

SENATE BILL NO. 2115

Introduced by

Industry, Business and Labor Committee

(At the request of the Attorney General)

1 A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century
2 Code, relating to the practice of a regulated occupation or profession.

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

4 **SECTION 1.** A new chapter to title 43 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.** As used in this chapter, unless the context indicates otherwise:

7 1. "Board" means a board, commission, or other agency of state government created
8 or identified in this title to regulate a particular occupation or profession, except for
9 the:

- 10 a. State board of accountancy;
11 b. State electrical board;
12 c. North Dakota real estate appraiser qualifications and ethics board; and
13 d. State real estate commission.

14 "Board" also includes any agency of state government which is created or identified
15 outside this title to regulate a particular occupation or profession if the agency
16 elects, by administrative rule, to invoke the authority in this chapter.

17 2. "Foreign practitioner" means an individual who currently holds and maintains a
18 license in good standing to engage in an occupation or profession in a state or
19 jurisdiction other than this state and who is not the subject of a pending disciplinary
20 action in any state or jurisdiction.

21 3. "Good standing" means a foreign practitioner holds a current license that is not
22 issued on a temporary or restricted basis, is not encumbered or on probation, and
23 is not suspended or revoked.

1 4. "License" means a license, certificate, permit, or similar authorization to practice an
2 occupation or profession which is issued by a government agency in another state
3 or jurisdiction that imposes requirements for obtaining and maintaining a license
4 which are at least as stringent as the requirements imposed in this state to obtain
5 and maintain a license to practice the same profession or occupation.

6 5. "Occupation or profession" means activity for which a license is required from a
7 board or similar activity for which a license is required in another state or
8 jurisdiction.

9 **Location of practice of an occupation or profession.** The provision of services to an
10 individual in this state which fall within the standard of practice of a profession or occupation
11 regulated by a board, regardless of the means by which the services are provided or the
12 physical location of the person providing those services, constitutes the practice of that
13 occupation or profession in this state and is subject to regulation by the appropriate board in
14 this state.

15 **Indirect practice without a license.** A foreign practitioner may provide services in this
16 state which fall within the scope of practice designated by the foreign practitioner's license
17 without obtaining a license from the appropriate board if the services are provided through
18 consultation with the person licensed by the board and if the foreign practitioner has no direct
19 communication in this state with the individual receiving the services except in the presence of
20 the person who is licensed by the board. Both the foreign practitioner and the person licensed
21 by the board are responsible for the services provided under this section.

22 **Emergency practice without a license.** Upon prior written notice to the appropriate
23 board, a foreign practitioner may provide services in this state which fall within the scope of
24 practice designated by the foreign practitioner's license without obtaining a license from the
25 board, if the services are provided for a period of time not to exceed sixty consecutive days in a
26 calendar year and are provided in response to a disaster declared by the appropriate authority
27 in this state. The notice provided by a foreign practitioner under this section must include
28 documentation from the appropriate licensing authority which identifies the requirements for
29 licensure in that jurisdiction and which confirms that the practitioner is in good standing. A
30 foreign practitioner who provides services under this section shall be deemed to have submitted

1 to the jurisdiction of the appropriate board and be bound by the laws of this state and the rules
2 established by the appropriate board.

3 **Limited practice without a license.** Upon prior written application to the appropriate
4 board, a foreign practitioner may provide services in this state which fall within the scope of
5 practice designated by the foreign practitioner's license without obtaining a license from the
6 board if the services are provided for no more than thirty full or partial days per year. The
7 one-year period commences on the date of receipt by the board of the written application. An
8 application from a foreign practitioner under this section must include documentation from the
9 appropriate licensing authority which identifies the requirements for licensure in that jurisdiction
10 and which confirms that the practitioner is in good standing. A foreign practitioner who provides
11 services under this section shall be deemed to have submitted to the jurisdiction of the
12 appropriate board and be bound by the laws of this state and the rules established by the
13 appropriate board. The board may require payment of a fee of twenty-five dollars or other fee
14 established by the board by administrative rule, not to exceed the higher of twenty-five dollars
15 or one-tenth of the fee for an annual license from the board, as a condition of approving an
16 application under this section. An application under this section, if accompanied by sufficient
17 documentation and any required fee, will be deemed approved unless denied by the board. If
18 an application under this section is denied, the foreign practitioner must immediately cease
19 providing services under this section and may not resume providing services under this section
20 until after a subsequent application is approved.

21 **Licensure without examination.** Notwithstanding any other provision of law, a board
22 may issue a license, without examination, to any foreign practitioner who has practiced the
23 occupation or profession in which the practitioner is licensed for at least two years prior to
24 submitting the application to the board, or for any other period of time provided in this title or
25 established by the board by administrative rule, and who meets the other requirements
26 established by the board for a license. Notwithstanding any other provision of law, a board is
27 not prohibited from issuing a license under this section to a foreign practitioner if the state or
28 jurisdiction in which the individual is licensed does not extend similar privileges to individuals
29 licensed in this state.

30 **License compacts.** A board may establish, by administrative rule, procedures for
31 foreign practitioners to practice in this state pursuant to written compacts or agreements

1 between the board and one or more other states or jurisdictions or pursuant to any other
2 method of license recognition that ensures the health, safety, and welfare of the public. Any
3 compact or agreement by a board does not become binding on this state until implemented by
4 administrative rules under this section.

5 **Discipline.** In addition to other grounds for disciplinary action authorized by law, a
6 person who holds a license issued by a board may be subject to disciplinary action in this state
7 for:

- 8 1. Failing to adequately review services provided by a foreign practitioner under this
9 chapter;
- 10 2. Unauthorized practice of the person's occupation or profession in another state or
11 jurisdiction, including the delivery of services by a licenseholder in this state to a
12 recipient of services in another state or jurisdiction;
- 13 3. Acts occurring in another state or jurisdiction which could subject the person to
14 disciplinary action if those acts occurred in this state; or
- 15 4. Acts occurring in another state or jurisdiction which could subject the person to
16 disciplinary action if the person held a license in that state or jurisdiction.

17 **Jurisdiction.** A foreign practitioner who provides services in this state without a license
18 as permitted in this chapter shall be deemed to have consented to the jurisdiction of this state
19 and to have appointed the secretary of state as the foreign practitioner's agent upon whom
20 process may be served in any action or proceeding against the practitioner arising out of the
21 practitioner's activities in this state.

22 **Application with other laws.** This chapter supplements and does not repeal the
23 authority provided to each board. Nothing in this chapter prohibits a board from imposing
24 conditions on foreign practitioners by administrative rule or compact which are more restrictive
25 than those imposed in this chapter, if those restrictions are enacted to ensure the health, safety,
26 and welfare of the public. Rules under this section may be adopted as emergency rules under
27 chapter 28-32. Nothing in this chapter alters the scope of practice of a particular occupation or
28 profession as defined by law.