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**Prepared by the Legislative Council staff
for the
Administrative Rules Committee**

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TITLE 28

**STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND
LAND SURVEYORS**

OCTOBER 2010

CHAPTER 28-01-01

28-01-01-01. Organization of board of registration for professional engineers and land surveyors.

1. **History and function.** The 1943 legislative assembly first provided for registration of professional engineers by a law codified as North Dakota Century Code chapter 43-19. The 1957 legislative assembly first provided for registration of land surveyors by a law codified as North Dakota Century Code chapter 43-24. In 1967 the legislative assembly repealed both of these chapters and replaced them with one chapter regulating professional engineers and land surveyors under the board of registration for professional engineers and land surveyors. The chapter is codified as North Dakota Century Code chapter 43-19.1. The function of the board is to regulate the practice of engineering and land surveying by registering qualified engineers and land surveyors.
2. **~~Board membership.~~** ~~The board is appointed by the governor and consists of four professional engineer members and one professional land surveyor member. Each professional engineer member must be a registered professional engineer whose name has been submitted to the governor by the North Dakota society of professional engineers for appointment. The professional land surveyor member must be a registered professional land surveyor whose name has been submitted to the governor by the North Dakota society of professional land surveyors for appointment. Members of the board serve five-year terms, and one term expires each year.~~
3. **Executive secretary director.** The executive secretary director is appointed by the board and is responsible for administration of the board's activities.

- 4. 3. Inquiries.** Inquiries regarding the board may be addressed to the executive ~~secretary~~ director:

North Dakota State Board of Registration for
Professional Engineers and Land Surveyors
P.O. Box 1357
Bismarck, ND 58502

History: Amended effective January 1, 1980; February 1, 1984; November 1, 1985; January 1, 1988; August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 28-32-02.1

Law Implemented: NDCC 28-32-02.1

CHAPTER 28-01-02.1

28-01-02.1-01. Meetings. The board shall hold meetings at least twice each year, including at least one in January and one in July. The chairman may call special meetings when the chairman deems such meetings necessary. The executive ~~secretary~~ director shall give public notice as required by law. The date, time, and place of each meeting must be mutually agreed upon by a quorum of the board. All meetings of the board, whether regular meetings or special meetings, must be open public meetings.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-07

28-01-02.1-02. ~~Items of business~~ Rules of procedure. ~~Items of business must include: Robert's Rules of Order must govern procedure of the board except as otherwise provided by this chapter.~~

- ~~1. Roll call.~~
- ~~2. Minutes of last meeting; approval.~~
- ~~3. Agenda.~~
- ~~4. Financial report; approval -- roll call vote.~~
- ~~5. Appearances; guest, applicants, complainants, defendants.~~
- ~~6. Unfinished business.~~
- ~~7. Applications.~~
- ~~8. New business.~~
- ~~9. Status report of complaints and investigations.~~
- ~~10. Adjournment.~~

~~Robert's Rules of Order must govern procedure of the board except as otherwise provided by this chapter.~~

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-07

28-01-02.1-04. Officers and board staff.

1. The board shall hold an election at the first meeting after July first of each year and elect a chairman, vice chairman, and secretary.
2. Each officer will be elected for one year and may be reelected.
3. The chairman:
 - a. Shall be the executive head of the board.
 - b. Shall preside at all meetings when present.
 - c. Shall call meetings of the board when the chairman deems such meetings necessary.
 - d. Shall sign all certificates of registration.
4. The vice chairman shall in the absence or incapacity of the chairman exercise the duties and shall possess all the powers of the chairman.
5. The secretary shall sign all official documents prepared by the board and shall sign all certificates of registration.
6. The executive ~~secretary~~ director shall perform all duties as may be prescribed by the board. The associate executive director shall in the absence or incapacity of the executive director exercise the duties and shall possess all the powers of the executive director.
7. ~~The secretary or executive secretary~~ director and any other person with signatory authority on the board's accounts shall give to the state a surety bond in an amount determined by the board.
8. The office of the board may be established at a place designated by the board.
9. The board shall establish, appoint, and create ad hoc or standing committees to study, research, and evaluate such matters as assigned. For each committee a chairman must be designated.
10. Board officers and members serve without compensation except for ~~vouchered~~ per diem when engaged in state business approved by the board and for ~~vouchered~~ subsistence, lodging, and travel expenses at the rates established for ~~any other state employee~~ employees. All per diem and expenses must be requested on the travel voucher approved by the state.
11. The board staff members must be reimbursed ~~vouchered~~ expenses for approved travel, lodging, and subsistence at state rates established for

state employees. All per diem and expenses must be requested on the travel voucher approved by the state.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-03

28-01-02.1-05. Forms - Records - Roster - Reports.

1. **Forms.** The board shall prescribe forms for applications and other documents. Copies of the forms and the instructions for completing the forms must be ~~obtained by request from~~ made available by the board office. All applications and documents must be completed in accordance with the board's instructions.
2. **Records.**
 - a. The open records law requires that most records, papers, and reports of the board are public in nature and may be obtained through the executive ~~secretary~~ director or designee upon request and payment of costs of reproduction, handling, and mailing.
 - b. The board shall keep a record of all its proceedings, including its action on each application coming before the board.
 - c. The board shall keep a record of all applications ~~and requests~~ received.
 - d. The board shall keep a record of all certificates issued.
 - e. The board shall keep a record of all complaints received and of any actions taken on those complaints.
 - f. All applications, approved or deferred, unless otherwise specified in this or other sections of this chapter, will be retained in accordance with North Dakota Century Code section 54-46-10.
3. **Roster.** ~~The closing date for all registrants to be included in the roster for any year is March first. The roster must contain, among other things, the names of all registered professional engineers and registered land surveyors showing the registrant's address. Copies of the roster must be made available and mailed upon request at no cost to each person holding a current registration and mailed to or made available to all county and city auditors and clerks of district courts. Copies must be placed on file with the secretary of state and with the libraries in accordance with the state repositories laws. Copies may be sold to the public at a cost not less than the cost of publication and postage.~~

4. ~~**Annual reports.** An annual report, an annual audit report, and such other summaries as required must be filed with the appropriate state agencies as required, such as the office of the governor, state auditor, and secretary of state.~~

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-09, 43-19.1-10, 43-19.1-11

28-01-02.1-06. Statement of purpose of rules - Amendments. Repealed effective October 1, 2010.

1. ~~**Purpose of rules.** The purpose of these rules is to ensure proper, equitable, and uniform performance of the duties of the board of registration by regulation of its members, personnel, meetings, records, examinations, and the conduct thereof.~~
2. ~~**Amendment of rules.** These rules may be amended by the board in accordance with North Dakota Century Code chapter 28-32.~~

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999;

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-08

28-01-02.1-07. Gender and definitions.

1. **Gender.** This title is to be read and interpreted in a nongender context without regard to race, creed, or sex.
2. **Definitions.** The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 43-19.1, except:
 - a. "Accreditation board for engineering and technology accredited curriculum" means those academic programs offered by institutions of higher learning which that the accreditation board for engineering and technology (ABET) certify to have met the criteria and qualifications required to receive the designations as accredited programs in the education, training, and preparation of the graduates from such programs; engineering curriculum must have the accreditation of the engineering accreditation commission (EAC) within the accreditation board for engineering and technology and land surveying curriculum must have either engineering accreditation commission or technology accreditation commission (TAC) or applied science accreditation commission (ASAC) of the accreditation board for engineering and technology to be acceptable to the board.

- b. "Application" means the act of furnishing data, documents, and such information under oath as may be required by the board and on forms prescribed by the board.
- c. "Code of ethics" means that set of rules prescribed by the board and adopted herein ~~which~~ that govern the professional conduct of all registrants.
- d. "Direct supervision" means the activities of that person who is in responsible charge of technical, engineering, or land surveying work in progress, whose professional skill and judgment are embodied in the plans, specifications, reports, plats, or other documents required to be certified pursuant to section 28-02.1-08-01. A person in direct supervision of work directs the work of other registrants, interns, draftspersons, technicians, or clerical persons assigned to that work.
- e. "Engineering intern" and "land surveyor (surveying) intern" are recognized by the board as synonymous with engineer-in-training and land surveyor-in-training provided the intern designations are conferred under the same requirements as the "in-training" designations pursuant to these rules.
- f. "Examination" means that series of tests prescribed by the board ~~which~~ that are developed to ascertain the level of proficiency in the fundamentals and in the practices of the professions regulated by the board.
- g. "Gross negligence" means a substantial deviation in professional practice from the standard of professional care exercised by members of the registrant's profession, or a substantial deviation from any technical standards issued by a nationally recognized or state-recognized professional organization, or both, comprised of members of the registrant's profession, or a substantial deviation from requirements contained in state laws, board regulations, local ordinances, or regulations related to the registrant's professional practice.
- h. "Incompetence" means to lack the professional qualifications, experience, education, or combination thereof to undertake a professional engagement or assignment. The following acts or omissions, among others, may be deemed to be "incompetence" and to be cause for denial, suspension, or revocation of a certificate of registration to practice engineering or land surveying and the imposition of any other lawful discipline. Incompetence includes:
 - (1) Recklessness or excessive errors, omissions, or failures in the registrant's record of professional practice.

- (2) Mental or physical disability or addiction to alcohol or drugs ~~which~~ that leads to the impairment of the registrant's ability to exercise due skill and care in providing professional services so as to endanger the health, safety, and welfare of the public.

i. "Misconduct" means:

- (1) Conviction of any crime reasonably related to the practice of the registrant's profession;
- (2) An adverse civil adjudication involving dishonesty, gross negligence, or incompetence;
- (3) Suspension or revocation or voluntary surrender of a professional license or registration by this state or by any other jurisdiction;
- (4) Any act or practice in violation of the rules of professional conduct as set forth in sections 28-03.1-01-01 through 28-03.1-01-17;
- (5) Violation of any of the administrative rules set forth in this title;
or
- (6) Knowingly fail to comply with continuing professional competency requirements set forth in article 28-04.

j. "Registrant" means any ~~person holding~~ individual or organization who has been approved for a current certificate of registration as an engineer intern, land surveyor intern, a professional engineer, a registered professional land surveyor, or any combination thereof, or a temporary permit to practice engineering, or a certificate of authorization, which has been duly issued by the board commercial practice.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-08

CHAPTER 28-02.1-01

28-02.1-01-01. Applications - Kinds of applications. Applications may be submitted to the board for registration as a:

1. ~~Engineer-in-training~~ Engineer intern.
2. ~~Land surveyor-in-training~~ surveyor intern.
3. Professional engineer.
 - a. Examination.
 - b. Endorsement.
4. ~~Registered Professional~~ land surveyor.
 - a. Examination.
 - b. Endorsement.
5. Professional engineer temporary permitholder.
6. Business with a certificate of ~~authorization~~ commercial practice to practice engineering or land surveying.
7. Reinstatement for lapsed registration of a certificate holder.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-08

28-02.1-01-02. Completing applications.

1. All data and information requested on the board's application forms must be furnished accurately and completely.
2. When space provided on forms is inadequate, use supplementary sheets ~~provided by this board (or if not provided, sheets of a good grade of white paper, eight and one-half by eleven inches [215.90 by 279.40 millimeters] are to be used)~~.
3. All applications made to this board must be subscribed and sworn to on the forms used by the applicant before a notary public or other persons qualified to administer oaths.
4. In order to allow sufficient time for processing and for securing examinations, all applications ~~which may require~~ for examinations must

be filed with this board prior to January first for the spring examinations and July first for the fall examinations.

5. Withholding information or providing statements ~~which~~ that are untrue or misrepresent the facts may be cause for denial of an application.
6. It is the responsibility of the applicant to supply correct addresses of all references and to be sure that the completed references forms are supplied as requested. ~~If a reference fails to respond, this will delay the processing of an application either until a reply is obtained or another reference is supplied.~~
7. In relating experience, the applicant must account for all employment or work experience for the period of time ~~which~~ that has elapsed since the beginning of the employment record. If not employed, or employed in other kinds of work, this should be indicated in the experience record.
8. Applications for registration properly executed and issued with verification by the national council of examiners for engineers and surveyors (NCEES) ~~will~~ may be accepted in lieu of the same information that is required on the form prescribed ~~and furnished~~ by this board.
9. Provide the name and address of the corporate officers and directors or the business partners.
10. To list the names and addresses of all employees who are duly registered to practice professional engineering or professional land surveying in North Dakota.
11. Provide the name and address of the registered agent for those business entities required to have a registered agent.
12. Submitted application records become the property of the board.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-12

28-02.1-01-04. Applications from applicants with degrees from foreign schools.

1. All foreign language documentation submitted with the completed application must be accompanied with translations certified to be accurate by a competent authority.
2. All applicants shall furnish evidence of experience ~~which~~ that can be verified.

3. All applicants seeking registration must be prepared to write examinations which that are administered in the English language.
4. ~~The board may require foreign curricula to be evaluated by university faculty administering accreditation board for engineering and technology accredited engineering programs, or national council of examiners for engineering and surveying recommendations on foreign engineering curricula may serve as the board's guide for evaluation.~~
5. ~~Those applicants who for political or other valid reasons are unable to obtain their college transcripts may be required to complete a supplementary application form as approved by the board.~~

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-13

28-02.1-01-05. Disposition of applications. Applications may be approved; deferred for further information, more experience, acceptable references, or other reasons as determined by the board; or may be denied.

1. **Approved applications.** When an application is approved by the board showing that the applicant has met all the requirements for registration or certification required by the statutes of this state, the applicant must be granted registration or certification with notification by the executive secretary director of the board.
2. **Deferred applications.** Applications deferred for any reason require proper remedy as requested before further consideration by the board.
3. **Denied applications.** Applications may be denied when in the board's judgment:
 - a. Reinstatement is requested after revocation and there is insufficient rehabilitation;
 - b. An application has been denied for cause in other jurisdictions; or
 - c. The applicant has failed to establish the applicant is of good character and reputation.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-25

28-02.1-01-06. Reconsideration of applications. Reconsideration may be requested of an application which that has been denied or deferred when the request is based on additional information. Request must be made within one year after the decision of the board to deny or defer the original application.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-08, 43-19.1-14, 43-19.1-17

28-02.1-01-07. Retention of records of applications. Repealed effective October 1, 2010.

- ~~1. All applications, approved or deferred, unless otherwise specified in this or other sections of this chapter, will be retained in accordance with North Dakota Century Code section 54-46-10 and article 4-09 of the North Dakota Administrative Code.~~
- ~~2. All applications for which required information has not been furnished for one year or more after the last entry in the applicant's file must be deemed to be an incomplete application. Incomplete applications may be destroyed.~~
- ~~3. Information may be extracted from approved applications to prepare the required publication of the roster. Such information may be stored on computer storage disks or tapes. From time to time information may be added to the records as it is supplied to the board. Added information may include address changes, notices of disciplinary actions, suspensions, lapses, or reinstatements.~~
- ~~4. At all times, upon proof of identity, an applicant's file is available for review. In no case may original documents be altered, removed, or returned. Application records once submitted become the property of the board.~~

History: ~~Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999.~~

General Authority: NDCC 43-19.1-08

Law Implemented: ~~NDCC 43-19.1-12~~

CHAPTER 28-02.1-02

28-02.1-02-01. Processing of applications.

1. ~~Application forms for registration as a professional engineer or land surveyor may be obtained from the office of the board of registration for professional engineers and land surveyors.~~
2. ~~Applications for registration by examination must be filed with the board office prior to January first for the spring examinations and July first for the fall examinations.~~
3. All information received from references named by the applicant must be received at the board office. No member of the board or relative of the applicant may be named as a reference.
4. 2. An applicant may not be admitted to the examination until the applicant's application has been received, processed, and approved by the board.
5. 3. An applicant may not confer with any member of the board regarding an applicant's case while it is pending before the board. Any applicant may appear before the board at a scheduled meeting.
6. 4. Applicants whose applications have been approved, but who fail to appear for examination four consecutive times, must be deemed to have withdrawn their applications. Further consideration must be based on reapplication.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-08, 43-19.1-12

CHAPTER 28-02.1-03

28-02.1-03-01. Types of registration. Engineers and land surveyors may become registered professional practitioners by examination, endorsement, or by temporary permit.

1. **Registration by examination.** Registration by examination is generally a two-step process for those applicants who have met the general qualification requirements; who have met certain education requirements or who have the experience deemed to be satisfactory and acceptable to the board, or both; and who have successfully passed the examinations prescribed by the board.
 - a. The board ~~has~~ accepts the written examination prepared by the national council of examiners for engineers and surveyors as its standard of examinations and qualifications.
 - b. The board may require one or more questions in examinations measuring familiarity with the code of ethics. Similarly, in furtherance of the board's determination of rehabilitation, an examination on the code of ethics may be required.
2. **Registration by endorsement.** Registration by endorsement is for engineers or land surveyors who hold a current registration in another jurisdiction who substantially meet ~~or have met~~, in the opinion of the board, the ~~following~~ requirements and qualifications: required by North Dakota statutes governing registration. Registration as a professional land surveyor also requires successful completion of an orientation examination pertaining to state laws and procedures.
 - a. ~~Qualifications and requirements - Professional engineer.~~
 - (1) ~~Graduates from a four-year or more engineering program accredited by the accreditation board for engineering and technology must satisfy the following requirements:~~
 - (a) ~~Pass an eight-hour examination in engineering fundamentals.~~
 - (b) ~~Have a minimum of four years of acceptable engineering experience.~~
 - (c) ~~Pass an eight-hour examination in the principles and practice of engineering.~~
 - (2) ~~Graduates from a four-year or more engineering program not accredited by the accreditation board for engineering and technology that, in the opinion of the board, is~~

~~substantially equivalent to engineering must satisfy the following requirements:~~

- ~~(a) Pass an eight-hour examination in engineering fundamentals.~~
 - ~~(b) Have a minimum of eight years of acceptable engineering experience.~~
 - ~~(c) Pass an eight-hour examination in the principles and practice of engineering.~~
- ~~(3) Graduates from a four-year or more engineering-related curriculum, that, in the opinion of the board, is substantially equivalent to engineering must satisfy the following requirements:~~
- ~~(a) Pass an eight-hour examination in engineering fundamentals.~~
 - ~~(b) Have a minimum of twelve years of acceptable engineering experience, the last six years of which demonstrates progressive experience in applying the principles and methods of engineering analysis and design.~~
 - ~~(c) Pass an eight-hour examination in the principles and practice of engineering.~~
- ~~(4) Teacher of engineering. A teacher of engineering must satisfy the following requirements:~~
- ~~(a) Pass an eight-hour examination in engineering fundamentals.~~
 - ~~(b) The individual must have taught engineering, for a minimum of four years, in a college or university offering an engineering curriculum approved by the board and must have a minimum of two years of practical engineering experience satisfactory to the board.~~
 - ~~(c) Pass an eight-hour examination in the principles and practice of engineering.~~

b. ~~Qualifications and requirements - Registered land surveyor.~~

- ~~(1) A graduate of a four-year or more land surveying or engineering program accredited by the accreditation board~~

~~for engineering and technology must satisfy the following requirements:~~

- ~~(a) Pass an eight-hour examination in fundamentals of land surveying.~~
 - ~~(b) Have a minimum of four years of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying.~~
 - ~~(c) Pass an examination in the principles and practices of land surveying.~~
 - ~~(d) Pass an examination pertaining to land surveying laws, procedures, and practices in North Dakota.~~
- ~~(2) A graduate from a land surveying or engineering program not accredited by the accreditation board for engineering and technology and approved by the board must satisfy the following requirements:~~
- ~~(a) Pass an eight-hour examination in fundamentals of land surveying.~~
 - ~~(b) Have a minimum of six years of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying.~~
 - ~~(c) Pass an examination in the principles and practices of land surveying.~~
 - ~~(d) Pass an examination pertaining to land surveying laws, procedures, and practices in North Dakota.~~
- ~~(3) All other land surveying applicants not qualifying under paragraphs 1 and 2 must satisfy the following requirements:~~
- ~~(a) Pass an eight-hour examination in fundamentals of land surveying.~~
 - ~~(b) Have a minimum of eight years of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying. Up to two years of credit toward experience requirements may be granted upon completion of equivalent time in a board-approved land surveying or engineering curriculum.~~

(c) ~~Pass an examination in the principles and practices of land surveying.~~

(d) ~~Pass an examination pertaining to land surveying laws, procedures, and practices in North Dakota.~~

3. **Temporary permit - Temporary registration for practicing engineering.** A temporary permit must be reviewed and approved by the board and is not a means of expedited registration. Educational and experience requirements must comply with North Dakota law. A one-time temporary permit may be issued on the basis of one project and may not exceed one year. The applicant must be legally qualified to practice and hold current registration in the state or country of residence ~~and must have current registration.~~ A temporary permit must be approved prior to ~~submission of plans and specifications for the execution of a project practicing or offering to practice engineering.~~ Temporary permits for professional land surveyors are not authorized by North Dakota law.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-08, 43-19.1-12.1, 43-19.1-13, 43-19.1-14, 43-19.1-16, 43-19.1-29

CHAPTER 28-02.1-04

28-02.1-04-01. General requirements. All applicants must:

1. Complete ~~their~~ the applications on forms ~~furnished~~ approved by the board.
2. Complete the application under oath (~~an~~ An affidavit is required).
3. Furnish references as required but may not include board members or relatives of the applicant as references.
4. In the case of student applicants for the fundamentals of engineering and for the fundamentals of land surveying examinations, certification by the dean of the college or the dean's appropriate designee agreed upon by the board may be used in lieu of references.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-12

28-02.1-04-02. Experience. The following describes what the board considers acceptable experience. The applicant must provide proof that the experience meets these requirements.

1. The experience gained through military service must be substantially equivalent in character to civilian experience in similar fields or disciplines. Generally, military experience is not favored by the board unless the applicant served in a military engineering or surveying related component of the armed services.
2. Experience must be of a grade and character ~~which~~ that indicates to the board that the applicant ~~may be~~ is competent to practice and preferably be gained under the supervision of a registered professional engineer or professional land surveyor.
3. Experience must be substantially related to engineering or land surveying. Dual registration must fulfill experience requirements for each application without duplicate credits for time of gaining experience.
4. The board requires progressive experience in applying the principles and methods of engineering analysis and design for an applicant in fulfilling experience requirements if the applicant is seeking professional engineering registration.
5. The board requires progressive experience on surveying projects to indicate that it is of increasing quality and requiring greater responsibility. A substantial portion of the experience must be spent

in charge of work related to property conveyance or boundary line determination, or both. The experience must demonstrate adequate experience in the technical field aspects of the profession.

6. An engineering or land surveying applicant may be granted one year's experience for each postgraduate degree in the field of practice following a baccalaureate degree in the field of practice, not to exceed two years.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-14, 43-19.1-15, 43-19.1-16, 43-19.1-17

CHAPTER 28-02.1-05

28-02.1-05-01. Qualifications and requirements - Engineers-in-training Engineer intern. Engineer-in-training Engineer intern applicants must satisfy the following requirements: located in North Dakota Century Code section 43-19.1-15.

1. ~~A graduate of a four-year or more engineering program accredited by the accreditation board for engineering and technology may be approved to write the fundamentals of engineering examination. Senior year students within one year of graduation may be approved to write the fundamentals of engineering examination.~~
2. ~~A graduate of a four-year or more engineering program not accredited by the accreditation board for engineering and technology and four additional years of acceptable experience may be approved to write the fundamentals of engineering examination.~~
3. ~~A graduate of a four-year or more engineering-related curriculum that, in the opinion of the board, is substantially equivalent to engineering must acquire six years of acceptable engineering experience before they may be approved to write the fundamentals of engineering examination.~~

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-14, 43-19.1-15

28-02.1-05-02. Qualifications and requirements - Professional engineer by examination. These requirements must be acquired as listed in the following categories: A person applying for registration as a professional engineer by examination must have an engineer intern certificate, and appropriate experience as required by North Dakota Century Code section 43-19.1-14. The experience must be subsequent to graduation and prior to writing the principles and practice of engineering examination.

1. ~~Graduates from a four-year or more engineering program accredited by the accreditation board for engineering and technology must satisfy the following requirements:~~
 - a. ~~Pass an eight-hour examination in engineering fundamentals.~~
 - b. ~~Have a minimum of four years of acceptable engineering experience subsequent to graduation and prior to writing the principles and practice of engineering examination.~~
 - c. ~~Pass an eight-hour examination in the principles and practice of engineering.~~

2. ~~Graduates from a four-year or more engineering program not accredited by the accreditation board for engineering and technology must satisfy the following requirements:~~
 - a. ~~Pass an eight-hour examination in engineering fundamentals.~~
 - b. ~~Have a minimum of eight years of acceptable engineering experience subsequent to graduation and prior to writing the principles and practice examination.~~
 - c. ~~Pass an eight-hour examination in the principles and practice of engineering.~~
3. ~~Graduates from a four-year or more engineering-related curriculum that, in the opinion of the board, is substantially equivalent to engineering must satisfy the following requirements:~~
 - a. ~~Pass an eight-hour examination in engineering fundamentals.~~
 - b. ~~Have a minimum of twelve years of acceptable engineering experience, the last six years of which demonstrates progressive experience in applying the principles and methods of engineering analysis and design prior to writing the principles and practice of engineering examination.~~
 - c. ~~Pass an eight-hour examination in the principles and practice of engineering.~~
4. ~~A teacher of engineering must satisfy the following requirements:~~
 - a. ~~Pass an eight-hour examination in engineering fundamentals.~~
 - b. ~~Have taught engineering in a college or university offering an engineering curriculum approved by the board for a minimum of four years and have a minimum of two years of practical engineering experience satisfactory to the board.~~
 - c. ~~Pass an eight-hour examination in the principles and practice of engineering.~~

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-14

CHAPTER 28-02.1-06

28-02.1-06-01. Qualifications and requirements - Land surveyors-in-training surveyor intern. ~~Land surveyors-in-training applicants must meet the following requirements: surveyor intern applicants must satisfy the requirements located in North Dakota Century Code section 43-19.1-16.1.~~

- ~~1. A graduate of a four-year or more land surveying or engineering program accredited by the accreditation board for engineering and technology may be approved to write the fundamentals of land surveying examination. Senior year students within one year of graduation may be approved to write the fundamentals of land surveying examination.~~
- ~~2. A graduate of a land surveying or engineering program not accredited by the accreditation board for engineering and technology and approved by the board and with two or more years of acceptable land surveying experience may be approved to write the fundamentals of land surveying examination.~~
- ~~3. a. All other applicants not qualifying under subsections 1 and 2 must have at least four years of acceptable land surveying experience before they may be approved to write the fundamentals of land surveying examination.~~
~~b. Up to two years of credit toward experience requirements may be granted upon completion of equivalent time in a board-approved land surveying or engineering curriculum.~~

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-16.1

28-02.1-06-02. Qualifications and requirements - Registered Professional land surveyor by examination. ~~These requirements must be acquired as listed in the following categories: A person applying for registration as a professional land surveyor by examination must have a land surveyor intern certificate and the appropriate experience as required by North Dakota Century Code section 43-19.1-16. The experience must be subsequent to graduation and prior to writing the principles and practice of surveying examination.~~

Upon successful completion of the principles and practice of surveying examination, professional land surveyor applicants must pass an examination pertaining to land procedures and practices in North Dakota.

- ~~1. A graduate of a four-year or more land surveying or engineering program accredited by the accreditation board for engineering and technology must:~~

- a. ~~Pass an eight-hour examination in fundamentals of land surveying.~~
 - b. ~~Have a minimum of four years of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying.~~
 - c. ~~Pass an examination in the principles and practice of land surveying.~~
 - d. ~~Pass an examination pertaining to land surveying laws, procedures, and practices in North Dakota.~~
2. ~~A graduate from a land surveying or engineering program not accredited by the accreditation board for engineering and technology and approved by the board must:~~
- a. ~~Pass an eight-hour examination in fundamentals of land surveying.~~
 - b. ~~Have a minimum of six years of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying.~~
 - c. ~~Pass an examination in the principles and practice of land surveying.~~
 - d. ~~Pass an examination pertaining to land surveying laws, procedures, and practices in North Dakota.~~
3. ~~All other applicants not qualifying under subsections 1 and 2 must:~~
- a. ~~Pass an eight-hour examination in the fundamentals of land surveying.~~
 - b. ~~Have a minimum of eight years of experience in land surveying of a character satisfactory to the board indicating that the applicant is competent to practice land surveying. Up to two years of credit toward experience requirements may be granted upon completion of equivalent time in a board-approved land surveying or engineering curriculum.~~
 - c. ~~Pass an examination in the principles and practice of land surveying.~~

- d. ~~Pass an examination pertaining to land surveying laws, procedures, and practices in North Dakota.~~

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-16, 43-19.1-16.1

CHAPTER 28-02.1-07

28-02.1-07-01. Applications. ~~Forms for making application to the board are available from the board and require the applicant: Repealed effective October 1, 2010.~~

- ~~1. To set forth the corporate officers and directors or the business partners by name and address.~~
- ~~2. To list the names and addresses of all employees who are duly registered to practice professional engineering or land surveying in North Dakota.~~
- ~~3. To set forth the name and address of the registered agent for those business entities required to have a registered agent.~~
- ~~4. To set forth who are or will be in responsible charge of any engineering or land surveying in this state, or both if the certificate of authorization is for the dual practice of engineering and land surveying.~~

History: ~~Effective January 1, 1988; amended effective April 1, 1999.~~

General Authority: ~~NDCC 43-19.1-08~~

Law Implemented: ~~NDCC 43-19.1-27~~

28-02.1-07-02. Issuance of certificate of authorization commercial practice. ~~Certificates of authorization issued by the board commercial practice are not transferable and require the holder organization to:~~

- ~~1. Advise the board within thirty days of any change of officers, directors, partners, business addresses, registered agents, or of any disciplinary actions which that impair the registration and right to practice of any employee or officer of record in North Dakota.~~
- ~~2. Renew and update annually the names and addresses of the registered agent, officers, directors, or partners, and employees practicing licensed to practice engineering or land surveying in North Dakota.~~
- ~~3. Keep and maintain its annual filing requirements with the secretary of state's office current and provide a copy of such to the board office.~~
- ~~4. Practice and performance of engineering or land surveying in this state A certificate of commercial practice is subject to the same disciplinary~~

~~actions of suspension or revocation for cause~~ by the board of as any individual registrant.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-27

CHAPTER 28-02.1-08

28-02.1-08-01. Certificates.

1. Certificates of registration and certificates of commercial practice issued by the board should be displayed by the registrant in a prominent place in the registrant's office or principal place of business.
2. In case a certificate is lost or destroyed, a duplicate certificate will be issued upon request. The charge for a duplicate certificate shall be as determined by the board.
3. ~~Certificates of authorization are signed by the chairman and secretary and are issued on an annual basis.~~

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-20, 43-19.1-27

28-02.1-08-02. Seals.

1. The board has adopted standard seals or stamps similar to those illustrated in this section for use by registered professional engineers and professional land surveyors as prescribed by law. The seal authorized by the state board of registration for professional engineers and land surveyors for registrants is of the crimp type or rubber stamp, or electronic. Seals prepared after July 1, 2005, shall be of a design so the seal consists of two concentric circles with the diameter of the outer circle being one and three-fourth inches [44.45 millimeters] and the diameter of the inner circle being one and one-fourth inches [31.75 millimeters]. The upper portion between the two circles shall bear whichever of the following phrases is applicable to the registrant: "Registered Professional Engineer", "Registered Professional Land Surveyor", or "Registered Professional Engineer & Registered Land Surveyor". Professional land surveyors who purchased a seal with the phrase "Registered Land Surveyor" prior to _____ are not required to purchase a new seal. At the bottom of the annular space between the two circles shall appear the inscription "North Dakota"; the inner circle shall contain the name of the registrant, registration number, and the word "Date". The registration number assigned should be centered in the inner area of the seal in the space occupied by the word "NUMBER" and the size of the numbers should not be larger than the word "NAME". The words and parentheses "(NUMBER)" and "(NAME)" should not appear on the seal.
2. Seals may be of rubber stamp, metal impression type, ~~or electronic~~ computer-generated, or electronically generated. Electronic seals may

be used but an electronic seal may not be used in any document that is being transmitted in an editable digital format.

3. A registrant shall superimpose the registrant's personal original signature ~~(not a rubber signature stamp or facsimile signature) and date of.~~ A rubber stamp or facsimile signature is not allowed. The signature must be placed across the face and beyond the circumference of the seal. The signature and seal must also be dated. No further certification need accompany the seal and signature.

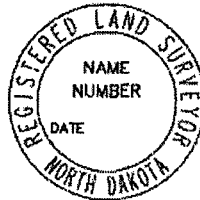
History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

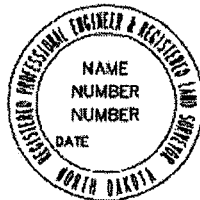
Law Implemented: NDCC 43-19.1-21



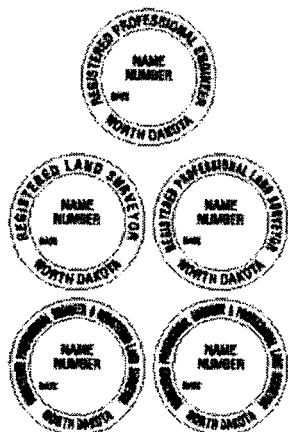
1. PROFESSIONAL ENGINEER STAMP



2. LAND SURVEYOR STAMP



3. COMBINED PROFESSIONAL ENGINEER AND LAND SURVEYOR STAMP



28-02.1-08-03. Use of seals.

1. The original copies of all drawings, plan sheets, specifications, studies, reports, plats, maps, and other engineering and surveying work product other than earthwork cross sections must receive a seal and original signature.
 - a. Studies, reports, and project specifications need the seal and original signature only on a single introductory sheet.
 - b. Every sheet or drawing in an original set of engineering plans must receive a seal and original signature.
2. Registrants may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering and land surveying documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers or land surveyors who prepared the segment.
3. Registrants shall not affix their signatures or seals to any engineering or land surveying plan or document dealing with subject matter for which the registrant lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the registrant's direct supervisory control.
4. A registrant shall not contract with a nonlicensed individual to provide these professional services.
5. A registrant may affix the seal and signature to drawings and documents depicting the work of two or more professionals, either from the same or different disciplines, provided it is designated by a note under the seal the specific subject matter for which each is responsible.
6. Any changes made to the final plans, specifications, drawings, reports, or other documents after final revision and sealing by the registrant are prohibited by any person other than the registrant. ~~In the event the original registrant is not able to authorize any changes, the registrant's employer may authorize another duly registered individual to make changes to final sealed documents, or another registered individual who assumes responsible charge for the directly related documents, except as provided herein. A duly registered individual making changes to final sealed documents must assume responsible charge and reseal the directly related final documents unless the changes are construction phase revisions, including record drawings, which do not affect the functional design, and such revisions adequately reflect that changes have been made and the original plans are available for review.~~
 - a. ~~Such changes to final sealed documents may be made only by a duly registered individual.~~

- ~~b. A duly registered individual making changes to final sealed documents must assume responsible charge and reseal the directly related final documents.~~
 - ~~c. If construction phase revisions are made to the plans, they must be made by a duly registered individual, providing the change does not affect functional design requirements.~~
- 7. Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge.
- 8. A registrant may not affix the registrant's seal or signature to documents having titles or identities excluding the registrant's name unless:
 - a. Such documents were developed by the registrant or under the registrant's responsible charge and the registrant has exercised full authority to determine their development.
 - b. A registrant who is required to use the standard drawings of a sponsoring agency need not affix the registrant's seal and signature to said standard drawings.
 - c. The registrant is providing the registrant's opinion as to the compliance of the document with specific identified rules or statutes and it is clearly identified that the registrant only reviewed the document and had no technical control over the contents of the document.
- 9. Electronic reproductions of drawings, plan sheets, specifications, studies, reports, plats, maps, and other engineering and surveying work product that are distributed to reviewing agencies, owners, clients, contractors, suppliers, and others shall be accompanied by the following statement: "This document(s) was originally issued and sealed by (name), Registration Number (number) on (date) and the original documents are stored at (location)". Sets of plans or drawings must have this statement attached to every sheet of the set. For specifications, reports, and studies, only the cover or introductory sheet need include this statement.
- 10. Paper or hard copy reproductions of drawings, plan sheets, specifications, studies, reports, plats, maps, and other engineering and surveying work product that are distributed to reviewing agencies, owners, clients, contractors, suppliers, and others shall contain a reproduction of the seal and signature. A new seal and original signature will not be required with such paper distribution.

11. Working drawings and unfinished documents must comply with North Dakota Century Code section 43-19.1-21.

History: Effective October 1, 2004; amended effective October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-21

CHAPTER 28-02.1-09

28-02.1-09-01. Expirations of certificates of registration.

- ~~1. The certificate of registration issued to land surveyors-in-training are nonexpiring surveyor interns or engineer interns has no expiration.~~
- ~~2. The certificates of registration issued to engineers-in-training are nonexpiring for a period of twelve years and carry no provision for renewal.~~

History: Effective January 1, 1988; amended effective October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-15, 43-19.1-16.1

28-02.1-09-02. Renewals. Registration Individual registrations and certificates of authorization commercial practice may be renewed as follows:

1. Every other year, beginning with 1999, the board shall mail renewal notices prior to December first to the last address of record for each registration and certificate holder ~~advising of. The renewal notice shall contain~~ the amount of the renewal fee and the pending expiration date.
2. Every year, or every other year for biennial renewals, the board shall mail certificate of commercial practice renewal notices prior to December first to the last address of record for the organization. The renewal notice shall contain the amount of the renewal fee and the pending expiration date.
- ~~3. A late fee of twenty-five dollars as determined by the board shall be imposed on renewals postmarked after December thirty-first.~~
- ~~3. Renewal fees received will be acknowledged by returning to the registrant a wallet card bearing the registrant's name and registration number or a new certificate of authorization duly signed, each acknowledging renewal to the next date of expiration.~~
- ~~4. Receipt of renewals prior to March thirty-first will ensure that the registrant's name and address will be published in the next roster.~~

History: Effective January 1, 1988; amended effective November 1, 1998; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-22

28-02.1-09-03. Reinstatements.

1. A registrant or a holder of a certificate of authorization who has allowed the registrant's or holder's registration to lapse An individual registration

that has lapsed for more than two years one year, but less than five years, may become reinstated by paying the renewal fee for the current registration period plus two years' back renewal fee provided the lapsed registrant meets all other requirements. A holder of a certificate of authorization commercial practice who has allowed the authorization certificate to lapse for more than one year, but less than five years, may become reinstated by paying the current year renewal fee plus one year back renewal fee.

2. Registrations and certificates which that have lapsed five years or more require reapplication updating all the required information of the applicant as if an original application. The board may require reexamination of registrants for all or a portion of the examination qualification requirements.
3. A retired registrant, upon written request to the board and payment of the current renewal fee, may resume active engineering or land surveying practice provided the retired registrant meets all other requirements. ~~At that time, the retired registrant shall be removed from retired status and placed on valid or active status in the records of the board.~~ All rights and responsibilities of a valid or active registration will be in effect, including compliance with continuing professional competency requirements. ~~At the date of expiration of the reinstated certificate of registration, the registrant may elect to either continue active registration or may again apply for retired registration in accordance with the provisions of this chapter.~~
4. A registrant whose license has been lapsed or retired for one year or more and who meets all other requirements ~~may reinstate a lapsed or retired license as allowed by this chapter.~~ A registrant under this subsection ~~who has reinstated a license~~ is required to file an interim continuing professional competency report within one year of the date of reinstatement verifying that a minimum of fifteen professional development hours have been accomplished.
5. A registrant whose license has been lapsed or retired for less than one year and who meets all other requirements ~~may reinstate a lapsed or retired license as allowed by this chapter.~~ A registrant under this subsection ~~who has reinstated a license~~ must show compliance within the previous two years with the continuing professional competency requirements set forth in article 28-04.

History: Effective January 1, 1988; amended effective November 1, 1998; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-22

CHAPTER 28-02.1-10

28-02.1-10-01. Examinations.

1. The engineering and land surveying examinations ~~must be~~ are held in the spring and fall of each year, with the time, date, and place set by the board when offered by the national council of examiners for engineering and surveying.
2. ~~Orientation examinations for land surveyors require a score of eighty or greater to pass the examination.~~ An examination for registration as a professional land surveyor pertaining to land surveying laws, procedures, and practices in North Dakota shall require a passing score determined by the board ~~but shall not be less than seventy percent.~~
3. An applicant failing to pass a professional examination may take the next scheduled examination after six months by payment of the examination fee ~~provided the applicant achieved a score of at least fifty.~~ ~~An applicant failing to pass a professional examination with a score of less than fifty may not apply for reexamination for one year from the date of such examination.~~
4. The board may require one or more questions in examinations measuring familiarity with the code of ethics. Similarly, in furtherance of the board's determination of rehabilitation of a registrant whose registration has been subject to disciplinary action, an examination on the code of ethics may be required.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-19

CHAPTER 28-02.1-11

28-02.1-11-01. Definitions. These definitions shall apply to this chapter only:

1. "Board" means the state board of registration for professional engineers and land surveyors provided for by North Dakota Century Code chapter 43-19.1.
2. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in engineering or land surveying in a state or jurisdiction other than North Dakota 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 to practice engineering or land surveying that is not issued on a temporary or restricted basis and is not encumbered or on probation and is not suspended or revoked.
4. "License" means a license, certificate, permit, or similar authorization to practice engineering or land surveying, ~~which~~ that is issued by a government agency in another state or jurisdiction that imposes requirements for obtaining and maintaining a license, which are at least as stringent as the requirements imposed in North Dakota to obtain and maintain a license to practice engineering or land surveying.

History: Effective November 1, 2002; amended effective October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-51-03

CHAPTER 28-02.1-12

28-02.1-12-04. Privileges. A retired registrant is permitted to:

1. Retain the board-issued wall certificate of registration;
2. Use the title professional engineer or registered land surveyor, or professional land surveyor provided that it is supplemented by the term "retired", or the abbreviation "ret";
3. Work as an engineer or land surveyor in a volunteer capacity, provided that the retired registrant does not create an engineering or land surveying document, and does not use the individual's seal, except as provided for in subsection 4;
4. Provide experience verifications and references for persons seeking registration. When completing reference or experience verification forms and if using the person's professional seal, the retired registrant shall place the word "retired" in the space designated for the date of expiration;
5. Serve in an instructional capacity on engineering and land surveying topics;
6. Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to engineering or land surveying work performed by the registrant before the person was granted a retired registration; and
7. Serve in a function that supports the principles of registration and promotes the professions of engineering and land surveying, such as members of commissions, boards, or committees.

History: Effective October 1, 2004; amended effective October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-27

28-02.1-12-05. Restrictions. A retired registrant is not permitted to:

1. Perform any engineering or land surveying activity unless said activity is under the direct supervision of a North Dakota registered professional engineer or registered professional land surveyor who has a valid or active registration in the records of the board;
2. Act as the designated engineer or the engineer in responsible charge for a North Dakota engineering ~~corporation~~ organization or act as the designated land surveyor or land surveyor in responsible charge for a North Dakota land surveying ~~corporation~~ organization; or

3. Apply the person's professional engineer's or professional land surveyor's seal to any plan, specification, plat, or report, except as provided for in subsection 4 of section 28-02.1-12-04.

History: Effective October 1, 2004; amended effective October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-27

CHAPTER 28-03.1-01

28-03.1-01-01. General statement. In order to establish and maintain a high standard of integrity, skills, and practice in the profession of engineering and land surveying, the code of ethics contained in this chapter is binding upon every person holding a certificate of registration as a professional engineer or professional land surveyor, and upon all agents, employees, officers, or partners.

This chapter is specifically designed to further safeguard the life, health, property, and public welfare of the citizens of North Dakota, and must be construed to be a reasonable exercise of the police power vested in the board of registration for professional engineers and land surveyors by virtue of North Dakota Century Code chapter 43-19.1, and as such the board can establish conduct, policy, and practices to be adopted.

These rules are to be read and interpreted without regard to race, creed, or sex.

The engineer or land surveyor who holds a certificate of registration from the board is charged with having knowledge of the existence of this chapter for professional conduct as an engineer or land surveyor, and also must be deemed to be familiar with the provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering and land surveying is a privilege as opposed to a right, and the engineer or land surveyor must be forthright and candid in statements or written responses to the board or its representatives on matters pertaining to professional conduct.

~~All reference in this chapter to engineers and the profession of engineering must be deemed to include land surveyors and the practice of land surveying.~~

~~The engineer or land surveyor must be guided in all professional relations by the highest standards of integrity, and shall act in professional matters for each client or employer as a faithful agent or trustee.~~

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-03. Standards of integrity. Registrants shall be guided in all their professional relations by the highest standards of integrity. The registrant will act in professional matters as a faithful agent or trustee for each client or employer.

1. Registrants shall admit and accept their own errors when proven wrong and refrain from distorting or altering the facts in an attempt to justify their decisions.
2. Registrants shall advise their clients or employers when they believe a project will not be successful.

3. Registrants shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering or land surveying employment, registrants shall notify their employer.
4. Registrants shall not employ or attempt to employ an individual by false or misleading pretenses.
5. Registrants shall ~~avoid~~ not engage in any act tending to promote their own interests ~~at the expense to the detriment~~ of the profession.
6. Registrants shall be truthful in professional reports, statements, or testimony. ~~They Registrants~~ shall include all relevant and pertinent information in such reports, statements, or testimony, ~~which should bear the date indicating when it was current.~~
7. Registrants shall ~~avoid all~~ not willfully engage in any conduct or practice ~~which is likely to deceive that intentionally deceives~~ the public.
8. Registrants shall not use statements containing a material misrepresentation of fact or omitting a material fact necessary to keep statements from being misleading or statements intended or likely to create an unjustified expectation.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-04. Protection of public. Registrants shall be cognizant that their first and foremost responsibility is to the public welfare in the performance of services to clients and employers. The registrant:

1. Will regard one's duty to the public welfare as paramount.
2. ~~Is encouraged to seek opportunities to be of constructive service in civic affairs and work for the advancement of the safety, health, and well-being of the registrant's community.~~
3. Will not complete, sign, or seal plans or specifications that are not of a design safe to the public health and welfare and in conformity with accepted standards. In the course of work on a project, if a registrant becomes aware of an action taken by the client or employer against the registrant's advice, ~~which that~~ violates applicable state or municipal laws and regulations and which, in the registrant's judgment, will adversely affect the public life, health, or safety, the registrant shall take the following actions:
 - a. Advise the client or employer in writing of the registrant's refusal to consent to the decision and give reasons for that refusal; and

- b. If the registrant's advice is ignored despite the objection, terminate the registrant's services to the project; and the registrant shall provide a copy of the registrant's objection and reasoning to the public official charged with the enforcement of the applicable state or municipal laws and regulations.
- c. ~~Provide a copy of the registrant's objection and reasoning to the public official charged with the enforcement of the applicable state or municipal laws and regulations.~~

History: Effective January 1, 1988; amended effective October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-06. Aid public understanding. ~~Registrants will endeavor to extend public knowledge and appreciation of engineering or land surveying and its achievements and to protect the profession from misrepresentation and misunderstanding. Repealed effective October 1, 2010.~~

- 1. ~~Registrants are encouraged to maintain interest in the public welfare and be ready to apply their special knowledge, skill, and training for the use and benefit of the public.~~
- 2. ~~Registrants are encouraged to seek opportunities to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.~~

History: Effective January 1, 1988; amended effective October 1, 2004.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-07. Issuance of public statements related to engineering or surveying. Registrants shall express a professional opinion publicly only when it is founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

- 1. Registrants shall ~~avoid all~~ not willfully engage in any conduct or practice that deceives the public.
- 2. Registrants shall not use statements containing a material misrepresentation of fact or omitting a material fact.
- 3. Registrants shall express an opinion only when it is founded upon ~~honest conviction of the accuracy and propriety of the statement~~ accurate information.
- 4. The registrant shall be completely objective and truthful in all professional reports, statements, or testimony. Registrants shall include

all relevant and pertinent information in such reports, statements, or testimony.

5. The registrant, when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the testimony.
6. The registrant will issue no statements, criticisms, or arguments on professional matters connected with public policy ~~which~~ that are inspired or paid for by an interested party or parties, unless such statement is prefaced with a comment explicitly identifying the registrant, by disclosing the identity of the party or parties on whose behalf the statement is being made, and by revealing the existence of any pecuniary interest the registrant may have in the instant matter.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-08. Qualification for work projects. The registrant will undertake assignments for which the registrant will be responsible only when qualified by training education or experience. The registrant will engage, or advise engaging, experts and specialists whenever the client's or employer's interests are best served by such service.

1. The registrant may accept an assignment requiring education, training, or experience outside of the registrant's own field of competence, but only to the extent that such services are restricted to those phases of the project in which the registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.
2. The registrant shall not affix the registrant's signature or seal, or both, to any plan or document dealing with subject matter in which the registrant lacks competence acquired through education or experience, nor to any plan or document not prepared by the registrant or under the registrant's responsibility. In the event a question as to the competence of a registrant to perform a professional assignment in a specific technical field arises and cannot be otherwise resolved to the satisfaction of the board, the board, upon request of the registrant or by its own volition, may require the registrant to submit to whatever examination it deems appropriate.
3. In providing services, the registrant shall take into account all applicable federal, state, and local laws and regulations. The registrant shall

not knowingly provide services resulting in violation of such laws and regulations.

History: Effective January 1, 1988; amended effective October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-10. Disclosure of conflict of interest. Registrants shall make full prior disclosures to their employers or clients of all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.

1. If the employer or client objects to such an association or financial interest, the registrant shall either terminate the association or interest or offer to give up the employment.
2. Registrants serving as members, advisors, or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body ~~which~~ that they serve.
3. Registrants shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member.
4. A registrant shall not accept employment when duty to the client or the public would conflict with the personal interest of the registrant or the interest of another client and would influence the registrant's judgment or the quality of the registrant's services.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-13. Reporting of unethical or illegal practice. A registrant who has knowledge or reasonable grounds for believing that another registrant has violated any statute or rule regulating the practice of the profession shall have the duty of presenting such information to the board.

1. A registrant possessing knowledge of a violation shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require.
2. A registrant, when questioned concerning any alleged violation on the part of another person by any member or authorized representative of the board commissioned or delegated to conduct an official inquiry, shall

neither fail nor refuse to divulge such information as the registrant may have relative thereto.

3. Registrants must notify the board within thirty days if another state has disciplined them with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a license, or if they have voluntarily surrendered their license as part of a settlement proceeding.
4. If a registrant, during the course of the registrant's work, discovers a material discrepancy, error, or omission in the work of another registrant, which may impact the life, health, property, and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, the registrant whose work is believed to contain the discrepancy, error, or omission. Such communication shall reference specific codes, standards, or physical laws ~~which that~~ are believed to be violated and identification of documents ~~which that~~ are believed to contain the discrepancies. The registrant whose work is believed to contain the discrepancy shall respond in writing within thirty calendar days to any question about the work raised by another registrant. Failure to respond on the part of the registrant whose work is believed to contain the discrepancy shall be considered a violation of these rules. The discoverer shall notify the board in the event a response satisfactory to the discoverer is not obtained within thirty days.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-14. Professional relationships. The registrant ~~will~~ shall not knowingly associate professionally with or allow the use of one's name with ~~engineers or land surveyors who do not conform to ethical practices, or with~~ persons not legally qualified to render the professional services for which the association is intended.

1. Registrants in private practice shall not review the work of another registrant for the same client, except with the knowledge of such registrant, or unless the connection of such registrant with the work has been terminated. This prohibition shall not preclude a registrant from responding to a client-initiated or owner-initiated solicitation for a second opinion.
2. Registrants in governmental, industrial, or educational employment ~~are entitled to~~ may review and evaluate the work of other registrants when so required by their employment duties.

3. Registrants in sales or industrial employment ~~are entitled to~~ may make engineering comparisons of represented products with products of other suppliers.
4. Registrants shall not use association with a nonregistrant, a corporation, or partnership, as a cloak for unethical acts.
5. The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
 - a. Federal, state, and local laws and regulations, including building permit requirements; or
 - b. Registration requirements.
6. The registrant may not take over, review, revise, or sign or seal drawings or revisions thereof when such plans are begun by persons not properly registered and qualified or do any other act to enable either such persons or the project owners, directly or indirectly, to evade the registration requirements.

History: Effective January 1, 1988; amended effective October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-15. Proprietary interests of others.

1. Whenever possible, the registrant will name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
2. When a registrant uses designs supplied by a client, the designs remain the property of the client and should not be duplicated by the registrant for others without express permission.
3. Before undertaking work for others in which the registrant may make improvements, plans, designs, inventions, or other records which that may justify copyrights or patents, the registrant should enter into an agreement regarding the ownership of the improvements, plans, designs, inventions, or other records.
4. Designs, data, records, and notes made by a registrant and referring exclusively to the employer's work are the employer's property.

History: Effective January 1, 1988; amended effective October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-16. Professional enhancement. ~~The registrant will cooperate in extending the effectiveness of the profession by interchanging information and experience with other engineers or land surveyors and students, and will endeavor to provide opportunity for the professional development and advancement of engineers or land surveyors under the registrant's supervision. The registrant:~~
Repealed effective October 1, 2010.

- ~~1. Will encourage one's engineering or land surveying employees' efforts to improve their education.~~
- ~~2. Will encourage one's engineering or land surveying employees to attend and present papers at professional and technical society meetings.~~
- ~~3. Will urge one's engineering or land surveying employees to become registered at the earliest possible date.~~
- ~~4. Will assign a professional engineer or land surveyor duties of a nature to utilize the engineer's or land surveyor's full training and experience, insofar as possible, and delegate lesser functions to subprofessionals or to technicians. The registrant will provide a prospective employee with complete information on working conditions and the employee's proposed status of employment, and after employment will keep the employee informed of any changes in them.~~

History: ~~Effective January 1, 1988; amended effective April 1, 1999; October 1, 2004.~~

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

28-03.1-01-18. Public understanding and professional enhancement.
Sections 28-03.1-01-01 through 28-03.1-01-17 of this code of ethics are requirements of professional conduct and noncompliance with any of those sections is subject to disciplinary action. To enhance the professions of engineering and land surveying, the board also encourages, but does not require, a registrant to:

1. Seek opportunities to be of constructive service in civic affairs and work for the advancement of the safety, health, and well-being of the registrant's community.
2. Cooperate in extending the effectiveness of the profession by interchanging information and experience with other engineers or land surveyors and students.
3. Extend public knowledge and appreciation of engineering or land surveying and its achievements and to protect the profession from misrepresentation and misunderstanding.

4. Maintain interest in the public welfare and be ready to apply the registrant's special knowledge, skill, and training for the use and benefit of the public.
5. Seek opportunities to provide career guidance for youths.
6. Provide opportunity for the professional development and advancement of engineers or land surveyors under the registrant's supervision by:
 - a. Encouraging efforts to improve the registrant's education.
 - b. Encouraging attendance and presentation of papers at professional and technical society meetings.
 - c. Promoting professional registration at the earliest possible date.

History: Effective October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-24

TITLE 30
GAME AND FISH DEPARTMENT

OCTOBER 2010

CHAPTER 30-03-01.1

30-03-01.1-01. License required to be displayed. All licenses must be publicly displayed on the business premises. Business names must be displayed on both sides of any vehicle used to transport live bait. Any bait vendor who violates this section is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective April 1, 2008; amended effective April 1, 2009; October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-14

30-03-01.1-02. Bait definitions. ~~As used in this chapter:~~

1. ~~The term "legal live baitfish" means fathead minnow, stickleback, creek chub, and white sucker.~~
2. ~~The term "live bait" includes all fishes, amphibians, insects, or other invertebrates.~~
3. ~~The term "processed baitfish" means fathead minnow, stickleback, creek chub, white sucker, rainbow smelt, and lake herring (cisco) that have been preserved by freezing, salting, or otherwise treated to inactivate sexual products. Refer to the current fishing proclamation for legal live bait and legal live baitfish definitions.~~

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-14

30-03-01.1-03. Baitfish Legal live bait and legal live baitfish species permitted. A licensee may possess only legal live bait or legal live baitfish or ~~processed baitfish. Fish Other species other than those to be used as legal live~~

~~baitfish and processed baitfish~~ caught while seining or trapping must be returned to the water immediately.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-14

30-03-01.1-04. License limitations. Retail or wholesale bait vendor licenses are issued for a calendar year to one person only. An individual may be issued only one wholesale license per calendar year. The holder of a retail bait vendor license may sell legal live bait and legal live baitfish at retail only, at one specified selling location per license. A wholesale bait vendor may only sell legal live bait and legal live baitfish to licensed bait vendors. ~~Both a retail license and a wholesale license are necessary to sell live bait at both retail and wholesale.~~ A ~~wholesale licensee~~ person licensed as a wholesaler in any state may not act as an ~~agent or assistant under the a North Dakota wholesaler license of another wholesaler.~~ Any bait vendor who violates this section is guilty of a noncriminal offense and shall pay a two hundred fifty dollar fee.

History: Effective April 1, 2008; amended effective April 1, 2009; October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-14

30-03-01.1-05. Assistants covered by license. A licensed wholesale bait vendor may employ the assistance of up to six other persons to capture or sell and transport live bait in the manner approved by the director. All assistants must have in their possession department-issued documentation. The licensee is responsible for the actions of employees, including all ~~agents or assistants~~ acting under the licensee's license. ~~No one who has had a department-issued~~ Anyone whose privileges to hunt, fish, or trap are under suspension or who has had the person's bait vendor license revoked, denied, or suspended within the past three years may not act as an agent or assistant. Anyone who violates this section is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-14

30-03-01.1-06. Quantity requiring license. ~~Possession A retail or wholesale license is required for the possession of more than five gallons of rainbow smelt (must be dead), or more than one hundred fifty legal live baitfish, or more than twenty-four live crayfish, or more than twenty-four live frogs, or more than twenty-four live salamanders shall require a retail or wholesale license the limits described in the current fishing proclamation of legal live baitfish, rainbow smelt (must be dead), live crayfish, live frogs, or live salamanders.~~

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-14

30-03-01.1-07. Equipment for holding and transport. Persons commercializing in or transporting legal live bait and legal live bait baitfish shall use equipment capable of maintaining such live bait in a healthy and lively condition at all times. Each species of legal live baitfish must be kept separate from other species of legal live baitfish in holding and transport equipment. The premises and equipment of all persons commercializing in live bait shall be open to the inspection of the director or any of the director's duly appointed agents at any time. ~~All licensees' equipment~~ Equipment used for transporting live bait into or within the state, including bedding (medium), must be free of aquatic nuisance species. Water used to transport live bait into the state must be from a potable or ground water (well) source and shall not contain any aquatic vegetation. Retail bait vendors must keep all aquatic vegetation and aquatic nuisance species out of bait tanks at their point of sale. Any bait vendor who violates this section is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-06-14, 20.1-17-01

Law Implemented: NDCC 20.1-06-14, 20.1-17-01, 20.1-17-06

30-03-01.1-08. Interstate transport. It is illegal to import fathead minnows or stickleback into the state. It is illegal to import other live baitfish or live bait into the state except with a permit issued by the director and only in the manner approved by the director. It is illegal to export live baitfish or live bait out of the state except with a permit issued by the director and only in the manner approved by the director. It is illegal to transport live baitfish or live bait through the state except with a permit issued by the director and only in the manner approved by the director. Permit applications must be received by the director a minimum of forty-eight hours prior to any planned import or export of live baitfish or live bait. ~~Transportation of bait without the proper permits is a class B misdemeanor and may result in the revocation of the vendor's license.~~

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-02-05(22), 20.1-06-01, 20.1-06-14

Law Implemented: NDCC 20.1-02-05(22), 20.1-06-01, 20.1-06-14

30-03-01.1-09. Transportation of bait with aquatic vegetation within the state. ~~It is illegal to transport bait within the state with aquatic vegetation, or parts thereof, or aquatic nuisance species except with an appropriate license or permit issued by the director and only in the manner approved by the director. Repealed effective October 1, 2010.~~

History: Effective April 1, 2008.

General Authority: NDCC 20.1-17-01

Law Implemented: NDCC 20.1-17-01, 20.1-17-06

30-03-01.1-10. Transportation of bait in water within the state. It is illegal to transport aquatic bait in water within the state except with an appropriate license or permit issued by the director and only in the manner approved by the director.

Any bait vendor who violates this section is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-17-01

Law Implemented: NDCC 20.1-17-01, 20.1-17-06

30-03-01.1-11. Stocking. Stocking of any live fish, live fish eggs, live amphibians, or other live aquatic organism into any waters of the state shall be illegal except with the appropriate license or permit issued by the director. ~~Violation of this section is a class B misdemeanor.~~

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-02-05(22), 20.1-06-01, 20.1-06-14

Law Implemented: NDCC 20.1-02-05(22), 20.1-06-01, 20.1-06-14

30-03-01.1-12. Equipment for taking legal live bait and legal live baitfish and ~~processed baitfish~~. A person possessing only a retail license may take legal live bait and legal live baitfish and ~~processed baitfish~~ with a seine not exceeding twenty-five feet [7.6 meters] in length and six feet [1.8 meters] in depth or with traps not larger than thirty inches [76 centimeters] in length, and twelve inches [30.5 centimeters] in diameter, with a throat opening not to exceed one and three-quarter inches [4.445 centimeters] in diameter. The mesh size of both seine and traps shall not exceed three-eighths inch [9.5 millimeters] square measure.

A person possessing the appropriate wholesale license may take legal live bait and legal live baitfish and ~~processed baitfish~~ with fish traps less than five feet [1.5 meters] in any dimension. Mesh size shall not exceed one-half inch [12.7 millimeters] square measure and the throat opening shall be less than three inches [76.2 millimeters] in diameter or width. A valid tag issued by the department must be attached to each trap. Seines used by a licensed wholesaler shall be restricted to those less than two hundred fifty feet [76 meters] in length and fourteen feet [4.25 meters] in depth. Mesh size shall not exceed one-half inch [12.7 millimeters] square measure. A tag issued by the department must be affixed to each seine used by the licensee.

Any bait vendor who violates this section is guilty of a noncriminal offense and shall pay a two hundred dollar fee.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-04

30-03-01.1-13. Prohibited waters for taking legal live bait and legal live baitfish. Licensees shall not be permitted to take legal live bait and legal live baitfish from the following:

1. Waters managed as recreational fisheries;

2. Waters designated by the department as infested with prohibited or regulated aquatic nuisance species;
3. The United States fish and wildlife service's wildlife development areas, waterfowl production areas, or refuges; ~~or~~
4. The department's wildlife management areas; or
5. Any waters that have been licensed as a private fish hatchery in the past three years.

Refer to the current fishing proclamation for commercial season and other restrictions for harvesting leeches by licensed bait dealers. Any bait vendor who violates this section is guilty of a noncriminal offense and shall pay a two hundred fifty dollar fee.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-06-14, 20.1-17-01

Law Implemented: NDCC 20.1-06-04, 20.1-17-01, 20.1-17-06

30-03-01.1-14. Wholesale bait pond. The term "wholesale bait pond" means any pond used to take legal live bait and legal live baitfish for wholesale. A legal description, to the quarter section, of each wholesale bait pond must be listed on the wholesaler's application and all ponds must be approved by the director before a license is issued. The maximum number of approved legal descriptions for ponds from which a wholesale bait vendor may trap annually is fifty ponds. Any bait vendor who violates this section is guilty of a noncriminal offense and shall pay a two hundred fifty dollar fee.

History: Effective April 1, 2008; amended effective April 1, 2009; October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-14

30-03-01.1-15. Inspections and records. Equipment used to capture, transport, or hold, and shipments of, legal live bait and legal live baitfish are subject to inspections by duly appointed agents of the director. Each licensee trapping, seining, or purchasing legal live bait and legal live baitfish for sale must accurately complete forms furnished by the department. Each licensee shall keep current (within a month) records at the retail licensee's point of sale or the wholesaler licensee's permanent business address, or both. Records must be open to inspection by the department. A copy of these records shall be submitted to the director no later than thirty days following expiration of the license. Records must be retained by the licensee for a period of two years after the expiration of any license issued under this section. Any bait vendor who violates this section is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-06-14

Law Implemented: NDCC 20.1-06-14

30-03-01.1-16. Violations and penalties. ~~Any retail or wholesale bait vendor who violates any section of this chapter for which a penalty is not specifically provided is guilty of a noncriminal offense and shall pay a one hundred dollar fee. The violation~~ Violation of any rule not designated as having a noncriminal penalty is considered a criminal violation as established in the appropriate chapter of North Dakota Century Code title 20.1. Violations may result in license denial, suspension, or revocation. No one who has had a department-issued bait vendor license revoked or suspended within three years may obtain a license or be an assistant for another licensee.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-02-05(22)

Law Implemented: NDCC 20.1-02-05(22)

CHAPTER 30-03-05

30-03-05-05. Fishing contest rules and regulations.

1. In a boat tournament, the committee or sponsors shall provide boat launching and loading assistance to tournament participants and must provide all participants with contacts and telephone numbers in case of an emergency.
2. ~~The ratio of tournament patrol boats to participant boats shall at no time be less than one to twenty-five in fishing contests involving one hundred or fewer boats and one to thirty for contests involving more than one hundred boats.~~
3. The North Dakota game and fish department may add further tournament regulation restrictions if deemed necessary.
4. ~~3.~~ Fishing contests for all game and nongame fish, with the exception of paddlefish, pallid and shovelnose sturgeon, zander, and grass carp (white amur) are allowable.

History: Effective March 1, 1984; amended effective May 1, 1994; January 1, 2000; April 1, 2009; October 1, 2010.

General Authority: NDCC 20.1-02-05(20)

Law Implemented: NDCC 20.1-02-05(20)

30-03-05-08. Penalty. Any fishing contest applicant that violates any section of this chapter is guilty of a noncriminal offense and shall pay a two hundred fifty dollar fee.

History: Effective October 1, 2010.

General Authority: NDCC 20.1-02-05(20)

Law Implemented: NDCC 20.1-02-05(22)

CHAPTER 30-03-06

30-03-06-05. Water prohibited. All water must be drained from all watercraft and recreational, commercial, and construction equipment bilges and confined spaces, to include livewells and baitwells, when out of water and or upon entering the state. Water used for in-state transportation of fish legal live bait and legal live baitfish in watercraft livewells and bait buckets within the state is excluded no larger than five gallons in volume is allowed. Fish transported and held in or on ice is allowed. Refer to the current fishing proclamation for legal live bait and legal live baitfish definitions. Potable and sewage water is excluded.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-17-01

Law Implemented: NDCC 20.1-17-06

30-03-06-06. Inspections. ~~Operators and haulers of all watercraft and recreational, commercial, or construction equipment must inspect their equipment for aquatic nuisance species when removed from waters of the state or upon entering the state. If present, the aquatic nuisance species must be physically removed immediately.~~ Repealed effective October 1, 2010.

History: ~~Effective April 1, 2008.~~

General Authority: ~~NDCC 20.1-17-01~~

Law Implemented: ~~NDCC 20.1-17-04~~

30-03-06-07. Penalty. Any person violating a provision of this chapter ~~for which a penalty is not specifically provided~~ is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective April 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 20.1-02-05(22)

Law Implemented: NDCC 20.1-02-05(22)

CHAPTER 30-04-06

30-04-06-01. Petition required. Upon the filing of a petition by the license purchaser, the ~~North Dakota~~ game and fish department may reissue replacements for lost or destroyed game and fish licenses. The petition shall state the name and address of the license vendor where the original license was purchased. It shall also include personal information as required by law for the original license and a listing of the licenses that are to be replaced. The petition shall be signed by the person requesting license replacement and properly notarized or otherwise witnessed by a game and fish department employee.

History: Effective September 1, 1983; amended effective October 1, 2010.

General Authority: NDCC ~~20.1-02-05~~ 20.1-02-05(21)

Law Implemented: NDCC ~~20.1-02-05~~ 20.1-02-05(21)

CHAPTER 30-04-08
PUBLIC USE OF GAME AND FISH DEPARTMENT PRIVATE LAND OPEN
TO SPORTSMEN (PLOTS) LANDS

Section

30-04-08-01

Public Access and Use

30-04-08-01. Public access and use. All private land open to sportsmen (PLOTS) property is open only for public walk-in access for the purpose of hunting within legal hunting seasons, or as signed. All other activities require written permission from the property owner. As used in this section, PLOTS is private land enrolled by the department for purposes of hunting as established under North Dakota Century Code section 20.1-02-27. Walk-in access for purposes of this section is defined as an individual traveling by foot with any legal weapon, equipment, accessories, and provisions for the purposes of hunting. Hunting weapons, equipment, accessories, or provisions may not be left unattended on PLOTS without written permission of the property owner. Any person who violates this section is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective October 1, 2010.

General Authority: NDCC 20.1-02-27

Law Implemented: NDCC 20.1-02-05(22), 20.1-02-27

TITLE 33

STATE DEPARTMENT OF HEALTH

OCTOBER 2010

CHAPTER 33-36-01

33-36-01-01. Definitions. Words defined in North Dakota Century Code chapter 23-27 have the same meaning in this chapter.

1. "Accrediting agency" means the commission on accreditation on allied health education programs or its equivalent.
2. "Cardiopulmonary resuscitation", initial and refresher, means the American heart association health care provider standards or its equivalent which includes the following skills: adult one-person and two-person cardiopulmonary resuscitation, adult obstructed airway, child one-person and two-person cardiopulmonary resuscitation, child obstructed airway, infant cardiopulmonary resuscitation, infant obstructed airway, and automated external defibrillator.
2. 3. "Certification scope enhancement programs" means those certification programs which add additional skills to or refresh existing skills obtained from the primary certification programs.
4. "Continuing education coordinator" means an individual who is licensed to conduct limited courses including continuing education courses, refresher courses, and scope enhancement courses.
3. 5. "Department" means the state department of health.
6. "Emergency medical services instructor" means an individual who is licensed to conduct the full scope of courses including continuing education courses, refresher courses, and scope enhancement courses, as well as initial primary education courses that include emergency medical responder, emergency medical technician, emergency medical technician-intermediate/85, advanced emergency medical technician, emergency medical technician-intermediate/99, and paramedic.

- 4- ~~7~~. "Equivalent" means training of equal or greater value which accomplishes the same results as determined by the department.
- 5- ~~8~~. "Field internship preceptor" means a qualified person designated by an emergency medical services instructor to supervise a student during field internship training.
- 6- ~~9~~. "National registry" means the national registry of emergency medical technicians located in Columbus, Ohio.
- ~~10~~. "On call" means that an individual is expected to be available for emergency response when called by radio or pager and report after notification.
- 7- ~~11~~. "Prehospital emergency medical services personnel" are those persons certified or licensed under the programs defined in this chapter.
- 8- ~~12~~. "Primary certification programs" means those certification programs which integrate a broad base of skills necessary to perform within a level of the emergency medical services system as determined by the department.

History: Effective April 1, 1992; amended effective August 1, 2003; January 1, 2006; January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-01-02. Emergency medical services training courses. The department shall establish training, testing, and certification requirements for the following emergency medical services courses:

- 1. Primary certification courses:
 - a. First Emergency medical responder;
 - b. Emergency medical technician;
 - c. Emergency medical technician-intermediate/85;
 - d. Emergency medical technician-intermediate/99;
 - e. Advanced emergency medical technician;
 - f. Advanced first-aid ambulance attendant;
 - f. ~~g~~. Emergency vehicle operations;
 - g- ~~h~~. Emergency medical dispatch; and

- ~~h.~~ i. Automobile extrication.
- 2. Certification scope enhancement courses:
 - ~~a.~~ Manual defibrillation;
 - ~~b.~~ Intravenous maintenance;
 - ~~c.~~ b. Automobile extrication instructor;
 - ~~d.~~ c. Emergency medical services instructor;
 - ~~e.~~ d. Epinephrine administration;
 - ~~f.~~ e. Dextrose administration;
 - ~~g.~~ f. Bronchodilator/nebulizer administration;
 - ~~h.~~ g. Limited advanced airway insertion; ~~and~~
 - ~~i.~~ h. Emergency vehicle operations instructor; ~~and~~
 - i. Continuing education coordinator.
- 3. Certification refresher courses:
 - ~~a.~~ First Emergency medical responder-refresher;
 - ~~b.~~ Emergency medical technician-basic refresher;
 - ~~c.~~ Emergency medical technician-intermediate/85 refresher;
 - ~~d.~~ Emergency medical technician-intermediate/99 refresher; ~~and~~
 - ~~e.~~ Advanced emergency medical technician refresher; and
 - f. Paramedic refresher.

History: Effective April 1, 1992; amended effective October 1, 1992; August 1, 1994; August 1, 2003; August 1, 2004; January 1, 2006; January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-01-03. Training, testing, certification, and licensure standards for primary certification courses. The department shall authorize the conduct of courses, the testing of students, and the certification or licensure of personnel when application has been made on forms requested from and provided by the

department prior to conducting the course and in the manner specified by the department contingent on the following requirements:

1. First Emergency medical responder:

- a. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
- b. Textbooks. The department shall approve textbooks.
- c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor and must be currently certified as ~~a first~~ an emergency medical responder or its equivalent.
- d. ~~A first~~ An emergency medical responder student may practice all of the skills defined in the core scope of practice for first emergency medical responder while in the classroom and during field internship while under direct supervision of an instructor or field internship preceptor and if registered with the department as ~~a first~~ an emergency medical responder student.
- e. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department or the national registry cognitive knowledge examination and pass all stations of a practical examination conducted by the course coordinator. The practical examination must consist of no less than one medical, one cardiopulmonary resuscitation, and one trauma station.
- f. Initial certification. The department shall issue initial certification to persons who meet the physical requirements described in the functional job analysis for first emergency medical responder as published by the national highway traffic safety administration and are over the age of sixteen who have completed an authorized course and passed the testing process, or are certified as ~~a first~~ an emergency medical responder by the national registry. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year, or ninety days past their national registry expiration date if they are nationally registered. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year, or ninety days past their national registry expiration date if they are nationally registered.
- g. Recertification. The department shall recertify for a two-year period expiring on June thirtieth, or ninety days past their national registry expiration date if they are nationally registered, to those persons

that meet the physical requirements described in the functional job analysis for first emergency medical responder as published by the national highway traffic safety administration and who have met one of the following requirements:

- (1) Completion of ~~a sixteen-hour~~ an approved North Dakota first emergency medical responder refresher course.
- (2) Completion of a twenty-four-hour emergency medical ~~technician-basic~~ technician refresher course.

2. Emergency medical technician:

- a. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
- b. Textbooks. The department shall approve textbooks.
- c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor and must be currently licensed as an emergency medical technician or its equivalent.
- d. Course instructors. The primary course instructor must be licensed by the department as an emergency medical services instructor and must be currently licensed as an emergency medical technician or its equivalent. The primary instructor must teach at least fifty percent of the lecture portion of the course. Secondary instructors must be currently licensed as an emergency medical technician or its equivalent.
- e. An emergency medical technician student may practice all of the skills defined in the core scope of practice for emergency medical technician while in the classroom and during field internship while under direct supervision of an instructor or the field internship preceptor and if registered with the department as an emergency medical technician student.
- f. Testing. Students must pass the national registry cognitive knowledge examination and a practical examination specified by the department which meets the national registry's standards or its equivalent in order to be eligible for licensure. The content of the practical examination must be determined by the department, and the department shall establish policies regarding retesting of failed written and practical examinations.
- g. Emergency medical technician initial licensure. The department shall issue initial licensure as an emergency medical technician

to persons that meet the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration and are over the age of sixteen who have completed an authorized course and passed the testing process or those who have requested reciprocity from another state with equivalent training. Persons passing the testing process between January first and June thirtieth shall be licensed until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be licensed until June thirtieth of the third year.

- h. Relicensure of emergency medical technicians. The department shall relicense for a two-year period expiring June thirtieth those persons that meet the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration and who have met the following requirements:
 - (1) Completion of a twenty-four hour emergency medical technician-basic refresher course which includes a cardiopulmonary resuscitation health care provider refresher, answering correctly at least seventy percent of the questions on a written examination specified by the department and passing a local practical examination meeting the department's requirements; and
 - (2) Completion of forty-eight hours of continuing education as approved by the department or the national registry; or
 - (3) If currently licensed as an emergency medical technician, successful completion of the practical examination for emergency medical technician as established by the department. The practical examination must be administered by a licensed emergency medical services training institution in accordance with section 33-36-02-10 or by the department.

3. Emergency medical technician-intermediate/85:

- a. Student prerequisite certification. Students must be licensed as an emergency medical technician or its equivalent prior to testing.
- b. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
- c. Textbooks. The department shall approve textbooks.

- d. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor and must be currently licensed as an emergency medical technician-intermediate/85 or its equivalent.
- e. Course instructors. The primary course instructor must be licensed by the department as an emergency medical services instructor and must be currently licensed as an emergency medical technician-intermediate/85 or its equivalent. The primary instructor must teach at least fifty percent of the lecture portion of the course. Secondary instructors must be currently licensed as an emergency medical technician-intermediate/85 or its equivalent.
- f. An emergency medical technician-intermediate/85 student may practice all of the skills defined in the core scope of practice for emergency medical technician-intermediate/85 while in the classroom and during field internship while under direct supervision of an instructor or field internship preceptor and if registered with the department as an emergency medical technician-intermediate/85 student.
- g. Testing. Students must pass the cognitive knowledge and practical examinations as provided by the national registry and approved by the department in order to be eligible for licensure.
- h. Emergency medical technician-intermediate/85 initial licensure. A person eighteen years of age or older that meets the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration and who has completed an authorized course and passed the testing process shall obtain certification from the national registry. Persons obtaining national registry certification and in compliance with chapter 50-03-03 will be licensed by the department expiring ninety days after their national registry expiration date.
- i. Relicensure of emergency medical technician-intermediate/85. Emergency medical technician-intermediate/85 must be recertified by the national registry recertification policies and meet the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration. Persons recertified by the national registry and in compliance with chapter 50-03-03 will be relicensed by the department for a two-year period expiring ninety days after their national registry expiration date.
- j. Transition to new licensure level. When the national registry discontinues certifying personnel at the emergency medical technician-intermediate/85 level, personnel currently licensed as

an emergency medical technician-intermediate/85 must transition to a new licensure level. To remain licensed as an emergency medical services provider, each person must do one of the following options:

- (1) Complete a state-authorized transition course for emergency medical technician-intermediate/85 to advanced emergency medical technician and license as an advanced emergency medical technician as described in subsection 4.
- (2) Complete a state-authorized transition course for emergency medical technician-intermediate/85 to advanced emergency medical technician, as well as completing all of the certification requirements of the national registry for advanced emergency medical technician and license as an advanced emergency medical technician as described in subsection 4.
- (3) Complete the national registry requirements for emergency medical technician and license as an emergency medical technician as described in subsection 2.

4. Advanced emergency medical technician:

- a. Student prerequisite certification. Students must be licensed as an emergency medical technician or its equivalent prior to testing.
- b. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
- c. Textbooks. The department shall approve textbooks.
- d. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor and must be currently licensed as an advanced emergency medical technician or its equivalent.
- e. Course instructors. The primary course instructor must be licensed by the department as an emergency medical services instructor and must be currently licensed as an advanced emergency medical technician or its equivalent. The primary instructor must teach at least fifty percent of the lecture portion of the course. Secondary instructors must be currently licensed as an advanced emergency medical technician or its equivalent.
- f. An advanced emergency medical technician student may practice all of the skills defined in the core scope of practice for advanced emergency medical technician while in the classroom and during

field internship while under direct supervision of an instructor or field internship preceptor and if registered with the department as an advanced emergency medical technician student.

- g. Testing. Students must pass the cognitive knowledge and practical examinations as provided by the national registry and approved by the department in order to be eligible for licensure.
- h. Advanced emergency medical technician initial licensure. Except as otherwise provided under subdivision j of subsection 3, a person eighteen years of age or older that meets the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration and who has completed an authorized course and passed the testing process shall obtain certification from the national registry. Persons obtaining national registry certification and in compliance with chapter 50-03-03 will be licensed by the department expiring ninety days after their national registry expiration date.
- i. Relicensure of advanced emergency medical technician. Except as otherwise provided under subdivision j of subsection 3, an advanced emergency medical technician must be recertified by the national registry recertification policies and meet the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration. Persons recertified by the national registry and in compliance with chapter 50-03-03 will be relicensed by the department for a two-year period expiring ninety days after their national registry expiration date.
- j. Transitioning from emergency medical technician-intermediate/85. Notwithstanding subdivisions h and i of subsection 3, an emergency medical technician-intermediate/85 licensee may be licensed or relicensed as an advanced emergency medical technician without obtaining national registry certification if the requirements in subsection 3 have been met as well as maintaining compliance with chapter 50-03-03.

4. 5. Emergency medical technician-intermediate/99:

- a. Student prerequisite certification or license. A student must be licensed as an emergency medical technician or its equivalent prior to testing.
- b. Curriculum. The course curriculum shall be that issued by the United States department of transportation, national highway traffic safety administration, in the addition specified by the department.

- c. Textbooks. The department shall approve textbooks.
- d. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor and must be currently licensed as an emergency medical technician-intermediate/99 or its equivalent.
- e. Course instructors. The primary course instructor must be licensed by the department as an emergency medical services instructor and must be currently licensed as an emergency medical technician-intermediate/99 or its equivalent. The primary instructor must teach at least fifty percent of the lecture portion of the course. Secondary instructors must be currently licensed as an emergency medical technician-intermediate/99 or its equivalent.
- f. An emergency medical technician-intermediate/99 student may practice all of the skills defined in the core scope of practice for emergency medical technician-intermediate/99 while in the classroom and during field internship while under direct supervision of an instructor or field internship preceptor and if registered with the department as an emergency medical technician-intermediate/99 student.
- g. Testing. Students must pass the cognitive knowledge and practical examinations as provided by the national registry and approved by the department in order to be eligible for licensure.
- h. Emergency medical technician-intermediate/99 initial licensure. A person eighteen years of age or older that meets the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration and who has completed an authorized course and passed the testing process shall obtain certification from the national registry. Persons obtaining national registry certification and in compliance with chapter 50-03-03 will be licensed by the department expiring ninety days after their national registry expiration date.
- i. Relicensure of emergency medical technician-intermediate/99. An emergency medical technician-intermediate/99 must be recertified by the national registry recertification policies and meet the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration. Persons recertified by the national registry and in compliance with chapter 50-03-03 will be relicensed by the department for a two-year period expiring ninety days after their national registry expiration date.

5- 6. Paramedic:

- a. Student prerequisite certification. Students must be certified or licensed as an emergency medical technician or its equivalent prior to testing.
- b. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
- c. Textbooks. The department shall approve textbooks.
- d. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor and must be currently licensed as a paramedic or its equivalent. Course coordinators that are not affiliated with a licensed training institution must have their paramedic course accredited by an accrediting agency by January 1, 2012.
- e. Course instructors. The primary course instructor must be licensed by the department as an emergency medical services instructor and must be currently licensed as a paramedic or its equivalent. The primary instructor must teach at least fifty percent of the lecture portion of the course. Secondary instructors must be currently licensed as a paramedic or its equivalent.
- f. A paramedic student may practice all of the skills defined in the core scope of practice for paramedic while in the classroom and during field internship while under direct supervision of an instructor or field internship preceptor and if registered with the department as a paramedic student.
- g. Field internship. Courses must provide field internship experience based on the curriculum requirements for patient contacts with a paramedic preceptor.
- h. Testing. A student must pass the cognitive knowledge and practical examinations as provided by the national registry and approved by the department in order to be eligible for licensure.
- i. Paramedic initial licensure. A person eighteen years of age or older that meets the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration and who has completed an authorized course and passed the testing process shall obtain certification from the national registry. Persons obtaining national registry certification and in compliance with chapter 50-03-03 will be licensed by the department expiring ninety days after their national registry expiration date.

- j. Relicensure of paramedic. A paramedic must be recertified by the national registry recertification policies and meet the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration. Persons recertified by the national registry and in compliance with chapter 50-03-03 will be relicensed by the department for a two-year period expiring ninety days after their national registry expiration date.

6. 7. Advanced first aid ambulance attendant:

- a. Advanced first aid ambulance attendant initial certification. The department shall issue initial certification to persons currently certified in American national red cross advanced first aid and who demonstrate a minimum of two years experience with a North Dakota licensed ambulance service as evidenced by North Dakota ambulance service license application personnel rosters.
- b. Recertification of advanced first aid ambulance attendants. The department shall recertify for a three-year period, expiring on June thirtieth, those persons who meet the physical requirements described in the functional job analysis for emergency medical technician as published by the national highway traffic safety administration and have completed a twenty-four-hour emergency medical technician-basic refresher course, which includes a cardiopulmonary resuscitation refresher, answering correctly at least seventy percent of the questions on a written examination specified by the department and passing a local practical examination meeting the department's requirements.

7. 8. Emergency vehicle operations:

- a. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
- b. Course coordinator. The course coordinator must be certified by the department as an emergency vehicle operation instructor.
- c. Testing. The students must correctly answer at least seventy percent of the questions on a written examination and pass a practical examination specified by the department.
- d. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth must be certified until June thirtieth of the second year. Persons passing the testing process between July

first and December thirty-first must be certified until June thirtieth of the third year.

~~8-~~ 9. Emergency medical dispatch:

- a. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
- b. Course coordinator. The course coordinator must be approved by the department as an emergency medical dispatch instructor.
- c. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department.
- d. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth must be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first must be certified until June thirtieth of the third year.

~~9-~~ 10. Automobile extrication:

- a. Curriculum. The course curriculum must be approved by the department.
- b. Course coordinator. The course coordinator must be certified by the department as an automobile extrication instructor.
- c. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department.
- d. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth must be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first must be certified until June thirtieth of the third year.

History: Effective April 1, 1992; amended effective August 1, 1994; August 1, 2003; January 1, 2006; January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-01-03.2. Continuing education. Continuing education means ongoing professional education that is based on current emergency medical services textbooks, emergency medical services educational principles, or topics that expand the professional knowledge to stay up to date with emergency medical services standards. An entity or individual that offers continuing education must:

1. Have the course approved as continuing education by:
 - a. The department;
 - b. An emergency medical services training institution licensed in accordance with chapter 33-36-02;
 - c. The continuing education coordinating board for emergency medical services located in Dallas, Texas;
 - d. A licensed continuing education coordinator in consultation with a licensed physician;
 - e. A licensed instructor in consultation with a licensed physician; or
 - f. A licensed physician.
2. Maintain the continuing education course records for at least two years.
3. Issue certificates to attendees that list the title of the course, date, number of hours awarded rounded to the nearest half hour, location, name of instructor, and the name of the person or entity that approved the course.

History: Effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-01-04. Training, testing, and certification standards for certification scope enhancement courses. The department shall authorize the conduct of courses, the testing of students, and the certification or licensure of personnel when application has been made on forms provided prior to conducting the course and in the manner specified by the department contingent on the following requirements:

1. **Manual defibrillation:**
 - a. ~~Student prerequisite certification. A student must be licensed as an emergency medical technician or its equivalent.~~
 - b. ~~Curriculum. The course curriculum must be that issued by the department entitled "Manual Defibrillator/Monitor Curriculum".~~

- ~~c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor and must be currently certified by the American heart association in advanced cardiac life support or its equivalent.~~
- ~~d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department and pass all portions of a practical examination specified by the department. The practical examination must consist of the manual defibrillation of a simulated cardiac arrest patient and correctly identify eleven out of thirteen static cardiac strips.~~
- ~~e. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year.~~

2. Intravenous therapy maintenance:

- a. Student prerequisite certification. A student must be licensed as an emergency medical technician or its equivalent.
- b. Curriculum. The course curriculum must be that issued by the department entitled "EMT IV Maintenance Module".
- c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator, and currently certified in intravenous therapy maintenance, or its equivalent.
- d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department and pass all portions of a practical examination specified by the department. The practical examination must consist of performing intravenous maintenance skills on a mannequin.
- e. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year.

3. 2. Automobile extrication instructor:

- a. Curriculum. The course curriculum must be approved by the department.
- b. Student prerequisite. The candidate for this course must be currently certified in automobile extrication with at least two years of certified automobile extrication experience.
- c. Course coordinator. The department shall designate the course coordinator.
- d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department.
- e. Initial certification. The department shall issue initial certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year.
- f. Recertification. The department shall recertify for a two-year period those persons who have satisfactorily conducted an automobile extrication course or have audited eight hours of an automobile extrication instructor course before the expiration date of their certification.

4. 3. Emergency medical services instructor:

- a. Student prerequisite. An individual must be at least eighteen years of age and certified or licensed for at least two years as a patient care provider at the level the individual will instruct at, in order to be licensed.
- b. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department or its equivalent.
- c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor.
- d. Initial licensure. The department shall issue initial licensure to persons who have completed an authorized course. Persons completing the course between January first and June thirtieth

shall be licensed until June thirtieth of the second year. Persons completing the course between July first and December thirty-first shall be licensed until June thirtieth of the third year.

- e. Relicensure. The department shall relicense for a two-year period those persons who have participated in at least one initial training course as a course coordinator or primary instructor, and:

- (1) Completed the department's eight-hour relicensure course;
- (2) Those persons that are employed or affiliated with a licensed training institution, may submit documentation of eight hours of adult education training to satisfy the relicensure requirements;
- (3) Within the current two-year licensure period the instructor has had at least a seventy percent pass rate in both cognitive and practical examinations for the following primary certification courses; emergency medical technician, emergency medical technician-intermediate/85, emergency medical technician-intermediate/99, or paramedic; and
- (4) In addition, failure to achieve a seventy percent pass rate for these courses would require the instructor to retake the entire initial licensure process for emergency medical services instructor or require the instructor to be affiliated with a licensed training institution for a period of two years.

4. Continuing education coordinator:

- a. Student prerequisite. An individual must be at least eighteen years of age and certified or licensed for at least two years as a patient care provider at the level at which the individual will instruct.
- b. Curriculum. The course curriculum must be that issued by the division of emergency medical services and trauma.
- c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor.
- d. Initial licensure. The department shall issue initial licensure to persons who have completed an authorized course. Persons completing the course between January first and June thirtieth shall be licensed until June thirtieth of the second year. Persons completing the course between July first and December thirty-first shall be licensed until June thirtieth of the third year.
- e. Relicensure. The department shall relicense for a two-year period those persons:

- (1) Who have completed the department's relicensure course; or
- (2) Who are employed or affiliated with a licensed training institution, upon submission of documentation of continued affiliation with a licensed training institution.

5. Epinephrine administration:

- a. Student prerequisite certification. A student must be certified as a first an emergency medical responder or its equivalent.
- b. Curriculum. The course curriculum must be that issued by the department entitled " Epinephrine Administration Module".
- c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator and must be currently certified in epinephrine administration or its equivalent.
- d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department and pass all portions of a practical examination specified by the department. The practical examination must consist of performing subcutaneous injection of epinephrine with the use of a preloaded, self-injecting device such as the epipen trainer.
- e. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year.

6. Dextrose administration:

- a. Student prerequisite licensure. A student must be licensed as an emergency medical technician-intermediate or its equivalent.
- b. Curriculum. The course curriculum must be that issued by the department entitled "EMT-I – 50% Dextrose Administration Module".
- c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator and must be licensed as a paramedic or its equivalent.

- d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department and pass all portions of a practical examination specified by the department. The practical examination must consist of administration of the drug by aseptic injection into intravenous administration tubing.
 - e. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year.
7. Bronchodilator/nebulizer administration:
- a. Student prerequisite licensure. A student must be licensed as an emergency medical technician or its equivalent.
 - b. Curriculum. The course curriculum must be the general pharmacology and the respiratory emergencies sections of the curriculum issued by the United States department of transportation, national highway traffic safety administration, for emergency medical technicians-basic, in the edition specified by the department, or its equivalent.
 - c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator and be licensed as a paramedic or its equivalent.
 - d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination and pass a practical examination specified by the department.
 - e. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year.
8. Limited advanced airway insertion:
- a. Student prerequisite licensure. A student must be licensed as an emergency medical technician or its equivalent.

- b. Curriculum. The course curriculum must be that issued by the department entitled "Limited Advanced Airway Module".
 - c. Course coordinator. The course coordinator must be licensed as an emergency medical services instructor or continuing education coordinator and must be currently licensed as a paramedic or its equivalent.
 - d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination and pass a practical examination specified by the department.
 - e. Certification. The department shall issue a certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year.
9. Emergency vehicle operations instructor:
- a. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
 - b. Course instructor. The department shall designate the course instructor.
 - c. Testing. The students must correctly answer at least seventy percent of the questions on a written examination and pass a practical examination specified by the department.
 - d. Initial certification. The department shall issue initial certification to persons who have completed an authorized course and passed the testing process. Persons passing the testing process between January first and June thirtieth shall be certified until June thirtieth of the second year. Persons passing the testing process between July first and December thirty-first shall be certified until June thirtieth of the third year.
 - e. Recertification. The department shall recertify for a two-year period those persons who have satisfactorily conducted an emergency

vehicle operations course or have audited eight hours of an emergency vehicle operator's course.

History: Effective April 1, 1992; amended effective October 1, 1992; August 1, 1994; August 1, 2003; August 1, 2004; January 1, 2006; January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-01-04.1. Training, testing, and certification standards for certification refresher courses. The department shall authorize the conduct of courses, the testing of students, and the certification of personnel when application has been made on forms requested from and provided by the department prior to conducting the course and in the manner specified by the department contingent on the following requirements:

1. First Emergency medical responder refresher:
 - a. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
 - b. Textbooks. The department shall approve textbooks.
 - c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator and must be currently certified as ~~a first~~ an emergency medical responder or its equivalent.
 - d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department and pass all stations of a practical examination conducted by the course coordinator. The practical examination must consist of no less than one medical, one cardiopulmonary resuscitation, and one trauma station.
2. Emergency medical technician refresher:
 - a. Curriculum. The course curriculum must be that issued by the United States department of transportation, national highway traffic safety administration, in the edition specified by the department.
 - b. Textbooks. The department shall approve textbooks.
 - c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator and must be currently licensed as an emergency medical technician or its equivalent.

- d. Testing. The student must correctly answer at least seventy percent of the questions on a written examination specified by the department and pass all stations of a practical examination conducted by the course coordinator.
- 3. Emergency medical technician-intermediate/85 refresher:
 - a. Curriculum. The course coordinator shall select topics consistent with the reregistration requirements of the national registry.
 - b. Textbooks. The department shall approve textbooks.
 - c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator and must be currently licensed as an emergency medical technician-intermediate/85 or its equivalent.
 - 4. Emergency medical technician-intermediate/99 refresher:
 - a. Curriculum. The course coordinator shall select topics consistent with the reregistration requirements of the national registry.
 - b. Textbooks. The department shall approve textbooks.
 - c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator and must be currently licensed as an emergency medical technician-intermediate/99 or its equivalent.
 - 5. Paramedic refresher:
 - a. Curriculum. The course curriculum must be consistent with the reregistration requirements of the national registry.
 - b. Textbooks. The department shall approve textbooks.
 - c. Course coordinator. The course coordinator must be licensed by the department as an emergency medical services instructor or continuing education coordinator and must be currently licensed as a paramedic or its equivalent.

History: Effective August 1, 2003; amended effective January 1, 2006; January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-01-05. Denial, suspension, or revocation of certification or licensure. The department may deny, suspend, or revoke the certification or licensure for a period of time determined by the department of a person who:

1. Has misrepresented to others that the person is a physician, nurse, or health care provider other than the highest level for which they are certified or licensed.
2. Is incapable of properly performing the skills for which the individual has been certified or licensed.
3. Performs a skill which exceeds those allowed by the individual's level of certification or licensure.
4. ~~Has been charged or~~ Is under indictment for or has been convicted of a felony which has a direct bearing upon the person's ability to serve the public in a capacity certified or licensed by this chapter, or has been convicted of a crime that requires the person to register as a sex offender in any state. Persons certified or licensed who ~~have been charged~~ are under indictment for or have been convicted of a felony or required to register as a sex offender in any state must report the information to the department.
5. Has been found by a court of law to be mentally incompetent.
6. Failure to follow examination policies as a student, instructor, or course coordinator.
7. Diversion of drugs for personal or unauthorized use.
8. Performance of care in a manner inconsistent with acceptable standards or protocols.
9. Has attempted to obtain by fraud or deceit a certification or license or has submitted to the department any information that is fraudulent, deceitful, or false.
10. Has had the person's national registry or other health care certification or license encumbered for any reason. Persons certified or licensed as described in this chapter must report any encumbrance of their national registry or other health care certification or licensure to the department.
11. Has misrepresented to others that the person is an employee, volunteer, or agent of an ambulance service, quick response unit, or rescue squad to offer emergency medical services.
12. Unprofessional conduct, which may give a negative impression of the emergency medical services system to the public, as determined by the department.

13. As an instructor has failed to have emergency medical services training authorized as required in section 33-36-01-03, 33-36-01-04, or 33-36-01-04.1.
14. Providing emergency medical services without authorization from a physician.
15. Has been found to be under the influence of alcohol or mind-altering drugs while on call or during an emergency medical response or interfacility transfer.
16. Failing to respond to an emergency while on call. The failure to respond must be caused by the individual's willful disregard and not caused by a good-faith error or circumstances beyond the individual's control as determined by the department.

History: Effective April 1, 1992; amended effective August 1, 2003; January 1, 2006; January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-01-08. Waivers. Based on each individual case, the department may waive any provisions of this chapter that may result in unreasonable hardship upon the individual or the individual's emergency medical service agency, provided such a waiver does not adversely affect the health and safety of patients. The department will consider waivers for the following situations and conditions:

1. A person had completed all the requirements for recertification or relicensure and a good-faith effort was made by that person to recertify with the national registry and by no fault of the person recertification was not granted.
2. A person who was current in the person's certification or license was called to active duty in the United States armed forces and deployed to an area without the resources to maintain the person's certification or license resulting in a lapse of the person's certification or license.
3. Other reason as determined by the department.
4. A waiver may be granted for a specific period of time not to exceed one year and shall expire on June thirtieth of each year.

History: Effective January 1, 2006; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

CHAPTER 33-36-02

33-36-02-01. Definitions. Words defined in North Dakota Century Code chapter 23-27 have the same meaning in this chapter.

1. "Acceptable criminal background requirements" means that a student's criminal background is acceptable by the department and the national registry for entry into the profession.
2. "Accrediting agency" means the commission on accreditation on allied health education programs or its equivalent.
3. "Candidate" means a person that has completed a primary training course and is in the testing process.
4. "Certifying examination" means a national registry test.
5. "Department" means the North Dakota state department of health.
6. "Emergency medical services equipment" means automated external defibrillator, long back board, Kendrick extrication device, oxygen delivery equipment, rigid splints, traction splint, suction equipment, bandages, and other equipment needed to accomplish training.
7. "National registry" means the national registry of emergency medical technicians located in Columbus, Ohio.
8. "Physician" means a person licensed by the North Dakota board of medical examiners to practice medicine.
9. "Primary education course" means the initial or refresher training course for emergency medical responder, emergency medical technician, emergency medical technician-intermediate, and paramedic.
10. "Student" means a person that is actively in a primary training course and has not yet completed the course.

History: Effective January 1, 2006; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-02-07. Course instructors. Primary course instructors must be licensed as an instructor coordinator as defined in section 33-36-01-04 and hold a certificate or license in or above the discipline that they are teaching ~~and teach at~~

~~least fifty percent of the course content. The remaining fifty percent may be taught by guest lecturers approved by the training institution director or medical director.~~

History: Effective January 1, 2006; amended effective January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-02-08. Training institution policies, records, and quality assurance. North Dakota licensed emergency medical services training institutions must:

1. Publish a student handbook which includes at least the following information:
 - a. The full name and address of the school;
 - b. Names of owners and officers, including governing boards;
 - c. A description of each educational service offered, including tuition, fees, and length of courses;
 - d. Enrollment procedures and entrance requirements, including late enrollment if permitted;
 - e. A description of the institution's tuition assistance. If no assistance is offered, the institution must state this fact;
 - f. Attendance policy, including minimum attendance requirements;
 - g. A policy explaining satisfactory student progress which includes:
 - (1) How progress is measured and evaluated, including an explanation of any system of grading used;
 - (2) The conditions under which the student may be readmitted if terminated for unsatisfactory progress; and
 - (3) Explanation of any probation policy;
 - h. A description of the system used to make progress reports to students; and
 - i. An explanation of the refund policy which also includes the training agency's method of determining the official date of termination.
2. Maintain as a minimum, the following records for emergency medical services courses taught:

- a. Student records that must be maintained for five years and include:
- (1) Name and address for each student enrolled in an emergency medical services course;
 - (2) Grades for each written examination;
 - (3) Copies of each student's documentation of entrance requirements to each course, including a copy of the individual's cardiopulmonary resuscitation certification and criminal history statement; and
 - (4) Field internship student evaluation forms from each field or clinical internship session. The form must include the evaluator's printed name, contact information, and signature.

~~Student records must be maintained for five years.~~

- b. Instructor and course records that include:
- (1) Names and qualifications of the primary instructors;
 - (2) Names and qualification of guest instructors;
 - (3) Instructor evaluation records completed by students and training institution personnel; and
 - (4) Names of the practical examination evaluators.
3. Have at least seventy percent of the candidates who successfully complete a primary training course certified or licensed by the department or certified by the national registry within two years of course completion.
4. Develop and implement a quality assurance program for instruction. The quality assurance program must:
- a. Establish and implement policies and procedures for periodic evaluation of all instructors, field internship sites, equipment, and other training resources;
 - b. Establish and implement a mentoring program for each new instructor. Each new instructor will be assigned a mentor who has a background in the course being taught or in teaching. The assigned mentor will complete an evaluation of the assignee at least once;
 - c. Establish and have completed student evaluations during and after each course taught; and

- d. Establish and implement a remediation plan for all noted instructor deficiencies. Documentation of remediation shall be maintained for five years.

History: Effective January 1, 2006; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-02-09. Other training institution requirements. North Dakota licensed emergency medical services training institutions must:

1. Have adequate classroom and laboratory space to conduct emergency medical services training.
2. Have appropriate dedicated emergency medical services equipment for training.
3. Determine the eligibility of prospective students in regard to age, minimum prior training requirements, and acceptable criminal background requirements.
4. Maintain a written agreement with a licensed medical facility and licensed ambulance service designating a field internship site.
5. After each primary training class is complete, notify the department of the starting date and number of students initially enrolled and the number of students fully completing the course.
6. Provide proof of liability insurance that covers the training institution and primary instructors.
7. Notify the department prior to conducting primary education courses in a format determined by the department.

History: Effective January 1, 2006; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-02-10. Practical examination administration. A licensed training institution may conduct practical examinations under the following conditions:

1. The institution must be designated by the department to conduct practical examinations.
2. The facility must have adequate room to accommodate a test. Each test station must be well away from others so that the privacy of the candidate and the security of the test are maintained. There must be a separate monitored room for candidates to wait. The designated

department representative may shut down or cancel a test because of inadequate facilities.

3. Test site dates must be approved by the department. For an advanced life support test site, the test site coordinator must notify the department eight weeks prior to the test date and submit a roster of probable candidates for the practical test. For a basic life support test site, the test site coordinator must notify the department two weeks prior to the test date and submit a roster of probable candidates for the practical test. The test site coordinator may accept candidates from other licensed training institutions or department-authorized courses or qualified candidates from other states if the test site coordinator has verified the eligibility of the candidate.
4. The test site coordinator is responsible for all logistics of the test site. The test site coordinator must remain at the test site for the duration of the test.
5. A national registry representative approved by the department or a designated department representative must oversee the test site. The national registry or department representative's only duties are to ensure the integrity of the test site and submit results to the national registry or the department. The designated department representative may not have an affiliation with the training institution.
6. The training institution must provide an adequate number of qualified evaluators for the number of students to be tested. For every eight candidates there must be at least one evaluator. The evaluators may not evaluate a candidate in a practical station for which the evaluator had been a guest lecturer, or had been the training institution coordinator or the primary instructors of the candidates. Evaluators must use and adhere to the department's testing evaluation forms.
7. An emergency medical technician candidate must pass all stations of a practical test site within two years of course completion. The required practical stations are:
 - a. Patient assessment management - trauma;
 - b. Patient assessment management - medical;
 - c. Cardiac arrest management/automated external defibrillator;
 - d. Spinal immobilization, seated or supine;
 - e. Bag valve mask, apneic patient with a pulse; and
 - f. One of the following random skills chosen by the department:

- (1) Long bone immobilization;
 - (2) Joint dislocation immobilization;
 - (3) Traction splinting;
 - (4) Bleeding control and shock management;
 - (5) Upper airway adjuncts and suction; or
 - (6) ~~Mouth to mask with supplemental oxygen; or~~
 - (7) Supplemental oxygen administration.
8. A candidate may fail no more than three stations at any one test site. The candidate may retest those failed stations one time on the same day at the discretion of the test site coordinator. If a candidate fails four or more stations, the candidate must retest all stations at a later date.
 9. All emergency medical technician practical test results must be reported to the department within one week of the practical test by the department representative. The department will determine the eligibility of the candidates to retest according to department policy.
 10. Retesting candidates that have failed all or part of the emergency medical technician practical test will be done in accordance with department policy. The number of times a candidate may retest all or part of the emergency medical technician practical test is determined by department policy.
 11. An advanced level practical test site must be approved by the department and comply with national registry rules and policies.

History: Effective January 1, 2006; amended effective January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-02-11. Continuing education. ~~Continuing education courses for emergency medical services personnel must be approved by the department, licensed training institution, the national registry, or physician medical director. A licensed training institution may conduct continuing education courses, utilizing appropriate instructors, under the following conditions: Repealed effective July 1, 2010.~~

- ~~1. A number is assigned for each continuing education course. The numbering system must be approved by the department;~~

- ~~2. Continuing education units will be awarded for actual time rounded to the nearest quarter hour;~~
- ~~3. A certificate must be awarded or available upon request by the participant or the department. The certificate must list the title of the course, course number, date, hours awarded, location, instructor, and training institution name; and~~
- ~~4. The licensed training institution must keep records of the continuing education for two years. The records must include the course name, number, date, hours awarded, location, instructor, attendees, and attendee's state-issued license numbers.~~

History: Effective January 1, 2006.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-02-12. Revocation Denial, suspension, or revocation of licensure. The department may deny, suspend, or revoke the license of a training institution or license of an individual to instruct or practice under the following circumstances:

1. Negligence in performing or instructing emergency medical care.
2. Fraud, forgery, or misrepresentation of facts in procuring or attempting to procure licensure as an emergency medical service training institution.
3. Violation of this chapter promulgated to regulate emergency medical services training institutions.
4. Falsely passing candidates or discrimination of candidates at a practical test site.
5. Grossly immoral or dishonorable conduct.
6. Diversion of drugs for personal or unauthorized use.
7. The licensed training institution receives adverse accreditation action from a national accrediting agency.
8. Failing to submit required course documentation to the department either prior to the conduct of the course, for those courses that require prior authorization, or within a reasonable amount of time after the

course is complete, for those courses that require course completion documentation submission.

History: Effective January 1, 2006; amended effective January 1, 2008; July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-02-13. Revocation Suspension or revocation process. The department may suspend or revoke a training institution's or individual's license after making a diligent effort to:

1. Inform the training institution or individual ~~by the department~~ of the allegations.
2. Inform the training institution or individual of the department's investigation results.
3. Inform the training institution or individual of the department's intent to suspend or revoke and provide a notice of right to request hearing.
4. Provide the training institution or individual opportunity to request a hearing and rebut the allegations.

History: Effective January 1, 2006; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

CHAPTER 33-36-03

33-36-03-01. Definitions. Words defined in chapter 23-27 of the North Dakota Century Code have the same meaning in this chapter. For purposes of this chapter:

1. "Advanced first-aid ambulance attendant" means a person that has fulfilled the training, testing, and certification process for advanced first-aid ambulance attendant as required in chapter 33-36-01.
2. "Airway adjuncts" means oxygen and oxygen delivery equipment, oropharyngeal airways, nasopharyngeal airways, bag-valve-mask ventilator, or any other mechanical ventilator or respiratory care equipment.
3. "Cardiopulmonary resuscitation" means the American heart association health care provider standards or its equivalent which includes the skills adult one-person and two-person cardiopulmonary resuscitation, adult obstructed airway, child one-person and two-person cardiopulmonary resuscitation, child obstructed airway, infant cardiopulmonary resuscitation, infant obstructed airway, and automated external defibrillator.
4. "Driver" means a person that is registered with the department as an uncertified crew member of a basic life support ambulance.
5. "First Emergency medical responder" means a person that has fulfilled the training, testing, and certification process for first emergency medical responder as required in chapter 33-36-01.
6. "Primary care provider" means a qualified individual responsible for the care of the patient and supervision of all ambulance personnel while on the ambulance run.

History: Effective January 1, 2008; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-03-02. Scopes of practice. Each level of emergency medical services provider has a scope of practice that includes the scopes of practice of all subordinate emergency medical services providers. The hierarchy of emergency medical services providers is listed sequentially in this section.

1. **Driver.**
 - a. **Scope.** The driver's minimum scope of practice primarily focuses on driving the basic life support ambulance and assisting the other emergency medical services personnel on the ambulance crew with nonpatient care issues. The driver's maximum scope

of practice is limited to providing cardiopulmonary resuscitation without mechanical resuscitation equipment or airway adjuncts but including the use of an automated external defibrillator if the driver is certified in cardiopulmonary resuscitation. A major difference between the layperson and the driver is the "duty to act" as part of an organized emergency medical services response.

- b. Curriculum. The driver must hold a valid operator's license under chapter 39-06 of the North Dakota Century Code.
- c. Occupational setting. Drivers may only participate in the emergency medical services system as part of a crew of a basic life support ambulance service or quick response unit. At no time may a driver respond without other higher level emergency medical services personnel.
- d. Medical oversight. Because transport is an important part of the patient care continuum, a driver functions with physician oversight through protocol.
- e. Supervision. A driver is supervised by the primary care provider.

2. **First Emergency medical responder.**

- a. Scope. The ~~first responder's~~ emergency medical responder core scope of practice includes simple, noninvasive skills focused on lifesaving interventions for critical patients based on assessment findings. The first emergency medical responder renders onscene emergency care while awaiting additional emergency medical services response and may serve as part of the transporting crew, but not as the primary care provider. A ~~first~~ An emergency medical responder is not prepared to make decisions independently regarding the appropriate disposition of patients. A ~~first~~ An emergency medical responder must function with an emergency medical technician or higher level personnel during the transportation of patients. The first emergency medical responder's scope includes all of the skills included in the driver's scope. A major difference between a driver and a ~~first~~ an emergency medical responder is the training and skills to provide immediate lifesaving interventions.
- b. Curriculum. The educational requirements include successful completion of a state-authorized first emergency medical responder training program and continued educational requirements as defined in chapter 33-36-01.
- c. Scope enhancements. First Emergency medical responders may provide enhanced treatments beyond the core scope if they have successfully completed training as defined in section 33-36-01-04

and have authorization to perform those skills from their medical director.

- d. Skills. Specific skills for the first emergency medical responder are defined by the department. Local medical directors may limit the specific skills that ~~a first~~ an emergency medical responder may provide and they may not exceed those specific skills defined by the department.
- e. Occupational setting. First Emergency medical responders may participate in the emergency medical services system as a sole responder in a quick response unit or as part of the crew of a basic life support ambulance service but not as the primary care provider. First Emergency medical responders may also provide services to a private company or organization as part of a response team that is not offered to the public.
- f. Medical oversight. ~~A first~~ An emergency medical responder provides medical care with physician oversight. A physician credentials the first emergency medical responder and establishes patient care standards through protocol.
- 9. Supervision. ~~A first~~ An emergency medical responder may be the highest trained person on a quick response unit and may supervise other first emergency medical responders or drivers. As part of a basic life support ambulance crew, ~~a first~~ an emergency medical responder is supervised by the primary care provider.

3. Advanced first-aid ambulance attendant.

- a. Scope. The advanced first-aid ambulance attendant's scope of practice is equal to the emergency medical technician's as defined in section 33-36-04-02.1. The advanced first-aid ambulance attendant's scope includes the skills in the first responder's scope and the driver's scope. The major difference between an advanced first-aid ambulance attendant and first responder is the knowledge and skills necessary to provide medical transportation of emergency patients.
- b. Curriculum. The curriculum for advanced first-aid ambulance attendant is no longer supported. Therefore, no new advanced first-aid ambulance attendants can be trained. Continued educational requirements are defined in chapter 33-36-01.
- c. Scope enhancements. Advanced first-aid ambulance attendants may provide enhanced treatments beyond the core scope if they have completed training as defined in section 33-36-01-04 and have the authorization to perform those skills from their medical director.

- d. **Skills.** Specific skills for the advanced first-aid ambulance attendant are defined by the department. Local medical directors may limit the specific skills that an advanced first-aid ambulance attendant may provide and they may not exceed those specific skills defined by the department.
- e. **Occupational setting.** Advanced first-aid ambulance attendants may participate in the emergency medical services system as a sole responder in a quick response unit or as a primary care provider on a basic life support ambulance service. Advanced first-aid ambulance attendants may also provide services to a private company or organization as part of a response team that is not offered to the public.
- f. **Medical oversight.** An advanced first-aid ambulance attendant provides medical care with physician oversight. A physician credentials the advanced first-aid ambulance attendant and establishes patient care standards through protocol.
- g. **Supervision.** An advanced first-aid ambulance attendant may be the primary care provider on a quick response unit or basic life support ambulance and may supervise other advanced first-aid ambulance attendants, first responders, or drivers.

History: Effective January 1, 2008; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

CHAPTER 33-36-04
SCOPE OF PRACTICE FOR EMERGENCY MEDICAL SERVICES
PROFESSIONALS

Section

33-36-04-01

Definitions

33-36-04-02

Scopes of Practice

33-36-04-01. Definitions. Words defined in chapter 23-27 of the North Dakota Century Code have the same meaning in this chapter. For purposes of this chapter:

1. "Advanced emergency medical technician" means a person that has fulfilled the training, testing, certification, and licensure process for advanced emergency medical technician as required in chapter 33-36-01.
2. "Emergency medical technician" means a person that has fulfilled the training, testing, certification, and licensure process for emergency medical technician as required in chapter 33-36-01.
- ~~2.~~ 3. "Emergency medical technician-intermediate/85" means a person that has fulfilled the training, testing, certification, and licensure process for emergency medical technician-intermediate/85 as required in chapter 33-36-01.
- ~~3.~~ 4. "Emergency medical technician-intermediate/99" means a person that has fulfilled the training, testing, certification, and licensure process for emergency medical technician-intermediate/99 as required in chapter 33-36-01.
- ~~4.~~ 5. "Paramedic" means a person that has fulfilled the training, testing, certification, and licensure process for paramedic as required in chapter 33-36-01.
- ~~5.~~ 6. "Primary care provider" means a qualified individual responsible for the care of the patient and supervision of all ambulance personnel while on the ambulance run.

History: Effective January 1, 2008; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

33-36-04-02. Scopes of practice. Each level of emergency medical services professional has a scope of practice that includes the scopes of practice of all subordinate emergency medical services professionals and the scopes of all emergency medical services providers listed in chapter 33-36-03. The hierarchy of emergency medical services professionals is listed sequentially in this section.

1. Emergency medical technician.

- a. **Scope.** The emergency medical technician's core scope of practice includes basic, noninvasive interventions to reduce the morbidity and mortality associated with acute out-of-hospital medical and traumatic emergencies. Emergency care is based on assessment findings. An emergency medical technician is not prepared to make decisions independently regarding the appropriate disposition of patients. The emergency medical technician may make destination decisions in collaboration with medical oversight. The principal disposition of the patient encounter will result in the direct delivery of the patient to an acute care facility. The primary differences between an advanced first-aid ambulance attendant and emergency medical technician are the educational and testing requirements required for licensure as an emergency medical technician.
- b. **Curriculum.** The educational requirements include successful completion of a state-authorized emergency medical technician training program and continued educational requirements as defined in chapter 33-36-01.
- c. **Scope enhancements.** Emergency medical technicians may provide enhanced treatments beyond the core scope if they have completed training as defined in section 33-36-01-04 and have authorization to perform those skills from their medical director.
- d. **Skills.** Specific skills for the emergency medical technician are defined by the department. Local medical directors may limit the specific skills that an emergency medical technician may provide and they may not exceed those specific skills defined by the department.
- e. **Occupational setting.** Emergency medical technicians may participate in the emergency medical services system as a sole responder in a quick response unit, as the primary care provider of a basic life support air or ground ambulance service, or as part of the crew of an advanced life support air or ground ambulance service. Emergency medical technicians may also provide services to a private company or organization as part of a response team that is not offered to the general public.
- f. **Medical oversight.** An emergency medical technician provides medical care with physician oversight. A physician credentials the emergency medical technician and establishes patient care standards through protocol.
- g. **Supervision.** An emergency medical technician may be the highest trained person on a quick response unit and as the primary care

provider may supervise other emergency medical technicians, first emergency medical responders, or drivers. As part of a basic life support ambulance crew, an emergency medical technician may supervise subordinate emergency medical services personnel. As part of an advanced life support ambulance service, an emergency medical technician is supervised by a paramedic.

2. Emergency medical technician-intermediate/85.

- a. **Scope.** The scope of practice of an emergency medical technician-intermediate/85 includes basic, limited advanced interventions to reduce the morbidity and mortality associated with acute out-of-hospital medical and traumatic emergencies. Emergency care is based on assessment findings. An emergency medical technician-intermediate/85 is not prepared to make decisions independently regarding the appropriate disposition of patients. The emergency medical technician-intermediate/85 may make destination decisions in collaboration with medical oversight. The principal disposition of the patient encounter will result in the direct delivery of the patient to an acute care facility. The primary differences between an emergency medical technician and emergency medical technician-intermediate/85 are the basic, limited advanced interventions that an emergency medical technician-intermediate/85 may provide.
- b. **Curriculum.** The core educational requirements include successful completion of a state-authorized emergency medical technician-intermediate/85 training program and continued educational requirements as defined in chapter 33-36-01.
- c. **Scope enhancements.** Emergency medical technicians-intermediate/85 may provide enhanced treatments beyond the core scope if they have completed training as defined in section 33-36-01-04 and have the authorization to perform those skills from their medical director.
- d. **Skills.** Specific skills for the emergency medical technician-intermediate/85 are defined by department policy. Local medical directors, or hospitals if working in the hospital setting may limit the specific skills that an emergency medical technician-intermediate/85 may provide. They may not exceed those specific skills defined by department policy.
- e. **Occupational setting.** Emergency medical technicians-intermediate/85 may participate in the emergency medical services system as a sole responder in a quick response unit, as the primary care provider of a basic life support air or ground ambulance service, or as part of the crew of an advanced life support air or ground ambulance service.

Emergency medical technicians-intermediate/85 may work for a hospital in a nonemergency setting or provide services to a private company or organization as part of a response team that is not offered to the general public.

- f. Medical oversight. An emergency medical technician-intermediate/85 working in a prehospital setting provides medical care with physician oversight. In this circumstance a physician credentials the emergency medical technician-intermediate/85 and establishes patient care standards through protocol. An emergency medical technician-intermediate/85 working in a hospital setting is credentialed by the hospital.
- g. Supervision. An emergency medical technician-intermediate/85 may be the highest trained person on a quick response unit and as the primary care provider may supervise other emergency medical technicians-intermediate/85, emergency medical technicians, first responders, or drivers. As part of a basic life support ambulance crew, an emergency medical technician-intermediate/85 may supervise subordinate emergency medical services personnel. As part of an advanced life support ambulance service an emergency medical technician-intermediate/85 is supervised by a paramedic. Emergency medical technicians-intermediate/85 working in a hospital setting are supervised by nursing staff.

3. **Advanced emergency medical technician.**

- a. Scope. The advanced emergency medical technician's scope of practice includes basic, limited advanced interventions to reduce the morbidity and mortality associated with acute out-of-hospital medical and traumatic emergencies. Emergency care is based on assessment findings. An advanced emergency medical technician is not prepared to make decisions independently regarding the appropriate disposition of patients. The advanced emergency medical technician may make destination decisions in collaboration with medical oversight. The principal disposition of the patient encounter will result in the direct delivery of the patient to an acute care facility. The primary differences between an emergency medical technician and advanced emergency medical technician are the basic, limited advanced interventions that an advanced emergency medical technician may provide.
- b. Curriculum. The core educational requirements include successful completion of a state-authorized advanced emergency medical technician training program and continued educational requirements as defined in chapter 33-36-01.

- c. Skills. Specific skills for the advanced emergency medical technician are defined by department policy. Local medical directors, or hospitals if working in the hospital setting, may limit the specific skills that an advanced emergency medical technician may provide. They may not exceed those specific skills defined by department policy.
- d. Occupational setting. Advanced emergency medical technicians may participate in the emergency medical services system as a sole responder in a quick response unit, as the primary care provider of a basic life support air or ground ambulance service, or as part of the crew of an advanced life support air or ground ambulance service. Advanced emergency medical technicians may work for a hospital in a nonemergency setting or provide services to a private company or organization as part of a response team that is not offered to the general public.
- e. Medical oversight. An advanced emergency medical technician working in a prehospital setting provides medical care with physician oversight. In this circumstance, a physician credentials the advanced emergency medical technician and establishes patient care standards through protocol. An advanced emergency medical technician working in a hospital setting is credentialed by the hospital.
- f. Supervision. An advanced emergency medical technician may be the highest trained person on a quick response unit and as the primary care provider may supervise other advanced emergency medical technicians, emergency medical technicians, first responders, or drivers. As part of a basic life support ambulance crew, an advanced emergency medical technician may supervise subordinate emergency medical services personnel. As part of an advanced life support ambulance service an advanced emergency medical technician is supervised by a paramedic. Emergency medical technicians working in a hospital setting are supervised by nursing staff.

4. Emergency medical technician-intermediate/99.

- a. Scope. The scope of practice of an emergency medical technician-intermediate/99 includes basic, limited advanced and pharmacological interventions to reduce the morbidity and mortality associated with acute out-of-hospital medical and traumatic emergencies. Emergency care is based on assessment findings. An emergency medical technician-intermediate/99 is not prepared to make decisions independently regarding the appropriate disposition of patients. The emergency medical technician-intermediate/99 may make destination decisions in collaboration with medical oversight. The principal disposition

of the patient encounter will result in the direct delivery of the patient to an acute care facility. The primary differences between an emergency medical technician-intermediate/85 and emergency medical technician-intermediate/99 are the limited pharmacological interventions that an emergency medical technician-intermediate/99 may provide.

- b. Curriculum. The core educational requirements include successful completion of a state-authorized emergency medical technician-intermediate/99 training program and continued educational requirements as defined in chapter 33-36-01.
- c. Scope enhancements. Emergency medical technicians-intermediate/99 may provide enhanced treatments beyond the core scope if they have completed training as defined in section 33-36-01-04 and have the authorization to perform those skills from their medical director.
- d. Skills. Specific skills for the emergency medical technician-intermediate/99 are defined by department policy. Local medical directors, or hospitals if working in the hospital setting, may limit the specific skills that an emergency medical technician-intermediate/99 may provide. They may not exceed those specific skills defined by department policy.
- e. Occupational setting. Emergency medical technicians-intermediate/99 may participate in the emergency medical services system as a sole responder in a quick response unit, as the primary care provider of a basic life support air or ground ambulance service, or as part of the crew of an advanced life support air or ground ambulance service. Emergency medical technicians-intermediate/99 may work for a hospital in a nonemergency setting or provide services to a private company or organization as part of a response team that is not offered to the general public.
- f. Medical oversight. An emergency medical technician-intermediate/99 working in a prehospital setting provides medical care with physician oversight. In this circumstance a physician credentials the emergency medical technician-intermediate/99 and establishes patient care standards through protocol. An emergency medical technician-intermediate/99 working in a hospital setting is credentialed by the hospital.
- g. Supervision. An emergency medical technician-intermediate/99 may be the highest trained person on a quick response unit and as the primary care provider may supervise other emergency medical technicians-intermediate/99, emergency

medical technicians-intermediate/85, emergency medical technicians, first emergency medical responders, or drivers. As part of a basic life support ambulance crew, an emergency medical technician-intermediate/99 may supervise subordinate emergency medical services personnel. As part of an advanced life support ambulance service an emergency medical technician-intermediate/99 is supervised by a paramedic. Emergency medical technicians-intermediate/99 working in a hospital setting are supervised by nursing staff.

4. 5. Paramedic.

- a. Scope. The paramedic's scope of practice includes invasive and pharmacological interventions to reduce the morbidity and mortality associated with acute out-of-hospital medical and traumatic emergencies. Emergency care is based on an advanced assessment and the formulation of a field impression. The paramedic may make destination decisions in collaboration with medical oversight. The principal disposition of the patient encounter will result in the direct delivery of the patient to an acute care facility. The major difference between the paramedic and the emergency medical technician-intermediate/99 is the ability to perform a broader range of advanced skills. These skills carry a greater risk for the patient if improperly or inappropriately performed, are more difficult to attain and maintain competency in, and require significant background knowledge in basic and applied sciences.
- b. Curriculum. The core educational requirements include successful completion of a state-authorized paramedic training program and continued educational requirements as defined in chapter 33-36-01.
- c. Skills. Specific skills for the paramedic are defined by department policy. Local medical directors, or hospitals if working in the hospital setting, may limit the specific skills that a paramedic may provide and they may not exceed those specific skills defined by department policy.
- d. Occupational setting. Paramedics may participate in the emergency medical services system as a sole responder in a quick response unit, as the primary care provider of a basic life support air or ground ambulance service, as the primary care provider of an advanced life support air or ground ambulance service, or as the primary care provider of a critical care air ambulance service. Paramedics may work for a hospital in an emergency or nonemergency setting or provide services to a private company or organization as part of a response team that is not offered to the general public.

- e. Medical oversight. A paramedic working in a prehospital setting provides medical care with physician oversight. In this circumstance a physician credentials the paramedic and establishes patient care standards through protocol. A paramedic employed by and working in a hospital setting is credentialed by the hospital.
- f. Supervision. A paramedic may supervise all subordinate levels of emergency medical services personnel. Paramedics working in a hospital setting are supervised by the hospital's nurse executive.

History: Effective January 1, 2008; amended effective July 1, 2010.

General Authority: NDCC 23-27-04.3

Law Implemented: NDCC 23-27-04.3

CHAPTER 33-38-01

33-38-01-01. Definitions. Words defined in North Dakota Century Code chapter 23-01.2 have the same meaning in this chapter. As used in this chapter:

1. ~~"Advanced prehospital trauma life support" means the most current edition of the course as developed by the national association of emergency medical technicians in cooperation with the American college of surgeons - committee on trauma, or its equivalent, as determined by the department.~~
2. "Advanced trauma life support" means the most current edition of the course as developed by the American college of surgeons - committee on trauma, or its equivalent, as determined by the department.
3. ~~2.~~ "Department" means the state department of health.
4. ~~3.~~ "Emergency medical services" means the system of personnel who provide medical care from the time of injury to hospital admission.
5. ~~4.~~ "Local emergency medical services transport plans" means plans developed by emergency medical services, medical directors, and hospital officials which establish the most efficient method to transport trauma patients.
6. ~~5.~~ "Major trauma patient" means any patient that ~~fits the trauma triage algorithm adopted by~~ meets the criteria in step one or two of the field triage decision scheme provided by the American college of surgeons, committee on trauma, as published by the most current edition of the Resources for Optimal Care of the Injured Patient: 1999, page 14.
6. "Online medical control" consists of directions given over the telephone or by radio directly from the medical director or designated physician.
7. "Provisional designation" means a state process of designating a facility as a ~~level I, II, or III~~ trauma center based on American college of surgeons ~~or department~~ standards for a period of ~~up to twenty-four months, determined by the department and the state trauma committee~~ or until an American college of surgeons verification visit or state designation visit is completed.
8. "Trauma" means tissue damage caused by the transfer of thermal, mechanical, electrical, or chemical energy, or by the absence of heat or oxygen.
9. "Trauma center" means a facility that has made a commitment to serve the trauma patient, has met the standards of the trauma system, and has obtained designation as a trauma center.

10. "Trauma code" includes the activation and assembly of the trauma team to provide care to the major trauma patient.
11. ~~"Trauma nursing core course" means the most current edition of the course as developed by the emergency nurses association, or its equivalent, as determined by the department.~~
12. "Trauma quality improvement program" means a system of evaluating the prehospital, trauma center, and rehabilitative care of trauma patients.
13. ~~12.~~ "Trauma registry" includes the collection and analysis of trauma data from the trauma system.
14. ~~13.~~ "Trauma team" includes a group of health care professionals organized to provide care to the trauma patient.

History: Effective July 1, 1997; amended effective June 1, 2001; July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-02. Trauma system. A statewide trauma system shall be adopted by the state health council. The trauma system shall consist of the following:

1. Standardized definition of major trauma patient.
2. Trauma code activation protocols.
3. Local emergency medical services transport plans.
4. Trauma center designation process.
5. Revocation of trauma center designation process.
6. Statewide trauma registry.
7. Quality improvement process.
8. State trauma committee.
9. Four regional trauma committees.
10. Injury prevention.

History: Effective July 1, 1997; amended effective July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-03. Activation of trauma codes for major trauma patients.
Emergency medical services and trauma centers shall assess patients and activate a trauma code if the patient meets the major trauma definition.

1. Emergency medical services must activate a trauma code if the trauma patient meets one or more of the criteria in step one, two, or three of the field triage decision scheme, provided by the current edition of the American college of surgeons Resources for Optimal Care of the Injured Patient. Step four of the field triage scheme may be used as discretionary criteria for activating trauma code. The field triage scheme is used as a minimal standard and additional activation criteria may be added.
2. A level I, level II, or level III trauma center must follow the minimum criteria for highest level of activation set by the American college of surgeons committee on trauma.
3. A level IV and level V trauma center must activate a trauma code if the trauma patient meets one or more of the criteria in step one, two, or three of the field triage decision scheme, provided by the current edition of the American college of surgeons Resources for Optimal Care of the Injured Patient. Step four of the field triage scheme may be used as discretionary criteria for activating trauma code. The field triage scheme is used as a minimal standard and additional activation criteria may be added.

History: Effective July 1, 1997; amended effective July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-05. Local emergency medical services transport plans.
Emergency medical services shall develop local emergency medical services transport plans for the transport of major trauma patients meeting the criteria in step one, two, three, or four of the field triage decision scheme, provided by the current edition of the American college of surgeons Resources for Optimal Care of the Injured Patient by appropriate means to the nearest designated trauma center. ~~Emergency medical services may bypass the nearest designated trauma center for a higher level trauma center provided that it does not result in an additional thirty minutes or more of transport time. If there are multiple trauma centers in the community, the major trauma patient meeting the criteria in steps one or two of the field triage decision scheme, provided by the American college of surgeons Resources for Optimal Care of the Injured Patient: 1999, page 14, should be taken to the trauma center with the highest level of designation. The plans are subject to approval by all the participating health care entities named in the plan, then submitted for review and approval to the regional trauma committee. Following approval, the local emergency medical services transport plans must be filed with the department and distributed to participating dispatch centers.~~

~~After activation of a trauma code, a dispatch center shall notify the necessary facilities and the emergency medical service unit shall transport the patient according to its local emergency medical services transport plan.~~

1. Emergency medical services may bypass the nearest designated trauma center for a higher level trauma center provided that it does not result in an additional thirty minutes or more of transport time. If the additional transport time would be greater than thirty minutes, the transporting emergency medical services personnel must contact online medical direction for permission to bypass or as defined in the transport protocol.
2. If there are multiple trauma centers in the community, the major trauma patient meeting one or more of the criteria in step one or two of the field triage decision scheme provided by the current edition of the American college of surgeons Resources for Optimal Care of the Injured Patient should be taken to a trauma center per local emergency medical trauma transport plans approved by the department and state trauma committee.

History: Effective July 1, 1997; amended effective June 1, 2001; July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-06. Trauma center designation.

1. Five levels of hospital designation must be established.
2. Hospitals applying for level I, level II, or level III designation shall present evidence of having current trauma center verification from the American college of surgeons. The department shall issue designation with an expiration date consistent with the American college of surgeons verification expiration date.
3. Hospitals applying for level IV and level V trauma center designation must submit an application to the department. Once the application is approved by the department, an onsite verification visit shall be conducted by the department or its designee. The verification team shall compile a report. The application and report will be reviewed by the state trauma committee. If approved, the department shall issue the designation for up to three years to the facility.
4. Hospitals without trauma center designation applying or currently designated as a level IV or level V trauma center planning to apply for a level I, level II, or level III trauma center designation may apply for a provisional designation must submit by submitting an application to the department. Once the application is approved by the department, an onsite visit shall be conducted by a team designated by the state trauma committee. The team shall compile a report. The application

and report will be reviewed by the state trauma committee. If approved, the department shall issue a provisional designation for a maximum of twenty-four months. During these twenty-four months, the facility must complete an American college of surgeons verification visit.

5. Provisional trauma center designations for level I, level II, or level III trauma centers may be issued by the department to hospitals with deficiencies identified by the American college of surgeons and that are partially compliant with the trauma center standards. Hospitals must submit a plan of correction within one month after notification for deficiencies that are identified by the verification team. The plan of correction will be reviewed by the state trauma committee. If approved, the department may issue a provisional designation to the hospital for up to eighteen months or until another American college of surgeons verification visit is completed.
6. Provisional trauma center designations for level IV and level V trauma centers may be issued by the department to hospitals with deficiencies identified by the site survey team and reviewed by the state trauma committee and are partially compliant with the trauma center standards. Hospitals must submit a plan of correction within one month after notification for deficiencies that are identified by the site survey team. The plan of correction will be reviewed by the state trauma committee. If approved, the department may issue a provisional designation for up to twelve months to the hospital or until another state designation visit is completed.
7. The health council, in establishing a comprehensive trauma system, may designate an out-of-state hospital as a trauma center within fifty miles of any border of this state North Dakota.

History: Effective July 1, 1997; amended effective June 1, 2001; July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-07. Trauma center revocation of designation. The department may revoke designation of a trauma center if evidence exists that the facility does not meet the required trauma center standards. The department or its designee may inspect any trauma center or applicant for trauma center designation at any time for compliance with the standards. Designation must be revoked if a facility denies or refuses inspection.

~~A trauma center that fails to maintain the standards, or voluntarily relinquishes its designation, may submit a plan for correction. Once the plan is approved by the department, the trauma center may be reinstated as a designated trauma center. Failure to follow an approved plan of correction results or maintain trauma center designation standards will result in revocation;~~

1. Revocation of the trauma center's designation.

2. Notification to the division of health facilities regarding the failure to comply with state law.
3. Placement of a public notice in the newspapers in the area which the hospital is located to notify the public of the enforcement action to be imposed and the effective dates. The department shall notify the hospital in writing of the impending notice fifteen days prior to the publication of the notice.

History: Effective July 1, 1997; amended effective July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-08. State trauma registry. The department shall establish a trauma registry including the minimum data elements. All hospitals must report the minimum data elements to the department ~~for patients who have an international classification of diseases, ninth revision (ICD-9) code of 800-959.9 and one of the following criteria:~~

1. ~~Trauma deaths.~~
2. ~~Hospital admission greater than forty-eight hours.~~
3. ~~Patients admitted that go to the intensive care unit or operating room.~~
4. ~~Patients transferred into or out of the hospital.~~

Reporting ~~may~~ shall occur ~~electronically by downloading computer files or through completion of the North Dakota transfer form or other form~~ by a method approved by the department. Information may not be released from the state trauma registry except as permitted by North Dakota Century Code sections 23-01-15 and 23-01-02.1.

History: Effective July 1, 1997; amended effective June 1, 2001; July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-09. Quality improvement process. A quality improvement process shall be established by the state trauma committee. The process must include evaluation criteria that will provide guidelines for acceptable standards of care, address system issues, and monitor patient outcomes.

The regional committees shall evaluate the trauma system within their regions based upon the evaluation criteria. The regional trauma committee shall

make recommendations to emergency medical services and trauma centers in the development of plans to improve the system.

History: Effective July 1, 1997; amended effective July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-10. State trauma committee membership. The state trauma committee membership must include the following:

1. One member from the North Dakota committee on trauma - American college of surgeons, appointed by the committee.
2. One member from the American college of emergency physicians - North Dakota chapter, appointed by the chapter.
3. One member from the North Dakota health care association, appointed by the association.
4. One member from the North Dakota medical association, appointed by the association.
5. One member from the North Dakota EMS association - basic life support, appointed by the association.
6. One member from the North Dakota EMS association - advanced life support, appointed by the association.
7. One member from the North Dakota nurses association, appointed by the association.
8. One member on the faculty of the university of North Dakota school of medicine and health sciences, appointed by the dean of the medical school.
9. One member from the North Dakota emergency nurses association, appointed by the association.
10. One member from Indian health service, appointed by the Aberdeen area director of the service.
11. One member from accredited trauma rehabilitation facilities, appointed by the state health council.
12. One member who is a hospital trauma coordinator, appointed by the trauma coordinators committee.
13. The medical director of the division of emergency health medical services and trauma of the department.

14. The regional trauma committee chair from each region, if not representing an association.
15. One member representing injury prevention, appointed by the health council.
16. One member representing the public appointed by the health council.
17. One member representing the legislative assembly selected by the health council.
18. One member representing emergency preparedness and response appointed by the department.
19. One member representing pediatric physicians appointed by the North Dakota American academy of pediatrics.
20. Four additional ad hoc members, appointed by the state health council.

History: Effective July 1, 1997; amended effective June 1, 2001; July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-11. Trauma regions - Regional trauma committee. The state trauma committee shall establish four trauma regions. The regions must be designated northwest, northeast, southeast, and southwest. An emergency medical service or trauma center that is located within fifteen miles [24.14 kilometers] of a regional boundary may request to function within another region. This request shall be reviewed and is subject to approval by the state trauma committee.

The state trauma committee shall appoint a regional trauma committee to serve each trauma region. The regional committees may consist of members representing the following:

1. North Dakota committee on trauma - American college of surgeons.
2. North Dakota chapter of American college of emergency physicians.
3. Physician of a level IV and level V trauma center.
4. Level IV or level V hospital representative.
5. ~~Hospital~~ All hospital trauma ~~coordinator~~ coordinators within the region.
6. Accredited rehabilitation facility representative.
7. Indian health service or tribal government representative.

8. North Dakota EMS association.
9. Other members, chosen by the state trauma committee.

History: Effective July 1, 1997; amended effective June 1, 2001; July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-13. Level IV trauma center designation standards. The following standards must be met to achieve level IV designation:

1. Trauma team activation plan.
2. Trauma team leader must be a current physician currently certified in advanced trauma life support ~~certified physician~~, who is on call and available within twenty minutes ~~and has experience in resuscitation and care of trauma patients.~~ If the trauma team leader is not current in advanced trauma life support, the facility must provide a backup physician that is current in advanced trauma life support to assess and evaluate the trauma patients meeting step one, two, or three of the field triage decision scheme, provided by the current edition of the American college of surgeons Resources for Optimal Care of the Injured Patient when the noncertified physician is on call. If backup cannot be provided, the facility must go on diversion and notify the surrounding emergency medical services and the department.
3. ~~Transfer agreements as the transferring facility to a level II trauma center for major trauma care, burn care, rehabilitation service for long-term care, acute spinal cord and head injury management, and pediatric trauma management.~~ The facility must have transfer agreements with facilities capable of caring for major trauma patients, burn care, pediatric trauma management, acute spinal cord and traumatic brain injury management, and rehabilitation services for long-term care.
4. Equipment for resuscitation and life support ~~of all ages must include: as determined by the department and state trauma committee.~~
 - a. ~~Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, including pediatrics, bag mask resuscitator, pocket masks, and oxygen.~~
 - b. Pulse oximetry.
 - c. End tidal CO₂ determination.
 - d. Suction devices.
 - e. Electrocardiograph, oscilloscope, and defibrillator.

- ~~f. Standard intravenous fluids and administration devices, including large bore intravenous catheters.~~
 - ~~g. Sterile surgical sets for airway control, cricothyrotomy, vascular access, and chest decompression.~~
 - ~~h. Gastric decompression.~~
 - ~~i. Drugs necessary for emergency care.~~
 - ~~j. Communication with emergency medical services vehicles.~~
 - ~~k. Spinal stabilization equipment.~~
 - ~~l. Thermal control equipment for patients.~~
 - ~~m. Broselow tape.~~
5. Quality improvement programs, to include:
 - a. Focused audit of selected filters criteria.
 - b. Trauma registry in accordance with section 33-38-01-08.
 - c. Focused audit for all trauma deaths.
 - d. Morbidity and mortality review.
 - e. Medical nursing audit, utilization review, and tissue issue review.
 6. Trauma transfer protocol to include: identify trauma patients whose condition may require care which exceeds current resources available.
 - ~~a. Triage decision scheme.~~
 - ~~b. Trauma transport plan.~~

History: Effective June 1, 2001; amended effective July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

33-38-01-14. Level V trauma designation standards. The following standards must be met to achieve level V designation:

1. Trauma team activation plan.

2. Trauma team leader must be on call and available within twenty minutes, ~~who has experience in resuscitation and care of trauma patients.~~ The trauma team leader must be one of the following:
 - a. A physician who is current in advanced trauma life support.
 - b. A physician assistant, whose supervising physician has delegated to the physician assistant the authority to provide care to trauma patients and ~~who has taken the trauma nursing core course, and is current in advanced prehospital trauma life support and advanced trauma life support.~~
 - c. A nurse practitioner whose scope of practice entails the care of trauma patients, ~~has taken the trauma nursing core course, is current in advanced prehospital trauma life support and is current~~ in advanced trauma life support, and whose scope of practice is approved by the North Dakota state board of nursing.
 - d. If the trauma team leader is not current in advanced trauma life support, the facility must provide a backup team leader that is current in advanced trauma life support to assess and evaluate the trauma patients meeting step one, two, or three of the field triage decision scheme, provided by the current edition of the American college of surgeons Resources for Optimal Care of the Injured Patient when the noncertified provider is on call. If backup cannot be provided, the facility must go on diversion and notify the surrounding emergency medical services and the department.
3. ~~Transfer agreements as the transferring facility to a level II trauma center for major trauma care, burn care, rehabilitation service for long-term care, acute spinal cord and head injury management, and pediatric trauma management. The facility must have transfer agreements with facilities capable of caring for major trauma patients, burn care, pediatric trauma management, acute spinal cord and traumatic brain injury management, and rehabilitation services for long-term care.~~
4. Equipment for resuscitation and life support ~~of all ages must include:~~ as determined by the department.
 - a. ~~Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, including pediatrics, bag mask resuscitator, pocket masks, and oxygen.~~
 - b. ~~Pulse oximetry.~~
 - c. ~~End tidal CO₂ determination.~~
 - d. ~~Suction devices.~~

- e. ~~Electrocardiograph, oscilloscope, and defibrillator.~~
 - f. ~~Standard intravenous fluids and administration devices, including large bore intravenous catheters.~~
 - g. ~~Sterile surgical sets for airway control, cricothyrotomy, vascular access, and chest decompression.~~
 - h. ~~Gastric decompression.~~
 - i. ~~Drugs necessary for emergency care.~~
 - j. ~~Communication with emergency medical services vehicles.~~
 - k. ~~Spinal stabilization equipment.~~
 - l. ~~Thermal control equipment for patients.~~
 - m. ~~Broselow tape.~~
5. Quality improvement programs to include:
- a. Focused audit of selected filters criteria.
 - b. Trauma registry in accordance with section 33-38-01-08.
 - c. Focused audit for all trauma deaths.
 - d. Morbidity and mortality review.
 - e. Medical nursing audit, utilization review, and ~~tissue~~ issue review.
 - f. Current advanced trauma life support certified physician review of all trauma codes managed by a physician assistant or advanced nurse practitioner within ~~forty-eight~~ seventy-two hours. This may be either the consulting or transfer receiving physician.
6. Trauma transfer ~~protocol to include:~~ protocols to identify trauma patients whose condition may require care which exceeds current resources available.
- a. ~~Triage decision scheme.~~
 - b. ~~Trauma transport plan.~~
 - c. ~~Call schedule for physician, if available.~~

~~d. Immediate telephone contact with a level II trauma center.~~

History: Effective June 1, 2001; amended effective July 1, 2010.

General Authority: NDCC 23-01.2-01

Law Implemented: NDCC 23-01.2-01

TITLE 61
STATE BOARD OF PHARMACY

OCTOBER 2010

ARTICLE 61-13

CONTROLLED SUBSTANCES

Chapter

61-13-01

Controlled Substances Schedules

CHAPTER 61-13-01

CONTROLLED SUBSTANCES SCHEDULES

Section

61-13-01-01

Purpose and Scope

61-13-01-02

Definitions

61-13-01-03

Scheduling

61-13-01-01. Purpose and scope. The purpose of this chapter is to schedule substances which have an actual or relative potential for abuse and which bear risk to the public health by unknown individuals using them by inhaling the smoke or vapors or by ingesting or injecting the substances.

History: Effective February 26, 2010.

General Authority: NDCC 19-03.1-02, 19-03.1-05

Law Implemented: NDCC 19-03.1-02

61-13-01-02. Definitions. The definitions under this rule have the meaning as set forth in North Dakota Century Code chapters 19-03.1 and 43-15.

History: Effective February 26, 2010.

General Authority: NDCC 19-03.1-02, 19-03.1-05

Law Implemented: NDCC 19-03.1-02

61-13-01-03. Scheduling.

1. The following substances are hereby placed in schedule I of the Controlled Substances Act, North Dakota Century Code section 19-03.1-05, schedule I, subsection 5, hallucinogenic substances:

- a. CP 47,497 and homologues 2-[(1R,3S)-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol).
 - b. HU-210[(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)].
 - c. HU-211 (dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).
 - d. JWH-018 1-Pentyl-3-(1-naphthoyl)indole.
 - e. JWH-073 1-Butyl-3-(1-naphthoyl)indole.
2. The following substances are hereby placed in schedule I of the Controlled Substances Act, North Dakota Century Code section 19-03.1-05, schedule I, subsection 7, stimulant substances:
- a. Mephedrone (2-methylamino-1-p-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), 4-methylephedrone.
 - b. 3,4-Methylenedioxypyrovalerone (MDPV).

History: Effective February 26, 2010.

General Authority: NDCC 19-03.1-02, 19-03.1-05

Law Implemented: NDCC 19-03.1-02

TITLE 69
PUBLIC SERVICE COMMISSION

OCTOBER 2010

CHAPTER 69-09-09

69-09-09-06. Decommissioning plan. Prior to commencement of operation of a commercial wind energy conversion facility or wind turbine, the facility or turbine owner or operator shall file for commission review the estimated decommissioning cost per turbine, in current dollars at the time of filing, for the proposed facility or turbine and a comprehensive decommissioning plan that describes any expected effect on present and future natural resource development and how the facility or turbine owner or operator plans to pay for decommissioning the facility or turbine as required by section 69-09-10-05 at the appropriate time. The commission may at any time require the owner or operator of a commercial wind energy conversion facility or wind turbine to file a report with the commission describing how the facility or turbine owner or operator is fulfilling this obligation.

History: Effective October 1, 2008; amended effective October 1, 2010.

General Authority: NDCC 28-32-02, 49-02-27

Law Implemented: NDCC 49-02-27

CHAPTER 69-10-03

69-10-03-02. Adequate standards. A standard used to certify any commercial weighing and measuring device must be annually certified as traceable by a NIST-recognized metrology laboratory. The ~~state metrologist commission~~ may extend the twelve-month recertification interval up to fifteen months.

A current legible copy of the certificate of traceability must be maintained with the commission.

Annual recertification is subject to the following exceptions and conditions:

1. The standards integral to and used for recertification of a commercial automatic bulk-weighing system must be certified traceable by a NIST-recognized laboratory at least once every five years.
2. The volumetric provers used to certify loading-rack meters must be certified traceable by a NIST-recognized laboratory at least once every three years.
3. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.
4. A master meter may not be used as a standard to certify commercial LPG devices.
5. Notwithstanding the other provisions of this section, the commission may require recertification of any standard if upon inspection the physical condition of a standard indicates a need for recertification.

History: Amended effective April 1, 1992; September 1, 1994; February 1, 1996; July 1, 1997; July 1, 2008; October 1, 2010.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-03-05. Weight carts. ~~Effective January 1, 2002, weight carts not already in service in North Dakota and seeking metrology certification must meet the following design specifications: wheelbase must not exceed sixty inches [152.4 centimeters], motors must be electric or powered by gel core batteries, gross weight must not exceed five thousand pounds [2267.95 kilograms], tires must be of solid rubber with smooth tread, and sealing cavities must be capable of containing twenty pounds [9.072 kilograms] of lead adjustment. Repealed effective October 1, 2010.~~

History: ~~Effective January 1, 2002.~~

General Authority: ~~NDCC 64-02-03~~

Law Implemented: ~~NDCC 64-02-02~~

69-10-03-06. Metrology service. ~~Metrology service at the commission laboratory will only be provided as set out in this section:~~

1. ~~All metrology service requests must be by appointment only and will be according to the following:~~
 - a. ~~Testing and safety division metrology;~~
 - b. ~~State-registered service company metrology;~~
 - c. ~~North Dakota law enforcement metrology;~~
 - d. ~~Industrial customer metrology; and~~
 - e. ~~All other metrology.~~
2. ~~The director shall send out annual appointment notifications by mail to all state-registered service companies at least thirty days prior to each company's appointment date.~~
3. ~~If a party with a scheduled metrology appointment needs to cancel that appointment, the party shall notify the commission of the need to cancel at least seven days in advance of the appointment. Appointments cancelled within less than seven days advance notice will lose scheduling priorities. The party canceling a metrology appointment may request a new appointment date at that time.~~
4. ~~A metrology appointment must be scheduled at least thirty days in advance.~~
5. ~~A metrology request not previously scheduled may only be serviced as time becomes available.~~
6. ~~A metrology request for service beyond the scope of the laboratory's recognition level will be referred to an appropriate NIST-recognized metrology laboratory. Repealed effective October 1, 2010.~~

History: Effective May 1, 2005; amended effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-03-07. Delivery of standards for certification. ~~Standards delivered to the metrology laboratory for testing and certification must be submitted undamaged and serviceable and must comply with the following:~~

1. ~~Vehicle scale test carts must be cleaned and painted with all fluid levels topped off to their calibrated reference levels.~~

2. ~~Cast iron weights must be cleaned and painted following the requirements in NIST Handbook No. 105-1, section 2, as adopted by reference in section 69-10-03-01.2.~~
3. ~~Provers and test measures, including sight glasses, must be cleaned inside and out and contain no hydrocarbon residue or other pollutants.~~
4. ~~Provers must have a simple, sturdy, and adequate leveling means on the legs allowing for adequate adjustments.~~
5. ~~Provers must have two level indicators mounted on the body of the prover at right angles to each other for leveling purposes.~~
6. ~~Mild steel provers must be periodically painted as determined by the metrologist, and as recorded in the remarks section on the previous year's calibration report.~~
7. ~~Mild steel test measures, including sight glasses, must be cleaned inside and out and contain no hydrocarbon residue or other pollutants.~~
8. ~~Glass F weights must meet the applicable material and design requirements of NIST Handbook No. 105-1, as adopted by reference in section 69-10-03-01.2.~~
9. ~~Fabricated weights, brass weights, and cast iron weights equal to or less than ten pounds [4.54 kilograms] may not be used.~~
10. ~~Laminated weights must not be adjusted and must be removed from service when the weights fail to maintain the applicable tolerance.~~
11. ~~Volume standards placed in service after January 1, 1998, must meet the requirements of NIST Handbook No. 105-3 or 105-4, as adopted by reference in sections 69-10-03-01.3 and 69-10-03-01.4.~~
12. ~~A volume standard placed in service before January 1, 1998, that has maintained annual certification need not meet the requirements of NIST Handbook No. 105-3 or 105-4, as adopted by reference in sections 69-10-03-01.3 and 69-10-03-01.4, unless a standard has been removed from service for a period greater than twelve months.~~
13. ~~Special seals or special tools required for the test or calibration, which is of a unique nature to a particular standard, must be supplied by the standard owner prior to the beginning of the metrology process.~~
14. ~~If weights greater than one hundred pounds [45.36 kilograms] or provers with capacities greater than fifty gallons [189.27 liters] are shipped to the metrology laboratory, the weights or provers must be shipped on an open flatbed truck or trailer.~~

- ~~15. Standards that are not in compliance with any of the above requirements will not be accepted for testing and certification.~~
- ~~16. A standard that is not tested and certified may not be used to test and certify a commercial device unless a variance permit is obtained from the commission, or unless the standards is recertified. Repealed effective October 1, 2010.~~

History: Effective May 1, 2005; amended effective July 1, 2008;

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-03-08. Rejection of standards. ~~Rejected standards~~ Standards rejected by a NIST-recognized laboratory must be removed from service as follows:

1. A standard that has been rejected must be conspicuously marked by sealing, tagging, or painting as appropriate to that standard.
2. A rejected standard may not be used to test and certify a commercial weighing and measuring device. The use of a rejected standard may result in commission enforcement action.
3. A standard not meeting appropriate design criteria may be allowed to remain in service for a limited time, provided a variance permit is obtained from the commission prior to certification or recertification.

History: Effective May 1, 2005; amended effective July 1, 2008; October 1, 2010.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

CHAPTER 69-10-04

69-10-04-02. Application for registration and permitting of a service person. Annual application for registration as a registered service person must be submitted to the commission under the following requirements:

1. A first-time applicant shall:
 - a. Provide a written history of education and work experience to show that the applicant is fully qualified to repair, test, and certify a commercial weighing or measuring device; and
 - b. Complete written tests that must be taken ~~in Bismarck, North Dakota~~, at a location and time designated by the commission, and must be administered as follows:
 - (1) The written test will be open book, with seventy-five percent as the minimum passing score. The test material will cover the applicable sections of the adopted 1999 edition of NIST Handbook No. 44, North Dakota Century Code title 64, and North Dakota Administrative Code article 69-10; and
 - (2) In the case of a test failure, an applicant may retake the tests after a review period of ten working days.
2. Each applicant registered by the commission shall utilize adequate standards during the testing and certification of a commercial device.
3. An applicant who is applying for renewal of an existing registration shall complete and submit the application at least fifteen days prior to the expiration date of the applicant's existing registration. Each applicant who has renewed an existing registration shall utilize adequate standards during the testing and certification of a commercial device.

History: Amended effective April 1, 1992; September 1, 1994; July 1, 1997; January 1, 2002; May 1, 2005; July 1, 2008; October 1, 2010.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-02.3. Issuing a placing in service permit. Upon acceptance and approval of an application, the commission shall issue a placing in service permit to the applicant. All permits issued under this section remain the property of the commission and must be surrendered upon demand. Permits issued will be either probationary or permanent as defined in this section.

1. **Probationary permits.**
 - a. An applicant with less than three months' experience repairing and placing devices into service will receive a probationary permit;

- b. The duration of a probationary permit will be at the discretion of the ~~testing and safety division director~~ commission but will not exceed six months from the date of testing; and
- c. A probationary permitholder shall be accompanied by, and have each placing in service test report cosigned by, a permanent permitholder from the same service company in order for the test report or the placing in service to be considered valid.

2. Permanent permits.

- a. An applicant with more than three months' experience repairing and placing devices into service will receive a permanent permit;
- b. An applicant who has been previously tested and issued a permanent permit by the commission within the last five years, but has allowed it to expire, will receive a permanent permit; or
- c. A probationary permitholder who has completed probationary time assigned without receiving any quality control failures will receive a permanent permit.

History: Effective May 1, 2005; amended effective October 1, 2010.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-06. Quality control - Witnessing Evaluation. The commission may evaluate the work performed by a registered service person to ensure that the person is performing proper inspections and tests. The evaluation method may be by direct observation of a registered service person placing a commercial device into service or by reinspection of a device previously placed into service by a registered service person. The commission ~~shall~~ may consider the following criteria during the evaluation:

- 1. The results of a random sampling of at least one inspection and test per year, or more if so ordered by the commission, of the devices certified by a registered service person;
- 2. Complaints filed against a registered service person, and whether those complaints are valid; and
- 3. Other factors deemed relevant by the commission.

~~The quality control evaluation must be completed within forty-five days of the date the work is completed by the registered service person and at no charge to the owner of the device.~~

History: Effective September 1, 1994; amended effective February 1, 1996; October 1, 1999; July 1, 2008; October 1, 2010.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-06.1. Quality control - Failures. Repealed effective October 1, 2010. ~~Quality control failures must include the outcome of any actual quality control inspections and tests, and any violations of title 64 of the North Dakota Century Code, title 69 of the North Dakota Administrative Code, and any applicable sections of the NIST Handbook No. 44, as adopted by reference in section 69-10-03-01. If a registered service person fails three consecutive quality control inspections within a twelve-month period, the commission may:~~

- ~~1. Issue either a verbal warning or a formal warning letter requiring remedial action within thirty days from the date of the warning;~~
- ~~2. Schedule a conference with the division director or chief inspector, the registered service person, and that person's supervisor;~~
- ~~3. Require that the registered service person retake the written tests required for licensing under section 69-10-04-02;~~
- ~~4. Reduce the registered service person's permit status to probationary for up to six months; and~~
- ~~5. Suspend the registered service person's permit and assess a civil penalty.~~

~~The results of any quality control failures and associated enforcement actions may be sent to the individual permitholder's company or to the owner or operator of the affected device.~~

~~Any quality control failures and associated enforcement actions must be kept on file as part of the overall quality control profile of the registered service person for a twelve-month period from the date of the failure.~~

History: Effective October 1, 1999; amended effective May 1, 2005.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-06.2. Procedures for the quality control evaluating work of registered service persons. A quality control inspection to evaluate the work of a registered service person will be conducted as set forth in this section:

1. ~~Quality control inspection selection~~ Selection criteria is as follows includes:
 - a. ~~Established by permitholder number;~~
 - b. ~~Set at one percent, or one of every one hundred placing in services, of average annual production;~~
 - c. ~~Location of the device versus in relation to location of the appropriate state inspector is a controlling factor;~~
 - b. Each registered service person whose annual device testing total is at least one hundred will be evaluated on one of every one hundred devices tested;
 - d. c. Each permitholder registered service person whose annual production device testing total is less than twenty one hundred will be placed into a special pool of which ten percent will have a quality control performed each year. assigned a quality control level related to the number of total devices tested the previous year; and
 - e. d. Average annual production must be based upon the previous inspection year totals Receipt of a complaint.
2. A permanent permitholder registered service person who receives multiple quality control inspections within a twelve-month period because of the holder has logged a large number of placing in services devices tested, and; has received a "pass" not failed on the first scheduled quality control inspection for that time period, will receive an "honorary pass" on the second scheduled quality control inspection. If the number of placing services devices tested requires a third quality control inspection for which the holder receives a "pass" registered service person does not fail, the fourth scheduled quality control inspection will again be an "honorary pass".
3. ~~The quality control inspection may be based upon the applicable tolerance, acceptance or maintenance tolerance, or design requirements that are applicable to the device.~~
4. ~~The quality control inspection must be completed within forty-five days from the date of the permitholder's test report.~~
5. ~~A specific quality control inspection ends when the tested device either fails a portion of the inspection or it passes the inspection.~~
6. 4. If When a device fails a quality control inspection, the failed quality control is failure will be documented for that permitholder, the device is will be rejected, and a followup quality control inspection must will be

~~scheduled conducted as soon as practicable on the next device placed into service by the permitholder responsible for the previous quality control failure.~~

- ~~7. At the discretion of the division director, weights and measures inspectors may conduct quality control inspections of self-certifying permitholders either by performing a test on that holder's device or by witnessing the testing of a device by the self-certified permitholder.~~

History: Effective May 1, 2005; amended effective October 1, 2010.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-06.3. Quality control - Failures. A quality control evaluation test report that discloses a failure must include any alleged violations of North Dakota Century Code chapter 64-03, North Dakota Administrative Code chapter 69-10-03, and any applicable sections of the NIST Handbook No. 44, as adopted by reference in section 69-10-03-01. If a registered service person fails three consecutive quality control inspections within a twelve-month period, the commission may:

1. Issue a written warning requiring remedial action within thirty days from the date of the warning;
2. Schedule a conference with the registered service person and that person's employer;
3. Require that the registered service person retake the written tests required for licensing under section 69-10-04-02;
4. Reduce the registered service person's permit status to probationary for up to six months; or
5. Suspend the registered service person's permit and assess a civil penalty.

The results of any quality control failures and associated enforcement actions may be sent to the registered service person's employer and to the owner or operator of the affected device.

A quality control evaluation report and a record of any associated enforcement action is filed as part of the overall quality control profile of the affected registered service person and must remain part of that profile for twelve months from the date of the failure.

History: Effective October 1, 2010.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13