

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1272

Introduced by

Representatives Fehr, D. Anderson, Hofstad, Lefor

Senator J. Lee

1 A BILL for an Act to create and enact section 43-17-07.3 of the North Dakota Century Code,
2 relating to certification of medical psychologists; to amend and reenact subsection 3 of section
3 26.1-14-02, subsection 1 of section 43-15-01, subsection 26 of section 43-15-01, section
4 43-15-31.1, subsection 4 of section 43-15-31.5, and sections 43-17-01, 43-17-02, 43-17-02.2,
5 43-32-01, 43-32-08, and 43-32-32 of the North Dakota Century Code, relating to certification of
6 medical psychologists; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Subsection 3 of section 26.1-14-02 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 3. "Practice of medicine" means the practice of medicine, surgery, and obstetrics and has
11 the same meaning specified in ~~subsection 2 of~~ section 43-17-01.

12 **SECTION 2. AMENDMENT.** Subsection 1 of section 43-15-01 of the North Dakota Century
13 Code is amended and reenacted as follows:

14 1. "Administration" means the direct application of a drug to the body of a patient.

15 a. The term includes:

16 (1) The emergency maintenance of a drug delivery device used in home
17 infusion therapy by a qualified home pharmacist when nursing service is not
18 available;

19 (2) Upon an order by a physician, a physician assistant, or nurse practitioner
20 authorized to prescribe such a drug or by written protocol with a physician or
21 nurse practitioner and subsequently reported as a childhood immunization
22 and other information if required to the state's immunization information
23 system pursuant to section 23-01-05.3:

1 (a) Immunization and vaccination by injection of an individual who is at
2 least eleven years of age; and

3 (b) Influenza vaccination by injection or by live, attenuated influenza
4 vaccine of an individual who is at least five years of age; and

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

9 b. The term does not include the regular ongoing delivery of a drug to the patient in
10 a health care setting and other parenteral administration of a drug.

11 **SECTION 3. AMENDMENT.** Subsection 26 of section 43-15-01 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 26. "Prescription" means any order for drugs or medical supplies, if such order is written or
14 signed or transmitted by word of mouth, telephone, telegram, or other means of
15 communication by a duly licensed physician, medical psychologist, optometrist,
16 dentist, veterinarian, or other practitioner, licensed by law to prescribe and administer
17 such drugs or medical supplies intended to be filled, compounded, or dispensed by a
18 pharmacist or any order for drugs or medical supplies transmitted orally by a nurse
19 licensed under chapter 43-12.1 as written and signed by such a duly licensed
20 physician, medical psychologist, optometrist, dentist, veterinarian, or other practitioner.

21 **SECTION 4. AMENDMENT.** Section 43-15-31.1 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-15-31.1. Patient profile record system.**

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

31 The following information must be recorded:

- 1 1-a. The family name and the first name of the ~~person~~individual for whom the
- 2 medication is intended, which is the patient.
- 3 2-b. The address of the patient.
- 4 3-c. An indication of the patient's age group, e.g., infant, child, adult.
- 5 4-d. The original date the medication is dispensed pursuant to the receipt of a
- 6 ~~physician's~~prescriber's prescription.
- 7 5-e. The number or designation identifying the prescription.
- 8 6-f. The prescriber's name.
- 9 7-g. The name, strength, and quantity of the drug dispensed.
- 10 8-h. The initials of the dispensing pharmacist, and the date of dispensing medication
- 11 as a renewal (refill) if said initials and such date are not recorded on the back of
- 12 the original prescription.
- 13 2. The pharmacist shall attempt to ascertain and shall record any allergies and
- 14 idiosyncrasies of the patient and any chronic conditions ~~which~~that may relate to drug
- 15 utilization as communicated to the pharmacy by the patient.
- 16 3. Upon receipt of a prescription, a pharmacist ~~must~~shall examine the patient's profile
- 17 record before dispensing the medication to determine the possibility of a harmful drug
- 18 interaction or reaction. Upon recognizing a potential harmful reaction or interaction, the
- 19 pharmacist shall take appropriate action to avoid or minimize the problem which
- 20 ~~shall~~must, if necessary, include consultation with the ~~physician~~prescriber.
- 21 4. A patient profile record must be maintained for a period of not less than five years from
- 22 the date of the last entry in the profile record.

SECTION 5. 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 6. AMENDMENT. Section 43-17-01 of the North Dakota Century Code is amended and reenacted as follows:

43-17-01. Definitions.

1. "Board" means the state board of medical examiners.
2. "Medical psychologist" means a psychologist licensed under chapter 43-32 who is certified by the board as a medical psychologist.

1 3. "Physician" includes physician and surgeon (M.D.) and osteopathic physician and
2 surgeon (D.O.).

3 ~~3.4.~~ "Practice of medicine" includes the practice of medicine, surgery, and obstetrics. The
4 following persons must be regarded as practicing medicine:

5 a. One who holds out to the public as being engaged within this state in the
6 diagnosis or treatment of diseases or injuries of human beings.

7 b. One who suggests, recommends, or prescribes any form of treatment for the
8 intended relief or cure of any physical or mental ailment of any person, with the
9 intention of receiving, directly or indirectly, any fee, gift, or compensation.

10 c. One who maintains an office for the examination or treatment of persons afflicted
11 with disease or injury of the body or mind.

12 d. One who attaches the title M.D., surgeon, doctor, D.O., osteopathic physician
13 and surgeon, or any other similar word or words or abbreviation to the person's
14 name, indicating that the person is engaged in the treatment or diagnosis of the
15 diseases or injuries of human beings must be held to be engaged in the practice
16 of medicine.

17 **SECTION 7. AMENDMENT.** Section 43-17-02 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **43-17-02. Persons exempt from the provisions of chapter.**

20 The provisions of this chapter do not apply to the following:

21 1. Students of medicine or osteopathy who are continuing their training and performing
22 the duties of a resident in any hospital or institution maintained and operated by the
23 state, an agency of the federal government, or in any residency program accredited by
24 the accreditation council on graduate medical education, provided that the state board
25 of medical examiners may adopt rules relating to the licensure, fees, qualifications,
26 activities, scope of practice, and discipline of such persons.

27 2. The domestic administration of family remedies.

28 3. Dentists practicing their profession when properly licensed.

29 4. Optometrists practicing their profession when properly licensed.

30 5. The practice of christian science or other religious tenets or religious rules or
31 ceremonies as a form of religious worship, devotion, or healing, if the person

administering, making use of, assisting in, or prescribing, such religious worship, devotion, or healing does not prescribe or administer drugs or medicines and does not perform surgical or physical operations, and if the person does not hold out to be a physician or surgeon.

6. Commissioned medical officers of the armed forces of the United States, the United States public health service, and medical officers of the veterans administration of the United States, in the discharge of their official duties, and licensed physicians from other states or territories if called in consultation with a person licensed to practice medicine in this state.

7. Doctors of chiropractic duly licensed to practice in this state pursuant to the statutes regulating such profession.

8. Podiatrists practicing their profession when properly licensed.

9. Any ~~person~~individual rendering services as a physician assistant, if such service is rendered under the supervision, control, and responsibility of a licensed physician. However, sections 43-17-02.1 and 43-17-02.2 do apply to physician assistants. The state board of medical examiners shall prescribe rules governing the conduct, licensure, fees, qualifications, discipline, activities, and supervision of physician assistants. Physician assistants may not be authorized to perform any services ~~which that~~ must be performed by persons licensed pursuant to chapters 43-12.1, 43-13, 43-15, and 43-28 or services otherwise regulated by licensing laws, notwithstanding the fact that medical doctors need not be licensed specifically to perform the services contemplated under such chapters or licensing laws.

10. A nurse practicing the nurse's profession when properly licensed by the North Dakota board of nursing.

11. A person rendering fluoroscopy services as a radiologic technologist if the service is rendered under the supervision, control, and responsibility of a licensed physician and provided that the state board of medical examiners prescribes rules governing the conduct, permits, fees, qualifications, activities, discipline, and supervision of radiologic technologists who provide those services.

12. A naturopath duly licensed to practice in this state pursuant to the statutes regulating such profession.

- 1 13. An individual rendering services as a medical psychologist, if such service is rendered
2 in accordance with section 43-17-07.3. However, section 43-17-02.2 and rules
3 adopted by the board under section 43-17-07.3 do apply to a medical psychologist.

4 **SECTION 8. AMENDMENT.** Section 43-17-02.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-17-02.2. Use of certain words or initials prohibited.**

- 7 1. The terms "physician assistant" and "certified physician assistant" and the initials
8 "PA-C" may only be used to identify a personan individual who has been issued a
9 certificate of qualification by the board of medical examiners. A person whothat uses
10 those terms or initials as identification without having received a certificate of
11 qualification is engaging in the practice of medicine without a license.
12 2. Use of the terms "medical psychologist" and "certified medical psychologist" and any
13 associated initials is limited to identifying an individual who is a medical psychologist.
14 An individual who uses these terms or initials as identification who is not a medical
15 psychologist is engaging in the practice of medicine without a license.

16 **SECTION 9.** Section 43-17-07.3 of the North Dakota Century Code is created and enacted
17 as follows:

18 **43-17-07.3. Medical psychologist - Certificate - Rules.**

- 19 1. As used in this section:
20 a. "Collaborating physician" means a physician who:
21 (1) Generally prescribes drugs, medicine, or controlled substances for the
22 diagnosis, treatment, and management of an individual with a psychiatric,
23 mental, cognitive, nervous, emotional, or behavioral disorder; and
24 (2) Maintains a collaborative practice agreement with a medical psychologist.
25 b. "Collaborative practice agreement" means a written agreement entered between
26 a medical psychologist and a collaborating physician which meets board
27 standards.
28 c. "Controlled substance" has the same meaning as provided under section
29 19-03.1-01.
30 d. "Drug" has the same meaning as provided under section 19-02.1-01.
31 e. "Medicine" has the same meaning as provided under section 43-15-01.

f. "Prescriptive authority" means the authority to:

- (1) Prescribe, administer, distribute without charge, or discontinue a drug, medicine, 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.
- (2) Prescribe an order for a device, laboratory test, or treatment related to a prescribed drug, medicine, or controlled substance related to the diagnosis, treatment, or management of an individual with a psychiatric, mental, cognitive, nervous, emotional, or behavioral disorder.

2. The board shall adopt rules relating to the regulation, practice, and discipline of a medical psychologist. As appropriate, jointly the board and the state board of psychologist examiners shall establish rules under this section and section 43-32-08. The board's rules must include educational, training, experience, and continuing education standards and requirements to qualify for certification and certification renewal; record retention; fees; conduct and discipline; collaborating physicians and collaborative practice agreements; and scope of practice, including limitations on patients for which and limitations on which controlled substance, drugs, and medicine a medical psychologist may prescribe. At a minimum, the rules must require a qualified applicant:

- a. Be a psychologist at the doctoral level;
- b. Pass a board-approved examination;
- c. Complete a course of study in a board-approved, organized course of study designed to educate and train a psychologist in preparation for prescriptive authority; and
- d. Complete board-approved clinical experience sufficient to attain competency in psycho pharmacological treatment of a diverse patient population.

3. The board shall issue a medical psychologist certificate to a qualified applicant.

4. A medical psychologist has prescriptive authority to diagnose, treat, and manage an individual with a psychiatric, mental, cognitive, nervous, emotional, or behavioral disorder, in accordance with a collaborative agreement with a collaborating physician and in accordance with rules adopted by the board. A medical psychologist may not

delegate prescriptive authority and may not exercise prescriptive authority outside the scope of a collaborative agreement.

SECTION 10. AMENDMENT. Section 43-32-01 of the North Dakota Century Code is amended and reenacted as follows:

43-32-01. Definitions.

1. "Applied behavior analyst" means an individual licensed under this chapter as an applied behavior analyst. The term does not include a registered applied behavior analyst.
2. "Autism spectrum disorder" means a neurobiological medical condition that includes autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder, and childhood disintegrative disorder.
3. "Board" means the North Dakota state board of psychologist examiners.
4. "Industrial-organizational psychologist" means an individual who is licensed under this chapter to engage in the practice of industrial-organizational psychology.
5. "Industrial-organizational psychology" means the provision of psychological research services or consultation services to a group or an organization. The term does not include the delivery or supervision of services to individuals who are themselves, rather than the group or organization, the intended beneficiaries of the services, regardless of the source or extent of payment for services rendered.
6. "Industrial-organizational psychology resident" means an individual who has met the requirement of subdivision b of subsection 2 of section 43-32-20, is involved in supervised employment in industrial-organizational psychology, and has registered with the board.
7. "Licensee" means an industrial-organizational psychologist, an applied behavior analyst, or a psychologist.
8. "Medical psychologist" means a psychologist who has a valid certificate issued by the state board of medical examiners under section 43-17-07.3.
9. "Practice of applied behavior analysis":
 - a. Means the application of the principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis, including

principles of operant and respondent learning. The term includes applications of those principles, methods, and procedures to:

- (1) Design, supervise, evaluate, and modify treatment programs to change the behavior of individuals diagnosed with an autism spectrum disorder;
- (2) Design, supervise, evaluate, and modify treatment programs to change the behavior of individuals;
- (3) Design, supervise, evaluate, and modify treatment programs to change the behavior of groups; and
- (4) Consult with individuals and organizations.

b. The term does not include diagnosis, counseling, psychological testing, personality assessment, intellectual assessment, neuropsychological assessment, psychotherapy, cognitive therapy, sex therapy, family therapy, coordination of care, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

9-10. "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The term includes psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychotherapy, biofeedback, behavior analysis and therapy, clinical applications of hypnosis, and other therapeutic techniques based on psychological principles; diagnosis and treatment of mental and emotional disorder or disability, compulsive disorders, disorders of habit or conduct as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. The term includes providing psychological services to individuals, families, groups, organizations, institutions, and the public regardless of whether payment is received for services rendered. The term includes supervising others who are engaged in the practice of psychology.

1 ~~40:11.~~ "Psychologist" means an individual who is licensed under this chapter in the practice
2 of psychology.

3 ~~41:12.~~ "Psychology resident" means an individual who has met the requirement of
4 subdivision b of subsection 1 of section 43-32-20, is involved in supervised
5 psychological employment, and has registered with the board.

6 ~~42:13.~~ "Registered applied behavior analyst" or "registrant" means an individual who is
7 registered under this chapter as a registered applied behavior analyst and is
8 supervised by a licensed psychologist or applied behavior analyst. The term does not
9 include an applied behavior analyst.

10 ~~43:14.~~ "School or college" means any university or other institution of higher learning which is
11 accredited by a regional accrediting association, offering a full-time graduate course of
12 study in industrial-organizational psychology, psychology, or applied behavior analysis,
13 as appropriate.

14 **SECTION 11. AMENDMENT.** Section 43-32-08 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-32-08. Rules.**

17 1. The board may adopt rules as necessary to enable the board to carry into effect the
18 provisions of this chapter. The rules may include a code of ethics for licensees and
19 registrants.

20 2. The board shall adopt rules defining what programs of study are substantially
21 psychological in nature; what educational programs are acceptable for the licensing of
22 psychologists and applied behavior analysts and for registering registered applied
23 behavior analysts; and what educational programs are acceptable for the licensing of
24 industrial-organizational psychologists. The educational program rules for
25 industrial-organizational psychologists must take into account the availability of
26 professionally accredited programs in the field of industrial-organizational psychology.

27 3. As appropriate, jointly the board and the state board of medical examiners shall adopt
28 rules regulating medical psychologists as provided under section 43-17-07.3.

29 **SECTION 12. AMENDMENT.** Section 43-32-32 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-32-32. Drugs - Medicine.**

2 ~~This~~Except as provided under section 43-17-07.3, this chapter may not be construed as
3 permitting a licensee to administer or prescribe drugs, or in any manner engage in the practice
4 of medicine as defined by the laws of this state.