Sixty-first Legislative Assembly of North Dakota

HOUSE BILL NO. 1488

Introduced by

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Representatives N. Johnson, Conrad, Hofstad Senators Dever, Erbele, Warner

- 1 A BILL for an Act to create and enact chapter 43-32.1 of the North Dakota Century Code,
- 2 relating to authorizing medical psychologists to prescribe drugs; to amend and reenact section
- 3 39-06-07.2, subsection 1 of section 43-15-01, section 43-15-31.1, subsection 4 of section
- 4 43-15-31.5, and sections 43-32-17 and 43-32-32 of the North Dakota Century Code, relating to
- 5 department of transportation advice from medical psychologists and prescriptive authority of
- 6 medical psychologists; and to provide a penalty.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- **SECTION 1. AMENDMENT.** Section 39-06-07.2 of the North Dakota Century Code is amended and reenacted as follows:
- 10 **39-06-07.2. Medical advice Use by director.**
 - 1. The director is authorized to seek professional medical advice from any physician, medical psychologist, or optometrist authorized to practice in this state and to use that advice in decisions made by the director in regard to the issuance, renewal, suspension, revocation, or cancellation of driver's licenses pursuant to this chapter. The advice may be received in any manner deemed advisable by the director or the director's authorized agent.
 - 2. In addition to advice sought and received pursuant to subsection 1, the director may consider information and advice received from an individual applicant's or driver's personal physician, medical psychologist, or optometrist. Any examination and report requested by the applicant or driver or required to be taken and provided by the director pursuant to this chapter must be at the expense of the applicant or driver.

1 3. Any physician, medical psychologist or optometrist providing advice to the director 2 or director's authorized agent pursuant to subsection 1 shall incur no liability for 3 any opinion, recommendation, or advice provided. 4 4. Advice and information received by the director or director's authorized agent 5 pursuant to subsection 1 which relates to an individual applicant or driver is for the 6 confidential use of the director or director's authorized agent in making decisions 7 on the individual's qualifications as a driver, and the information may not be 8 divulged to any person or used in evidence in any trial or proceeding except in 9 matters concerning the individual's qualifications to receive or retain a driver's 10 license. 11 5. General advice and information received by the director or director's authorized 12 agent pursuant to this section, in addition to other sources of information, may be 13 used by the director in the adoption of administrative rules concerning medical 14 criteria for driver licensing. SECTION 2. AMENDMENT. Subsection 1 of section 43-15-01 of the North Dakota 15 16 Century Code is amended and reenacted as follows: 17 "Administration" means the direct application of a drug to the body of a patient. 1. 18 a. The term includes: 19 (1) The emergency maintenance of a drug delivery device used in home 20 infusion therapy by a qualified home pharmacist when nursing service 21 is not available: 22 (2) Immunization and vaccination by injection of an individual who is more 23 than eighteen years of age, upon an order by a physician or nurse 24 practitioner authorized to prescribe such a drug or by written protocol 25 with a physician or nurse practitioner; and 26 (3)Provision of drugs by subcutaneous, intradermal, and intramuscular 27 injection to an individual who is more than eighteen years of age upon 28 the order of a physician, medical psychologist, or nurse practitioner 29 authorized to prescribe such a drug. 30 b. The term does not include the regular ongoing delivery of a drug to the patient

in a health care setting and other parenteral administration of a drug.

consultation with the physician prescriber.

1 SECTION 3. AMENDMENT. Section 43-15-31.1 of the North Dakota Century Code is 2 amended and reenacted as follows: 3 43-15-31.1. Patient profile record system. A patient profile record system must be 4 maintained in all pharmacies for persons individuals for whom prescriptions are dispensed. 5 The patient profile record system must be devised so as to enable the immediate retrieval of 6 information necessary to enable the dispensing pharmacist to identify previously dispensed 7 medication at the time a prescription is presented for dispensing. One profile card may be 8 maintained for all members of a family living at the same address and possessing the same 9 family name. 10 The following information must be recorded: 11 The family name and the first name of the person individual for whom the 12 medication is intended, which is the patient. 13 2. The address of the patient. 14 3. An indication of the patient's age group, e.g., infant, child, adult. 15 4. The original date the medication is dispensed pursuant to the receipt of a 16 physician's prescriber's prescription. 17 5. The number or designation identifying the prescription. 18 6. The prescriber's name. 19 7. The name, strength, and quantity of the drug dispensed. 20 8. The initials of the dispensing pharmacist, and the date of dispensing medication as 21 a renewal (refill) if said initials and such date are not recorded on the back of the 22 original prescription. 23 The pharmacist shall attempt to ascertain and shall record any allergies and 24 idiosyncrasies of the patient and any chronic conditions which may relate to drug utilization as 25 communicated to the pharmacy by the patient. 26 Upon receipt of a prescription, a pharmacist must examine the patient's profile record 27 before dispensing the medication to determine the possibility of a harmful drug interaction or 28 reaction. Upon recognizing a potential harmful reaction or interaction, the pharmacist shall take 29 appropriate action to avoid or minimize the problem which shall, if necessary, include

- A patient profile record must be maintained for a period of not less than five years from the date of the last entry in the profile record.
- **SECTION 4. AMENDMENT.** Subsection 4 of section 43-15-31.5 of the North Dakota Century Code is amended and reenacted as follows:
 - 4. Requirements for content of physician prescriber orders and protocols.
- **SECTION 5. AMENDMENT.** Section 43-32-17 of the North Dakota Century Code is amended and reenacted as follows:

43-32-17. License required for practice - Titles.

- 1. Except as otherwise provided under this chapter, a person may not engage in the practice of psychology or represent that person to be a psychologist in this state unless that person is an individual who is licensed as a psychologist under this chapter. Except as otherwise provided by this chapter, a person may not engage in the practice of industrial-organizational psychology or represent that person to be an industrial-organizational psychologist in this state unless that person is an individual who is licensed as a psychologist or an industrial-organizational psychologist under this chapter. A psychologist may not prescribe drugs unless the psychologist is a medical psychologist who holds a certificate granting prescriptive authority under chapter 43-32.1.
- 2. A psychologist may use the title "psychologist" or similar title in conjunction with the practice of psychology. An industrial-organizational psychologist may use the title "industrial psychologist", "organizational psychologist", or "industrial-organizational psychologist" in conjunction with the practice of industrial-organizational psychology. An industrial-organizational psychologist may not use the title "psychologist" or similar title representing that the individual is licensed as a psychologist.
- **SECTION 6. AMENDMENT.** Section 43-32-32 of the North Dakota Century Code is amended and reenacted as follows:
- 43-32-32. Drugs Medicine. This Except as provided under chapter 43-32.1, this chapter may not be construed as permitting a licensee to administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.

1	SECTION 7. Chapter 43-32.1 of the North Dakota Century Code is created and					
2	enacted as follows:					
3	43-32.1-01. Definitions. As used in this chapter, unless the context requires					
4	otherwise:					
5	<u>1.</u>	"Board" means the North Dakota state board of psychologist examiners.				
6	<u>2.</u>	"Clinical experience" means a period of supervised clinical training and practice				
7		during which clinical diagnosis and intervention are learned and are conducted and				
8		supervised as part of the training program.				
9	<u>3.</u>	"Controlled substance" has the same meaning as provided under section				
10		<u>19-03.1-01.</u>				
11	<u>4.</u>	"Drug" has the same meaning as provided under section 19-02.1-01 to the extent				
12		the drug is customarily used in or related to the diagnosis or treatment of a mental,				
13		behavioral, cognitive, or emotional disorder.				
14	<u>5.</u>	"Medical psychologist" means a psychologist who holds in good standing a				
15		certificate granting prescriptive authority issued by the board.				
16	<u>6.</u>	"Medicine" has the same meaning as provided under section 43-15-01, to the				
17		extent the medicine is customarily used in or related to the diagnosis or treatment				
18		of a mental, behavioral, cognitive, or emotional disorder.				
19	<u>7.</u>	"Prescription" means an order for a drug; laboratory test; or any medicine, device,				
20		or treatment, including a controlled substance.				
21	<u>8.</u>	"Prescriptive authority" means the authority to prescribe, administer, discontinue,				
22		or distribute without charge a drug or controlled substance recognized in or				
23		customarily used in the diagnosis, treatment, and management of an individual				
24		with a psychiatric, a mental, a cognitive, a nervous, an emotional, or a behavioral				
25		disorder, or other procedure directly related thereto which is within the scope of the				
26		practice of psychology in accordance with rules adopted by the board.				
27	<u>9.</u>	"Psychologist" has the same meaning as provide under section 43-32-01.				
28	43-32.1-02. Certification. The board shall issue certificates of prescriptive authority,					
29	including developing and implementing procedures for reviewing education and training					
30	credentials for the certification process which are in accordance with the current standards of					
31	professional practice.					

1	43-3	32.1-0	<u>3.</u>	Qualification. An applicant who applies for a certificate of prescriptive			
2	authority sh	ority shall demonstrate all of the following by official transcript or other official evidence					
3	satisfactory to the board:						
4	<u>1.</u>	The	The applicant must be a psychologist at the doctoral level who is board-authorized				
5		to pr	ovi	de health care services as a psychologist.			
6	<u>2.</u>	As d	lefir	ned by the board, taking into consideration the established policies of the			
7		Ame	erica	an psychological association for educating and training psychologists in			
8		prep	preparation for prescriptive authority, the applicant must have:				
9		<u>a.</u>	<u>Cc</u>	ompleted an organized sequence of study in an organized program offering			
10			<u>int</u>	ensive didactic education that includes the following core areas of			
11			ins	struction:			
12			<u>(1)</u>	<u>Basic life science;</u>			
13			<u>(2</u>)	Neurosciences;			
14			<u>(3</u>)	Clinical and research pharmacology and psychopharmacology;			
15			<u>(4</u>)	Clinical medicine and pathophysiology;			
16			<u>(5</u>)	<u>Physical assessment and laboratory exams;</u>			
17			<u>(6</u>)	Clinical pharmacotherapeutics; and			
18			<u>(7</u>)	Research, professional, ethical, and legal issues;			
19		<u>b.</u>	<u>Th</u>	ne didactic portion of the education must consist of an appropriate number of			
20			dic	dactic hours to ensure acquisition of the necessary knowledge and skills to			
21			pre	escribe in a safe and effective manner; and			
22		<u>C.</u>	<u>Ot</u>	otained relevant clinical experience sufficient to attain competency in the			
23			ps	ychopharmacological treatment of a diverse patient population under the			
24			dir	rection of qualified practitioners as determined by the board.			
25	<u>3.</u>	The	app	plicant must have passed an examination developed by a nationally			
26		reco	gni	zed body which is approved by the board.			
27	43-3	32.1-0	<u>)4.</u>	Renewal. The board shall adopt rules establishing the method and			
28	qualification	ns for	the	renewal of a certificate of prescriptive authority. Renewal must take place			
29	at the time of or in conjunction with the annual renewal of a license under chapter 43-32. Each						
30	applicant for renewal of a certificate of prescriptive authority shall present the board with						
31	satisfactory	satisfactory evidence demonstrating the completion of twenty contact hours of board-approved					

continuing education instruction relevant to prescriptive authority during the previous period of
certification.

43-32.1-05. Prescribing practices.

- 1. A medical psychologist may prescribe, administer, discontinue, and distribute without charge, a drug or controlled substance recognized in or customarily used in the diagnosis, treatment, and management of an individual with a psychiatric, mental, cognitive, nervous, emotional, or behavioral disorder which is relevant to the practice of psychology or to other procedures directly related to the practice of psychology which are within the scope of the practice of psychology in accordance with rules adopted by the board.
- 2. A psychologist may not issue a prescription unless the psychologist holds a valid certificate of prescriptive authority issued under this chapter or the psychologist is acting within the scope of another profession that is authorized to issue a prescription.
- 3. A prescription issued by a medical psychologist must comply with all applicable state and federal laws and regulations and must be identified as written by a medical psychologist in a manner as determined by the board.
- 4. A medical psychologist shall maintain in a patient's record a record of all the patient's prescriptions.
- 5. A medical psychologist may not delegate the authority to prescribe drugs.
- 43-32.1-06. Controlled substances Records. A medical psychologist who is authorized to prescribe a controlled substance shall timely file with the board the medical psychologist's drug enforcement agency registration and the North Dakota state controlled and dangerous substances license number. The board shall maintain current records of every medical psychologist, including the drug enforcement agency registration and number.
- 43-32.1-07. Board powers and duties. The board shall adopt rules relating to denying, modifying, suspending, and revoking the prescriptive authority issued under this chapter or the license issued under chapter 43-32 held by a medical psychologist. The board may require remediation of any deficiencies in the training or practice pattern of a medical psychologist when, in the judgment of the board, the deficiencies could reasonably be expected to jeopardize the health, safety, or welfare of the public.