

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative N. Johnson

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
3 subsection 27 of section 19-03.1-01, sections 19-03.3-01, 19-03.3-02, 19-03.3-03, 19-03.3-04,
4 19-03.3-05, 19-03.3-06, and 19-04-08, subsection 1 of section 43-15-01, section 43-15-31.1,
5 subsection 6 of section 43-15.1-01, and section 43-32-32 of the North Dakota Century Code,
6 relating to prescriptive authority of medical psychologists; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Subsection 27 of section 19-03.1-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 27. "Scheduled listed chemical product" means a product that contains ephedrine,
11 ~~pseudoephedrin~~ pseudoephedrine, or phenylpropanolamine, or each of the salts,
12 optical isomers, and salts of optical isomers of each chemical, and that may be
13 marketed or distributed in the United States under the Federal Food, Drug, and
14 Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed
15 by a licensed physician or medical psychologist.

16 **SECTION 2. AMENDMENT.** Section 19-03.3-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **19-03.3-01. Definitions.** As used in this chapter, unless the context otherwise
19 requires:

- 20 1. "Board" means the state board of medical examiners or North Dakota state board
21 of psychologist examiners as appropriate.
- 22 2. "Pain" means acute pain and chronic pain. Acute pain is the normal, predicted
23 physiological response to a noxious chemical or thermal or mechanical stimulus
24 and typically is associated with invasive procedures, trauma, or disease, and is

generally time-limited. Chronic pain is a state that persists beyond the usual course of an acute disease or healing of an injury or that may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years.

3. "~~Physician Practitioner~~" means a physician licensed ~~by the board~~ under chapter 43-17 or a medical psychologist under chapter 43-32.1.

SECTION 3. AMENDMENT. Section 19-03.3-02 of the North Dakota Century Code is amended and reenacted as follows:

19-03.3-02. Prescription or administration of drugs by physician. Notwithstanding any other provision of law, a ~~physician practitioner~~ may prescribe or administer controlled substances to a patient in the course of the ~~physician's practitioner's~~ treatment of the patient for pain. A ~~physician practitioner~~ shall keep records of purchases and disposals of controlled substances prescribed or administered under this section. The records must include the date of purchase, the date of sale or administration by the ~~physician practitioner~~, the name and address of the patient, and the reason for the prescribing or the administering of the substances to the patient.

SECTION 4. AMENDMENT. Section 19-03.3-03 of the North Dakota Century Code is amended and reenacted as follows:

19-03.3-03. Restriction by hospital or health care facility of prescribed drug use prohibited. No hospital or health care facility may forbid or restrict the use of controlled substances when prescribed or administered by a ~~physician practitioner~~ having staff privileges at that hospital or health care facility for a patient diagnosed and treated by a ~~physician practitioner~~ for pain.

SECTION 5. AMENDMENT. Section 19-03.3-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.3-04. Disciplinary action for prescribing or administering drug treatment prohibited. The board may not discipline a ~~physician practitioner~~ for prescribing or administering controlled substances in the course of treatment of a patient for pain under this chapter.

SECTION 6. AMENDMENT. Section 19-03.3-05 of the North Dakota Century Code is amended and reenacted as follows:

1 **19-03.3-05. Application.** This chapter does not apply to ~~a person~~ an individual being
2 treated by a ~~physician~~ practitioner for chemical dependency because of the person's use of
3 controlled substances not related to treatment for pain. This chapter does not authorize a
4 physician to prescribe or administer any drug legally classified as a controlled substance or as
5 an addictive or dangerous drug for other than medically accepted therapeutic purposes. A
6 ~~person~~ An individual to whom controlled substances are prescribed or administered for pain is
7 not exempt from section 39-08-01 or 39-20-04.1.

8 **SECTION 7. AMENDMENT.** Section 19-03.3-06 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **19-03.3-06. Cancellation, revocation, or suspension of ~~physician's~~ practitioner's"**
11 **license.** This chapter does not limit the authority of the board to cancel, revoke, or suspend the
12 license of any ~~physician~~ practitioner who:

- 13 1. Prescribes or administers a drug or treatment that is nontherapeutic in nature or
14 nontherapeutic in the manner the drug or treatment is administered or prescribed.
- 15 2. Fails to keep complete and accurate records of purchases and disposals of
16 controlled substances listed in chapter 19-03.1.
- 17 3. Writes false or fictitious prescriptions for controlled substances scheduled in
18 chapter 19-03.1.

19 **SECTION 8. AMENDMENT.** Section 19-04-08 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **19-04-08. Distribution of anabolic steroids prohibited - Exception - Penalty.** A
22 person who distributes or possesses with the intent to distribute an anabolic steroid for any use
23 in humans other than the treatment of disease under the prescription of a ~~physician~~ practitioner
24 is guilty of a class B felony.

25 **SECTION 9. AMENDMENT.** Subsection 1 of section 43-15-01 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 1. "Administration" means the direct application of a drug to the body of a patient.
 - 28 a. The term includes:
 - 29 (1) The emergency maintenance of a drug delivery device used in home
30 infusion therapy by a qualified home pharmacist when nursing service
31 is not available;

(2) Immunization and vaccination by injection of an individual who is more than eighteen years of age, upon an order by a physician, medical psychologist, or nurse practitioner authorized to prescribe such a drug or by written protocol with a physician, medical psychologist, or nurse practitioner; and

(3) Provision of drugs by subcutaneous, intradermal, and intramuscular injection to an individual who is more than eighteen years of age upon the order of a physician, medical psychologist, or nurse practitioner authorized to prescribe such a drug.

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.

SECTION 10. AMENDMENT. Section 43-15-31.1 of the North Dakota Century Code is amended and reenacted as follows:

43-15-31.1. Patient profile record system. A patient profile record system must be maintained in all pharmacies for ~~persons~~ individuals for whom prescriptions are dispensed. The patient profile record system must be devised so as to enable the immediate retrieval of information necessary to enable the dispensing pharmacist to identify previously dispensed medication at the time a prescription is presented for dispensing. One profile card may be maintained for all members of a family living at the same address and possessing the same family name.

The following information must be recorded:

1. The family name and the first name of the ~~person~~ individual for whom the medication is intended, which is the patient.
2. The address of the patient.
3. An indication of the patient's age group, e.g., infant, child, adult.
4. The original date the medication is dispensed pursuant to the receipt of a ~~physician's~~ prescriber's prescription.
5. The number or designation identifying the prescription.
6. The prescriber's name.
7. The name, strength, and quantity of the drug dispensed.

8. The initials of the dispensing pharmacist, and the date of dispensing medication as a renewal (refill) if said initials and such date are not recorded on the back of the original prescription.

The pharmacist shall attempt to ascertain and shall record any allergies and idiosyncrasies of the patient and any chronic conditions which may relate to drug utilization as communicated to the pharmacy by the patient.

Upon receipt of a prescription, a pharmacist must examine the patient's profile record before dispensing the medication to determine the possibility of a harmful drug interaction or reaction. Upon recognizing a potential harmful reaction or interaction, the pharmacist shall take appropriate action to avoid or minimize the problem which shall, if necessary, include consultation with the ~~physician~~ prescriber.

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 11. AMENDMENT. Subsection 6 of section 43-15.1-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Wholesale drug distributor" means any person engaged in the wholesale drug distribution, including manufacturers; repackers; own-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; sales agents; prescription drug repackagers; physicians; dentists; medical psychologists; veterinarians; birth control and other clinics; individuals; hospital pharmacies; nursing home pharmacies or their providers; health maintenance organizations and other health care providers; and retail and hospital pharmacies that conduct wholesale distributions. The term does not include any common carrier or individual hired solely to transport prescription drugs.

SECTION 12. 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 13.** 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 1. "Board" means the North Dakota state board of psychologist examiners.
- 6 2. "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 3. "Controlled substance" has the same meaning as provided under section
10 19-03.1-01.
- 11 4. "Drug" has the same meaning as provided under section 19-02.1-01.
- 12 5. "Medical psychologist" means a psychologist who holds in good standing a
13 certificate granting prescriptive authority issued by the board.
- 14 6. "Prescription" means an order for a drug; laboratory test; or any medicine, device,
15 or treatment, including a controlled substance.
- 16 7. "Prescriptive authority" means the authority to prescribe, administer, discontinue,
17 or distribute without charge a drug or controlled substance recognized in or
18 customarily used in the diagnosis, treatment, and management of an individual
19 with a psychiatric, a mental, a cognitive, a nervous, an emotional, or a behavioral
20 disorder, or other procedure directly related thereto which is within the scope of the
21 practice of psychology in accordance with rules adopted by the board.
- 22 8. "Psychologist" has the same meaning as provide under section 43-32-01.

23 **43-32.1-02. Certification.** The board shall issue certificates of prescriptive authority,
24 including developing and implementing procedures for reviewing education and training
25 credentials for the certification process which are in accordance with the current standards of
26 professional practice.

27 **43-32.1-03. Qualifications.** An applicant who applies for a certificate of prescriptive
28 authority shall demonstrate all of the following by official transcript or other official evidence
29 satisfactory to the board:

- 30 1. The applicant must be a psychologist at the doctoral level who is board-authorized
31 to provide health care services as a psychologist.

- 1 2. As defined by the board, taking into consideration the established policies of the
2 American psychological association for educating and training psychologists in
3 preparation for prescriptive authority, the applicant must have:
- 4 a. Completed an organized sequence of study in an organized program offering
5 intensive didactic education that includes the following core areas of
6 instruction:
- 7 (1) Basic life science;
8 (2) Neurosciences;
9 (3) Clinical and research pharmacology and psychopharmacology;
10 (4) Clinical medicine and pathophysiology;
11 (5) Physical assessment and laboratory exams;
12 (6) Clinical pharmacotherapeutics; and
13 (7) Research, professional, ethical, and legal issues.
- 14 a. The didactic portion of the education must consist of an appropriate number of
15 didactic hours to ensure acquisition of the necessary knowledge and skills to
16 prescribe in a safe and effective manner; and
- 17 b. Obtained relevant clinical experience sufficient to attain competency in the
18 psychopharmacological treatment of a diverse patient population under the
19 direction of qualified practitioners as determined by the board.
- 20 3. The applicant must have passed an examination developed by a nationally
21 recognized body which is approved by the board.

22 **43-32.1-04. Renewal.** The board shall adopt rules establishing the method and
23 qualifications for the renewal of a certificate of prescriptive authority. Renewal must take place
24 at the time of or in conjunction with the annual renewal of a license under chapter 43-32. Each
25 applicant for renewal of a certificate of prescriptive authority shall present the board with
26 satisfactory evidence demonstrating the completion of ten contact hours of board-approved
27 continuing education instruction relevant to prescriptive authority during the previous period of
28 certification.

29 **43-31.1-05. Prescribing practices.**

- 30 1. A medical psychologist may prescribe, administer, discontinue, and distribute
31 without charge, a drug or controlled substance recognized in or customarily used in

1 the diagnosis, treatment, and management of an individual with a psychiatric,
2 mental, cognitive, nervous, emotional, or behavioral disorder which is relevant to
3 the practice of psychology or to other procedures directly related to the practice of
4 psychology which are within the scope of the practice of psychology in accordance
5 with rules adopted by the board.

6 2. A psychologist may not issue a prescription unless the psychologist holds a valid
7 certificate of prescriptive authority issued under this chapter or the psychologist is
8 acting within the scope of another profession that is authorized to issue a
9 prescription.

10 3. A prescription issued by a medical psychologist must comply with all applicable
11 state and federal laws and regulations and must be identified as written by a
12 medical psychologist in a manner as determined by the board.

13 4. A medical psychologist shall maintain in a patient's record a record of all the
14 patient's prescriptions.

15 5. A medical psychologist may not delegate the authority to prescribe drugs.

16 **43-32.1-06. Controlled substances - Records.** A medical psychologist who is
17 authorized to prescribe a controlled substance timely shall file with the board the medical
18 psychologist's drug enforcement agency registration and the North Dakota state controlled and
19 dangerous substances license number. The board shall maintain current records of every
20 medical psychologist, including the drug agency registration and number.

21 **43-32.1-07. Board powers and duties.** The board shall adopt rules relating to
22 denying, modifying, suspending, and revoking the prescriptive authority issued under this
23 chapter or the license issued under chapter 43-32 held by a medical psychologist. The board
24 may require remediation of any deficiencies in the training or practice pattern of a medical
25 psychologist when, in the judgment of the board, the deficiencies could reasonably be expected
26 to jeopardize the health, safety, or welfare of the public.