

June 2009

TITLE 43

Occupations and Professions

Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 43. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to occupations and professions may be classified in these subject areas: abstracters, accountants, architects and landscape architects, contractors, dentists and dental hygienists, engineers and land surveyors, funeral service practitioners, marriage and family therapists, massage therapists, nurses, optometrists, pharmacists, physician assistants, private investigators, professional employer organizations, psychologists, real estate salespersons, social workers, and miscellaneous.

ABSTRACTERS

Senate Bill No. 2299 details the documents regarding utility easements which an abstracter shall furnish when providing an abstract to title to the surface of any surface tract of land, as well as the fees an abstracter may charge for related searches.

ACCOUNTANTS

House Bill No. 1147 modifies the law regulating the practice of accountancy, including implementing licensure mobility by recognizing determinations of "substantial equivalency" made by the National Association of State Boards of Accountancy National Qualification Appraisal Service, revising the firm licensure provisions, and removing the statutory examination score provision.

ARCHITECTS AND LANDSCAPE ARCHITECTS

House Bill No. 1330 updates the law regulating the practice of architecture and landscape architecture, including changing the name of the regulating board from the State Board of Architecture to the State Board of Architecture and Landscape Architecture, creating definitions of the terms "practice of architecture" and "practice of landscape architecture," revising the exceptions from the architecture and landscape architecture regulation laws, modifying the residency and practice requirements for board members, updating the powers and duties of the board, revising the education requirements, clarifying the licensure qualification requirements of a landscape architect may include examination, revising the reciprocity provisions, increasing the maximum licensure and renewal fees from \$100 to \$300, providing a forfeiture process for failure to renew a license, and repealing the Landscape Architect and Architect Advisory Committees.

CONTRACTORS

Senate Bill No. 2392 revises the law regulating contractors providing the application for renewal of a contractor's license will no longer require information regarding whether a performance bond was required for any of the contractor's projects completed during the preceding year.

DENTISTS AND DENTAL HYGIENISTS

House Bill No. 1176 makes extensive changes to the law regulating dental hygienists and dentists, including revising the dental hygienist licensure application, licensure qualification, license renewal, scope of practice, and disciplinary provisions; revising the dentist assistant registration application and registration renewal provisions; and revising the dentist licensure application, licensure qualification, license renewal, reexamination, inactive status, and disciplinary provisions.

Senate Bill No. 2358 creates a loan repayment program for dentists who practice in public health and nonprofit dental clinics and provides a \$180,000 appropriation to the State Department of Health for the purpose of providing grants under the program.

ENGINEERS AND LAND SURVEYORS

Senate Bill No. 2268 makes extensive changes to the law regulating engineers and land surveyors, including replacing references to engineers and land surveyors in training with engineer and land surveyor interns; revising compensation for members of the State Board of Registration for Professional Engineers and Land Surveyors; revising registration as a professional engineer without examination; revising educational qualifications for

professional engineers, engineer interns, professional land surveyors, and land surveyor interns; revising the use of a seal; revising disciplinary actions; and revising the right to practice.

FUNERAL SERVICE PRACTITIONERS

House Bill No. 1116 updates the law regulating funeral service practitioners, including authorizing the State Board of Funeral Service to conduct information seminars, revising reciprocity licensure requirements and out-of-state licensed individuals from assisting North Dakota licensed funeral practitioners, revising the late renewal provisions for licenses, and increasing the annual funeral establishment license renewal fee from \$100 to \$125.

MARRIAGE AND FAMILY THERAPISTS

Senate Bill No. 2152 modifies the law regulating marriage and family therapists, including creation of a new status--licensure of an associate marriage and family therapist; increasing the minimum licensure education requirements from a baccalaureate to a master's degree; extending the initial licensure application deadline for marriage and family therapists who were actively practicing in North Dakota before January 1, 2008; clarifying the board may adopt rules relating to reinstatement of lapsed licenses, voluntary termination, and emeritus status and that the board may establish a fee for the licensure examination; clarifying the board's authority to take disciplinary actions against applicants and licensees; and revising the penalty provision to provide practicing without a license is a criminal offense.

MASSAGE THERAPISTS

Senate Bill No. 2099 revises the law regulating the practice of massage, including redefining "massage," defining "remote education," authorizing instead of mandating that the Board of Massage inspect massage establishments, modifying the continuing education requirements from 18 credits annually to 32 credits biennially and clarifying the requirements for continuing education attained by remote means, providing for a civil penalty for violation of the massage regulation laws and rules, increasing the board member per diem from \$62 to a maximum of \$100, and clarifying the reciprocity requirements for licensure.

NURSES

House Bill No. 1269 revises the State Board of Nursing's grounds for discipline clarifying the board may issue a nondisciplinary letter of concern to a licensee, registrant, or applicant and that the board has grounds to discipline a person that assisted in the practice of nursing without a current registration. The bill also limits the disciplinary actions the board may take against an unlicensed assistive person whose registration has expired.

Senate Bill No. 2094 provides the laws regulating the practice of nursing do not apply to an individual who is not registered by the State Board of Nursing who is providing medications as a direct training technician or a vocational training technician at the Developmental Center at Westwood Park, Grafton.

OPTOMETRISTS

Senate Bill No. 2164 provides an optometrist may provide a patient a drug sample at no cost to the patient and may sell contact lenses or ophthalmic devices that are classified by the United States Food and Drug Administration as a drug.

PHARMACISTS

House Bill No. 1091 modifies the law regulating the practice of pharmacy providing that annually a pharmacist shall complete at least 15 hours of continuing pharmaceutical education and authorizing a pharmacist to accept and dispense an oral transmission of a prescription transmitted by an authorized registered dental hygienist or a registered dental assistant.

Senate Bill No. 2039 repeals the laws that linked membership in the North Dakota Pharmaceutical Association with licensure by the State Board of Pharmacy, increases from five to seven the number of members on the State Board of Pharmacy by adding a registered pharmacy technician member and a public member, and decreases pharmacist license renewal fees to reflect the separation of the board from the association.

PHYSICIAN ASSISTANTS

Senate Bill No. 2180 adds Schedule II controlled substances to the types of medication a physician assistant may prescribe if delegated to do so by a supervising physician.

PRIVATE INVESTIGATORS

House Bill No. 1102 shortens from two years to one year the renewal period for private investigative and security licenses.

House Bill No. 1103 increases from \$20 to \$25 the maximum initial registration fee and increases from \$5 to \$25 the maximum renewal fee for private investigative service and private security service registrations.

Senate Bill No. 2113 provides a nonlicensed member, partner, officer, or owner of at least 10 percent interest in an entity may obtain a license or registration from the Private Investigative and Security Board.

PROFESSIONAL EMPLOYER ORGANIZATIONS

House Bill No. 1361 revises the professional employer organization licensure law, including replacing the current requirement that a professional employer organization submit to the Secretary of State a financial statement with a requirement that the professional employer organization maintain a bond, requiring that a professional employer organization provide the Secretary of State with a copy of the employer's quarterly contribution and wage report to Job Service North Dakota or to maintain an increased bond accordingly, authorizing the Secretary of State and the Attorney General to require that a professional employer organization provide a financial statement, and providing confidentiality provisions for records.

PSYCHOLOGISTS

House Bill No. 1145 updates the law regulating psychologists, including modifying the scope of practice of psychology, clarifying psychology residents who are completing postdoctoral supervised experience requirements are subject to continuing education requirements and to regulation by the State Board of Psychologist Examiners, increasing the maximum annual license fee from \$100 to \$150, simplifying the procedure for regulating psychologists who are licensed in other jurisdictions and the procedure for disciplining psychologists who have been disciplined in another jurisdiction, and modifying the doctoral degree education requirements for licensure as a psychologist and industrial-organizational psychologist.

REAL ESTATE SALESPERSONS

Senate Bill No. 2200 revises the continuing education requirements for real estate brokers and salespersons removing the statutory number of required credits and providing the State Real Estate Commission may establish the number of required credits, the frequency and conditions of reporting requirements, and all other terms and conditions of continuing education compliance.

SOCIAL WORKERS

House Bill No. 1093 modifies the law regulating the practice of social work providing that if a hospital, basic care facility, or skilled nursing facility employs a social work designee, that employer shall notify the North Dakota Board of Social Work Examiners of such employment arrangement and providing that for licensed independent clinical social worker post-master's clinical social work experiences that begin after July 31, 2009, the supervisor may not be a licensed certified social worker.

MISCELLANEOUS

House Bill No. 1024 revises the penalty provisions of several occupation and profession regulation laws in order to address overly broad criminal penalty provisions, including the laws regulating chiropractors, pre-need funeral services providers, water conditioning contractors and installers, sewer and water installers, real estate professionals, massage therapists, hearing aid dealers, occupational therapists, social workers, respiratory care practitioners, addiction counselors, and clinical laboratory personnel.

Senate Bill No. 2227 modifies the medical personnel loan repayment program increasing the maximum award from \$10,000 to \$30,000, removing the limitation on the number of recipients who participate in the program, and modifying the eligibility requirement limitations relating to practice within the state before application.