

HOUSE BILL NO. 1512

Introduced by

Representatives Vigesaa, B. Anderson, Beltz, Frelich, Hager

Senators Conley, Mathern, Walen

1 A BILL for an Act to amend and reenact sections 43-28-03 and 43-28-18.2 of the North Dakota
2 Century Code, relating to members of the state board of dental examiners and an individual's
3 ability to file a complaint.

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

5 **SECTION 1. AMENDMENT.** Section 43-28-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-28-03. State board of dental examiners - Members - Appointment - Terms of office -**
8 **Oath - Vacancies.**

9 1. The state board of dental examiners consists of ~~nine~~eleven members appointed by the
10 governor. The membership of the board must include ~~six~~:

11 a. Six dentist members, at least one of whom is a board-eligible or board-certified
12 oral and maxillofacial surgeon; ~~one~~

13 b. One dental hygienist member; ~~one~~

14 c. One dental assistant member; and ~~one~~

15 d. Three independent consumer ~~member~~members.

16 2. Appointment to the board is for a term of five years, with terms of office arranged so
17 no more than two terms expire on March sixteenth of each year. Each member of the
18 board shall hold office until a successor is appointed and qualified. An individual
19 appointed to the board qualifies by taking the oath required of civil officers. A member
20 may not serve more than ten years or two 5-year terms of office. If a member of the
21 board is absent from two consecutive regular meetings, the board may declare a
22 vacancy to exist. All vacancies on the board must be filled by the governor by
23 appointment.

1 **SECTION 2. AMENDMENT.** Section 43-28-18.2 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-28-18.2. Disciplinary procedure.**

- 4 1. ~~A person~~An individual may file a written and signed complaint with the board alleging a
5 dentist engaged in conduct identified as grounds for disciplinary action under section
6 43-28-18. The board may also initiate a complaint and investigation on the board's
7 motion.
- 8 2. The board ~~may~~shall direct a complaint committee to investigate a complaint and
9 recommend whether the board should initiate a disciplinary action against the dentist.
- 10 3. The board or complaint committee shall notify the dentist of the complaint, and require
11 a written response from the dentist. If the complaint was initiated by an individual, that
12 individual must receive a copy of the dentist's response. The board or complaint
13 committee may examine and copy records, including patient records, examine
14 witnesses, obtain expert opinions, require the dentist to be physically or mentally
15 examined, or both, by qualified professionals selected by the board, and take any
16 other action necessary to investigate the complaint. A request by the board or
17 complaint committee is authorized to disclose patient information and records to the
18 board or complaint committee. Patient information and records disclosed to the board
19 or complaint committee are confidential. The dentist shall cooperate with the board or
20 the complaint committee in the investigation, including responding promptly and
21 completely to a request or requirement.
- 22 4. The complaint, response, and any record received by the board in investigating the
23 complaint are exempt records, as defined in section 44-04-17.1, until the board
24 determines to proceed with a disciplinary action.
- 25 5. The board shall determine if there is a reasonable basis to believe the dentist engaged
26 in conduct identified as grounds for disciplinary action under section 43-28-18. If the
27 board determines there is not a reasonable basis to believe, the board shall notify the
28 complainant and the dentist. If the board determines there is a reasonable basis to
29 believe, the board shall proceed with a disciplinary action in accordance with chapter
30 28-32.

- 1 6. The board, at any time, may offer or accept a proposal for informal resolution of the
- 2 complaint or disciplinary action.
- 3 7. The board may impose a fee on the dentist for all or part of the costs of an action
- 4 resulting in discipline, including administrative costs, investigation costs, attorney's
- 5 fees, witness fees, the cost of the office of administrative hearings' services, and court
- 6 costs. An individual who filed a complaint, resulting in disciplinary action or a finding of
- 7 misconduct under section 43-28-18, is entitled to recover costs incurred.