

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1165

Introduced by

Industry, Business and Labor Committee

(At the request of the Board of Medical Examiners)

1 A BILL for an Act to provide for the regulation of the practice of medicine across state lines; and
2 to provide a penalty.

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

4 **SECTION 1. Legislative intent.** The legislative assembly hereby finds and declares
5 that, due to technological advances and changing practice patterns, the practice of medicine is
6 occurring with increasing frequency across state lines and that certain technological advances
7 in the practice of medicine are in the public interest. The legislative assembly further finds and
8 declares that the practice of medicine is a privilege and that the licensure by this state of
9 practitioners outside this state engaging in medical practice within this state and the ability to
10 discipline such practitioners is necessary for the protection of the citizens of this state and for
11 the public interest, health, welfare, and safety.

12 **SECTION 2. Definition.** As used in this Act, "practice of medicine across state lines"
13 means:

- 14 1. The rendering of a written or otherwise documented medical opinion concerning
15 diagnosis or treatment of a patient within this state by a physician located outside
16 this state as a result of transmission of individual patient data by electronic or other
17 means from within this state to the physician or the physician's agent; or
18 2. The rendering of treatment to a patient within this state by a physician located
19 outside this state as result of transmission of individual patient data by electronic or
20 other means from within this state to the physician or the physician's agent.

21 **SECTION 3. License requirement.** A person may not engage in the practice of
22 medicine across state lines in this state, may not hold that person out as qualified to do the
23 same, or use any title, word, or abbreviation to indicate to or induce others to believe that that

1 person is licensed to practice medicine across state lines in this state unless that person is
2 actually licensed under this Act.

3 **SECTION 4. Issuance of license.** The state board of medical examiners shall issue a
4 special purpose license to practice medicine across state lines upon application for a license
5 from a person holding a full and unrestricted license to practice medicine in any state or territory
6 in which the individual is licensed, provided there has not been previous disciplinary or other
7 action against the applicant by any state or jurisdiction. If previous disciplinary or other action
8 against the applicant has occurred, the board may issue a license to practice medicine across
9 state lines if it finds that the previous disciplinary or other action does not indicate that the
10 physician is a potential threat to the public. An individual shall submit an application to the
11 board on a form provided by the board and shall remit to the board a reasonable fee for the
12 license, the amount of the fee to be fixed by rules adopted by the board. A license to practice
13 medicine across state lines issued by the board limits the licensee solely to the practice of
14 medicine across state lines as defined in this Act. A special purpose license is valid for one
15 year and is renewable upon receipt of the annual registration fee fixed by the board and
16 submission of an acceptable renewal application on forms provided by the board.

17 **SECTION 5. Effect of license.** The issuance by the state board of medical examiners
18 of a special purpose license to practice medicine across state lines subjects the licensee to the
19 jurisdiction of the board and the commission on medical competency in all matters set forth in
20 chapters 43-17 and 43-17.1, and rules adopted pursuant to these chapters, including all matters
21 related to discipline. In addition, the licensee agrees by acceptance of a license to produce any
22 patient medical records and other materials requested by the board and further agrees to
23 appear before the board or the commission on medical competency when required to do so.
24 Failure of the licensee to appear or to produce records or materials as requested, after
25 appropriate notice, allows the board to suspend or revoke the licensee's special purpose
26 license at its discretion. Notwithstanding any other provision of law, the suspension or
27 revocation of a license may be effected prior to a hearing, after appropriate notice if the board
28 finds an ongoing threat to the public.

29 **SECTION 6. Patient medical records.** A physician licensed under this Act shall
30 comply with all laws and rules governing the maintenance of patient medical records, including

1 patient confidentiality requirements, regardless of the state where the medical records of any
2 patient within this state are maintained.

3 **SECTION 7. Exemptions.** A physician who engages in the practice of medicine
4 across state lines in an emergency, as defined by the board, is not subject to the provisions of
5 this Act. A physician who engages in the practice of medicine across state lines on an irregular
6 or infrequent basis is not subject to the provisions of this Act. "Irregular or infrequent" practice
7 of medicine across state lines is deemed to occur if the practice occurs less than once a month
8 or involves less than ten patients on an annual basis. A physician who engages in the informal
9 practice of medicine across state lines, without compensation or expectation of compensation,
10 is not subject to the provisions of this Act. The practice of medicine across state lines
11 conducted within the parameters of a contractual relationship may not be considered informal
12 and is subject to regulation by the board.

13 **SECTION 8. Sanctions.** A person who violates the provisions of this Act is subject to
14 criminal prosecution for the unlicensed practice of medicine in this state, and is further subject
15 to injunctive or other action authorized in this state, to prohibit or penalize continued practice
16 without a license. Nothing in this Act may be interpreted to limit or restrict the board's authority
17 to discipline any physician licensed to practice in this state who violates the medical practice act
18 while engaging in the practice of medicine within this or any other state.