

NORTH DAKOTA BOARD OF MEDICINE

PRESCRIPTION DRUG MONITORING PROGRAM (PDMP) RULE

1. Every practitioner with a DEA registration number shall register with the PDMP.
2.
 - A. When a practitioner determines that reported drugs will be prescribed to a patient for a period to exceed 12 weeks, the practitioner shall request a PDMP report for that patient and, at a minimum, at least semi-annually thereafter.
 - B. This requirement does not apply to reported drugs prescribed to patients in a controlled setting in which the drugs are locked and administered to the patient, for example, admitted hospital or hospice patients, long term care patients or group home residents.
3. In addition to those reports requested under paragraph 2, practitioners shall request a PDMP report when it is documented in the prescribing practitioner's medical record for that patient that the patient exhibits signs associated with diversion or abuse, including, but not limited to:
 - A. Selling prescription drugs;
 - B. Forging or altering a prescription;
 - C. Stealing or borrowing reported drugs;
 - D. Taking more than the prescribed dosage of any reported drug;
 - E. Having a drug screen that indicates the presence of additional or illicit drugs;
 - F. Being arrested, convicted or diverted by the criminal justice system for a drug-related offense;
 - G. Receiving reported drugs from providers not reported to the treating practitioner; and
 - H. Having a law enforcement or health professional express concern about the patient's use of drugs.
4. A practitioner shall document the receipt and assessment of PDMP reports made under this rule.

General Authority: 28-32-02, NDCC

Statute Implemented: 43-17, NDCC

CHAPTER 50-02-15
TELEMEDICINE

50-02-15-01. Definitions. As used in this chapter, “*Telemedicine*” means the practice of medicine using electronic communication, information technologies or other means between a licensee in one location and a patient in another location, with or without an intervening healthcare provider. It includes direct interactive patient encounters as well as asynchronous store-and-forward technologies and remote monitoring.

“Licensee” means a physician or physician assistant licensed to practice in North Dakota. A physician assistant practicing telemedicine from another state is subject to the rules regarding physician supervision, except that supervision may be by a North Dakota licensed physician who is practicing telemedicine in North Dakota and need not be by a North Dakota licensed physician who is physically located in North Dakota.

50-02-05-02. Licensure. The practice of medicine is deemed to occur in the state the patient is located. Practitioners providing medical care to patients located in North Dakota are subject to the licensing and disciplinary laws of North Dakota and must possess an active North Dakota license for their profession.

50-02-05-03. Standard of care and professional ethics. Licensees are held to the same standard of care and same ethical standards whether practicing traditional, in-person, medicine or telemedicine. Therefore, the following apply in the context of telemedicine:

a) **Scope of practice.** Professional ethical standards require all practitioners to practice only in areas in which they have demonstrated competence, based on their training, ability and experience. In assessing a licensee’s compliance with this ethical requirement, consideration will be given to board certifications and specialty groups’ telemedicine standards.

b) **Patient-Licensee relationship.** A licensee practicing telemedicine must establish a valid relationship with the patient prior to the diagnosis and/or treatment of a patient. A licensee practicing telemedicine shall verify the identity of the patient seeking care; and disclose, and ensure the patient has the ability to verify, the identity and licensure status of any licensee providing medical services to the patient.

c) **Evaluations and examinations required to establish a patient-licensee relationship.** Prior to initially diagnosing or treating a patient for a specific illness or condition, an examination or evaluation must be performed. An examination or evaluation may be performed entirely through telemedicine, if the examination or evaluation is equivalent to an in-person examination. A video examination that utilizes appropriate diagnostic testing and use of peripherals that would be deemed necessary in a like in-person examination or evaluation would meet this standard, as would an examination conducted with an appropriately licensed intervening health care provider, practicing within the scope of their profession, providing necessary physical findings to the licensee. An examination or evaluation that consists only of a static online questionnaire or an audio conversation will not be considered to meet the standard of care.

Once a licensee conducts an acceptable examination or evaluation, whether in-person or by telemedicine, and establishes a patient-licensee relationship, subsequent follow-up care may be provided as deemed appropriate by the licensee, or by a provider designated by the licensee to act temporarily in the licensee's absence.

It is recognized that in certain types of telemedicine utilizing asynchronous store-and-forward technology or electronic monitoring, such as tele-radiology or ICU monitoring, it is not medically necessary for an independent examination of the patient to be performed.

d) Medical records. Licensees practicing telemedicine are subject to all North Dakota laws governing the adequacy of medical records and the provision of medical records to the patient and other medical providers treating the patient.

e) Licensees must have the ability to make appropriate referrals of patients not amenable to diagnosis or complete treatment through a telemedicine encounter, including those patients in need of emergent care, or complementary in-person care.

50-02-15-04. Prescribing. A licensee who has performed a telemedicine examination or evaluation meeting the requirements of this chapter may prescribe medications according to the licensee's professional discretion and judgment, with one exception: Licensees may not prescribe opioids through a telemedicine encounter.

Licensees who prescribe controlled substances, as defined by North Dakota law, in circumstances allowed under this rule, must comply with all state and federal laws regarding the prescribing of controlled substances, and must participate in the North Dakota Prescription Drug Monitoring Program.

General Authority: 28-32-02, NDCC
Statute Implemented: 43-17 , NDCC

50-02-02-01. Special license requirements. ~~In the best interests of the state, the board may grant a special license to special applicants. The special applicant must appear before the board for such examination into the applicant's qualifications as may be required by the board. A special license is renewable annually by the board. The special license may be converted to a regular license upon meeting all statutory and board requirements. The board may issue a medical license to an applicant who does not meet all technical eligibility requirements if the board determines the applicant is uniquely qualified through training or experience or will make a unique or special contribution to the practice of medicine not readily available to the citizens of the state. In applying this rule, the board shall make written findings supporting the issuance of a special license.~~

In addition to the potential benefit to the state, the board shall include in its analysis consideration of the following:

1. Board certification
2. Nature and length of medical practice
3. Nature and length of postgraduate training or research
4. Licenses issued by other states
5. The existence of disciplinary actions by other medical boards or adverse actions by medical facilities
6. History of malpractice judgments or settlements
7. Licensing examinations, such as USMLE or SPEX
8. Such other considerations that bear upon an applicant's eligibility

A license issued under this section is, for all purposes, the same as a regular medical license issued by the board.

General Authority: 28-32-02, NDCC
Statute Implemented: 43-17, NDCC

50-03-01-03 Supervision contract requirements. Upon undertaking the supervision of a physician assistant as contemplated by this chapter, the primary supervising physician shall file with the board a copy of the contract establishing the supervising relationship. That contract must be approved by the board of medicine.

The contract must be confirmed annually by completing and filing with the board such forms as are requested and provided by the board. The board must be notified within seventy-two hours of any contract termination or modification.

Every physician who supervises a physician assistant under this chapter must practice medicine in North Dakota. No physician may act as a supervising physician for any physician assistant who is a member of the physician's immediate family unless specific authorization for such supervision has been approved by the board of medicine. For purposes of this section, "immediate family" means a spouse, parent, child, or sibling of the supervising physician.

54-03-01-05 Designation of substitute primary supervising physician. Under no circumstances shall the primary supervising physician designate the physician assistant to take over the physician's duties or cover the physician's practice. During any absence or temporary disability of a primary supervising physician, it is mandatory that the primary supervising physician designate a substitute supervising primary physician to assume all duties and responsibilities of the primary supervising physician. The physician assistant, during this period, will be responsible to the substitute primary supervising physician. The designation of a primary supervising physician must be made in writing; signed by the primary supervising physician, the substitute primary supervising physician, and the physician assistant; and contain the following information:

1. The name of the substitute primary supervising physician.
2. The period which the substitute primary supervising physician will assume the duties of the primary supervising physician.
3. Any substantive change in the physician assistant's duties or responsibilities.

The appointment of a substitute primary supervising physician does not become effective unless it is first approved by the board of medicine.

General Authority: 28-32-02, NDCC

Statute Implemented: 43-17, NDCC

CHAPTER 50-02-02.1

ADMINISTRATIVE LICENSE

50-02-02.1. Administrative License. The board may issue a license that is limited to administrative medicine, which is defined as administration or management using the medical knowledge, skill and judgment of a licensed physician that may affect the health of any member of the public.

An administrative medical license does not permit the licensee to practice clinical medicine which, for purposes of this rule, includes, but is not limited to, the provision of any patient diagnosis or treatment, the prescribing of any drug, or the delegation of medical authority to, or the supervision of, any health professional. The board shall require an applicant for an administrative medical license to sign an acknowledgement of these limitations prior to the issuance of an administrative medical license.

An applicant for an administrative medical license must meet all the eligibility requirements for a regular medical license, except that the applicant will not be required to demonstrate the maintenance of an active clinical practice prior to applying for an administrative medical license.

The holder of an administrative medical license is subject to the same rules and regulations as those holding a regular medical license, including, but not limited to, the regulations governing license renewal, fees, continuing medical education and discipline.

General authority: 28-32-02, NDCC

Law implemented: 43-17, NDCC