

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1299

Introduced by

Representative Porter

Senator Krebsbach

1 A BILL for an Act to amend and reenact section 43-15-35 of the North Dakota Century Code,
2 relating to postgraduate medical residency training program pharmacies; and to provide for a
3 legislative council study.

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

5 **SECTION 1. AMENDMENT.** Section 43-15-35 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-15-35. Requirements for permit to operate pharmacy - Exceptions.**

8 1. The board shall issue a permit to operate a pharmacy, or a renewal permit, upon
9 satisfactory proof of all of the following:

10 ~~4.~~ a. The pharmacy will be conducted in full compliance with existing laws and with
11 the rules and regulations established by the board.

12 ~~2.~~ b. The equipment and facilities of the pharmacy are such that prescriptions can
13 be filled accurately and properly, and United States pharmacopeia and
14 national formulary preparations properly compounded and so that it may be
15 operated and maintained in a manner that will not endanger public health and
16 safety.

17 ~~3.~~ c. The pharmacy is equipped with proper pharmaceutical and sanitary
18 appliances and kept in a clean, sanitary, and orderly manner.

19 ~~4.~~ d. The management of the pharmacy is under the personal charge of a
20 pharmacist duly licensed under the laws of this state.

21 ~~5.~~ e. The applicant for such permit is qualified to conduct the pharmacy, and is a
22 licensed pharmacist in good standing or is a partnership, each active member
23 of which is a licensed pharmacist in good standing, ~~or~~ a corporation or an
24 association, the majority stock in which is owned by licensed pharmacists in

1 good standing; or a limited liability company, the majority membership
2 interests in which is owned by licensed pharmacists in good standing, actively
3 and regularly employed in and responsible for the management, supervision,
4 and operation of such pharmacy.

5 6- f. Suitable reference sources either in book or electronic data form, are
6 available in the pharmacy or on-line, which might include the United States
7 pharmacopeia and national formulary, the United States pharmacopeia
8 dispensing information, facts and comparisons, micro medex, the ~~ASHP~~
9 American society of health-system pharmacists formulary, or other suitable
10 references pertinent to the practice carried on in the licensed pharmacy.

11 2. The provisions of ~~subsection 5 shall~~ subdivision e of subsection 1 do not apply to
12 ~~the:~~

13 a. The holder of a permit on July 1, 1963, if otherwise qualified to conduct the
14 pharmacy, provided that any such permitholder who that discontinues
15 operations under such permit or fails to renew such permit upon expiration
16 shall is not thereafter be exempt from the provisions of subsection 5
17 subdivision e of subsection 1 as to the discontinued or lapsed permit. The
18 provisions of subsection 5 shall not apply to

19 b. A hospital pharmacies pharmacy furnishing service only to patients in that
20 hospital.

21 c. The applicant for a permit to operate a pharmacy which is a hospital, if the
22 pharmacy for which the hospital seeks a permit to operate is a retail
23 pharmacy that is the sole provider of pharmacy services in the community
24 and is a retail pharmacy that was in existence before the hospital took over
25 operations. A hospital operating a pharmacy under this subdivision may
26 operate the pharmacy at any location in the community.

27 **SECTION 2. LEGISLATIVE COUNCIL STUDY - REGULATION AND LICENSING OF**
28 **PHARMACISTS.**

29 1. The legislative council shall consider studying, during the 2007-08 interim, the
30 regulation and licensing of pharmacists in this state. The study must include an
31 examination of:

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- 1 a. The state board of pharmacy, the board's size, the manner of board
- 2 membership appointment, and whether the board is representative of
- 3 commercial and noncommercial pharmacists;
- 4 b. The state's demographics and the impact changing demographics in rural
- 5 areas will have on the ability of small, locally owned pharmacies to remain
- 6 economically viable and on the ability of rural residents to access low-cost
- 7 pharmaceuticals and pharmacy and pharmacists' services;
- 8 c. The pharmacy ownership restrictions, the relevance of those restrictions in
- 9 terms of marketplace competition, and the impact of those restrictions on the
- 10 price and availability of pharmaceuticals and on pharmacy and pharmacists'
- 11 services; and
- 12 d. The statutory interplay between the state board of pharmacy and the North
- 13 Dakota pharmaceutical association and whether the regulatory function of the
- 14 board conflicts with the advocacy function of the association.
- 15 2. The legislative council shall report its findings and recommendations, together with
- 16 any legislation required to implement the recommendations, to the sixty-first
- 17 legislative assembly.