 - m. Issue advisory opinions:
 - n. Provide and receive information from, and to cooperate with, law enforcement agencies;
 - n-o. Adopt and use an official seal; and
 - e-p. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of advanced practice registered nurse licensure and practice.
8. Financing of the commission.
- a. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
 - b. The commission may also levy on and collect an annual assessment from each party state to cover the cost of ~~the~~its operations and ~~activities of the interstate commission,~~ and its staff ~~which must be in a total amount sufficient to cover~~ its annual budget as approved each year. The aggregate annual assessment amount must, if any, must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.
 - c. The commission may not incur obligations of any kind before securing the funds adequate to meet the same, nor may the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.
 - d. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.
9. Qualified immunity, defense, and indemnification.

- a. The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against which the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. However, this subdivision may not be construed to protect any such person from suit ~~and/or~~ liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.
- b. The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against which the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein may be construed to prohibit that person from retaining that person's own counsel and the actual or alleged act, error, or omission may not result from that person's intentional, willful, or wanton misconduct.
- c. The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

ARTICLE VIII - RULEMAKING

1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment and have the same force and effect as provisions of this compact.
2. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.
3. Before promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:
 - a. On the website of the commission; and
 - b. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.
4. The notice of proposed rulemaking must include:

- a. The proposed time, date, and location of the meeting at which the rule will be considered and voted upon;
 - b. The text of the proposed rule or amendment, and the reason for the proposed rule;
 - c. A request for comments on the proposed rule from any interested person; and
 - d. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.
5. Before adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.
 6. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.
 7. The commission shall publish the place, time, and date of the scheduled public hearing.
 - a. Hearings must be conducted in a manner providing each person that wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings must be recorded, and a copy must be made available upon request.
 - b. This section may not be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.
 8. If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.
 9. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.
 10. By majority vote of all administrators, the commission shall take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
 11. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing. However, the usual rulemaking procedures provided in this compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
 - a. Meet an imminent threat to public health, safety, or welfare;
 - b. Prevent a loss of commission or party state funds; or

- c. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.
12. The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision may be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing, and delivered to the commission, before the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE IX - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

1. Oversight.
 - a. Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.
 - b. The commission is entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission, and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or promulgated rules.
2. Default, technical assistance, and termination.
 - a. If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:
 - (1) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default ~~and/or~~ any other action to be taken by the commission; and
 - (2) Provide remedial training and specific technical assistance regarding the default.
 - b. If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated 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 default.
 - c. Termination of membership in this compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board, the defaulting state's licensing board, and each of the party states.

- d. A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
 - e. The commission may not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated, unless agreed upon in writing between the commission and the defaulting state.
 - f. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorneys' fees.
3. Dispute resolution.
- a. Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.
 - b. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.
 - c. If the commission cannot resolve disputes among party states arising under this compact:
 - (1) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.
 - (2) The decision of a majority of the arbitrators is final and binding.
4. Enforcement.
- a. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
 - b. By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. 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 attorneys' fees.
 - c. The remedies herein are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

1. This compact comes into limited effect at such time as this compact has been enacted into law in ~~tenseven~~ party states for the sole purpose of establishing and conveying the commission to adopt rules relating to its operation and the advanced practice registered nurse uniform licensure requirements.
2. ~~On the date of the commission's adoption of the advanced practice registered nurse uniform licensure requirements, all remaining provisions of this compact, and rules adopted by the commission, come into full force and effect in all party states.~~
3. Any state that joins this compact after the commission's initial adoption of the advanced practice registered nurse uniform licensure requirements are subject to all rules that have been previously adopted by the commission.
- 4.3. Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal does not take effect until six months after enactment of the repealing statute.
- 5.4. A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring before the effective date of such withdrawal or termination.
- 6.5. This compact may not be construed to invalidate or prevent any advanced practice registered nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that does not conflict with the provisions of this compact.
- 7.6. This compact may be amended by the party states. An amendment to this compact does not become effective and binding upon any party state until it is enacted into the laws of all party states.
- 8.7. Representatives of nonparty states to this compact must be invited to participate in the activities of the commission, on a nonvoting basis, before the adoption of this compact by all states.

ARTICLE XI - CONSTRUCTION AND SEVERABILITY

This compact must be liberally construed so as to effectuate the purposes of this compact. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is not affected thereby. If this compact is held to be contrary to the constitution of any party state, this compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 312

SENATE BILL NO. 2221

(Senators Meyer, Anderson, Bekkedahl)
(Representatives Kasper, Keiser, O'Brien)

AN ACT to create and enact a new subsection to section 43-15-10 of the North Dakota Century Code, relating to the powers of the state board of pharmacy; to amend and reenact section 43-15-01 of the North Dakota Century Code, relating to the practice of pharmacy; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-15-01. Definitions.

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

1. "Administration" means the direct application of a drug to the body of a patient. The term includes:
 - a. The emergency maintenance of a drug delivery device used in home infusion therapy by a qualified home pharmacist if nursing service is not available;
 - b. ~~Upon immunization and vaccination by injection of an individual who is at least three years of age upon~~ an order by a 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;
 - (1) ~~immunization and vaccination by injection of an individual who is at least eleven years of age; and~~
 - (2) ~~influenza vaccination by injection or by live, attenuated influenza vaccine of an individual who is at least five years of age;~~
 - c. Provision of other drugs to an individual who is at least ~~eighteen~~three years of age upon the order of a practitioner authorized to prescribe such 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.
2. "Automated dispensing system" means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing of medications and which collects, controls, and monitors all transaction information.

3. "Board" means the state board of pharmacy.
4. "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:
 - a. As the result of a practitioner's prescription drug order or initiative based on the practitioner, patient, and pharmacist relationship in the course of professional practice; or
 - b. For the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing.

Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

5. "Confidential information" means individually identifiable health information maintained by the pharmacist in the patient's records or which is communicated to the patient as part of a patient counseling.
6. "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for a consideration.
7. "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is required under federal or North Dakota law to be prescribed by a practitioner and dispensed by a pharmacist.
8. "Dispense" or "dispensing" means the preparation and delivery of a prescription drug, pursuant to a lawful order of a practitioner or a nurse licensed under chapter 43-12.1 who is authorized by the practitioner to orally transmit the order that has been reduced to writing in the patient's record, in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.
9. "Distribute" means the delivery of a drug other than by dispensing or administering.
10. "Drug" or "drugs" means:
 - a. Articles recognized as drugs in the official United States pharmacopeia, official national formulary, official homeopathic pharmacopeia, other drug compendium, or any supplement to any of them;
 - b. Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;
 - c. Articles other than food intended to affect the structure or any function of the body of man or other animals; and
 - d. Articles intended for use as a component of any articles specified in subdivision a, b, or c.
11. "Drug regimen review" includes the following activities:

- a. Evaluation of the prescription drug orders and patient records for:
 - (1) Known allergies;
 - (2) Rational therapy-contraindications;
 - (3) Reasonable dose and route of administration; and
 - (4) Reasonable directions for use.
 - b. Evaluation of the prescription drug orders and patient records for duplication of therapy.
 - c. Evaluation of the prescription drug orders and patient records for interactions:
 - (1) Drug-drug;
 - (2) Drug-food;
 - (3) Drug-disease; and
 - (4) Adverse drug reactions.
 - d. Evaluation of the prescription drug orders and patient records for proper utilization, including overutilization or underutilization, and optimum therapeutic outcomes.
12. "Emergency pharmacy practice" means in the event a pharmacist receives a request for a prescription refill and the pharmacist is unable to obtain refill authorization from the prescriber, the pharmacist may dispense and bill using a pharmacist national provider identifier a one-time emergency refill of up to a ~~seventy-two-hour~~thirty-day supply of the prescribed medication, provided that:
- a. The prescription is not for a controlled substance listed in schedule II;
 - b. The pharmaceutical is essential to the maintenance of life or to the continuation of therapy;
 - c. In the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort;
 - d. The pharmacist properly records the dispensing; and
 - e. The dispensing pharmacist notifies the prescriber of the emergency dispensing within a reasonable time after the one-time emergency refill dispensing.
13. "Labeling" means the process of preparing and affixing of a label to any drug container exclusive, however, of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any label shall include all information required by federal and North Dakota law or regulation.

14. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a drug:
 - a. By a pharmacist or practitioner as an incident to dispensing or administering of a drug in the course of the person's professional practice; or
 - b. By a practitioner or by the practitioner's authorization under supervision for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.
15. "Manufacturer" means a person engaged in the manufacture of drugs in facilities located within North Dakota.
16. "Medicine" means a drug or combination of drugs, used in treating disease in man or other animals.
17. "Nonprescription drugs" means medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.
18. "Original package" means the original carton, case, can, box, vial, bottle, or other receptacle, put up by the manufacturer or wholesaler or distributor, with label attached, making one complete package of the drug article.
19. "Person" means an individual, corporation, limited liability company, partnership, association, or any other legal entity.
20. "Pharmaceutical care" is the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.
21. "Pharmacist" means a person to whom the board has issued a license to practice the profession of pharmacy whose license has not expired or been suspended.
22. "Pharmacy" or "drugstore" means every store or shop where drugs, medicines, or chemicals are dispensed, displayed for sale, or sold, at retail for medicinal purposes, or where prescriptions are compounded, and which is duly registered by the board.
23. "Pharmacy technician" means a person registered by the board who is employed by a pharmacy to assist licensed pharmacists in the practice of pharmacy by performing specific tasks delegated by and under the immediate personal supervision and control of a licensed pharmacist, as permitted by the board.

24. "Practice of pharmacy" means the interpretation, evaluation, and monitoring of prescription orders and patient drug therapy; the compounding, dispensing, labeling of drugs and devices except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices; the participation in drug selection, drug monitoring, drug administration, drug regimen review, the provision of these acts or services necessary as a primary health care provider of pharmaceutical care, and drug utilization evaluations; the proper and safe storage of drugs and devices and the maintenance of proper records for this storage; the responsibility for advising, consulting, and educating if necessary or if regulated, patients, public, and other health care providers on the rational, safe, and cost-effective use of drugs including therapeutic values, content, hazards, and appropriate use of drugs and devices; the participation in interpreting and applying pharmacokinetic data and other pertinent laboratory data to design safe and effective drug dosage regimens; if appropriate and if regulated, the participation in drug research either scientific or clinical as investigator or in collaboration with other investigators for the purposes of studying the effects of drugs on animals or human subjects, with other drugs or chemicals, and with drug delivery devices; emergency pharmacy practice; prescriptive practices as limited under this chapter; the performance of laboratory tests to provide pharmaceutical care services which are waived under the Federal Clinical Laboratory Improvement Act of 1988 [Pub. L. 100-578, section 2; 102 Stat. 2903; 42 U.S.C. 263a et seq.], as amended; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.
25. "Practitioner" means an individual licensed, registered, or otherwise authorized by the jurisdiction in which the individual is practicing to prescribe drugs in the course of professional practice.
26. "Prescription" means any order for drugs or medical supplies, if such order is written or signed or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed physician, optometrist, dentist, veterinarian, or other practitioner, licensed by law to prescribe and administer such drugs or medical supplies intended to be filled, compounded, or dispensed by a pharmacist or any order for drugs or medical supplies transmitted orally by a nurse licensed under chapter 43-12.1 as written and signed by such a duly licensed physician, optometrist, dentist, veterinarian, or other practitioner.
27. "Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with one of the following:
- "Caution: Federal law prohibits dispensing without prescription";
 - "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or
 - Rx only;
- or a drug which is required by any applicable federal or North Dakota law or rule to be dispensed on prescription only or is restricted to use by practitioners only.

28. "Public health issues" include immunizations, tobacco cessation, and other issues deemed appropriate by the board.

29. "Radiopharmaceutical service" means, but is not limited to, the compounding, dispensing, labeling, and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or where regulated, of therapeutic values, hazards, and use of radiopharmaceuticals; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of radiopharmaceuticals.

29-30. "Wholesaler" means a person with facilities located in this state who buys for resale and distribution to persons other than consumers.

198 SECTION 2. A new subsection to section 43-15-10 of the North Dakota Century Code is created and enacted as follows:

To establish limited prescriptive authority through a statewide protocol for public health issues within the scope of practice for a pharmacist. The board shall adopt rules to establish standards of care.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 22, 2021

Filed March 23, 2021

¹⁹⁸ Section 43-15-10 was also amended by section 360 of House Bill No. 1247, chapter 352.

CHAPTER 313

SENATE BILL NO. 2279

(Senators Klein, Anderson, Luick)
(Representatives Dockter, Tveit)

AN ACT to amend and reenact section 43-15-31.5 of the North Dakota Century Code, relating to permitting a pharmacy technician to administer drugs under the authority of a pharmacist; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁹ **SECTION 1. AMENDMENT.** Section 43-15-31.5 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. Educational requirements, 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. Physiology and techniques of administration of drugs; and
 - f. Recordkeeping requirements established by law, rule, and regulation or established standards of care.
2. A requirement an authorized pharmacist shall obtain and maintain current certification in cardiopulmonary resuscitation or basic cardiac life support.
3. Requirements for content of practitioner orders and protocols.

¹⁹⁹ Section 43-15-31.5 was also amended by section 361 of House Bill No. 1247, chapter 352.

4. Requirements relating to the reporting of the administration to a patient's primary health care provider and to the state department of health.
5. Requirements relating to environments in which drugs may be administered.

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

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 314

SENATE BILL NO. 2128

(Senators Lee, Anderson, K. Roers)
(Representatives D. Anderson, Dobervich, Weisz)

AN ACT to amend and reenact section 43-17-42 of the North Dakota Century Code, relating to the corporate practice of medicine by nonprofit entities and charitable trusts; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-17-42 of the North Dakota Century Code is amended and reenacted as follows:

43-17-42. Employment of physicians by hospitals - Employment of physicians by nonprofit entities and charitable trusts for hyperbaric oxygen therapy.

1. Notwithstanding any other provision of law, a hospital licensed under chapter 23-16 may employ directly or indirectly a physician ~~provided that~~ if the employment relationship between the physician and hospital is evidenced by a written contract ~~containing. The written contract must contain~~ language to the effect that the hospital's employment relationship with the physician may not affect the exercise of the physician's independent judgment in the practice of medicine, and the physician's independent judgment in the practice of medicine is in fact unaffected by the physician's employment relationship with the hospital. Under this ~~section~~subsection a hospital ~~may not be deemed to be~~is not engaged in the practice of medicine.
2. Notwithstanding any other provision of law, a nonprofit entity or charitable trust may employ directly or indirectly a physician to conduct hyperbaric oxygen therapy if the employment relationship between the physician and nonprofit entity or charitable trust is evidenced by a written contract. The written contract must contain language to the effect the nonprofit entity's or charitable trust's employment relationship with the physician may not affect the exercise of the physician's independent judgment in the practice of medicine, and the physician's independent judgment in the practice of medicine is in fact unaffected by the physician's employment relationship with the nonprofit entity or charitable trust. Under this subsection a nonprofit entity or charitable trust is not engaged in the practice of medicine.

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

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 315

SENATE BILL NO. 2051

(Industry, Business and Labor Committee)
(At the request of the State Board of Plumbing)

AN ACT to amend and reenact sections 43-18-04, 43-18-06, and 43-18-08 of the North Dakota Century Code, relating to employees of the state board of plumbing and fees for applications, examinations, renewals, and late renewals for plumbers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-18-04 of the North Dakota Century Code is amended and reenacted as follows:

43-18-04. Office and officers of board.

The members of the board shall elect from their number a president, a vice president, and a treasurer, and they shall select a secretary, but the office of secretary and treasurer may be held by the same person. The secretary or secretary-treasurer need not be a member of the board ~~but must be a licensed plumber. The board shall have its headquarters at the state capital.~~

SECTION 2. AMENDMENT. Section 43-18-06 of the North Dakota Century Code is amended and reenacted as follows:

43-18-06. Board may hire and fix compensation of employees - Incur necessary expenses.

The board may employ an executive director; inspectors, who must be registered plumbers; ~~and such stenographers and assistants~~ administrative staff, as may be necessary, ~~and~~ The board shall fix the compensation of such employees, and may incur such other expenses as may be required. All such salaries and expenses must be paid only out of such moneys as may be in the state plumbing board fund. The executive director may serve as the secretary or secretary-treasurer of the board.

SECTION 3. AMENDMENT. Section 43-18-08 of the North Dakota Century Code is amended and reenacted as follows:

43-18-08. Duties of board.

The board shall:

1. Enforce the provisions of this chapter.
2. Prescribe rules and regulations not inconsistent with the provisions of this chapter for the examination, regulation, and licensing of plumbers, either as master plumbers, journeyman plumbers, plumber's apprentices, or any of such classifications.
3. Adopt rules that set fees for licensure which may include a fee for:

- a. An examination, within the limits established by this chapter.
- b. An application, not to exceed one hundred dollars.
- c. A renewal, within the limits established by this chapter.
- d. A late renewal, not to exceed one hundred dollars.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 316

HOUSE BILL NO. 1258

(Representatives Louser, Adams, Boschee, Mock, Roers Jones, Steiner, Vetter)
(Senators D. Larsen, Meyer, J. Roers)

AN ACT to amend and reenact sections 43-23-02, 43-23-03, 43-23-04, 43-23-05, 43-23-08, 43-23-08.2, 43-23-09, 43-23-10, 43-23-11.1, 43-23-12, 43-23-13.1, 43-23-14.1, 43-23-16, 43-23-19, 43-23.1-14, 43-23.2-02, and 43-23.2-03 of the North Dakota Century Code, relating to real estate commission administration and real estate licensing; to repeal chapter 43-23.4 of the North Dakota Century Code, relating to real estate broker trust accounts; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23-02 of the North Dakota Century Code is amended and reenacted as follows:

43-23-02. Commission - Term - Duties - Records.

The governor shall appoint each member of the commission for a term of five years. Terms must be staggered so the term of one member expires each year. At the expiration of the term of any member of the commission, the governor shall appoint a successor for a term of five years. A commissioner may not serve more than two consecutive five-year terms. In the event of a vacancy on the commission for any reason the governor shall appoint a member for the unexpired term of that member.

A majority of the commission, in a duly assembled meeting, may perform and exercise all of the duties and powers devolving on the commission. The commission may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.

~~The commission shall adopt a seal with North Dakota real estate commission engraved on the seal, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of such commission, must be received in evidence in all courts equally and with like effect as the original.~~

SECTION 2. AMENDMENT. Section 43-23-03 of the North Dakota Century Code is amended and reenacted as follows:

43-23-03. Commission office - Executive director.

The commission shall employ an executive director who shall furnish bond as required by the commission and who shall keep a record of all proceedings, transactions, communications, and official acts of the commission, ~~be and who is~~ custodian of all moneys received for licenses which must, by the executive director, be deposited shall deposit for safekeeping in depositories designated by the commission. The executive director ~~must be~~ is the custodian of all records of the commission and ~~shall~~ perform such other duties as the commission may require. The commission ~~is authorized to may~~ fix the salary of the executive director, to employ such other employees as may be necessary to properly carry out the provisions of this chapter, to fix salaries and prescribe duties of such employees, and to make such

other expenditures as are necessary to carry out the provisions of this chapter. The commission shall meet annually and upon call by the executive director upon a written request of three or more members of the commission. ~~The place of meeting of the said commission must be at the office of the executive director.~~ The location of the office of the executive director must be at such places within the state as the commission may designate. The commission shall maintain all files, records, and property of the commission at the office of the executive director.

SECTION 3. AMENDMENT. Section 43-23-04 of the North Dakota Century Code is amended and reenacted as follows:

43-23-04. Commission - Compensation.

The members of the commission ~~shall be entitled to receive fifty dollars per diem, not to exceed the daily compensation rate a member of the legislative assembly is entitled to receive under section 54-35-10 for attendance at a legislative management committee meeting, as determined by the commission in the annual budget process,~~ for each day actually engaged in the service of the commission and ~~must~~ to be paid actual and necessary traveling expenses to be paid only from the fund derived from fees collected in the administration of this chapter. All moneys or fees collected or received by the commission must be deposited and disbursed in accordance with section 54-44-12.

SECTION 4. AMENDMENT. Section 43-23-05 of the North Dakota Century Code is amended and reenacted as follows:

43-23-05. Real estate license required.

~~No~~A person may ~~not~~ act as a real estate broker or real estate salesperson, or advertise or assume to act as ~~such~~a real estate broker or real estate salesperson, without a license issued by the real estate commission. ~~No~~A person is ~~not~~ entitled to collect any fees, compensation, or commission as a real estate broker or real estate salesperson without having first complied with the provisions of this chapter. ~~No~~A copartnership, association, corporation, or limited liability company may ~~not~~ be granted a license, unless at least one partner, shareholder, member, manager, or officer of the copartnership, association, corporation, or limited liability company, actually engaged as a real estate broker ~~or real estate salesperson as defined herein,~~ holds a license as a real estate broker, and unless every employee who acts as a real estate salesperson for ~~such~~the copartnership, association, corporation, or limited liability company holds a license as a real estate salesperson.

SECTION 5. AMENDMENT. Section 43-23-08 of the North Dakota Century Code is amended and reenacted as follows:

43-23-08. License standards.

1. Licenses and ~~the~~license renewals ~~thereof~~ may be granted only to persons who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of a real estate broker or a real estate salesperson in such manner as to safeguard the interest of the public, and whose real estate license has not been revoked in this or any other state within two years ~~prior to~~~~before~~ the date of application. To determine the competency of applicants, the commission shall prescribe and hold examinations at designated times and places.
2. In addition to the requirements established by subsection 1, an applicant for a broker's or salesperson's license must be at least eighteen years of age.

3. Every applicant for a license as a real estate broker:
 - a. ~~Shall~~Must have been actively engaged as a licensed real estate salesperson for a period of at least ~~one year~~two years preceding the date of application, ~~which, beginning July 1, 1979, is increased to two years; or~~
 - b. ~~Shall~~Must have had experience as determined by the commission to be substantially equal to that which a licensed real estate salesperson would ordinarily receive during a period of ~~one year, which, beginning July 1, 1979, is increased to two years.~~
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 ninety 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.
5. If the commission finds ~~that~~ an applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where the salesperson resides, ~~then~~ the experience requirements established in subdivisions a and b of subsection 3 may be waived by the commission. The educational requirements of subsection 4 may not be waived by the commission, but guidelines may be established ~~whereby~~by which applicants who have engaged in certain educational courses of study which are closely related to the real estate profession may be deemed to have satisfied this requirement.
6. The commission may adopt reasonable rules and regulations pursuant to the provisions of chapter 28-32 relative to procedures for licensing, approval of coursework, and for the type of certification or proof of coursework completion that must be submitted.

SECTION 6. AMENDMENT. Section 43-23-08.2 of the North Dakota Century Code is amended and reenacted as follows:

43-23-08.2. License renewal - Continuing education required.

1. The commission may establish the conditions under which each applicant for renewal of a broker's or salesperson's license, in addition to the requirements of section 43-23-08, shall submit proof of participation in approved continuing education. In establishing the conditions for continuing education, the commission may determine the required number of hours, the frequency and conditions of reporting requirements, and all other terms and conditions of continuing education compliance. The commission shall set standards for the approval of ~~lectures, seminars, courses of instruction, and~~ correspondence education courses that qualify for satisfaction of this requirement, and shall maintain a current list of ~~lectures, seminars, courses of instruction, and~~ correspondence education courses so approved. ~~Lectures, seminars, courses of instruction, and correspondence courses may not~~

~~require passing of a test to qualify for satisfaction of this requirement. Licensees must have the option of attending an approved course of instruction in person or taking an approved correspondence course. Attendance at a course or the completion of a correspondence an education course must be documented in accordance with procedures established by the commission. The commission may adopt rules concerning implementation of this section pursuant to chapter 28-32.~~

2. A license may not be renewed by the commission unless the proper certification showing fulfillment of the continuing education requirements of this section and the appropriate licensing fees are submitted to the commission in accordance with section 43-23-13.1.
3. The commission may exempt licensees from the continuing education requirements of this section for reasons relating to the licensee's health, military service, or for other good cause. Licensees who have held a real estate license for fifteen continuous years on January 1, 1984, are exempt from the requirements of this section.

SECTION 7. AMENDMENT. Section 43-23-09 of the North Dakota Century Code is amended and reenacted as follows:

43-23-09. License application.

Every application for a real estate broker's license or a real estate salesperson's license must be ~~in writing upon blanks prepared by the commission~~ and contain such data and information as the commission may require.

SECTION 8. AMENDMENT. Section 43-23-10 of the North Dakota Century Code is amended and reenacted as follows:

43-23-10. Nonresident brokers - Reciprocity - Consent to service.

A nonresident broker regularly engaged in the real estate business as a vocation and who maintains a definite place of business and is licensed in ~~some other another~~ state, which offers the same privileges to the licensed brokers of this state, may not be required to maintain a place of business within this state. The commission shall recognize the license issued to a real estate broker by another state as satisfactorily qualifying the nonresident broker for license as a broker; provided, ~~that the nonresident broker has qualified for license in the broker's own state and also that the other state permits licenses to be issued to licensed brokers in this state.~~ Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against ~~such~~the applicant in the proper court of any county of the state in which a claim for relief may arise, in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on any member of the commission, or the executive director, ~~said~~the consent stipulating and agreeing ~~that such service of such~~the process or pleading ~~shall be~~is taken and held in all courts to be as valid and binding as if due service had been made upon ~~said~~the applicant in this state. The consent must be duly acknowledged. Any service of process or pleading must be by duplicate copies, one of which must be filed in the office of the commission and the other immediately forwarded by registered mail to the last-known main office of the applicant against whom ~~said~~the process or pleading is directed, and no default in ~~any such~~the proceedings or action may be taken except upon affidavit or certificate of the commission or the executive director, that a copy of ~~said~~the process or pleading was mailed to the defendant as ~~herein~~under this section, and no judgment by default may not be taken in any such action or proceeding until after

thirty days from the date of mailing of ~~such~~the process or pleading to the nonresident defendant.

SECTION 9. AMENDMENT. Section 43-23-11.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-11.1. Investigations, grounds for refusal, suspension or revocation of license - Hearing - Appeal.

1. The commission upon its own motion may investigate, and upon the verified complaint in writing of any person, shall; investigate the activities of any licensee or any person ~~who~~that assumes to act in such capacity within the state, and has the power to suspend or revoke a license, impose a monetary fine and actual costs incurred by the commission in the investigation and prosecution of the complaint, require course attendance, or issue a letter of reprimand, or any combination thereof, ~~when~~if the licensee, in performing or attempting to perform any of the acts included within the scope of this chapter, has performed one or more of the following:
 - a. Making a material false statement in the licensee's application for a license or in any information furnished to the commission.
 - b. Making any substantial and willful misrepresentation with reference to a real estate transaction which is injurious to any party.
 - c. Making any false promise of a character such as to influence, persuade, or induce a party to a real estate transaction to that person's injury or damage.
 - d. Acting for more than one party in a transaction without the knowledge and consent of all parties to that transaction for whom the licensee acts.
 - e. ~~Failure~~Failing to account for or to remit, within a reasonable time, any moneys coming into the licensee's possession belonging to others; commingling funds of others with the licensee's own, failing to keep such funds of others in an escrow or trust account with a bank or other recognized depository in this state, or keeping records relative to the deposit, which must contain such information as may be prescribed by the rules and regulations of the commission relative thereto.
 - f. ~~Been~~Being convicted or ~~pleaded~~pleading guilty or nolo contendere before any court of any felony, or of a misdemeanor involving theft, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or other similar offense. A certified copy of the record of conviction is conclusive evidence of conviction in such cases.
 - g. Claiming or taking of any secret or undisclosed amount of compensation or commission or the failure of a licensee to reveal to the licensee's principal or employer the full amount of ~~such~~the licensee's compensation or commission in connection with any acts for which a license is required under this chapter.
 - h. Failing or refusing upon demand to produce any document, book, or record in the licensee's possession or under that person's control, concerning any real estate transaction under investigation by the commission.

- i. Offering real property for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on any terms other than those authorized by the owner or agent.
- j. Refusing, because of race, color, national origin, ~~or ethnic group, religion, sex, age, physical or mental disability, or status with respect to marriage or public assistance~~ to show, sell, lease, or rent any real estate to prospective renters, lessees, or purchasers.
- k. Failing or refusing upon demand to furnish copies of any document pertaining to any transaction dealing with real estate to any person whose signature is affixed ~~thereto~~ to the document.
- l. Paying compensation or commission in connection with any real estate sale, lease, or other transaction to any person ~~whohat~~ is not licensed as a real estate broker or real estate salesperson under this chapter.
- m. Failing to disclose to an owner the licensee's intention or true position if the licensee directly or indirectly through a third party purchases for the licensee or acquires or intends to acquire any interest in or any option to purchase property ~~whichthat~~ has been listed with the licensee's office for sale or lease.
- n. ~~FailureFailing~~ to include a fixed date of expiration in any written listing agreement and ~~failurefailing~~ to leave a copy of ~~suchthe~~ agreement with the principal.
- o. ~~Failure by aA~~ broker ~~failing~~ to deliver to the party or parties represented by the broker a complete detailed closing statement in every real estate transaction, at the time ~~saidthe~~ transaction is consummated, showing all of the receipts and disbursements handled by ~~suchthe~~ broker for the party or parties represented by the broker, and to retain true copies of ~~suchthe~~ statements in the broker's files.
- p. Violating any provisions of this chapter or rule or regulation ~~promulgatedadopted~~ by the commission.
- q. ~~Violation of any provision of such realtor's code of ethics as the commission has or may promulgate and adopt.~~
- r. Accepting a commission or valuable consideration as a real estate salesperson for the performance of any of the acts specified in this chapter, or by rule or regulation of the commission, from any person except the licensed real estate broker under whom the individual is licensed as a salesperson.
- s-r. If the licensee is a broker, allowing any unlicensed salesperson to do any act or engage in any activity regulated by this chapter or under rule or regulation of the commission; which is carried on in the name of or under the authority of the broker.
- t.s. ~~Failure of aA~~ salesperson ~~failing~~ to place with that ~~person'ssalesperson's~~ employing broker for deposit in the brokerage trust account all real estate trust moneys received by the salesperson within twenty-four hours of the time of receipt; or failure of the employing broker to place ~~suchthe~~ moneys

for deposit within twenty-four hours of the time of receipt from the salesperson. Provided that if trust money is received on a day ~~prior to~~ before a holiday or on another day ~~prior to~~ before which the depository is closed where the trust fund is maintained, the moneys must then be deposited during the next business day of the depository.

- ~~u.t.~~ The licensee ~~failing~~ failing to reduce an offer to writing when a proposed purchaser requests ~~that such~~ the offer be submitted to the seller, or failure of the licensee to submit all offers to a seller when ~~such~~ the offers are received ~~prior to~~ before the seller accepting an offer in writing and until the broker has knowledge of ~~such~~ the acceptance.
 - ~~v.u.~~ Any other conduct, whether of the same or of a different character than specified in this subsection, which constitutes dishonesty or fraudulent conduct, whether arising within or without the pursuit of that person's licensed privilege.
 - ~~w.v.~~ Any conduct ~~which~~ that in the determination of the commission does not meet the generally accepted standard of expertise, care, or professional ability expected of real estate brokers or salespersons, provided that any disciplinary measures by the commission under this subdivision must be limited to the issuance of a letter of reprimand to the offending licensee.
2. If the commission declines or fails to approve an application submitted to ~~it~~ the commission, ~~it~~ the commission immediately shall ~~immediately~~ give notice of that fact to the applicant, and upon request from ~~such~~ the applicant, filed within twenty days after the receipt of ~~such~~ the notice, shall fix a time and place for hearing, of which twenty days' notice must be given to ~~such~~ the applicant and to other persons interested or protesting, to offer evidence relating to the application. In such cases the commission shall fix the time for such hearing on a date within sixty days from receipt of the request for the particular hearing, provided the time of hearing may be continued from time to time with the consent of the applicant. As a result of such hearing, the commission may either approve the application if all other applicable provisions of this chapter have been met, and permit the applicant to take the examination to determine whether the applicant ~~shall~~ must be licensed, or ~~it~~ the commission may sustain ~~it~~ the commission's prior decision refusing to approve the application.
 3. A license may not be revoked or suspended, a monetary fine or actual costs may not be imposed, course attendance may not be required, nor any letter of reprimand issued except after hearing before the commission with a copy of the charges having been duly served upon the licensee and upon sustaining of the charges for suspension, revocation, fine, payment of actual costs incurred, required course attendance, or reprimand. The provisions of chapter 28-32 apply to and govern all proceedings for suspension, revocation, fine, payment of actual costs incurred, required course attendance, or reprimand of licenses or licensees.
 4. In any order or decision issued by the commission in resolution of a disciplinary proceeding in which disciplinary action is imposed against a licensee, the commission may direct the licensee to pay a fine not to exceed ~~two thousand five hundred~~ five thousand dollars and actual costs, including attorney's fees, incurred by the commission in the investigation and prosecution of the case. All fines collected must be deposited in the commission's license fee account.

SECTION 10. AMENDMENT. Section 43-23-12 of the North Dakota Century Code is amended and reenacted as follows:

43-23-12. Broker's place of business - License of employed salesperson.

1. Every ~~person~~individual, partnership, association, corporation, or limited liability company licensed as a real estate broker is required to have and maintain a definite place of business within this state, for the transaction of real estate business, ~~except as provided in section 43-23-10. The certificate of registration~~license as broker and the ~~certificate~~license of each real estate salesperson ~~employed by such~~licensed under that broker must be prominently displayed in said office ~~or the licensee's name and license number listed on the broker's website.~~ The said place of business must be designated in the license, and ~~no~~ license issued under the authority of this chapter may ~~not~~ authorize the licensee to transact business ~~at any other address~~under any other broker. In case of removal from the designated ~~address~~broker, the licensee shall make application to the commission before ~~said~~the removal or within ~~ten~~five days after ~~said~~the removal, designating the new location of such office, whereupon the commission ~~immediately~~ shall ~~forthwith~~ issue a new license for the new location for the unexpired period. The broker's home may qualify as ~~sue~~the place of business.
2. All licenses issued to real estate salespersons shall ~~must~~ designate the ~~employer~~broker of ~~such~~the salespersons. Prompt notice in writing, within ~~ten~~five days, must be given to the commission by any real estate salesperson of a change of ~~employer~~broker, and of the name of the licensed broker into whose ~~employ~~supervision the salesperson is about to enter, and a new license shall ~~thereupon~~must be issued by the commission to ~~such~~the salesperson for the unexpired term of the original license, upon the return to the commission of the license previously issued. The change of ~~employer or employment~~broker by any licensed real estate salesperson, without notice to the commission ~~as aforesaid~~, shall automatically ~~cancel~~cancel that person's license. Upon termination of a real estate salesperson's ~~employment~~supervision by a broker, the broker ~~employer~~immediately shall ~~forthwith~~ ~~return the salesperson's license to~~ ~~notify the commission for cancellation~~in writing. It is unlawful for any real estate salesperson to perform any of the acts contemplated by this chapter either directly or indirectly after that person's ~~employment~~supervision by a broker has been terminated and ~~license as a salesperson has been returned for cancellation, until said~~the license has been reissued by the commission to a new broker.

SECTION 11. AMENDMENT. Section 43-23-13.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-13.1. License renewal.

Every person licensed to practice as a real estate broker or real estate salesperson ~~must~~shall register annually with the commission and pay the appropriate annual renewal fee as provided in section 43-23-13. The application for renewal must be accompanied by such certification as required by this chapter and rules of the commission to show compliance with the educational requirements of sections 43-23-08 and 43-23-08.2, and ~~is to~~must be submitted to the commission with the appropriate fee no later than the application deadline set by the commission. A licensee ~~who~~that fails to file a timely application for the renewal of any license and pay the renewal fee on or before the application deadline may file a late renewal application, together with the required educational certification, before ~~March~~

~~first January fifteenth~~ of the subsequent year and shall pay, in addition to the renewal fee, a late fee as set by the commission for each month or fraction thereof ~~of a month~~ after the application deadline. Any license not renewed by ~~March first January fifteenth~~ must be canceled. The cancellation must be performed without any notice or opportunity for hearing. Any person whose license has been canceled and ~~whowhich~~ desires relicensure must be required to satisfy the application and examination requirements for prospective licensees in accordance with this chapter and rules of the commission.

~~No~~A licensee may not engage in any activity after December thirty-first of any year for which a license is required under this chapter unless that person's license has been renewed by the commission.

SECTION 12. AMENDMENT. Section 43-23-14.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-14.1. Handling of funds by brokers.

Except as otherwise provided in this section, every broker ~~shall~~, at all times, shall maintain in the broker's name or firm name, a separate, noninterest-bearing trust account designated as such in a federally insured financial institution in this state in which the broker ~~shall~~ immediately shall place as a demand deposit all funds not the broker's own coming into the broker's possession, in accordance with rules adopted by the commission. This requirement extends to funds in which the broker may have some future interest or claim and includes earnest money deposits. ~~Provided, the deposit of funds may be made in an interest-bearing account in a federally insured bank, trust company, savings and loan association, or credit union if all parties having an interest in the funds have agreed in writing and if a copy of the agreement is maintained on file by the broker.~~ A broker may not commingle the broker's personal funds or other funds in a trust account, except that a broker may deposit and keep a sum not to exceed five hundred dollars in the account from the broker's personal funds, which sum must be specifically identified and deposited to cover service charges related to the trust account. In conjunction with the account, the broker shall maintain at the broker's usual place of business, books, records, contracts, and other necessary documents so that the adequacy of the account may be determined at any time. Trust accounts and other records must be open to inspection by the commission and ~~its~~the commission's duly authorized agents at all times during regular business hours at the broker's usual place of business.

A broker ~~whothat~~ does not accept trust funds in real estate brokerage transactions and ~~whowhich~~ has applied for and received a waiver from the real estate commission is not required to maintain a designated trust account. However, if a broker does not maintain a trust account and later receives trust funds in a real estate brokerage transaction, the broker shall open a designated trust account as required by this section and deposit any trust funds in accordance with rules adopted by the commission. A broker shall maintain a record tracking the earnest money associated with all transactions even if the funds are deposited directly with the title company and the broker does not take possession of the funds.

SECTION 13. AMENDMENT. Section 43-23-16 of the North Dakota Century Code is amended and reenacted as follows:

43-23-16. Licensee list.

The executive director shall ~~publish, at least annually,~~maintain a list online of the names and addresses of all licensees licensed by the board under the provisions of this chapter, together with such other information relative to the enforcement of the

provisions of this chapter as the board may deem of interest to the public. ~~One of such lists must be mailed to the recorder in each county, unless the board of county commissioners designates a different official, and must be held as a public record. Such lists must also be provided by the executive director to any person in this state upon request, and to all licensed brokers without charge.~~

SECTION 14. AMENDMENT. Section 43-23-19 of the North Dakota Century Code is amended and reenacted as follows:

43-23-19. Errors and omissions insurance required of salespersons and brokers - Rules.

The real estate commission shall adopt rules pursuant to chapter 28-32 requiring as a condition of licensure that, ~~effective January 1, 2002, and thereafter,~~ all real estate salespersons and brokers, except those ~~whewhich~~ hold inactive licenses, carry errors and omissions insurance covering all activities contemplated under this chapter.

SECTION 15. AMENDMENT. Section 43-23.1-14 of the North Dakota Century Code is amended and reenacted as follows:

43-23.1-14. Cease and desist ordersOrders.

1. ~~If the commission may issue an order requiring a person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter if the~~ commission determines after notice and hearing that a person has:
 - a. Violated any provision of this chapter;
 - b. Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an interest in subdivided lands;
 - c. Made any substantial change in the plan of disposition and development of the subdivided lands ~~subsequent to~~after the order of registration without obtaining prior written approval from the commission;
 - d. Disposed of any subdivided lands ~~which~~that have not been registered with the commission; or
 - e. Violated any lawful order or rule or regulation of the commission;

~~it may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter.~~
2. If the commission makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, ~~it the commission may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the commission, whenever possible, by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order must include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent~~commence an action in the district court of the county in which the act or practice occurred

for an injunction to enforce compliance with this chapter. The commission is not required to give any bond for commencing this action. Upon a showing of a violation the district court may enjoin the act or practice and may make any order necessary to conserve, protect, and disburse any funds involved.

SECTION 16. AMENDMENT. Section 43-23.2-02 of the North Dakota Century Code is amended and reenacted as follows:

43-23.2-02. Fees paid into fund.

1. In addition to the appropriate licensing fees paid by real estate brokers and salespersons, ~~each person licensed for the calendar year 1976 as a real estate broker or salesperson shall pay, at the time of application for such license, a separate fee in the amount of twenty dollars which must be credited into the education, research, and recovery fund. Each person so licensed for the calendar year 1977 shall pay a like fee in the amount of twenty dollars which must be credited into the fund. Thereafter, any person who is licensed as a real estate broker or salesperson for the first time, either for the calendar year 1978 or for a subsequent calendar year, shall pay a fee of twenty dollars at the time of obtaining such~~the license which must be credited into the education, research, and recovery fund. Except for assessments paid into the fund as provided in subsection 2, any person obtaining a broker's or salesperson's license for the first time ~~which becomes effective for the calendar year 1978 or for a subsequent calendar year, shall pay the fee of twenty dollars into the fund only once.~~
2. If, on June thirtieth of any year, following the establishment of the real estate education, research, and recovery fund, the amount remaining in the fund is less than sixty thousand dollars, every licensed real estate broker and salesperson, when renewing that individual's person's license, shall pay, in addition to the annual renewal fee, a sum not to exceed twenty dollars, which must have been determined by the commission to be sufficient to restore the balance in the fund to at least sixty thousand dollars.
3. The commission shall maintain a minimum of sixty thousand dollars in the fund for recovery purposes. Such funds must be invested and reinvested by the commission and interest from ~~said~~the investments must be deposited to the credit of the fund. Sufficient liquidity must be maintained so that moneys are available to satisfy all claims ~~which~~that are processed through the commission by means of the procedures established in this chapter.
4. The commission, in ~~its~~the commission's discretion, may use any moneys in the fund in excess of sixty thousand dollars, regardless of whether ~~it~~the excess is from education, research, and recovery fund fees or accrued interest thereon, for the following purposes:
 - a. To promote the advancement of education and research in the field of real estate for the benefit of those licensed under chapter 43-23.
 - b. To underwrite educational seminars and other forms of educational projects for the benefit of real estate licensees.
 - c. To establish a real estate chair or courses at North Dakota institutions of higher learning for the purpose of making such courses available to licensees and the general public.

- d. To contract for a particular educational or research project in the field of real estate to further the purposes of chapter 43-23.
5. The executive director of the commission shall furnish a bond in the amount of sixty thousand dollars, upon such conditions as the commission may prescribe.

SECTION 17. AMENDMENT. Section 43-23.2-03 of the North Dakota Century Code is amended and reenacted as follows:

43-23.2-03. Claims against fund - Orders for payment.

When any aggrieved person obtains a final judgment in any court of competent jurisdiction against any person licensed under chapter 43-23, on grounds of fraudulent, deceptive, or dishonest practices, or conversion of trust funds arising directly out of any act or transaction when the judgment debtor was licensed and performed acts for which a license is required under chapter 43-23, ~~and which act or transaction occurred on or after July 1, 1975,~~ the aggrieved person may, upon obtaining such final judgment, file an application in the court in which the judgment was entered for an order directing payment out of the fund in the amount of the actual and direct loss up to the sum of fifteen thousand dollars, unpaid on the judgment, provided that nothing contained within this chapter may be construed to obligate the fund for more than fifteen thousand dollars per transaction regardless of the number of persons aggrieved or parcels of real estate involved in the transaction. The application must be verified and must be served on the commission and upon the judgment debtor and an affidavit of service filed with the court.

SECTION 18. REPEAL. Chapter 43-23.4 of the North Dakota Century Code is repealed.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 317

SENATE BILL NO. 2122

(Senators Bekkedahl, Bakke, Kreun)
(Representatives Paur, Sanford)

AN ACT to create and enact a new section to chapter 43-26.1 of the North Dakota Century Code, relating to permitting physical therapists to order musculoskeletal medical imaging; and to amend and reenact subsection 14 of section 43-26.1-01 of the North Dakota Century Code, relating to the scope of practice of physical therapists.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 14 of section 43-26.1-01 of the North Dakota Century Code is amended and reenacted as follows:

14. "Practice of physical therapy" means:
 - a. 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 to determine a diagnosis for physical therapy, prognosis, and plan of therapeutic intervention, and to assess the ongoing effects of intervention. The term includes ordering musculoskeletal imaging consisting of plain film radiographs to be performed by a professional authorized by chapter 43-62 and interpreted by a licensed physician trained in radiology interpretation, and using these results to determine if a referral to another health care provider is necessary or indicates the necessary treatment is within the physical therapist's scope of practice.
 - b. Alleviating impairments, functional limitations in movement and mobility, and disabilities by designing, implementing and modifying therapeutic interventions that may include 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.

SECTION 2. A new section to chapter 43-26.1 of the North Dakota Century Code is created and enacted as follows:

Ordering imaging.

A physical therapist may order musculoskeletal imaging consisting of plain film radiographs if the physical therapist holds a clinical doctorate degree in physical therapy or has completed a board-approved formal medical imaging training program.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 318

HOUSE BILL NO. 1151

(Representatives Devlin, Rohr, M. Ruby, Weisz)
(Senators Lee, K. Roers)

AN ACT to create and enact two new sections to chapter 43-28 of the North Dakota Century Code, relating to telehealth and the practice of dentistry; to amend and reenact sections 43-28-01, 43-28-03, and 43-28-04 of the North Dakota Century Code, relating to the membership of the state board of dental examiners and the definition of telehealth; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-28-01 of the North Dakota Century Code is amended and reenacted as follows:

43-28-01. Definitions.

As used in this chapter and chapter 43-20, unless the context otherwise requires:

1. "Accredited dental school" means a dental school, college, or university accredited by the commission on dental accreditation of the American dental association or its successor.
2. "Advertising" means to invite the attention of or give notice to the public, by any means, medium, or manner whatsoever of any fact, information, or data pertaining to or being conducive of the practice of dentistry in this state.
3. "Board" means the state board of dental examiners.
4. "Certificate of registration" means a written statement of the board declaring that a licensed dentist has paid the biennial registration fee required by this chapter.
5. "Dentist" means an individual who has a license to practice in this state and who holds a valid biennial certificate of registration.
6. "License" means the right, authority, or permission granted by the board to practice dentistry in this state.
7. "Practice of dentistry" means examination, diagnosis, treatment, repair, administration of local or general anesthetics, prescriptions, or surgery of or for any disease, disorder, deficiency, deformity, discoloration, condition, lesion, injury, or pain of the human oral cavity, teeth, gingivae, and soft tissues, and the diagnosis, surgical, and adjunctive treatment of the diseases, injuries, and defects of the upper and lower human jaw and associated structures.
8. "Telehealth" has the same meaning as in section 26.1-36-09.15.

SECTION 2. AMENDMENT. Section 43-28-03 of the North Dakota Century Code is amended and reenacted as follows:

43-28-03. State board of dental examiners - Members - Appointment - Terms of office - Oath - Vacancies.

The state board of dental examiners consists of ~~seventine~~nine members appointed by the governor. The membership of the board must include ~~five~~six dentist members, at least one of whom is a board-eligible or board-certified oral and maxillofacial surgeon; one dental hygienist member; one dental assistant member; and one independent consumer member. Appointment to the board is for a term of five years, with terms of office arranged so that ~~one term expires~~no more than two terms expire on March sixteenth of each year, ~~except that each fifth year there must be two new board members appointed, one of whom is a dentist and the other a dental hygienist and two years later two new board members must be appointed, one of whom is a dentist, and one of whom is a consumer member. The first five-year term of the consumer member commences on July 1, 1993, and continues through March 15, 1998.~~ Each member of the board shall hold office until a successor is appointed and qualified. ~~Persons~~An individual appointed to the board shall ~~shall qualify~~qualifies by taking the oath required of civil officers. ~~No~~A member may ~~not~~ serve more than ten years or two 5-year terms of office. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy to exist. All vacancies on the board must be filled by the governor by appointment.

SECTION 3. AMENDMENT. Section 43-28-04 of the North Dakota Century Code is amended and reenacted as follows:

43-28-04. Qualifications and appointment of members of the board - Limited vote.

1. An individual may not be appointed as a dentist member of the board unless that individual:
 - a. Is a dentist licensed and registered under this chapter; and
 - b. Is actively engaged in the practice of dentistry and has been so engaged in this state for at least five years immediately preceding the appointment.
2. An individual may not be appointed as the dental hygienist member of the board unless that individual:
 - a. Is a licensed and registered dental hygienist in accordance with chapter 43-20; and
 - b. Is actively engaged in the practice of dental hygiene and has been so engaged in this state for at least five years immediately preceding the dental hygienist's appointment.
3. An individual may not be appointed as the dental assistant member of the board unless that individual:
 - a. Is a registered dental assistant in accordance with chapter 43-20; and
 - b. Is actively practicing as a registered dental assistant and has been so practicing in this state for at least five years immediately preceding the dental assistant's appointment.
4. An individual may not be appointed as the independent consumer member of the board unless that individual:

- a. Has been a resident of North Dakota for five years immediately preceding appointment;
 - b. Has no personal or family or financial relationship with the dental profession; and
 - c. Is not a dentist, a dental hygienist, a dental assistant, a physician, a nurse, or the spouse of an individual engaged in any of those occupations.
- 4-5. The dental hygienist, dental assistant, and independent consumer member of the board shall exercise full voting privileges in all areas except that the dental hygienist may not participate in the clinical examination of dentists for licensure and the dental assistant and independent consumer member may not participate in the clinical examination of dentists or hygienists for licensure.

SECTION 4. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:

Standard of care and professional ethics - Telehealth.

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

1. Professional ethical standards require a dentist to practice only in areas in which the dentist has demonstrated competence, based on the dentist's training, ability, and experience.
2. A dentist may not practice telehealth unless a bona fide dentist-patient relationship is established in person or through telehealth. A dentist practicing telehealth shall verify the identity of the patient seeking care and shall disclose to the patient the dentist's identity, physical location, contact information, and licensure status.
3. Before a dentist initially diagnoses or treats a patient for a specific illness, disease, or condition, the dentist shall perform an examination or evaluation. A dentist may perform an examination or evaluation entirely through telehealth if the examination or evaluation may be performed in accordance with the standard of care required for an in-person dental examination or evaluation. A dentist may not use telehealth to perform an initial examination or evaluation in circumstances in which the standard of care necessitates an in-person dental examination.
 - a. An appropriate telehealth examination or evaluation may include an examination utilizing secure videoconferencing in conjunction with store-and-forward technology or appropriate diagnostic testing that would be required during an in-person examination or evaluation or an examination conducted with an appropriately licensed intervening dental health care provider, practicing within the scope of the dental health care provider's profession, providing necessary physical findings to the dentist during a live, two-way telehealth encounter. An examination or evaluation consisting only of a static online questionnaire or an audio conversation does not meet the standard of care.

- b. The use of telehealth does not expand the scope of practice for a dental health care provider, and may not be used to circumvent the licensure requirements established for dental health care providers in this state.
- c. A dentist who practices telehealth in this state must have adequate knowledge of the availability and location of local dentists and dental health care providers to provide followup care to a patient following a dental telehealth encounter, including emergent and acute care facilities, in order to enable a patient to receive followup care. Once a dentist conducts an appropriate examination or evaluation, whether in-person or by telehealth, and establishes a patient-dentist relationship, subsequent followup care may be provided as deemed appropriate by the treating dentist, or by another dentist licensed by the board designated by the treating dentist to act temporarily in the treating dentist's absence.
4. A dentist practicing telehealth is subject to all North Dakota laws governing the adequacy of dental records and the provision of dental records to the patient and other dental health care providers treating the patient.
5. A dentist practicing telehealth must have procedures for providing in-person services or for the referral of a patient requiring dental services that cannot be provided by telehealth to another dentist who practices in the area of the state and the patient can readily access.

SECTION 5. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:

Prohibition - Waivers.

A dentist practicing dentistry may not require a patient to sign a form or statement waiving the patient's right to file a complaint against the dentist with an appropriate state entity or shielding the dentist from liability for injury resulting from a dental encounter.

SECTION 6. APPLICATION. The governor shall appoint the members of the board for staggered terms so no more than two members' terms expire each year. Notwithstanding section 43-28-03, a member appointed under this section may not serve more than two full five-year terms but may serve more than ten years.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 319

SENATE BILL NO. 2095

(Industry, Business and Labor Committee)
(At the request of the Private Investigative and Security Board)

AN ACT to amend and reenact sections 43-30-01 and 43-30-10, subsection 6 of section 43-30-10.1, and section 43-30-16 of the North Dakota Century Code, relating to the private investigative security board's executive director and the board's authority to impose penalties and injunctions for unlicensed activity, issue citations for unauthorized practice, and impose administrative fees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-30-01 of the North Dakota Century Code is amended and reenacted as follows:

43-30-01. Definitions.

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

1. "Board" means the private investigative and security board.
2. "Employee" means an employee under a contract of employment as defined in chapter 34-01, and not an independent contractor as defined by the common-law test.
3. "Executive director" means a person appointed by the board on a full-time or part-time basis to be responsible and accountable to the board for the proper administration of the board's duties.
4. "License" includes a registration issued by the board.
- 4-5. "Licensee" includes an individual who is registered by the board.
- 5-6. "Private investigative service" means, for a fee, reward, or other consideration, undertaking any of the following acts for the purpose of obtaining information for others:
 - a. Investigating the identity, habits, conduct, movements, whereabouts, transactions, reputation, or character of any person or organization;
 - b. Investigating the credibility of persons;
 - c. Investigating the location or recovery of lost or stolen property, missing persons, owners of abandoned property or escheated property, or heirs to estates;
 - d. Investigating the origin of and responsibility for libels, losses, accidents, or damage or injuries to persons or property;

- e. Investigating the affiliation, connection, or relationship of any person, firm, or corporation with any organization, society, or association, or with any official, representative, or member thereof;
 - f. Investigating the conduct, honesty, efficiency, loyalty, or activities of employees, persons seeking employment, agents, or contractors and subcontractors;
 - g. Investigating or obtaining evidence to be used before any authorized investigating committee, board of award, board of arbitration, administrative body, or officer or in preparation for trial of civil or criminal cases; or
 - h. Investigating the identity or location of persons suspected of crimes or wrongdoing.
- 6-7. "Private security service" means furnishing for hire security officers or other persons to:
- a. Protect persons or property;
 - b. Prevent or detect theft or the unlawful taking of goods, wares, or merchandise, or to prevent the misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, choses in action, notes, or other valuable documents or papers;
 - c. Control, regulate, or direct the flow of or movements of the public, whether by vehicle or otherwise, to assure protection of private property;
 - d. Prevent or detect intrusion, unauthorized entry or activity, vandalism, or trespass on private property;
 - e. Perform the service of a security officer or other person for any of these purposes; or
 - f. Transport money or negotiable securities to or from a financial institution or between business locations on a regular or daily basis, except for mail delivery.

SECTION 2. AMENDMENT. Section 43-30-10 of the North Dakota Century Code is amended and reenacted as follows:

43-30-10. Penalty - Injunction - Unlicensed activity.

Any person who violates this chapter or rules adopted under this chapter, or any person who provides a private investigative service or private security service without a current license issued by the board, or falsely states or represents that the person has been or is an investigative officer or employed by an investigative or security officer or agency is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of an injunction is available to restrain and enjoin violations of any provisions of this chapter, without proof of actual damages sustained by any person. An injunction does not preclude criminal prosecution and punishment of a violator. The board is not liable for the lost income, costs, or any other expenses that may be incurred by a person against whom an injunction is sought, and the board may not be required to provide security or a bond. The board may seek costs for reimbursement of expenses for obtaining an injunction, including attorney's fees. In

addition to issuing the injunction, the court may impose an administrative fee consistent with section 43-30-10.1 if the person has violated a provision of this chapter. The board may seek an injunction, impose administrative fees, or seek an order of abatement through an administrative action or in district court.

SECTION 3. AMENDMENT. Subsection 6 of section 43-30-10.1 of the North Dakota Century Code is amended and reenacted as follows:

6. An appeal must be heard under the procedures contained in chapter 28-32, unless the citation is brought in district court.

²⁰⁰ **SECTION 4. AMENDMENT.** Section 43-30-16 of the North Dakota Century Code is amended and reenacted as follows:

43-30-16. Examination, license, and registration fees.

The board may establish by rule and charge the following fees:

1. The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a license as a private investigator or a license to provide private security services may not exceed one hundred dollars.
2. The fee to be paid by an applicant for the initial issuance or the renewal of a license as a private investigator or a license to provide private security services may not exceed one hundred fifty dollars. A late fee not to exceed fifty dollars may be charged for each month the renewal fee is due and unpaid.
3. The fee to be paid by an applicant to apply for a license to conduct a private security or detective agency may not exceed one hundred dollars.
4. The fee for the issuance or the renewal of a license to conduct a private security or detective agency may not exceed three hundred dollars. A late fee not to exceed one hundred dollars may be charged for each month the renewal fee is due and unpaid.
5. The one-time fee to be paid by an applicant for the issuance of a private security training certificate may not exceed twenty-five dollars.
6. The annual fee to be paid by an applicant for the issuance of an armed private security certificate may not exceed ~~twenty-five~~thirty dollars. A late fee not to exceed ten dollars may be charged for each month the renewal fee is due and unpaid.
7. The fee to be paid for the issuance of a duplicate license may not exceed twenty dollars.
8. The initial registration fee to provide private investigative service or private security service may not exceed ~~twenty-five~~thirty dollars. The fee for the renewal of a registration to provide private investigative service or private security service may not exceed ~~twenty-five~~thirty dollars. A late fee not to exceed ten dollars may be charged for each month the renewal fee is due and unpaid.

²⁰⁰ Section 43-30-16 was also amended by section 1 of House Bill No. 1463, chapter 497, and section 1 of Senate Bill No. 2096, chapter 321.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 320

SENATE BILL NO. 2126

(Senators Kreun, Clemens, Myrdal)
(Representatives Jones, O'Brien)

AN ACT to amend and reenact section 43-30-03 of the North Dakota Century Code, relating to the membership of the private investigative and security board; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-30-03 of the North Dakota Century Code is amended and reenacted as follows:

43-30-03. Private investigative and security board.

The governor shall appoint a private investigative and security board. The board must consist of not ~~less~~fewer than five nor more than eleven members appointed for staggered four-year terms. ~~Appointees to~~When making appointments, the governor shall consider whether there is member representation from the western, central, and eastern geographic regions of the state. Each member of the board must be knowledgeable in private investigative or private security matters. A majority of the members of the board must be actively engaged in the private investigative or security profession, with at least one member actively engaged in law enforcement. Members of the board may not receive ~~any~~ compensation for ~~their~~ service on the board, but ~~they~~ are entitled to ~~be reimbursed~~receive reimbursement for ~~their~~ expenses incurred in performing ~~their~~official duties in the amounts provided by law for state employees.

SECTION 2. APPLICATION. This Act applies to board appointments made on and after the effective date of this Act.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 321

SENATE BILL NO. 2096

(Industry, Business and Labor Committee)
(At the request of the Private Investigative and Security Board)

AN ACT to create and enact a new subsection to section 43-30-16 of the North Dakota Century Code, relating to application and renewal fees for armed first responder course instructor certification; and to amend and reenact subsection 7 of section 62.1-02-14 of the North Dakota Century Code, relating to licensing of instructors of armed first responders in schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰¹ **SECTION 1.** A new subsection to section 43-30-16 of the North Dakota Century Code is created and enacted as follows:

The initial application fee for a certified course instructor for an armed first responder training certification may not exceed four hundred dollars. A fee for renewal of a course instructor certification for an armed first responder program may not exceed three hundred dollars.

²⁰² **SECTION 2. AMENDMENT.** Subsection 7 of section 62.1-02-14 of the North Dakota Century Code is amended and reenacted as follows:

7. The plan submitted by the school to the superintendent of public instruction must require the selected individual to complete ~~training equivalent to the South Dakota school sentinel program as established on August 1, 2019, or~~ complete the course established by the private investigative and security board. The private investigative and security board shall establish standards equivalent to the South Dakota school sentinel program and may license and certify course instructors, audit the course, and set administrative fees for licensure and certification.

Approved March 29, 2021

Filed March 30, 2021

²⁰¹ Section 43-30-16 was also amended by section 1 of House Bill No. 1463, chapter 497, and section 4 of Senate Bill No. 2095, chapter 319.

²⁰² Section 62.1-02-14 was also amended by section 3 of House Bill No. 1463, chapter 497.

CHAPTER 322

HOUSE BILL NO. 1345

(Representatives Heinert, Jones, Klemin, Meier, Satrom, Vetter)
(Senators Larson, Luick, Myrdal)

AN ACT to amend and reenact sections 43-31-07, 43-31-09, 43-31-10, and 43-31-14 of the North Dakota Century Code, relating to the licensing of detection of deception examiners and to repeal sections 43-31-07.1 and 43-31-16 of the North Dakota Century Code, relating to internship licenses and exemptions from testing requirements of detection of deception examiners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-31-07 of the North Dakota Century Code is amended and reenacted as follows:

43-31-07. Qualifications of applicant.

~~A person~~An individual is qualified to receive a license as an examiner if the applicant:

1. Who is~~is~~ at least twenty-one years of age.
2. Who establishes that the person is a person of honesty, truthfulness, integrity, and moral fitness~~Within the last five years has not pled guilty or nolo contendere to, been found guilty of, or been released from incarceration or probation for, violation of a law of the United States which is a felony offense or any state or local ordinance that is a felony offense.~~
3. Who has not been convicted of an offense determined by the attorney general to have a direct bearing upon a person's ability to serve the public as an examiner, or who, following~~Following conviction of any offense or release from incarceration or probation, is determined, pursuant to section 12.1-33-02.1, to be rehabilitated; or who has not been released or discharged under other than honorable conditions from any of the armed services of the United States.~~
4. Who has passed a test conducted by the attorney general,~~Has not been released or under the attorney general's supervision, to determine~~discharged under other than honorable conditions from any of the applicant's competency to obtain a license to practice as an examiner~~armed services of the United States.~~
5. Who has~~Has~~ satisfactorily completed a polygraph examiners course certified by either the American polygraph association or the American association of police polygraphists, or approved by the attorney general and has.
6. Has satisfactorily completed not less than six months of internship training under the supervision of a licensed polygraph examiner.

SECTION 2. AMENDMENT. Section 43-31-09 of the North Dakota Century Code is amended and reenacted as follows:

43-31-09. Contents of license - Posting.

A license must be prominently displayed at the principal place of business of every examiner or may be in the possession of the examiner when conducting examinations in a location other than the examiner's principal place of business. Each license must be signed by the attorney general and must be issued under the seal of the attorney general's office.

SECTION 3. AMENDMENT. Section 43-31-10 of the North Dakota Century Code is amended and reenacted as follows:

43-31-10. Revocation or suspension.

The attorney general may refuse to issue or renew or may suspend or revoke a license for any one of the following grounds:

1. Material misstatement in the application for original license or in the application for any renewal license under this chapter.
2. Willful disregard or violation of this chapter or of any regulation or rule issued pursuant thereto.
3. Conviction of an offense determined by the attorney general to have a direct bearing upon a person's ability to serve the public as an examiner, or when the attorney general determines, following a person's conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
4. Making any willful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees.
5. ~~Having demonstrated incompetency to act as an examiner as defined under this chapter.~~
6. Allowing one's license under this chapter to be used by an unlicensed person in violation of the provisions of this chapter.
- 7-6. Willfully aiding or abetting another in the violation of this chapter or of any rule issued by the attorney general pursuant thereto.
- 8-7. The licenseholder has been adjudged mentally ill, mentally deficient, or in need of mental treatment.
- 9-8. Failing, within a reasonable time, to provide information requested by the attorney general as the result of a formal or informal complaint to the attorney general, which would indicate a violation of this chapter.

SECTION 4. AMENDMENT. Section 43-31-14 of the North Dakota Century Code is amended and reenacted as follows:

43-31-14. Examination and license License fees.

1. ~~The fee to be paid by an applicant for examination to determine the applicant's fitness to receive an examiner's license is fifty dollars.~~

2. The annual license fee is thirty-five dollars, and is due and payable on or before October first of each year. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after ~~September thirtieth~~October first.
- ~~3-2.~~ The fee to be paid for the issuance of a duplicate license is five dollars.
- ~~4-3.~~ The fee to be paid for an internship license, and for the extension or renewal thereof, is twenty-five dollars.

SECTION 5. REPEAL. Sections 43-31-07.1 and 43-31-16 of the North Dakota Century Code are repealed.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 323

SENATE BILL NO. 2187

(Senators K. Roers, Burckhard, Hogan)
(Representatives Devlin, Dobervich, Rohr)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 and sections 43-44-09.1, 43-44-09.2, 43-44-10.1, 43-44-18, 43-44-19, 43-44-20, and 43-44-21, relating to criminal history background checks and licensure and regulation of nutritionists and dietitians; to amend and reenact sections 43-44-01, 43-44-02, 43-44-03, 43-44-05, 43-44-06, 43-44-07, 43-44-08, 43-44-09, 43-44-10, 43-44-12, 43-44-13, 43-44-15, 43-44-16, and 43-44-17 of the North Dakota Century Code, relating to the regulation and licensure of nutritionists and dietitians; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰³ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The board of dietetic practice for applications for licensure or renewal under chapter 43-44, except that criminal history record checks need not be made unless required by the board.

SECTION 2. AMENDMENT. Section 43-44-01 of the North Dakota Century Code is amended and reenacted as follows:

43-44-01. Definitions.

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

1. "Board" means the board of dietetic practice.
2. "Board for certification of nutrition specialists" means the entity that serves as the credentialing agency for certified nutrition specialists.
3. "Certified nutrition specialist" means an individual certified as a nutrition specialist by the board for certification of nutrition specialists that authorizes the individual to use the title "certified nutrition specialist" and the abbreviation "CNS" to indicate the individual is a certified nutrition specialist.
4. "Commission on dietetic registration" means the credentialing agency for the academy of nutrition and dietetics.

²⁰³ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2338, chapter 379.

5. "Degree" means a degree received from a college or university that was a United States regionally accredited body recognized by the council for higher education accreditation and the United States department of education at the time the degree was received or validated foreign equivalent.
6. "Dietetics" means the integration, application, and communication of practice principles derived from integrating knowledge of the food, nutrition, biochemistry, physiology, management, and behavioral and social science, business, and basic sciences to achieve and maintain the health of people by providing optimal nutrition assessment and nutrition care services status of an individual. The primary function of the practice of dietetics is the provision of medical nutrition therapy.
3. "Dietitian" includes dietician.
4. "General nutrition services" means the counseling of individuals or groups in the selection of food to meet normal nutritional needs, and the assessment of nutritional needs of individuals or groups by planning, organizing, coordinating, and evaluating the nutritional components of community health services.
- 5-7. "Evidence-based" or "evidence-based practice" means an approach to health care through which health practitioners use the best evidence available, to make decisions for individuals, groups, and populations.
8. "Foreign practitioner" means an individual who holds and maintains a license in good standing to engage in the practice of dietetics and nutrition 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.
9. a. "General nonmedical nutrition information" may include information on any of the following:
 - (1) Principles of good nutrition, menu planning, and food preparation.
 - (2) Food that should be included in the normal daily diet.
 - (3) The essential nutrients needed by the human body.
 - (4) The recommended amounts of essential nutrients in the human body.
 - (5) The actions of nutrients in the human body.
 - (6) The effects of deficiencies or excesses of nutrients in the human body.
 - (7) Foods, herbs, and supplements that are good sources of essential nutrients in the human body.
- b. The term does not include the provision of medical nutrition therapy.
10. "General supervision" means the qualified supervisor is onsite and present where nutrition care services are provided or is immediately available to the individual being supervised by means of electronic communications and maintains continual involvement in the appropriate aspects of patient care.

and has primary responsibility for all nutrition care services rendered by an individual.

11. "Licensed nutritionist" means a personan individual licensed to provide general nutrition services as provided in this chapters as a nutritionist under this chapter who may be referred to or hold oneself out as a nutritionist.
- 6-12. "Licensed registered dietitian" means a personan individual licensed to practice dietetics as provided in this chapters as a dietitian under this chapter who may be referred to or hold oneself out as a dietitian, dietitian nutritionist, nutritionist, or a dietician.
- 7-13. "Medical nutrition therapy" means the provision of nutrition care services for the treatment or management of a disease or medical condition. The term includes the provision of any part or all of the following services:
 - a. Interpreting anthropometric, biochemical, clinical, and dietary data in acute and chronic disease states and recommending or ordering nutrient needs based on the dietary data, including tube feedings and parenteral nutrition.
 - b. Food and nutrient counseling, including food and prescription drug interactions.
 - c. Developing and managing food service operations, including operations for the management or treatment of disease or medical conditions, with the primary function of nutrition care or recommending or ordering therapeutic diets.
 - d. Medical weight control.
14. "Medical weight control" means medical nutrition therapy for the purpose of reducing, maintaining, or gaining weight.
15. "Nonmedical weight control" means the provision of services for the purpose of reducing, maintaining, or gaining weight which does not constitute the treatment of a disease or medical condition. The term includes weight control services for healthy population groups to achieve or maintain a healthy weight.
16. "Nutrition" means the science of food and nutrients, including the action, interaction, and balance of food and nutrients in relation to health and disease and the process by which humans ingest, absorb, transport, utilize, and excrete food substances. The primary function of the practice of nutrition is the provision of medical nutrition therapy.
17. "Nutrition assessment" means the screening and evaluation of the nutrition of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine their nutritional needs and recommend appropriate nutritional intake including enteral and parenteral nutritionssystematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition-related problems. The mere collection of data itself does not constitute nutrition assessment. The term includes an ongoing, dynamic process that:

- a. Involves an initial data collection and a reassessment and analysis of client or community needs; and
- b. Provides the foundation for nutrition diagnosis and nutritional recommendations, including enteral and parenteral nutrition.

8-18. a. "Nutrition care services" includes:

- a. ~~Providing nutrition assessment.~~
- b. ~~Planning or providing of food appropriate for physical and medical needs.~~
- c. ~~Providing nutrition counseling to meet both normal and therapeutic needs.~~
- d. Providing general nutrition services and related nutrition activities means the provision of any part or all of the following services within a systematic process:
 - (1) Assessing and evaluating the nutritional needs of individuals and groups, and determining resources and constraints in the practice setting, including ordering laboratory tests to check and track nutrition status, creating dietary plans and orders, and monitoring the effectiveness of the plans and orders.
 - (2) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints.
 - (3) Providing nutrition counseling in health and disease.
 - (4) Developing, implementing, and managing nutrition care systems.
 - (5) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.
 - (6) Ordering therapeutic diets.
- b. The term does not include the retail sale of food products or vitamins, the giving of general nonmedical nutrition information, or the providing of nonmedical weight control by unlicensed individuals.

19. "Nutrition counseling" means the advice and assistance provided by a licensed registered dietitian or licensed nutritionist to an individual or group on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparations consistent with cultural background, socioeconomic status, and therapeutic needs.

20. "Nutrition diagnosis" means identifying and labeling nutritional problems managed and treated by a licensed registered dietitian or licensed nutritionist. The term does not include the medical differential diagnosis of the health status of an individual.

21. "Nutrition intervention" means purposefully planned actions and nutrition counseling intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of the health status for an individual.

22. "Nutrition monitoring and evaluation" means identifying patient outcomes relevant to a nutrition diagnosis and comparing the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether planned interventions should be continued or revised.
23. "Onsite supervision" means the qualified supervisor is present in the department or facility or virtual platform at which nutrition care services are provided, is immediately available to the individual being supervised and maintains continual involvement in the appropriate aspects of patient care, and has primary responsibility for all nutrition care services rendered by an individual.
24. "Practice of dietetics and nutrition" means the integration and application of scientific principles derived from the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, food management, and behavioral and social sciences in achieving and maintaining health throughout the life span and in providing nutrition care services in person and via telehealth, including medical nutrition therapy, for the purpose of disease management and prevention, or to treat or rehabilitate an illness, injury, or condition.
25. "Provisional license" means a license granted to an applicant who has submitted the information required in section 43-44-12 and applied for examination but has not completed the examination successfully yet.
26. "Qualified supervisor" means:
- a. If supervising the provision of medical nutrition therapy, an individual who is:
 - (1) A certified nutrition specialist or a registered dietitian nutritionist;
 - (2) A licensed nutritionist who has met the education and experience qualifications under section 43-44-07, a licensed dietitian nutritionist, or a licensed registered dietitian; or
 - (3) A health care provider licensed or otherwise authorized under the laws of any state to provide nutrition care services to treat or manage a disease or medical condition.
 - b. If supervising the provision of nutrition care services that do not constitute medical nutrition therapy, an individual who either meets the requirements of paragraph 1 of subdivision a or an individual with at least three years of clinical nutrition experience who holds a master's or doctoral degree with a major course of study in dietetics, human nutrition, foods and nutrition, community nutrition, public health nutrition, naturopathic medicine, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or an equivalent course of study as approved by the board.
27. "Registered dietitian" or "registered dietitian nutritionist" means an individual registered as a dietitian or a dietitian nutritionist with the commission on dietetic registration which authorizes the individual to use the title "registered

dietitian nutritionist" or "registered dietitian" and the abbreviation "RDN" or "RD".

28. "Telehealth" means the use of electronic information and telecommunications technologies to provide services under this chapter to support clinical health care, patient and professional health-related education, public health, and health administration between a licensee in one location and an individual in another location.
29. "Therapeutic diet" means a diet intervention prescribed by a physician or other authorized nonphysician practitioner which provides food or nutrients via oral, enteral, or parenteral routes, or a combination thereof, as part of treatment of disease or diagnosed clinical conditions to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet.

SECTION 3. AMENDMENT. Section 43-44-02 of the North Dakota Century Code is amended and reenacted as follows:

43-44-02. Board of dietetic practice - Membership - Terms - Meetings.

1. The governor shall appoint a board of dietetic practice, consisting of five members, all of whom must be residents of the state at the time of their appointment. ~~The persons~~individuals appointed must have been engaged in the teaching or rendering of dietetics or ~~general nutrition services~~ to the public, or in research in dietetics or ~~general nutrition services~~ for three years immediately preceding their appointment. Three board members must be licensed registered dietitians and one member must be a licensed nutritionist. ~~The members first appointed to the board need not be licensed under this chapter for appointment to their first term on the board, but must possess the qualifications necessary for licensure under this chapter.~~ One member must be appointed to represent consumers of health services.
2. ~~The governor, prior to September 1, 1985, shall appoint two board members for a term of one year, two for a term of two years, and one for a term of three years. Appointments made thereafter are for terms of three years, but no person~~individual may be appointed to serve more than two consecutive full or partial terms. Terms begin on the first day of September and end on the last day of August or until successors are appointed. An appointment of any member to serve out the remaining term of any position on the board ~~that~~which becomes vacant must be made in the same manner as the original appointment for that position.
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. The board shall meet during September of each calendar year and select a chairperson. At least one additional meeting must be held before September of the next calendar year. Other meetings may be convened at the call of the chairperson or the written request of any two board members. All meetings of the board are open to the public, except that the board may hold closed sessions to ~~approve an examination, or upon request of an applicant who fails an examination, to prepare a response indicating any reason for the applicant's failure~~review patient medical records, review patient testimony, and for other reasons as referenced in section 44-04-19.2.

5. Members of the board receive no compensation for their services, but are entitled to mileage and travel expenses as provided in sections 54-06-09 and 44-08-04, and per diem as set by the board.

SECTION 4. AMENDMENT. Section 43-44-03 of the North Dakota Century Code is amended and reenacted as follows:

43-44-03. Board powers, and duties, and authority.

1. The board shall administer, coordinate, and enforce this chapter, evaluate the qualifications, and approve an examination for licensure under this chapter. The board shall keep any records and minutes as are necessary to carry out ~~its~~the board's functions.
2. The board may:
 4. a. Issue subpoenas, examine witnesses, administer oaths, and investigate allegations of practices violating this chapter.
 2. b. Adopt rules pursuant to chapter 28-32, to implement this chapter, including rules relating to professional licensure and the establishment of ethical standards of practice for licensed registered dietitians and licensed nutritionists.
 - c. Provide interpretive guidance on this chapter.

SECTION 5. AMENDMENT. Section 43-44-05 of the North Dakota Century Code is amended and reenacted as follows:

43-44-05. Fees.

The board shall set and collect fees for application, initial license, renewal of license, late renewal, and ~~limited permit~~provisional license. These fees must be set in such an amount not to exceed two hundred fifty dollars as to reimburse the board, to the extent feasible, for the cost of the services rendered. The board shall waive initial licensure and renewal licensure fees for active duty military and active duty military spouses serving in the United States armed forces in North Dakota.

SECTION 6. AMENDMENT. Section 43-44-06 of the North Dakota Century Code is amended and reenacted as follows:

43-44-06. License required - Title - Abbreviations.

~~A person may not practice or represent as able to practice as a dietitian, or use the title "dietitian", "registered dietitian", "licensed dietitian", or "licensed registered dietitian", or the abbreviations "RD", "LD", or "LRD" unless so licensed under this chapter. A licensed registered dietitian may use the title "licensed registered dietitian" and the abbreviation "LRD". A person may not practice, or represent that the person is able to practice, as a licensed nutritionist using the title "licensed nutritionist" or the abbreviation "LN" unless so licensed under this chapter. A licensed nutritionist may use the title "licensed nutritionist" and the abbreviation "LN"~~

1. Use of an earned, federally trademarked nutrition credential is not prohibited, but such use does not give an individual the right to practice dietetics or nutrition, provide medical nutrition therapy, or use the general titles of dietitian or nutritionist, unless an individual is licensed under this chapter. Notwithstanding any law to the contrary, all of the following are permissible:

- a. An individual registered with the commission on dietetic registration may use the title "registered dietitian" and "registered dietitian nutritionist" and the designation of "RD" or "RDN".
 - b. An individual certified by the board of certification of nutrition specialists may use the title "certified nutrition specialist" and the designation "CNS".
 - c. An individual certified by the American clinical board of nutrition may use the title "diplomate, American clinical board of nutrition" and use the designation "DACBN".
2. A person not licensed under this chapter may not do any of the following:
- a. Provide medical nutrition therapy with or without compensation.
 - b. Use or allow a business entity or a business entity's employees, agents, or representatives to use any of the following titles or abbreviations in association with a person's name:
 - (1) Dietitian nutritionist or nutritionist.
 - (2) Dietitian or dietician.
 - (3) Nutrition counselor or nutrition specialist.
 - (4) LRD, LDN, or LN.
 - (5) Nutritional therapy practitioner or nutritional therapy consultant.
 - (6) Certified nutrition therapy practitioner.
 - (7) Master nutrition therapist.
 - (8) Licensed dietitian nutritionist, licensed registered dietitian, or licensed nutritionist.
 - (9) Any other designation, words, letters, or insignia in connection with a name indicating an offer or eligibility to provide medical nutrition therapy or indicating a license to practice dietetics and nutrition or provide medical nutrition therapy unless licensed under this chapter.
3. This section does not prohibit an individual from using an earned title trademarked by the United States patent and trademark office.

SECTION 7. AMENDMENT. Section 43-44-07 of the North Dakota Century Code is amended and reenacted as follows:

43-44-07. Requirements for licensure - Licensed nutritionist.

1. An applicant for licensure as a licensed nutritionist ~~must~~shall file a written application with the board, submit any fees required by the board, and submit proof of completion of the following requirements:
 - a. ~~Have satisfactorily completed academic requirements required by the board, and have received a baccalaureate degree in the field of dietetics~~

- or food and nutrition, as approved by the board, from an accredited college or university;
- b. Have received a master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition from an accredited college or university, or have received a master's or doctorate degree in a related field that meets eligibility requirements of the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization;
 - e. Maintain membership in one of the following organizations: American institute of nutrition, American society for clinical nutrition, or the American board of nutrition; or
 - d. Present evidence to the board regarding employment and competence as a nutritionist before July 1, 1985, and the inability to meet the criteria of subdivision a, b, or c. Have received a master's or doctoral nutrition degree or validated foreign equivalent with a major course of study in human nutrition, foods and nutrition, community nutrition, public health nutrition, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or a comparable course of study, or a master's or doctoral degree or validated foreign equivalent, in a field of clinical health care from a college or university accredited at the time of graduation from the appropriate regional accrediting agency recognized by the council on higher education accreditation and the United States department of education, and have completed coursework leading to competence in medical nutrition therapy which must consist of the following courses:
 - (1) Fifteen semester hours of clinical or life sciences, including such courses as chemistry, organic chemistry, biology, molecular biology, biotechnology, botany, genetics, genomics, neuroscience, experimental science, immunotherapy, pathology, pharmacology, toxicology, research methods, applied statistics, biostatistics, epidemiology, energy production, molecular pathways, hormone and transmitter regulations and imbalance, and pathophysiologic basis of disease. At least three semester hours must be in human anatomy and physiology or the equivalent.
 - (2) Fifteen semester hours of nutrition and metabolism, including such courses as nutrition assessment, developmental nutrition, nutritional aspects of disease, human nutrition, macronutrients, micronutrients, vitamins and minerals, clinical functional medicine nutrition, molecular metabolism, nutrition, nutritional biochemistry, nutrition and digestive health, and public health nutrition. At least six semester hours must be in biochemistry or an equivalent as approved by the board.
 - b. The applicant must have completed a board-approved internship or a documented, supervised practice experience demonstrating competency in nutrition care services and the provision of medical nutrition therapy of not less than one thousand hours including at least two hundred hours of nutrition assessment, two hundred hours of nutrition intervention, education, counseling, or management, and two hundred hours of nutrition monitoring or evaluation. A minimum of seven hundred hours of

supervised practice experience is required in professional work settings and no more than three hundred hours can be in alternate supervised experiences such as observational client-practitioner interactions, simulation, case studies, and role playing. This experience must be under the supervision of a qualified supervisor. A qualified supervisor shall provide onsite supervision of an applicant's supervised practice experience in the provision of medical nutrition therapy and provide general supervision of an applicant's provision of other nutrition care services that do not constitute medical nutrition therapy.

c. The applicant meets one of the following criteria:

- (1) The applicant has successfully completed a board-approved examination such as the certification examination for nutrition specialists administered by the board for certification of nutrition specialists or the diplomate examination administered by the American clinical board of nutrition; or
- (2) The applicant has either a valid certification with the board for certification of nutrition specialists that gives the applicant the right to use the term "certified nutrition specialist" or "CNS" or a valid certification with the American clinical board of nutrition which gives the applicant the right to use the term "diplomate, American clinical board of nutrition" or "DACBN".

d. The applicant shall complete a background check or fingerprinting if requested by the board.

2. An applicant for renewal of a license as a licensed nutritionist ~~must~~:

- a. ~~Comply~~Shall comply with subsection 1.
- b. ~~Have~~Must have satisfactorily completed continuing education requirements as specified and approved by the board.
- c. Shall complete a background check or fingerprinting if requested by the board.

SECTION 8. AMENDMENT. Section 43-44-08 of the North Dakota Century Code is amended and reenacted as follows:

43-44-08. Requirements for licensure - Licensed registered dietitian.

1. Applicants for licensure as a licensed registered dietitian ~~must~~shall file a written application with the board, submit any fees required by the board, and submit proof of completion of the following requirements:
 - a. ~~Comply with subsection 1 of section 43-44-07.~~
 - b. Have satisfactorily completed the education and experience requirements for registered dietitians nutritionists approved by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.

- e. ~~b.~~ Have satisfactorily completed the examination approved and administered by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
 - c. Have a current valid registration with the commission on dietetic registration which gives the applicant the right to use the term "registered dietitian" or "registered dietitian nutritionist".
 - d. Complete a background check or fingerprinting if requested by the board.
2. Applicants for renewal of licensure as a licensed registered dietitian ~~must~~:
- a. ~~Comply~~Shall comply with subsection 1.
 - b. ~~Have~~Must have satisfactorily completed continuing education requirements specified by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
 - c. Shall complete a background check or fingerprinting if requested by the board.

SECTION 9. AMENDMENT. Section 43-44-09 of the North Dakota Century Code is amended and reenacted as follows:

43-44-09. Waiver of requirements for licensure of dietitians.

~~Upon application, the board shall grant a license to any person certified prior to July 1, 1985, as a registered dietitian by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization. Upon application of any person certified by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization after July 1, 1985, the board may waive the examination, education, and experience requirements and grant the applicant a license if the board determines that the requirements for certification are equivalent to the related requirements for licensure in this chapter.~~

SECTION 10. Section 43-44-09.1 of the North Dakota Century Code is created and enacted as follows:

43-44-09.1. Grandfathering of licensed nutritionists.

An individual who meets the requirements for licensure and holds a license as a licensed nutritionist on the effective date of this Act and is practicing or residing in this state on the effective date of this Act is eligible to maintain and renew a license as a licensed nutritionist if the applicant furnishes evidence satisfactory to the board that the applicant has met continuing education as required by the board.

SECTION 11. Section 43-44-09.2 of the North Dakota Century Code is created and enacted as follows:

43-44-09.2. Scope of practice.

1. A licensed registered dietitian and licensed nutritionist shall provide nutrition care services using systematic, evidence-based, problem-solving methods of the nutrition care process to think critically and make decisions to address nutrition-related problems and provide safe, effective, quality nutrition services

and medical nutrition therapy for patients and clients in both clinical and community settings.

2. A licensed registered dietitian or licensed nutritionist may accept or transmit oral, verbal, delegated, or electronically transmitted orders from the referring provider consistent with applicable laws and rules, including any protocols established to implement medical nutrition therapy.
3. A licensed registered dietitian or licensed nutritionist may order patient diets, including therapeutic diets, in accordance with the provisions of this chapter. Oral therapeutic diets may be ordered by either a licensed registered dietitian or a licensed nutritionist. Therapeutic diets include enteral and parenteral nutrition therapy, which consist of specialized enteral or intravenous solutions and may be ordered only by an individual licensed under this chapter who also meets one of the following criteria:
 - a. The individual is a registered dietitian nutritionist registered with the commission on dietetic registration;
 - b. The individual is a certified nutrition support clinician certified by the national board of nutrition support certification; or
 - c. The individual meets other requirements as determined by the board, consistent with competencies necessary for evaluating, ordering, and administering enteral and parenteral nutrition.
4. This chapter does not limit the ability of any other licensed health care practitioner in this state to order therapeutic diets if the ordering of therapeutic diets falls within the scope of the license held by the health care practitioner.
5. A licensed registered dietitian or licensed nutritionist who has met the qualifications under section 43-44-07 or 43-44-08 may order medical laboratory tests related to nutritional therapeutic treatments consistent with state law.
6. A licensed registered dietitian or licensed nutritionist may implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the licensed registered dietitian's or licensed nutritionist's knowledge, skills, judgment, and current evidence-informed clinical practice guidelines as indicated in a facility approved protocol and as approved and delegated by the licensed prescriber. This subsection does not allow licensees to prescribe or initiate drug treatment. A licensed registered dietitian and licensed nutritionist may be authorized to prescribe vitamin and mineral supplements or discontinue unnecessary vitamins and minerals.

SECTION 12. AMENDMENT. Section 43-44-10 of the North Dakota Century Code is amended and reenacted as follows:

43-44-10. Persons excepted from license requirement.

This chapter does not prevent or restrict the practice, services, or activities of:

1. Persons licensed to practice medicine, nursing, pharmacy, or dentistryA licensed health care practitioner duly licensed in accordance with title 43 who is acting within the scope of the individual's licensed profession, consistent with the accepted standards of theirthe practitioner's profession, if the persons

~~depractitioner does not represent themselves the practitioner as a licensed registered dietitians dietitian, nutritionist, or licensed nutritionists nutritionist.~~

2. ~~Any person pursuing a course of study in an approved program leading to a degree in the field of dietetics from an accredited college or university, if a student or trainee, working under the onsite supervision of a qualified supervisor while fulfilling an experience requirement or pursuing a course of study to meet the licensure requirements of section 43-44-07 or 43-44-08, for a time period of no more than five years after the student or trainee completed the course requirements for licensure and the person student or trainee is designated by a title which that clearly indicates that person's individual's status as a student or trainee.~~
3. ~~Any person in the process of fulfilling the experience requirements of section 43-44-07 or 43-44-08, if the activities and services constitute a part of the experience necessary to meet the requirements of those sections and the person is designated by a title which clearly indicates that person's status as a student or trainee An individual providing support activities related to medical nutrition therapy, if the individual works under the general supervision of a registered dietitian licensed by this board, licensed nutritionist licensed by this board, or other health care practitioner licensed by the appropriate North Dakota board whose licensed scope of practice includes the provision of nutrition care services for the purpose of managing a disease or medical condition.~~
4. ~~Any person who does not meet the requirements of subdivision a, b, or c of subsection 1 of section 43-44-07, and who provides nutrition care services, including weight control programs, under the supervision of a licensed registered dietitian, a dietitian licensed in another state that has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter, or a dietitian registered by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.~~
5. ~~A person practicing dietetics or An individual providing general nutrition care services for the purpose of treating or managing a disease or medical condition as a duty of serving in the armed forces.~~
- 6.5. ~~Any person practicing dietetics in this state for no more than ten days annually, if the person has met the commonly accepted standards for the practice of dietetics specifically defined by the board A foreign practitioner providing nutrition care services for the purpose of treating or managing a disease or medical condition in this state if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license if the services are provided through a remote means and are a continuation of an existing relationship between the foreign practitioner and the individual receiving the services which was formed in the state or jurisdiction in which the foreign practitioner is currently licensed.~~
- 7.6. ~~Any person practicing dietetics A foreign practitioner providing nutrition care services for the purpose of treating or managing a disease or medical condition in this state for more than ten days annually who has pending before the board an application for licensure as a licensed registered dietitian under this chapter if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and this title without obtaining a license if~~

the services are provided in consultation with a person licensed by the board and if the foreign practitioner has no direct communication in this state with the individual receiving the services except in the presence of the individual licensed by the board. Both the foreign practitioner and the individual licensed by the board are responsible for the services provided.

- 8-7. An educator who is in the employ of a federal, state, county, or municipal agency, or other political subdivision, or an elementary or secondary school, or an accredited institution of higher education insofar as the activities and services are part of the duties of the employee's position and do not involve provision of medical nutrition therapy; or who is in the employ or service of a nonprofit organization approved by the board.
- 9-8. Any personAn individual having received a baccalaureate degree in home economics or family and consumer sciences, if the personindividual does not represent that the personindividual is a licensed registered dietitian, nutritionist, or licensed nutritionist, insofar as the services and activities are within the scope of that person'sindividual's education and training.
- 10-9. A personAn individual who markets or distributes food, food materials, herbs, or dietary supplements, or any personindividual who engages in the advising of the use of those products, or the preparation of those products, or the counseling of individuals or groups in the selection of products to meet normal nutritional needs, if that personindividual does not represent that that personindividual is a licensed registered dietitian, nutritionist, or licensed nutritionist.
10. An individual from providing nutrition information, individualized nutrition recommendations, health coaching, holistic and wellness education, guidance, motivation, behavior change management, nonmedical weight control, or other nutrition care services if the services do not constitute medical nutrition therapy and the individual does not hold the individual out as a licensed registered dietitian, nutritionist, or licensed nutritionist or as a provider of medical nutrition therapy or otherwise violate provisions of this chapter.
11. An individual providing medical weight control services for individuals with prediabetes or obesity:
- a. Under a program of instruction approved in writing by one of the following:
- (1) A licensed registered dietitian or licensed nutritionist in this state;
 - (2) A dietitian nutritionist or nutritionist licensed in another state that has licensure requirements at least as stringent as the licensure requirements under this chapter, as determined by the board;
 - (3) A registered dietitian nutritionist; or
 - (4) A certified nutrition specialist; or
- b. As part of a plan of care overseen by a health care practitioner licensed in this state and acting within the scope of the individual's licensed profession, consistent with the accepted standards of the practitioner's profession to provide nutrition care services for the purpose of treatment or management of a disease or medical condition.

12. An individual who provides nutrition care services without remuneration to family members.

SECTION 13. Section 43-44-10.1 of the North Dakota Century Code is created and enacted as follows:

43-44-10.1. Qualified supervision.

1. A qualified supervisor must be licensed in this state if supervising an applicant providing medical nutrition therapy to an individual in this state. A qualified supervisor who obtained a doctoral degree outside the United States must have a degree validated by the board as equivalent to the doctoral degree conferred by a United States regionally accredited college or university.
2. The board may adopt rules as necessary and appropriate to implement or clarify onsite supervision.

SECTION 14. AMENDMENT. Section 43-44-12 of the North Dakota Century Code is amended and reenacted as follows:

43-44-12. Limited permitsProvisional license.

A limited permit to practice as a licensed registered dietitian must be issued by the board upon application and submission of evidence of successful completion of the education and experience requirements under subdivision b of subsection 1 of section 43-44-08. The limited permit expires one year from the date of issuance. The limited permit may be renewed for a period not to exceed six months upon submission to the board of a satisfactory explanation for the applicant's failure to become licensed within the original one-year period. An applicant for a provisional license shall file a written application with the board, submit any fees required by the board, complete a criminal history background check if requested by the board, and submit evidence of successful completion of the academic and supervised practice requirements during the five-year period after completion of the academic and supervised practice requirements specified under subdivisions a and b of subsection 1 of section 43-44-07 or subdivision a of subsection 1 of section 43-44-08. A provisional license must be available to an applicant with the applicant's initial application for examination and the applicant may practice only under the supervision of a licensed registered dietitian or a licensed nutritionist who meets requirements under subsection 1 of section 43-44-07. A provisional license expires automatically upon receiving notice of failure of the licensure examination but may be renewed a maximum of one time until the date of the next examination, at which time the provisional license automatically expires and must be surrendered to the board.

SECTION 15. AMENDMENT. Section 43-44-13 of the North Dakota Century Code is amended and reenacted as follows:

43-44-13. Reciprocity.

The board shall grant a license to any applicant who presents proof of current licensure in good standing without any limitations on the license, as a dietitian or nutritionist in another state which that has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter.

SECTION 16. AMENDMENT. Section 43-44-15 of the North Dakota Century Code is amended and reenacted as follows:

43-44-15. Suspension and revocation of license - Refusal to renew.

1. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions on a licensee if the licensee or applicant has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct includes:
 - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
 - b. Being guilty of unprofessional conduct as defined by rules adopted by the board, or violating any code of ethics adopted by the ~~academy of nutrition and dietetics or its predecessor or successor organization~~board.
 - c. Being convicted of an offense, as defined by section 12.1-01-04, that the board determines has a direct bearing upon a person's ability to serve the public as a licensed registered dietitian or a licensed nutritionist or, following conviction of any offense, if the board determines that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
 - d. Violating any lawful order or rule of the board.
 - e. Violating this chapter.
2. A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board after a hearing pursuant to rules adopted by the board. An application for reinstatement may be made to the board one year from the date of the revocation of a license. The board may at its discretion accept or reject an application to consider such reinstatement.

SECTION 17. AMENDMENT. Section 43-44-16 of the North Dakota Century Code is amended and reenacted as follows:

43-44-16. Injunction.

The civil remedy of injunction is available to the board to restrain and enjoin violations of this chapter. The board may apply to an appropriate court for an order enjoining violations of this chapter, and upon a showing by the board that a person has violated or is about to violate this chapter, the court may grant an injunction or a restraining order, or take other appropriate action.

SECTION 18. AMENDMENT. Section 43-44-17 of the North Dakota Century Code is amended and reenacted as follows:

43-44-17. Penalty.

Any~~A~~ person ~~wh~~that violates this chapter is guilty of a class B misdemeanor. Each act of such unlawful practice constitutes a distinct and separate offense.

SECTION 19. Section 43-44-18 of the North Dakota Century Code is created and enacted as follows:

43-44-18. Costs.

The board may assess the attorney fees of disciplinary actions against a licensee or person found to be in violation of this chapter or rules adopted by the board. Costs recovered pursuant to this section are the property of the board.

SECTION 20. Section 43-44-19 of the North Dakota Century Code is created and enacted as follows:

43-44-19. Telehealth.

1. The provision of medical nutrition therapy and nutrition care services for the purpose of treating or managing a disease or medical condition provided by way of telehealth to an individual in this state is not prohibited under this chapter if:
 - a. Telehealth is appropriate for the individual receiving the services;
 - b. The level of care provided meets the required level of care for that individual and:
 - (1) The level of care complies with applicable regulations and laws;
 - (2) Personal health information is protected; and
 - (3) Documentation of nutrition care services are included in the medical records of the patient.
2. An individual providing services regulated by this chapter via telehealth shall comply with, and is subject to, all licensing and disciplinary provisions of this chapter.

SECTION 21. Section 43-44-20 of the North Dakota Century Code is created and enacted as follows:

43-44-20. Limited practice without a license.

Upon prior written application to the board, a foreign practitioner practicing under this section may provide medical nutrition therapy or nutrition care services for the purpose of treating or managing a disease or medical condition in this state under section 43-51-05 if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board if the services are provided for no more than thirty full or partial days per year. The one-year period commences on the date the written application is approved by the board. An application from a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. The board may require payment of a fee of twenty-five dollars or other fee established by the board by administrative rule, not to exceed the higher of twenty-five dollars or one-tenth of the fee for an annual license from the board, as a condition of approving an application under this section. A foreign practitioner is subject to the regulatory and disciplinary provisions of section 43-51-08 and this chapter.

SECTION 22. Section 43-44-21 of the North Dakota Century Code is created and enacted as follows:

43-44-21. Criminal history record checks.

1. The board may require an applicant for licensure or renewal to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in

section 12-60-24. Refusal to consent to a criminal history record check may constitute grounds for the board to deny licensure to an applicant. All costs associated with obtaining a background check are the responsibility of the applicant.

2. The board may request a criminal history record check for an applicant returning to active status as a licensed registered dietitian or licensed nutritionist.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 324

SENATE BILL NO. 2175

(Senators Meyer, Anderson, Burckhard, Hogue)
(Representatives Nathe, Vetter)

AN ACT to amend and reenact subsection 3 of section 15.1-13-17 and sections 43-51-01, 43-51-11, 43-51-11.1, and 43-51-11.2 of the North Dakota Century Code, relating to occupational licensure of members of the military and military spouses; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 15.1-13-17 of the North Dakota Century Code is amended and reenacted as follows:

3. The board shall grant a teaching license to an applicant who is a military spouse or military member who meets the requirements of section 43-51-11.1.

SECTION 2. 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. 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 comparable to the requirements imposed in this state to obtain and maintain a license to practice the same profession or occupation.
5. "Military member" means 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. ~~"Military spouse" means a foreign practitioner who is the spouse of a military 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.~~
- 6-7. "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 3. AMENDMENT. Section 43-51-11 of the North Dakota Century Code is amended and reenacted as follows:

43-51-11. Members of military - License renewal.

1. A board shall adopt rules to provide for or shall grant on a case-by-case basis exceptions to the board's license renewal requirements in order to address renewal compliance hardships that may result from:
 - a. Activation of more than thirty days of a licensee who is a member of the national guard or ~~armed forces of the United States~~ military member.
 - b. Service in the theater or area of armed conflict by a licensee who is a military member of the regular active duty armed forces of the United States.
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 4. AMENDMENT. Section 43-51-11.1 of the North Dakota Century Code is amended and reenacted as follows:

43-51-11.1. Military spouses and military members - Licensure.

1. A board shall adopt rules regarding licensure of a military spouse or a military member or shall grant on a case-by-case basis exceptions to the board's licensing standards to allow a military spouse or military member to practice the occupation or profession in the state if upon application to the board:
 - a. The military spouse or military member 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 board determines the 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. A board shall issue a provisional license or temporary permit to a military spouse or military member for which the licensure requirements under subsection 1 have been substantially met. A board may not charge a military spouse or military member 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 or military member is making progress toward satisfying the unmet licensure requirements. A military spouse or military member 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 or military member 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;
 - c. The military spouse or military member 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 may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spouse or military member 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.
4. A military spouse or military member 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 5. AMENDMENT. Section 43-51-11.2 of the North Dakota Century Code is amended and reenacted as follows:

43-51-11.2. 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 military 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 or military member, the board immediately shall commence the process to issue a license, provisional license, or temporary permit under section 43-51-11.1.
2. Annually, on forms developed by the department of commerce, each board shall report to the department of commerce regarding military member and military spouse data.
3. 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 6. OCCUPATIONAL LICENSURE BOARDS - REPORT TO DEPARTMENT OF COMMERCE. During the 2021-22 interim, each occupational and professional board shall review its licensure laws and rules to determine whether the laws and rules are consistent with this Act. Before August 2022, 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 March 17, 2021

Filed March 18, 2021

CHAPTER 325

SENATE BILL NO. 2164

(Senators Lee, Hogan, K. Roers)
(Representatives Pyle, Schauer)

AN ACT to create and enact section 43-51-10.1 of the North Dakota Century Code, relating to occupational rules in cases of emergencies; and to amend and reenact sections 43-51-04 and 43-51-12 of the North Dakota Century Code, relating to occupational licensure in cases of emergencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-51-04 of the North Dakota Century Code is amended and reenacted as follows:

43-51-04. Emergency practice without a license.

Upon prior written notice to the appropriate board, a foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board, if the services are provided for a period of time not to exceed sixty consecutive days in a calendar year and are provided in response to a disaster or emergency declared by the appropriate authority in this state. The notice provided by a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. A notice provided under this section, if accompanied by sufficient documentation, is deemed to be accepted unless denied by the board. If a notice under this section is denied, the foreign practitioner immediately shall cease providing services under this section and may not resume providing services until after a successful appeal of the board's decision under chapter 28-32 or after an application for privileges under this section is reviewed and approved by the board.

SECTION 2. Section 43-51-10.1 of the North Dakota Century Code is created and enacted as follows:

43-51-10.1. Emergency rules - Emergencies or disasters.

If a disaster or emergency is declared in this state, a board may adopt emergency rules under chapter 28-32 which are contrary to title 43 if the rules are necessary to abate an imminent peril that threatens the health, safety, or welfare of the public. Rules adopted under this section are valid until thirty days after the end of the disaster or emergency declaration.

SECTION 3. AMENDMENT. Section 43-51-12 of the North Dakota Century Code is amended and reenacted as follows:

43-51-12. Foreign practitioners - Emergency practice exemption.

Notwithstanding contrary provisions of law, a foreign practitioner may practice in a disaster or an emergency declared in this state, practice as a member of an organ

harvesting team, or practice on board an ambulance as part of the ambulance treatment team.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 326**SENATE BILL NO. 2061**

(Industry, Business and Labor Committee)
(At the request of the State Board of Integrative Health Care)

AN ACT to create and enact section 43-57-02.1 of the North Dakota Century Code, relating to compensation for members of the state board of integrative health care.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 43-57-02.1 of the North Dakota Century Code is created and enacted as follows:

43-57-02.1. Compensation - Expenses of board.

A member of the board is entitled to receive for each day during which the member actually is engaged in the performance of the duties of the member's office per diem as determined by the board and mileage as provided in section 54-06-09. The secretary of the board is entitled to receive salary or other compensation and allowance for clerical and other expenses of the board as the board determines.

Approved March 22, 2021

Filed March 23, 2021