

**FIRST ENGROSSMENT
with Conference Committee Amendments****ENGROSSED HOUSE BILL NO. 1245**

Introduced by

Representatives Keiser, Devlin, Porter

Senators Klein, Krebsbach, O'Connell

1 A BILL for an Act to create and enact a new subsection to section 43-12.1-04 and four new
2 sections to chapter 43-12.1 of the North Dakota Century Code, relating to nursing education,
3 practice standards, licensure, and continuing education; to amend and reenact sections
4 43-12.1-01 and 43-12.1-02, subsection 2 of section 43-12.1-04, sections 43-12.1-06,
5 43-12.1-08, 43-12.1-09, 43-12.1-10, 43-12.1-11, and 43-12.1-15 of the North Dakota Century
6 Code, relating to education and licensure of nurses; to provide a penalty; to provide for
7 application; and to provide an expiration date.

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

9 **SECTION 1. AMENDMENT.** Section 43-12.1-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-12.1-01. ~~Statement of policy~~ Scope.** ~~The legislative assembly finds that the~~
12 ~~practice of nursing is directly related to the public welfare of the citizens of the state of North~~
13 ~~Dakota and is subject to regulation and control in the public interest to assure that qualified,~~
14 ~~competent practitioners and high quality standards are available. The legislative assembly~~
15 ~~recognizes that the practice of nursing is continually evolving and responding to changes within~~
16 ~~health care patterns and systems and recognizes the existence of. There are overlapping~~
17 ~~functions within the practice of nursing and other providers of health care.~~

18 **SECTION 2. AMENDMENT.** Section 43-12.1-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **43-12.1-02. Definitions.** In this chapter, unless the context ~~or subject matter~~ otherwise
21 requires:

22 1. "Advanced practice registered nurse" means ~~a person~~ an individual who holds a
23 current license to practice in this state as an advanced practice registered nurse

- 1 ~~and either has a graduate degree with a nursing focus or has completed the~~
2 ~~educational requirements in effect when the person was initially licensed.~~
- 3 2. "Board" means the North Dakota board of nursing.
- 4 3. "Licensed practical nurse" means ~~a person~~ an individual who holds a current
5 license to practice in this state as a licensed practical nurse ~~and either has an~~
6 ~~associate degree with a major in nursing or has completed the educational~~
7 ~~requirements in effect when the person was initially licensed.~~
- 8 4. "Nurse" means ~~any person~~ an individual who is currently licensed as an advanced
9 practice registered nurse, registered nurse, or licensed practical nurse.
- 10 5. "Nursing" means the performance of acts utilizing specialized knowledge, skills,
11 and abilities for people in a variety of settings. ~~Nursing~~ The term includes the
12 following acts, which may not be deemed to include acts of medical diagnosis or
13 treatment or the practice of medicine as defined in chapter 43-17:
- 14 a. The maintenance of health and prevention of illness.
- 15 b. Diagnosing human responses to actual or potential health problems.
- 16 c. Providing supportive and restorative care and nursing treatment, medication
17 administration, health counseling and teaching, case finding and referral of
18 ~~persons~~ individuals who are ill, injured, or experiencing changes in the normal
19 health processes.
- 20 d. Administration, teaching, supervision, delegation, and evaluation of health
21 and nursing practices.
- 22 e. Collaboration with other health care professionals in the implementation of the
23 total health care regimen and execution of the health care regimen prescribed
24 by a health care practitioner licensed under ~~title 43~~ the laws of this state.
- 25 6. "Prescriptive practices" means assessing the need for drugs, immunizing agents,
26 or devices and writing a prescription to be filled by a licensed pharmacist.
- 27 7. "Registered nurse" means ~~a person~~ an individual who holds a current license to
28 practice in this state as a registered nurse ~~and either has a baccalaureate degree~~
29 ~~with a major in nursing or has completed the educational requirements in effect~~
30 ~~when the person was initially licensed.~~

- 1 8. "Specialty practice registered nurse" means ~~a person~~ an individual who holds a
2 current license to practice in this state as a specialty practice registered nurse ~~and~~
3 ~~has the educational preparation and national certification within a defined area of~~
4 ~~nursing practice.~~
- 5 9. "Transitional practical nurse license" means ~~a license issued by the board to a~~
6 ~~person who meets all of the requirements for licensure by endorsement as a~~
7 ~~licensed practical nurse, except the educational requirements.~~
- 8 ~~10.~~ "Transitional registered nurse license" means ~~a license issued by the board to a~~
9 ~~person who meets all of the requirements for licensure by endorsement as a~~
10 ~~registered nurse, except the educational requirements.~~
- 11 44. "Unlicensed assistive person" means an assistant to the nurse who regardless of
12 title is authorized by the board to perform nursing interventions delegated and
13 supervised by a ~~licensed~~ nurse.

14 **SECTION 3. AMENDMENT.** Subsection 2 of section 43-12.1-04 of the North Dakota
15 Century Code is amended and reenacted as follows:

- 16 2. Students practicing nursing as a part of ~~a board approved~~ an in-state nursing
17 education program.

18 **SECTION 4.** A new subsection to section 43-12.1-04 of the North Dakota Century
19 Code is created and enacted as follows:

20 Upon written notification to the board by an out-of-state nursing program, a student
21 practicing nursing as a part of a nursing education program preparing for initial or
22 advanced licensure as a registered nurse or licensed practical nurse which is
23 approved by a board of nursing and is located in an institution of higher education
24 that offers transferable credit.

25 **SECTION 5. AMENDMENT.** Section 43-12.1-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **43-12.1-06. Qualifications of board members.**

- 28 1. Each registered nurse must be an eligible voting resident of this state, possess an
29 unencumbered registered nurse license under this chapter, and be currently
30 engaged in practice as a registered nurse. A majority of the members under this
31 subsection must be actively engaged in practice in a nurse-patient setting.

- 1 2. Each licensed practical nurse must be an eligible voting resident of this state,
2 possess an unencumbered practical nurse license under this chapter, and be
3 currently engaged in practice as a licensed practical nurse. A majority of the
4 members under this subsection must be actively engaged in practice in a
5 nurse-patient setting.
- 6 3. Each public member must be an eligible voting resident of this state and have no
7 employment, professional license, or financial interest with any health care entity.
- 8 4. Each member appointed to the board shall maintain the qualifications for
9 appointment for the duration of the appointment. The governor may remove any
10 member of the board for cause upon recommendation of two-thirds of the
11 members of the board.

12 **SECTION 6. AMENDMENT.** Section 43-12.1-08 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-12.1-08. ~~Powers and duties~~ Duties of the board.**

- 15 1. The board shall regulate the practice of nursing ~~to assure that qualified competent~~
16 ~~practitioners and high quality standards are available.~~ Regulation of the ~~profession~~
17 practice of nursing must ensure that ~~no~~ a person may not practice or offer to
18 practice nursing or use titles of advanced practice registered nurse, specialty
19 practice registered nurse, registered nurse, licensed practical nurse, or unlicensed
20 assistive person, or titles of a similar nature which denote the practice of nursing to
21 the general public unless licensed or registered as provided in this chapter.
- 22 2. The board shall:
 - 23 4- a. Enforce ~~the provisions of this chapter. The board has all of the duties,~~
24 ~~powers, and authority specifically granted by and necessary for the~~
25 ~~enforcement of this chapter.~~
 - 26 2- b. Adopt rules necessary to administer this chapter after collaborating and
27 consulting with North Dakota nursing associations and other affected parties.
 - 28 3- c. Appoint and employ a ~~qualified~~ registered nurse to serve as executive
29 director and approve any additional staff positions necessary to administer
30 this chapter.

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- 1 4. d. Establish fees and receive all moneys collected under this chapter and
2 authorize all expenditures necessary to conduct the business of the board.
3 Any balance of fees after payment of expenditures must be used to
4 administer this chapter.
- 5 ~~5. Establish qualifications for nursing licensure and registration.~~
- 6 ~~6. Establish standards for nursing education and practice and:~~
- 7 ~~a. Collaborate and consult with the appropriate nursing organizations and other~~
8 ~~affected parties in the establishment of the standards; and~~
- 9 ~~b. Consult with the medical profession in the establishment of prescriptive~~
10 ~~practice standards for advanced practice registered nurses. Prescriptive~~
11 ~~practices must be consistent with the scope of practice of the advanced~~
12 ~~practice registered nurse and include evidence of a collaborative agreement~~
13 ~~with a licensed physician.~~
- 14 ~~7. Periodically review and approve nursing education programs.~~
- 15 ~~8. License and register applicants and renew and reinstate licenses and registrations.~~
- 16 ~~9. Establish standards for assessing the competence of licensees and registrants~~
17 ~~continuing in or returning to practice.~~
- 18 ~~10.~~ e. Collect and analyze data regarding nursing education, nursing practice, and
19 nursing resources.
- 20 ~~11.~~ f. Issue and renew limited licenses to individuals requiring accommodation to
21 practice nursing.
- 22 ~~12.~~ g. Establish confidential programs for the rehabilitation of nurses with workplace
23 impairments.
- 24 ~~13. Discipline applicants, licensees, and registrants for violating this chapter.~~
- 25 ~~14.~~ h. Establish a nursing student loan program funded by license fees to
26 encourage ~~persons~~ individuals to enter and advance in the nursing
27 profession.
- 28 ~~15.~~ i. Establish a registry of ~~persons~~ individuals licensed or registered by the board.
- 29 ~~16. Collaborate and consult with the North Dakota nurses association, North Dakota~~
30 ~~licensed practical nurses association, and other nursing specialty groups prior to~~
31 ~~the adoption of rules.~~

- 1 c. May not allow for a program that offers less than two academic years of
2 course study or the equivalent.

3 **Nursing practice standards.** The board shall adopt rules establishing standards for
4 nursing practice. The board shall consult with the medical profession in the establishment of
5 prescriptive practice standards for advanced practice registered nurses. Prescriptive practices
6 must be consistent with the scope of practice of the advanced practice registered nurse and
7 include evidence of a collaborative agreement with a licensed physician.

8 **SECTION 8. AMENDMENT.** Section 43-12.1-09 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-12.1-09. ~~Licensure—Registration~~ Initial licensure and registration.**

- 11 1. The board shall license and register nursing applicants. The board shall adopt
12 rules establishing qualifications for initial nursing licensure and registration.
- 13 2. Each applicant who successfully meets the requirements of this section is entitled
14 to initial licensure or registration as follows:
- 15 4. a. An applicant for licensure by examination to practice as a registered nurse or
16 licensed practical nurse shall:
- 17 a- (1) Submit a completed application and appropriate fee as established by
18 the board;
- 19 b- (2) Submit an official transcript showing completion of an in-state nursing
20 education program or a board-approved out-of-state nursing education
21 program preparing for the level of licensure sought; and. The board
22 shall adopt rules establishing standards for the approval of out-of-state
23 nursing education programs. These standards for out-of-state
24 programs must include consideration of whether the program is
25 accredited by the national league for nursing accrediting commission,
26 incorporated, or the commission on collegiate nursing education and
27 whether the program meets the requirements of the state in which the
28 program is provided.
- 29 e. (3) Pass an examination approved by the board.
- 30 2. b. An applicant for licensure by endorsement to practice as a registered nurse or
31 licensed practical nurse shall:

1 certified in advanced practice by another state before January 1, 2001, or
2 who completed an advanced nursing education program and was licensed or
3 certified as a women's health care nurse practitioner by another state before
4 January 1, 2007, may apply for and receive an advanced practice license if
5 that ~~person~~ applicant meets the requirements that were in place in this state
6 at the time the applicant qualified for initial advanced practice licensure in that
7 state.

8 ~~6.~~ e. An applicant for unlicensed assistive person registration shall:

9 ~~a.~~ (1) Submit a completed application and the appropriate fee as established
10 by the board; ~~and~~.

11 ~~b.~~ (2) Provide verification of appropriate training; or evidence of certification
12 or evaluation in the performance of basic nursing interventions.

13 ~~7.~~ f. An applicant for licensure as a specialty practice registered nurse shall:

14 ~~a.~~ (1) Submit a completed application and appropriate ~~fees~~ fee as
15 established by the board; ~~and~~.

16 ~~b.~~ (2) Submit evidence of appropriate education and current certification in a
17 specialty nursing role by a national nursing organization meeting
18 criteria as established by the board; ~~and~~. A specialty practice
19 registered nurse applicant must have the educational preparation and
20 national certification within a defined area of nursing practice.

21 ~~c.~~ (3) Possess or show evidence of application for a current unencumbered
22 registered nurse license.

23 **SECTION 9. AMENDMENT.** Section 43-12.1-10 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **43-12.1-10. License—Registration—Renewal of license or registration -**
26 **Reactivation.**

- 27 1. A The board shall renew a current license to practice as an advanced practice
28 registered nurse, specialty practice registered nurse, registered nurse, or licensed
29 practical nurse ~~must be issued upon proof that~~ if the ~~applicant~~ licensee submits a
30 renewal application, submits the appropriate fee established by the board, and
31 meets all requirements for licensure. If a ~~person~~ licensee does not renew a

1 license before ~~its expiration date~~ the license expires, the board shall reactivate that
2 license ~~may be reinstated~~ if that ~~person~~ licensee meets the reactivation
3 requirements set by the board.

4 2. ~~An~~ The board shall renew the registration of an unlicensed assistive person ~~may~~
5 ~~renew registration upon submission of~~ if the registrant submits a renewal
6 application, the appropriate fee established by the board, and documentation of
7 competency by the employer or evidence of certification or evaluation. A lapsed
8 unlicensed assistive person registration may be ~~renewed~~ reactivated upon
9 submission of the application, payment of the appropriate fee established by the
10 board, and documentation of competency or evidence of certification or evaluation.

11 **SECTION 10.** A new section to chapter 43-12.1 of the North Dakota Century Code is
12 created and enacted as follows:

13 **(Effective through September 30, 2003) Transition from transitional nurse**

14 **licenses.** Before October 1, 2003, the board shall issue a licensed practical nurse license or a
15 registered nurse license to each individual who holds a license as a transitional practical nurse
16 or a transitional registered nurse on August 1, 2003. A newly issued license under this section
17 replaces the transitional license.

18 **SECTION 11.** A new section to chapter 43-12.1 of the North Dakota Century Code is
19 created and enacted as follows:

20 **Continuing education requirements.** The board shall adopt rules requiring every
21 nurse licensed under this chapter to fulfill continuing education requirements. Before the board
22 may renew or reactivate a license, the licensee shall submit evidence to the board establishing
23 that the required continuing education requirements have been met.

24 **SECTION 12. AMENDMENT.** Section 43-12.1-11 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **43-12.1-11. Duties of licensees and registrants.** Each ~~person~~ individual licensed or
27 registered by the board shall provide information requested by the board at the time of renewal
28 or reactivation. Each ~~person~~ individual licensed or registered by the board shall report to the
29 board any knowledge of the performance by others of those acts or omissions that are
30 violations of this chapter or grounds for disciplinary action as set forth in section 43-12.1-14.
31 Each licensee or registrant shall report to the board any judgment or settlement in a

1 professional or occupational malpractice action to which the licensee or registrant is a party.
2 Any person, other than a licensee or registrant alleged to have violated this chapter,
3 participating in good faith in making a report, assisting in an investigation, or furnishing
4 information to an investigator, is immune from any civil or criminal liability that otherwise may
5 result from reporting required by this section. For the purpose of any civil or criminal
6 proceeding the good faith of any person required to report under this section is presumed.

7 **SECTION 13. AMENDMENT.** Section 43-12.1-15 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-12.1-15. Violation - Penalties.** ~~A person may not~~ It is a class B misdemeanor for a
10 person to willfully:

- 11 1. Buy or sell, fraudulently obtain, or furnish any questions and answers used in the
12 licensing examination for nurses, or assist others in the performance of these acts.
- 13 2. Buy or sell, fraudulently obtain, or furnish any record ~~which that~~ might enable a
14 ~~person~~ an individual to obtain a license in this state or assist others in the
15 performance of these acts.
- 16 3. Practice as an advanced practice registered nurse, a specialty practice registered
17 nurse, a registered nurse, ~~or~~ a licensed practical nurse, or an unlicensed assistive
18 person through use of a transcript from a school of nursing, diploma, certificate of
19 registration, license, or record ~~which that~~ was fraudulently created or obtained.
- 20 4. Practice as an advanced practice registered nurse, a specialty practice registered
21 nurse, a registered nurse, ~~or~~ a licensed practical nurse, or an unlicensed assistive
22 person as defined by this chapter unless licensed to do so.
- 23 5. Conduct any education program preparing ~~a person~~ an individual for nursing
24 licensure or registration unless the program has been approved ~~or accepted~~ by the
25 board.
- 26 6. Employ a person to practice nursing or perform nursing interventions unless the
27 person is licensed or registered by the board.

28 ~~Any violation of this chapter is a class B misdemeanor.~~

29 **SECTION 14. APPLICATION.** Section 5 of this Act applies to any vacancy filled after
30 July 31, 2003. The license renewal and reactivation requirements of section 11 of this Act are
31 effective beginning with the 2005 licensure year.