

Introduced by

Representatives J. Nelson, Boe, Weisz, Westlind

Senators Bekkedahl, Robinson, Rust

1 A BILL for an Act to create and enact a new section to chapter 43-62 of the North Dakota
2 Century Code, relating to a licensure grandfathering provision; and to amend and reenact
3 sections 43-62-01, 43-62-04, 43-62-09, 43-62-14, 43-62-15, 43-62-17, and 43-62-19 of the
4 North Dakota Century Code, relating to the regulation and licensure of medical imaging and
5 radiation therapy practitioners.

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

7 **SECTION 1. AMENDMENT.** Section 43-62-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-62-01. Definitions.**

- 10 1. "Board" means the North Dakota medical imaging and radiation therapy board of
11 examiners.
- 12 2. ~~"Certification organization" means a national certification organization that specializes~~
13 ~~in the certification and registration of certification of medical imaging and radiation~~
14 ~~therapy technical personnel and which has programs accredited by the national~~
15 ~~commission for certifying agencies, American national standards institute or the~~
16 ~~international organization for standardization, or other accreditation organization~~
17 ~~recognized by the board.~~
- 18 3. "Licensed practitioner" means a licensed physician, physician assistant, advanced
19 practice registered nurse, surgeon, certified registered nurse anesthetist, chiropractor,
20 dentist, or podiatrist.
- 21 4.3. "Licensee" means an individual licensed by the board to perform medical imaging or
22 radiation therapy procedures and operate medical imaging or radiation therapy
23 equipment, ~~including a nuclear medicine technologist, radiation therapist,~~
24 ~~radiographer, radiologist assistant, or sonographer.~~

1 ~~5.4.~~ "Medical imaging" means the performance of ~~anya~~ diagnostic or interventional
2 procedure or operation of medical imaging equipment as described in this chapter and
3 intended for use in the diagnosis or visualization of disease or other medical
4 conditions in human beings, ~~including fluoroscopy, nuclear medicine, sonography, or~~
5 ~~x-rays.~~

6 ~~6.5.~~ "Medical physicist" means an individual who is certified by the American board of
7 radiology, American board of medical physics, American board of science in nuclear
8 medicine, or Canadian college of physics in medicine in radiological physics or one of
9 the subspecialties of radiological physics.

10 6. "Registration organization" means a national organization that specializes in the
11 registration of medical imaging and radiation therapy personnel, including the
12 American registry of radiologic technologists, international society for clinical
13 densitometry, nuclear medicine technology certification board, certification board of
14 radiology practitioner assistants, American registry for diagnostic medical sonography,
15 cardiovascular credentialing international, or other organization that specializes in the
16 registration of medical imaging and radiation therapy personnel recognized by the
17 board.

18 7. "Radiation therapy" means the performance of any procedure or operation of radiation
19 therapy equipment as described in this chapter and intended for use in the treatment
20 of disease or other medical conditions in human beings.

21 8. "Radiation therapist" means a nonphysician licensed by the board to perform radiation
22 therapy procedures and operate radiation therapy equipment.

23 **SECTION 2. AMENDMENT.** Section 43-62-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **43-62-04. North Dakota medical imaging and radiation therapy board of examiners.**

- 26 1. The governor shall appoint a state board of medical imaging and radiation therapy
27 medical examiners consisting of nine members including:
- 28 a. Five medical imaging or radiation therapy professionals, one each from the areas
29 of radiography, radiation therapy, nuclear medicine technology, sonography, and
30 medical imaging or radiation therapy education;
- 31 b. One radiologist;

- 1 c. One medical physicist;
- 2 d. One physician from a rural area; and
- 3 e. One public member.
- 4 2. Each medical imaging or radiation therapy member of the board must:
 - 5 a. Be a practicing medical imaging or radiation therapy licensee of integrity and
 - 6 ability.
 - 7 b. Be a resident of this state and currently licensed in ~~the member's medical~~
 - 8 ~~imaging or radiation therapy modality in this state~~ by the board.
 - 9 c. ~~Be currently certified by a nationally recognized certification organization in the~~
 - 10 ~~member's medical imaging or radiation therapy modality.~~
 - 11 d. Have been engaged in the active practice of the medical imaging or radiation
 - 12 therapy profession within this state for a period of at least five years.
- 13 3. Each public member of the board must:
 - 14 a. Be a resident of this state.
 - 15 b. Be at least twenty-one years of age.
 - 16 c. Not be affiliated with any group or profession that provides or regulates health
 - 17 care.
- 18 4. The radiologist, medical physicist, and physician members of the board must:
 - 19 a. Be a practicing radiologist, medical physicist, or physician of integrity and ability.
 - 20 b. Be a resident of and be licensed to practice as a physician or registered as a
 - 21 medical physicist in this state.
- 22 5. An individual appointed to the board shall qualify by taking the oath required of civil
- 23 officers.

24 **SECTION 3. AMENDMENT.** Section 43-62-09 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **43-62-09. Powers of the board.**

27 In addition to any other ~~powers~~duties, the board may:

- 28 1. Administer this chapter.
- 29 2. ~~Issue interpretations of this chapter.~~

- 1 ~~3.~~ Adopt rules as may be necessary to carry out this chapter. After collaborating and
2 consulting with North Dakota medical imaging or radiation therapy organizations,
3 licensees, the North Dakota hospital association, and other affected parties.
- 4 ~~4.3.~~ Employ and fix the compensation of personnel the board determines necessary to
5 carry into effect this chapter and incur other expenses necessary to effectuate this
6 chapter.
- 7 ~~5.4.~~ Issue, renew, deny, suspend, or revoke licenses and carry out any disciplinary actions
8 authorized by this chapter.
- 9 ~~6.5.~~ Set fees for licensure, license renewal, and other services deemed necessary to carry
10 out the purposes of this chapter.
- 11 ~~7.6.~~ Conduct investigations for the purpose of determining whether violations of this
12 chapter or grounds for disciplining licensees exist.
- 13 ~~8.~~ Develop standards and adopt rules for the improvement of the administration of
14 medical imaging or radiation therapy procedures in this state.
- 15 ~~9.~~ Employ or contract with one or more certification organizations known to provide
16 acceptable examinations leading to certification of technical personnel performing
17 medical imaging or radiation therapy procedures.
- 18 ~~10.7.~~ Impose sanctions, deny licensure, levy fines, or seek appropriate civil or criminal
19 penalties against anyone who violates or attempts to violate examination security,
20 anyone who obtains or attempts to obtain licensure by fraud or deception, or anyone
21 who knowingly assists in that type of activity.
- 22 ~~11.8.~~ Require information on an applicant's or licensee's fitness, qualifications, and previous
23 professional record and performance from recognized data sources, licensing and
24 disciplinary authorities of other jurisdictions, ~~certification~~registration organizations,
25 professional education and training institutions, liability insurers, health care
26 institutions, and law enforcement agencies be reported to the board. The board or its
27 investigative panels may require an applicant for licensure or a licensee who is the
28 subject of a disciplinary investigation to submit to a statewide and nationwide criminal
29 history record check. The nationwide criminal history record check must be conducted
30 in the manner provided by section 12-60-24. All costs associated with the criminal
31 history record check are the responsibility of the licensee or applicant.

1 ~~42.9.~~ Require the self-reporting by an applicant or a licensee of any information the board
2 determines may indicate possible deficiencies in practice, performance, fitness, or
3 qualifications.

4 ~~43.10.~~ Establish a mechanism for dealing with a licensee who abuses or is dependent upon
5 or addicted to alcohol or other addictive chemical substances, and enter an agreement
6 with a professional organization possessing relevant procedures and techniques the
7 board has evaluated and approved for the organization's cooperation or participation.

8 ~~44.11.~~ Issue a cease and desist order, obtain a court order, or an injunction to halt unlicensed
9 practice, a violation of this chapter, or a violation of the rules of the board.

10 ~~45.12.~~ Issue a conditional, restricted, or otherwise circumscribed license as the board
11 determines necessary.

12 **SECTION 4.** A new section to chapter 43-62 of the North Dakota Century Code is created
13 and enacted as follows:

14 **Grandfathered licensees.**

15 Notwithstanding sections 43-62-14 and 43-62-15, the board shall issue a license to an
16 applicant who, as of December 31, 2015, was employed in this state to perform medical
17 imaging or radiation therapy procedures on live humans for diagnostic or therapeutic purposes.
18 A licensee holding a license issued under this section may perform the medical imaging and
19 radiation therapy modalities the licensee was employed to perform as of December 31, 2015.

20 **SECTION 5. AMENDMENT.** Section 43-62-14 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-62-14. License requirements.**

- 23 1. The board may issue a license to any applicant who has submitted satisfactory
24 evidence, verified by oath or affirmation, that the applicant:
- 25 a. At the time of the application is at least eighteen years of age.
 - 26 b. ~~Has successfully completed a four-year course of study in a secondary school~~
27 ~~approved by the state board of higher education or passed an approved~~
28 ~~equivalency test~~ Is currently registered with a registration organization.
- 29 2. ~~In addition to the requirements of subsection 1, an individual seeking to obtain a~~
30 ~~license for a specific modality of medical imaging or radiation therapy shall comply~~
31 ~~with the following requirements:~~

- 1 a. ~~Provide satisfactory completion of a course of study in radiography, radiation-~~
2 ~~therapy, nuclear medicine technology, radiologist assistant, or sonography, or its~~
3 ~~equivalent to be determined by the board. The curriculum for each course of~~
4 ~~study may not be less stringent than the standards approved by the joint review~~
5 ~~committee on education in radiologic technology, joint review committee on~~
6 ~~nuclear medicine technology, commission on accreditation of allied health~~
7 ~~education programs, or any other appropriate accreditation agency approved by~~
8 ~~the board, provided the standards are not in conflict with board policy.~~
- 9 b. ~~Pass a certification examination established or approved by the board given by a~~
10 ~~certification organization recognized by the board.~~
- 11 c. ~~Show evidence of compliance with continuing education or recertification~~
12 ~~requirements required for registration of certification by a certification~~
13 ~~organization recognized by the board.~~
- 14 3. The board, upon application and payment of proper fees, may grant a license to an
15 individual who has been licensed, certified, or registered to perform or administer
16 medical imaging or radiation therapy procedures in another jurisdiction if that
17 jurisdiction's standards of licensure are substantially equivalent to those provided in
18 this chapter in accordance with rules adopted by the board.

19 **SECTION 6. AMENDMENT.** Section 43-62-15 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-62-15. Scope of practice.**

- 22 1. ~~The board shall establish licensure standards for the following medical imaging and~~
23 ~~radiation therapy modalities:~~
 - 24 a. ~~Nuclear medicine technologist.~~
 - 25 b. ~~Radiation therapist.~~
 - 26 c. ~~Radiographer.~~
 - 27 d. ~~Radiologist assistant.~~
 - 28 e. ~~Sonographer.~~
- 29 2. An individual holding a license under this chapter may perform medical imaging or
30 radiation therapy procedures on humans for diagnostic or therapeutic purposes only by written,
31 facsimile, electronic, or verbal prescription of an individual authorized by this state to prescribe

1 medical imaging or radiation therapy procedures and under the supervision of a licensed
2 practitioner.

3 ~~3. An individual holding a license under this chapter may perform medical imaging and~~
4 ~~radiation therapy procedures on humans for diagnostic or therapeutic purposes only~~
5 ~~within the scope of that license as specified under the rules adopted by the board.~~

6 **SECTION 7. AMENDMENT.** Section 43-62-17 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-62-17. Renewal.**

- 9 1. A license issued under this chapter must be renewed before January second every
10 two years. The license must be renewed upon the payment of a renewal fee if the
11 licensee is not in violation of this chapter and has complied with ~~any continuing~~
12 ~~education~~the requirements adopted by rule of the board~~this chapter.~~
- 13 2. The board shall notify a licensee at least thirty days in advance of the expiration of the
14 licensee's license. The licensee shall inform the board of any change of the licensee's
15 address. Each licensee is responsible for renewing the licensee's license before the
16 expiration date. A license that is not renewed automatically lapses.
- 17 3. The board may provide for the late renewal of an automatically lapsed license upon
18 the payment of a reinstatement fee.

19 **SECTION 8. AMENDMENT.** Section 43-62-19 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-62-19. Grounds for disciplinary action.**

22 Disciplinary action may be imposed against a licensee upon any of the following grounds:

- 23 1. The use of any false, fraudulent, or forged statement or document, or the use of any
24 fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the
25 licensing requirements.
- 26 2. The conviction of any misdemeanor determined by the board to have a direct bearing
27 upon an individual's ability to serve the public as a licensee or of any felony. A license
28 may not be withheld contrary to chapter 12.1-33.
- 29 3. Habitual use of alcohol or drugs.
- 30 4. Physical or mental disability materially affecting the ability to perform the duties of a
31 medical imaging or radiation therapy professional in a competent manner.

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- 1 5. The performance of any dishonorable, unethical, or unprofessional conduct likely to
2 deceive, defraud, or harm the public.
- 3 6. Aiding or abetting the performance of medical imaging or radiation therapy by an
4 unlicensed, incompetent, or impaired individual.
- 5 7. The violation of any provision of this chapter or any rule of the board, or any action,
6 stipulation, limitation, condition, or agreement imposed by the board or its investigative
7 panels.
- 8 8. The performance of medical imaging or radiation therapy under a false or assumed
9 name.
- 10 9. The willful or negligent violation of the confidentiality between medical imaging or
11 radiation therapy professional and patient, except as required by law.
- 12 10. Gross negligence in the performance of medical imaging or radiation therapy.
- 13 11. Sexual abuse, misconduct, or exploitation related to the licensee's performance of
14 medical imaging or radiation therapy.
- 15 12. The use of any false, fraudulent, or deceptive statement in any document connected
16 with the performance of medical imaging or radiation therapy.
- 17 13. The failure to maintain in good standing, ~~including completion of continuing education
18 or recertification requirements, a certification from a nationally recognized certification
19 organization recognized by the board for the medical imaging or radiation therapy
20 modality for which a license has been issued by the board~~ registration with a
21 registration organization.
- 22 14. The imposition by another state, jurisdiction, or certification organization recognized by
23 the board of disciplinary action against a license, ~~certification~~registration, or other
24 authorization to perform medical imaging or radiation therapy based upon acts or
25 conduct by the medical imaging or radiation therapy professional which would
26 constitute grounds for disciplinary action under this section. A certified copy of the
27 record of the action taken by the other state, jurisdiction, or ~~certification~~registration
28 organization is conclusive evidence of that action.
- 29 15. The failure to furnish the board or the investigative panel or investigators or
30 representatives of the board or investigative panel information legally requested by the

- 1 board or the investigative panel. The board shall keep a record of its proceedings in a
- 2 disciplinary action or refusal to issue a license, together with the evidence offered.