

**Sixty-sixth Legislative Assembly of North Dakota  
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1175  
(Representatives Devlin, Holman, Kading, Vigesaa)  
(Senators Bekkedahl, Heckaman, O. Larsen, Unruh)

AN ACT to amend and reenact section 43-17-01, subsection 9 of section 43-17-02, sections 43-17-02.1 and 43-17-02.2, subdivision aa of subsection 1 of section 43-17-31, and section 43-17-31.1 of the North Dakota Century Code, relating to regulation of physician assistants.

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

**SECTION 1. 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 North Dakota board of medicine.
2. "Physician" includes physician and surgeon (M.D.) and osteopathic physician and surgeon (D.O.).
3. "Physician assistant" means an individual issued a physician assistant license under this chapter.
4. "Practice of medicine" includes the practice of medicine, surgery, and obstetrics. The following persons must be regarded as practicing medicine:
  - a. ~~One who~~A person that holds out to the public as being engaged within this state in the diagnosis or treatment of diseases or injuries of human beings.
  - b. ~~One who~~A person that suggests, recommends, or prescribes any form of treatment for the intended relief or cure of any physical or mental ailment of any ~~person~~individual, with the intention of receiving, directly or indirectly, any fee, gift, or compensation.
  - c. ~~One who~~A person that maintains an office for the examination or treatment of ~~persons~~individuals afflicted with disease or injury of the body or mind.
  - d. ~~One who~~A person that attaches the title M.D., surgeon, doctor, D.O., osteopathic physician and surgeon, or any other similar word or words or abbreviation to the person's name, indicating that the person is engaged in the treatment or diagnosis of the diseases or injuries of human beings ~~must be held to be~~is engaged in the practice of medicine.

**SECTION 2. AMENDMENT.** Subsection 9 of section 43-17-02 of the North Dakota Century Code is amended and reenacted as follows:

9. ~~Any person~~An 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 North Dakota board of medicine shall ~~prescribe~~adopt rules governing the conduct, licensure, fees, qualifications, and discipline, activities, and supervision of physician assistants. Physician assistants ~~may~~are 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.

**SECTION 3. AMENDMENT.** Section 43-17-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**43-17-02.1. Physician assistant - ~~Limitations on prescribing drugs~~ Scope of practice.**

1. ~~A physician assistant may prescribe medications as delegated to do so by a supervising physician. This may include schedule II through V controlled substances. A physician assistant who is a delegated prescriber of controlled substances must register with the federal drug enforcement administration.:~~
  - a. Provide a legal medical service for which a physician assistant is prepared by education, training, and experience and is competent to perform, including:
    - (1) Obtaining and performing a comprehensive health history and physical examination;
    - (2) Evaluating, diagnosing, managing, and providing medical treatment;
    - (3) Ordering and evaluating a diagnostic study and therapeutic procedure;
    - (4) Performing a diagnostic study or therapeutic procedure not involving the use of medical imaging as defined in section 43-62-01 or radiation therapy as defined in section 43-62-01;
    - (5) Performing limited sonography on a focused imaging target to assess specific and limited information about a patient's medical condition or to provide real-time visual guidance for another procedure;
    - (6) Educating a patient on health promotion and disease prevention;
    - (7) Providing consultation upon request; and
    - (8) Writing a medical order;
  - b. Obtain informed consent;
  - c. Supervise, delegate, and assign therapeutic and diagnostic measures not involving the use of medical imaging as defined in section 43-62-01 or radiation therapy as defined in section 43-62-01 to licensed or unlicensed personnel;
  - d. Certify the health or disability of a patient as required by any local, state, or federal program;
  - e. Authenticate any document with the signature, certification, stamp, verification, affidavit, or endorsement of the physician assistant if the document may be authenticated by the signature, certification, stamp, verification, affidavit, or endorsement of a physician; and
  - f. Pronounce death.
2. A physician assistant shall collaborate with, consult with, or refer to the appropriate member of the health care team as indicated by the condition of the patient, the education, experience, and competence of the physician assistant, and the standard of care. The degree of collaboration must be determined at the practice which may include decisions made by the employer, group, hospital service, and the credentialing and privileging systems of a licensed facility. A physician assistant is responsible for the care provided by that physician assistant and a written agreement relating to the items in this chapter is not required.
3. A physician assistant:
  - a. May prescribe, dispense, administer, and procure drugs and medical devices;

- b. May plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including durable medical equipment, nutrition, blood and blood products, and diagnostic support services, including home health care, hospice, and physical and occupational therapy;
  - c. May prescribe and dispense schedule II through V substances as designated by the federal drug enforcement agency and all legend drugs;
  - d. May not dispense a drug, unless pharmacy services are not reasonably available, dispensing is in the best interest of the patient, or an emergency exists;
  - e. May request, receive, and sign for a professional sample, and may distribute a professional sample to a patient; and
  - f. If prescribing or dispensing a controlled substance, shall register with the federal drug enforcement administration and shall comply with appropriate state and federal laws.
4. A physician assistant shall practice at a licensed health care facility, facility with a credentialing and privileging system, physician-owned facility or practice, or facility or practice approved by the board.
5. Notwithstanding subsections 2 and 4, a physician assistant with less than four thousand hours of practice approved by the board under subsection 4 shall execute a written collaborative agreement that:
- a. Is between a physician and a physician assistant with less than four thousand hours practice;
  - b. Describes how collaboration required under subsection 2 must occur; and
  - c. Is available to the board on request.
6. A physician assistant shall comply with any privileging and credentialing systems at the facility at which the physician assistant practices.

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

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

~~The terms "physician assistant" and "certified physician assistant" and the initials "PA-C" may only be used to identify a person who has been issued a certificate of qualification by the North Dakota board of medicine. A person who uses those terms or initials as identification without having received a certificate of qualification is engaging in the practice of medicine without a license.~~

- 1. A person that is not a physician assistant may not:
  - a. Represent oneself as a physician assistant or act as a physician assistant; or
  - b. Use any combination or abbreviation of the term or title "physician assistant" or "PA" to indicate or imply the person is a physician assistant.
- 2. However, an individual who is not licensed as a physician assistant under this chapter but who meets the qualifications for licensure as a physician assistant under this chapter may use the title "physician assistant" or "PA" but may not act or practice as a physician assistant unless licensed under this chapter.

**SECTION 5. AMENDMENT.** Subdivision aa of subsection 1 of section 43-17-31 of the North Dakota Century Code is amended and reenacted as follows:

- aa. The failure to properly monitor ~~a physician assistant~~, a fluoroscopy technologist, or an emergency medical technician.

**SECTION 6. AMENDMENT.** Section 43-17-31.1 of the North Dakota Century Code is amended and reenacted as follows:

**43-17-31.1. Costs of prosecution - Disciplinary proceedings.**

In any order or decision issued by the board in resolution of a disciplinary proceeding in which disciplinary action is imposed against a physician or physician assistant, the board may direct any physician or physician assistant to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board and its investigative panels of the board in the investigation and prosecution of the case. ~~When~~If applicable, the physician's or physician assistant's license may be suspended until the costs are paid to the board. A physician or physician assistant may challenge the reasonableness of any cost item in a hearing under chapter 28-32 before an administrative law judge. The administrative law judge may approve, deny, or modify any cost item, and the determination of the judge is final. The hearing must occur before the physician's license or physician assistant's license may be suspended for nonpayment.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1175.

House Vote:    Yeas 92            Nays 0            Absent 2

Senate Vote:    Yeas 47            Nays 0            Absent 0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2019,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State