

OCCUPATIONS AND PROFESSIONS

CHAPTER 381

HOUSE BILL NO. 1156

(Representatives Schauer, Bahl, Christy, Frelich, J. Johnson, O'Brien, S. Olson,
Louser)
(Senators Klein, Roers, Sickler)

AN ACT to create and enact a new section to chapter 43-02.2 of the North Dakota Century Code, relating to ownership of accounting firms by qualified plans; and to amend and reenact subsection 3 of section 10-31-04 and subsection 3 of section 43-02.2-06 of the North Dakota Century Code, relating to minority ownership of an accounting firm.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 10-31-04 of the North Dakota Century Code is amended and reenacted as follows:

3. If expressly authorized under this subsection, a professional organization may have a minority ownership by one or more minority owners. A professional organization created under this chapter for the purpose of providing professional services as set forth in ~~chapter~~ chapters 43-02.2 and 43-03 is expressly authorized to have minority owners.

SECTION 2. AMENDMENT. Subsection 3 of section 43-02.2-06 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~An~~Except as provided in section 3 of this Act, an applicant for initial issuance or renewal of a permit to practice under this section must show that ~~notwithstanding any other provision of law,~~ a simple majority of the ownership of the firm, in terms of financial interests and voting rights, belongs to licensees of a state or other recognized jurisdiction and that all certified public accountants or licensed public accountants associated with the firm whose principal place of business is in this state and who perform professional services in this state hold a valid certificate or license issued by this state. The minority of the ownership of a firm may belong to an individual or a qualified plan as described and defined in sections 401(a) and 4975(e)(7) of the Internal Revenue Code [26 U.S.C. 401(a) and 4975(e)(7)], including an employee stock ownership plan. The firm and its owners must comply with all board rules regarding ownership.

SECTION 3. A new section to chapter 43-02.2 of the North Dakota Century Code is created and enacted as follows:

Permit to practice - Firm wholly owned by qualified plan.

1. A firm may be wholly owned by a qualified plan as described and defined in sections 401(a) and 4975(e)(7) of the Internal Revenue Code [26 U.S.C. 401(a) and 4975(e)(7)], including an employee stock ownership plan, if an applicant for initial issuance or renewal of a permit to practice shows:

- a. Fifty-one percent or more of the beneficial ownership of the plan belongs to certified public accountants or licensed public accountants of the state or other recognized jurisdiction;
- b. All certified public accountants or licensed public accountants associated with the firm whose principal place of business is in this state and who perform professional services in this state hold a valid certificate or license issued by this state; and
- c. A simple majority of the board of directors of the firm are certified public accountants or licensed public accountants of the state or other recognized jurisdiction.

Approved March 21, 2025

Filed March 24, 2025

CHAPTER 382

HOUSE BILL NO. 1314

(Representative Satrom)
(Senator Conley)

AN ACT to create and enact a new section to chapter 43-04 of the North Dakota Century Code, relating to mobile barber shop requirements; to amend and reenact sections 43-04-01, 43-04-42, 43-04-44, and 43-04-45 of the North Dakota Century Code, relating to mobile barbershops and the associated fees, inspection rights, and penalties; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁵ **SECTION 1. AMENDMENT.** Section 43-04-01 of the North Dakota Century Code is amended and reenacted as follows:

43-04-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the board of barber examiners.
2. "Mobile barbershop" means a barbershop operated in a mobile vehicle, trailer, or mobile structure for the exclusive use of practicing barbering services performed by a licensed barber.
3. "Practice of barbering" includes any one or any combination of the following practices when done upon the upper part of the human body for cosmetic purposes and not for the treatment of diseases or physical or mental ailments, and when done for payment either directly or indirectly:
 - a. Shaving or trimming the beard or cutting the hair.
 - b. Giving facial or scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
 - c. Singeing, shampooing, or dyeing the hair or applying hair tonics.
 - d. Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, neck, or upper part of the body.

¹⁶⁶ **SECTION 2. AMENDMENT.** Section 43-04-42 of the North Dakota Century Code is amended and reenacted as follows:

¹⁶⁵ Section 43-04-01 was also amended by section 1 of House Bill No. 1317, chapter 383.

¹⁶⁶ Section 43-04-42 was also amended by section 10 of House Bill No. 1317, chapter 383.

43-04-42. Fees.

1. The board may charge applicants the following fees:
 - a. For examination and issuance of a certificate to practice master barbering, one hundred dollars.
 - b. For renewal of a master barber's certificate, one hundred dollars.
 - c. For restoration of an expired master barber's certificate, a twenty dollar penalty fee in addition to the regular renewal fee.
 - d. For a permit to operate a barber school or college, an annual fee of one hundred twenty-five dollars.
 - e. For issuance of an annual barbershop license, fifty dollars, to be paid by each shop owner in advance.
 - f. For issuance of a certificate to an applicant who qualifies under section 43-04-38.1, one hundred seventy-five dollars.
 - g. For restoration of an expired barbershop license, a twenty dollar penalty fee in addition to the annual license fee.
 - h. For renewal of an instructor's license, twenty-five dollars.
2. Each application to open or establish a barbershop in this state must be accompanied by a fee of one hundred dollars to cover expenses of inspection, which must be retained by the board and deposited as other fees.
3. A duplicate license, certificate, or permit must be issued upon:
 - a. Filing a statement verified by the oath of the applicant which explains the loss;
 - b. Submitting a signed photograph of the applicant; and
 - c. Paying a fee of ten dollars for the issuance of the duplicate.
4. Anyone who becomes a member of the armed forces of the United States in time of war, while holding a license as a barber or apprentice, and while in good standing as to payment of fees, may obtain a certificate restoration without payment of the restoration fee.
5. Each application to open or establish a mobile barbershop must be accompanied by a fee of one hundred fifty dollars for initial registration. Renewal of a mobile barbershop certificate must be accompanied by a fee of one hundred dollars.

SECTION 3. A new section to chapter 43-04 of the North Dakota Century Code is created and enacted as follows:

Mobile barbershop - Regulations - Requirements.

1. An individual may operate a mobile barbershop if:

- a. The individual is a licensed barber under section 43-04-32; and
 - b. The mobile barbershop is registered with the board.
2. The board shall adopt rules regulating mobile barbershops. The rules adopted by the board must regulate water, wastewater, power, safety, sanitation, equipment, services, location, reports, and any other requirements deemed necessary. The board may proscribe reasonable penalties, fines, and fees necessary to enforce the regulation of mobile barbershops.
3. To register a mobile barbershop with the board, the owner shall:
 - a. Pay the required registration fee;
 - b. Comply with all applicable laws, rules, and ordinances; and
 - c. Maintain a suitable motor vehicle or trailer that is:
 - (1) Self-contained, self-supporting, and enclosed; and
 - (2) At least sixteen feet [4.88 meters] in length.
4. Each motor vehicle or trailer used as a mobile barbershop must be registered with the board.
5. An individual who holds a mobile barbershop registration shall:
 - a. Maintain a permanent address for receiving correspondence with the board;
 - b. Display the name and registration number of the mobile barbershop on a conspicuous exterior surface;
 - c. Supply the board with the make, model, vehicle identification number, and license plate number of the vehicle, trailer, or mobile structure used as a mobile barbershop; and
 - d. Comply with all rules adopted by the board.

SECTION 4. AMENDMENT. Section 43-04-44 of the North Dakota Century Code is amended and reenacted as follows:

43-04-44. Inspection of barbershops and barber schools.

Any member of the board or any of its inspectors, agents, or assistants may enter and inspect any barbershop, mobile barbershop, or barber school at any time during business hours.

SECTION 5. AMENDMENT. Section 43-04-45 of the North Dakota Century Code is amended and reenacted as follows:

43-04-45. Penalty.

Any person who shall:

1. An individual is guilty of a class B misdemeanor if the individual:

- a. ~~Violate~~Violates any ~~of the provisions~~provision of sections section 43-04-21, 43-04-30, and 43-04-43, or section 3 of this Act;
2. b. ~~Permit~~Permits any ~~person~~individual in that ~~person's~~individual's employ, supervision, or control to practice as a barber unless the ~~person~~ employed, supervised, or controlled individual has a certificate of registration as a registered barber;
3. c. ~~Obtain~~Obtains or ~~attempt~~attempts to obtain a certificate of registration by the payment of money other than the required fee, or any other thing of value, or by fraudulent misrepresentations;
4. d. ~~Practice~~Practices or ~~attempt~~attempts to practice by fraudulent misrepresentations; or
5. e. Willfully ~~fail~~fails to display a certificate of registration as ~~is~~ required by this chapter;

~~is guilty of a class B misdemeanor. A violation of any provision of.~~

2. An individual who violates this chapter, or of any rule, subpoena, or order of the board lawfully made pursuant hereto, except as otherwise provided herein, under this chapter is guilty of a class B misdemeanor.

Approved March 27, 2025

Filed March 31, 2025

CHAPTER 383

HOUSE BILL NO. 1317

(Representative Satrom)
(Senator Conley)

AN ACT to create and enact three new sections to chapter 43-04 of the North Dakota Century Code, relating to restricted, temporary, and retired barber licenses; to amend and reenact sections 43-04-01, 43-04-04, 43-04-06, 43-04-30, 43-04-30.1, 43-04-32, and 43-04-42 of the North Dakota Century Code, relating to the board of barber examiners, barber licensing, continuing education, and fees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁷ **SECTION 1. AMENDMENT.** Section 43-04-01 of the North Dakota Century Code is amended and reenacted as follows:

43-04-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the board of barber examiners.
2. "Licensed barber" means a licensee who has:
 - a. Met the requirements defined in sections 43-04-31 and 43-04-32; and
 - b. Passed the examination required in section 43-04-33.
3. "Practice of barbering" includes any one or any combination of the following practices when done upon the upper part of the human body for cosmetic purposes and not for the treatment of diseases or physical or mental ailments, and when done for payment either directly or indirectly:
 - a. Shaving or trimming the beard or cutting the hair.
 - b. Giving facial or scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
 - c. Singeing, shampooing, or dyeing the hair or applying hair tonics.
 - d. Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, neck, or upper part of the body.
4. "Restricted barber" means a licensee, limited in practice to specific areas in which competence has been demonstrated, and allowed to work in a licensed host shop.

¹⁶⁷ Section 43-04-01 was also amended by section 1 of House Bill No. 1314, chapter 382.

5. "Retired barber" means a licensee who meets the requirements of section 9 of this Act.
6. "Temporary barber" means an eligible licensee who is permitted to practice under the supervision of a licensed barber until results are available from the next scheduled examination.

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

43-04-04. Board of barber examiners - Appointment - Term of office - Qualifications.

1. The board of barber examiners must consist of at least three members, ~~each of whom must be~~ appointed by the governor for a term of three years.
2. Members are subject to the following requirements:
 - a. The terms of office of the members must be so arranged that one term expires on the thirty-first day of December of each year.;
 - b. Each appointment must be made from a list of five names submitted to the governor by the state barber association; and ~~each~~
 - c. Each member must be a registered barber who has followed the occupation of barber in this state for at least five years ~~prior to~~ before that member's appointment.
3. Two additional members, who shall serve as nonvoting ex officio members and are not required to be licensed barbers, may be appointed by the board for tasks including:
 - a. New and annual shop inspections; and
 - b. Office duties.

SECTION 3. AMENDMENT. Section 43-04-06 of the North Dakota Century Code is amended and reenacted as follows:

43-04-06. Officers of board - Power to administer oath - Bond.

The members of the board shall elect from ~~their number~~ those members appointed by the governor under section 43-04-04 a president, vice president, and secretary-treasurer. The secretary-treasurer of the board must be bonded for the faithful discharge of duties in the penal sum of five thousand dollars. The secretary-treasurer and the president of the board may administer oaths.

SECTION 4. AMENDMENT. Section 43-04-30 of the North Dakota Century Code is amended and reenacted as follows:

43-04-30. Barber - Certificate of registration required - Rules.

1. ~~A person~~ An individual may not practice barbering within this state unless the ~~person holds a certificate of registration and is registered as a barber or holds a permit to practice as a journeyman barber~~ individual is licensed and registered as:

- a. A barber;
 - b. A restricted barber;
 - c. A retired barber; or
 - d. A temporary barber.
2. The board shall adopt rules regulating licensing, including procedures, requirements, and fees.

SECTION 5. AMENDMENT. Section 43-04-30.1 of the North Dakota Century Code is amended and reenacted as follows:

43-04-30.1. Continuing education requirements.

1. The board may adopt rules establishing requirements for the continuing education of ~~persons~~individuals licensed under this chapter. ~~Rules for accreditation of continuing education must allow accreditation for a variety of types of continuing education forums, including live presentations and correspondence education. The rules must provide:~~
 - a. Individuals holding a barber license or a barber instructor license shall complete a minimum of six hours of continuing education every two years;
 - b. Education requirements must be met before the August first deadline; and
 - c. Accreditation hours may be completed through a variety of continuing education forums, including seminars, workshops, annual conventions, and video courses.
2. The board may suspend, revoke, place on probationary status, impose a fine on, or refuse to renew any license issued under this chapter if the licensee fails to meet the continuing education requirements established by the board.
3. An applicant for accreditation of continuing education courses, classes, or activities may be charged a reasonable fee determined by the board.

SECTION 6. AMENDMENT. Section 43-04-32 of the North Dakota Century Code is amended and reenacted as follows:

43-04-32. ~~Barber~~Licensed barber - Application for examination.

1. Any person who desires to ~~take the examination for a certificate of registration to practice as a registered barber shall make application to the board on blanks prepared and furnished by the board and shall enclose with the application all of the following:~~
 1. ~~Proof, under oath, of the person's qualifications.~~
 2. ~~A five inch by three inch [12.7 centimeter by 7.62 centimeter] signed photograph of that person. The person also shall present such a photograph to the board when the person appears for examination.~~
 3. ~~The required fee.~~

- ~~4. A certificate showing graduation from a public or recognized private high school or an equivalent education as determined by an examination conducted by the board; provided, however, that two years armed service should be termed equivalent education. be licensed as a barber shall apply to the board.~~
2. An applicant is eligible to take the licensing examination under section 43-04-33 if the applicant pays the required application fee and:
 - a. Has held an active and valid license to practice barbering in another state for at least one year; or
 - b. Has received a minimum of one thousand one hundred hours of training in sanitation, safety, laws, and rules, including the completion of hours at a licensed barbering school or a barbering program in a public school system, and other procedures as established by the board.
3. The board shall issue a license to an applicant who meets the qualifications under section 43-04-31, passes the licensing examination under section 43-04-33, and pays the initial licensing fee.
4. An applicant who fails to pass the examination under section 43-04-33 may take subsequent examinations as necessary, subject to the following:
 - a. The board may specify reasonable time frames for rescheduling the examination;
 - b. The board may require additional training for applicants who fail to pass the examination after the applicant's third attempt; and
 - c. The applicant shall file any additional forms and pay re-examination fees as determined by the board.
5. The board shall maintain a record relating to the issuance, refusal, and renewal of licenses. The record must contain the name, place of business, and residence of each licensed barber and the date and number of the barber's license.
6. The board shall adopt rules specifying procedures for licensure by endorsement of barbers desiring to be licensed in this state who hold a current active license in another state or country and have met qualifications substantially similar to the qualifications required for licensed barbers in this state.

SECTION 7. A new section to chapter 43-04 of the North Dakota Century Code is created and enacted as follows:

Restricted barber license - Requirements.

1. An individual may apply for a restricted barber license if the applicant:
 - a. Has not been disciplined relating to the practice of barbering in the previous five years;
 - b. Passes a written examination of the laws and rules governing practice in the state, as established by the board; and

- c. Has a background in barbering as demonstrated by:
 - (1) Successfully completing a restricted barber course, as established by the board, at a licensed barbering school or a barbering program within the public school system; or
 - (2) Holding, within the previous five years, an active and valid license to practice barbering in another state or country.
- 2. A licensed restricted barber shall work in a licensed host shop and may not own or operate a shop.
- 3. An individual may practice barbering while awaiting results of the examination under this section, if the individual is under the supervision of a licensed barber in a licensed barbershop, subject to the following:
 - a. An individual who fails the examination on the individual's first attempt may continue practicing under the supervision of a licensed barber in a licensed barbershop, provided the individual applies for the next examination;
 - b. The individual may continue to practice under the licensed barber until the individual receives the results of the second examination; and
 - c. An individual may not continue to practice under this subsection if the individual fails to pass the examination on the second attempt.

SECTION 8. A new section to chapter 43-04 of the North Dakota Century Code is created and enacted as follows:

Temporary barber license - Requirements.

- 1. An individual who has met the requirements in subsection 2 of section 43-04-32 may apply for and be issued a temporary barber license, upon payment of the required fee.
- 2. A license under this section:
 - a. Is valid for a maximum of three months;
 - b. Must begin from the verified date of graduation or completion of training; and
 - c. May be exercised only under the supervision of a licensed barber until results are available from the next scheduled examination.
- 3. If the temporary license holder fails the examination, the temporary license holder may apply for an extension of the individual's license under this chapter, pay the fee, and register for the next scheduled examination.

SECTION 9. A new section to chapter 43-04 of the North Dakota Century Code is created and enacted as follows:

Retired barber license - Requirements.

1. An individual may apply for a retired barber license and practice in a limited capacity if the applicant is:
 - a. At least sixty-five years of age or has been practicing a minimum of twenty years as a licensed barber; and
 - b. Works no more than five days per month.
2. Upon an applicant meeting the qualifications under this section and paying the initial licensing fee, the board shall issue a retired barber license.

¹⁶⁸ **SECTION 10. AMENDMENT.** Section 43-04-42 of the North Dakota Century Code is amended and reenacted as follows:

43-04-42. Fees.

1. The board may charge applicants the following fees:
 - a. For examination and issuance of a certificate to practice master barbering, one hundred dollars.
 - b. For renewal of a master barber's certificate, one hundred dollars.
 - c. For restoration of an expired master barber's certificate, a twenty dollar penalty fee in addition to the regular renewal fee.
 - d. For a permit to operate a barber school or college, an annual fee of one hundred twenty-five dollars.
 - e. For issuance of an annual barbershop license, fifty dollars, to be paid by each shop owner in advance.
 - f. For issuance of a certificate to an applicant who qualifies under section 43-04-38.1, one hundred seventy-five dollars.
 - g. For restoration of an expired barbershop license, a twenty dollar penalty fee in addition to the annual license fee.
 - h. For renewal of an instructor's license, ~~twenty-five~~ **two hundred fifty** dollars.
2. Each application to open or establish a barbershop in this state must be accompanied by a fee of one hundred dollars to cover expenses of inspection, which must be retained by the board and deposited as other fees.
3. A duplicate license, certificate, or permit must be issued upon:
 - a. Filing a statement verified by the oath of the applicant which explains the loss;
 - b. Submitting a signed photograph of the applicant; and
 - c. Paying a fee of ten dollars for the issuance of the duplicate.

¹⁶⁸ Section 43-04-42 was also amended by section 2 of House Bill No. 1314, chapter 382.

4. Anyone who becomes a member of the armed forces of the United States in time of war, while holding a license as a barber or apprentice, and while in good standing as to payment of fees, may obtain a certificate restoration without payment of the restoration fee.

Approved April 16, 2025

Filed April 16, 2025

CHAPTER 384

SENATE BILL NO. 2163

(Senators Kessel, Barta, Klein)
(Representatives Christy, Koppelman, Warrey)

AN ACT to amend and reenact subsection 1 of section 43-07-10 of the North Dakota Century Code, relating to contractor reporting thresholds for single projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 43-07-10 of the North Dakota Century Code is amended and reenacted as follows:

1. Any license issued under this chapter may be renewed for each successive contractor year by obtaining from the registrar a certificate for the current contractor year. To obtain a certificate for the current contractor year, the licensee shall file with the registrar an application that includes a listing of each project, contract, or subcontract completed by the licensee during the preceding calendar year in this state over the amount of ~~twenty-five thousand~~ fifty thousand dollars and the nature of the work of each project, contract, or subcontract. The registrar, within a reasonable time, shall forward a copy of the list to the state tax commissioner. The applicant shall include with the application a copy of a certificate of liability insurance naming the registrar as the certificate holder unless the registrar has a current valid certificate of insurance on file, and a certification that the applicant has submitted all payroll taxes, including North Dakota income tax, workforce safety and insurance premiums, and unemployment insurance premiums due at the time of renewal, which documents need not be notarized.

Approved March 19, 2025

Filed March 20, 2025

CHAPTER 385

SENATE BILL NO. 2336

(Senators Kessel, Barta, Klein)
(Representatives Kempenich, Warrey)

AN ACT to create and enact eight new sections to chapter 43-09 of the North Dakota Century Code, relating to the regulation of conveyances and elevator contractors, mechanics, and inspectors; to amend and reenact sections 43-09-01 and 43-09-02 of the North Dakota Century Code, relating to definitions applicable to conveyance regulation and the membership of the state electrical board; to provide a penalty; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-09-01 of the North Dakota Century Code is amended and reenacted as follows:

43-09-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Alteration" means any substantial change to a conveyance and any part, component, or subsystem of the conveyance, but does not include routine maintenance of a conveyance.
2. "Apprentice electrician" means an individual who is learning the trade under the personal supervision of a state-licensed electrician.
- ~~2-3.~~ "Board" means the state electrical board.
- ~~3-4.~~ "Class B electrician" means an individual who has the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment in accordance with the standard rules and regulations governing such work, who has eighteen months' experience in farmstead or residential wiring, and passed an examination before the state electrical board based upon the national electrical code as it applies to farmstead or residential wiring.
5. "Conveyance" means an elevator, escalator, stairway chairlift, platform lift, stage lift, orchestra lift, hoist, dumbwaiter, moving walk, automated people mover, automated-type parking structure, wind turbine elevator, or other device used for moving individuals, materials, equipment, or other objects from one landing or location to another.
6. "Elevator contractor" means any person engaged in the business of constructing, installing, altering, replacing, decommissioning, dismantling, demolishing, removing from service, repairing, servicing, inspecting, or testing a conveyance.
7. "Elevator inspector" means an individual, approved by the board, to inspect and witness a test of a conveyance.

8. "Elevator mechanic" means an individual engaged in elevator contracting.
- 4-9. "Journeyman electrician" means an individual who has the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment and power limited systems in accordance with the standard rules and regulations governing such work.
- 5-10. "Licensee" means an individual who holds a valid license issued by the board.
- 6-11. "Master electrician" means an individual who has the necessary qualifications, training, experience, and technical knowledge to plan, lay out, and supervise the installation and repair of electrical wiring apparatus, and equipment for electric light, heat, power, and power limited systems, in accordance with the standard rules and regulations governing such work.
- 7-12. "Nonelectrical system" means a system as defined by the articles contained in chapter 8 and other articles which contains class II or class III circuits and systems as defined by the national electrical code, as adopted by the board. Although the board may expand this definition, the board may not narrow this definition. The term does not include a circuit or system that is installed:
- Within an area of special occupancies, as defined under articles 500 through 517 of the national electrical code.
 - For heat, light, or power.
 - For the control of heat, light, or power, unless the circuit or system employs digital communication.
- 8-13. "Power limited electrician" means an individual who has the necessary qualifications, training, experience, and technical knowledge to plan, layout, and supervise the installation and repair of a power limited system.
- 9-14. "Power limited system" means a system as defined by the articles contained in chapter 8 and other articles which contains class II or class III circuits and systems as defined by the national electrical code, as adopted by the board. Although the board may expand this definition, the term does not include a nonelectrical system.

SECTION 2. AMENDMENT. Section 43-09-02 of the North Dakota Century Code is amended and reenacted as follows:

43-09-02. State electrical board - Members - Terms of office - Vacancies.

The state electrical board must consist of ~~five~~^{six} members appointed by the governor for a term of five years ~~with their terms of office so arranged that one term and only one term expires on June thirtieth of each year.~~ One member of the board shall represent the public and may not be directly associated with the electrical industry. The board must include a master electrician who is a contractor, a journeyman electrician, a consumer member of a rural electric cooperative, an elevator mechanic, and a person associated with an investor-owned utility. A member of the board shall qualify by taking the oath of office required of civil officers and shall hold office until that member's successor is appointed and qualified. The governor shall fill any vacancy by appointment for the unexpired term of office.

SECTION 3. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Powers and duties of the board - Regulation of conveyances - Exceptions.

1. The board shall adopt rules to regulate the inspection and testing of conveyances and to implement applicable standards published by the American society of mechanical engineers. The board shall publish testing and inspection forms based on the rules and standards adopted by the board.
2. The board shall establish procedures for monitoring compliance with this chapter and receiving and investigating complaints.
3. The board may grant an exception or variance from the requirements of board rules if the exception or variance will not jeopardize the public safety and welfare.
4. The board shall hold hearings and hear appeals on disciplinary matters under sections 4 through 10 of this Act.
5. The board shall establish fee schedules for permits, certificates, inspections, and tests. The fees must reflect the actual costs and expenses to conduct the duties of the board.
6. The rules adopted by the board may not apply to an elevator located in a single-family private residence, a facility used for the purpose of energy generation, an industrial conveyance the primary purpose of which is not the movement of individuals, or a conveyance used in an agricultural facility.

SECTION 4. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Conveyance permit required.

1.
 - a. Within six months from the effective date of this Act, the owner of a conveyance shall register the conveyance with the board.
 - b. The owner of a new elevator or other conveyance must register the conveyance with the board within thirty days after the conveyance has been inspected and approved.
 - c. When registering a conveyance, the owner shall provide to the board the type of the conveyance, the rated load, the number of landings and speed of the conveyance, the name of the manufacturer of the conveyance, the location of the conveyance, the purpose for which the conveyance is used, and any additional information the board may require.
 - d. When a conveyance subject to this chapter is decommissioned or otherwise taken out of service, the owner responsible for the equipment shall notify the board within six months to request the conveyance be removed from the registration list.
2. Before an installation or alteration may be commenced on a conveyance, an elevator contractor shall apply to the board for a permit.
3. An application for a permit must include:

- a. A copy of the specifications for the conveyance and must be accurately scaled and include fully dimensional plans showing the location of the installation in relation to the plans and elevation of the building.
 - b. An illustration of each detail of construction and design, including electrical drawings.
 - c. The location of the machinery space, machine room, control space, or control room and the equipment to be installed, relocated, or altered.
 - d. All structural supporting members of the conveyance, including foundations.
 - e. A description of the materials to be employed and all loads to be supported or conveyed.
 - f. A copy of the written maintenance control program for the conveyance.
4. The elevator contractor shall post the permit at the site of the conveyance while work is in progress. The elevator contractor obtaining the permit shall be responsible for the complete scope of work covered by the permit and ensure any alteration is performed only by a licensed elevator mechanic and performed in accordance the requirements of this chapter and any rules adopted by the board.

SECTION 5. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Conveyance permit revocation or suspension.

The board may revoke or suspend a permit upon a finding:

1. Of a false statement, omission, or misrepresentation of material fact in the permit application or the plans or specifications on which the permit was based.
2. The work detailed under the permit has not been performed in accordance with the application, plans, specifications, or conditions of the permit.
3. The elevator contractor failed or refused to comply with a stop work order from the board.
4. The board determines revocation is necessary to ensure the proper enforcement of this chapter or to protect public or worker safety.

SECTION 6. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Conveyance permit expiration.

1. A permit is deemed expired if:
 - a. The work authorized by the permit is not commenced within six months after the date on which the permit is issued or within a shorter period as specified on the permit; or

- b. After the work has commenced, the work is suspended or abandoned for sixty days or a shorter time specified on the permit.
2. The board may allow an extension under subsection 1.

SECTION 7. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Certificate of operation - Penalty.

1. Upon installation of a conveyance, an elevator contractor responsible for the work shall certify compliance with this chapter, rules of the board, and any applicable industry code or standard.
2. Before a conveyance is placed in operation, the owner of the conveyance shall obtain a certificate of operation from the board. The board may impose a penalty of not less than fifty dollars for the failure to obtain a certificate of operation.
3. A certificate of operation is valid for one year and must be renewed annually. The owner of the conveyance shall pay the required fee before the board may issue a certificate of operation and renewal of a certificate.
4. The owner of the conveyance shall clearly display the certificate on or in each conveyance or in the machine room.

SECTION 8. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Reporting of accidents.

If an incident occurs involving an elevator or other conveyance which results in death or bodily injury to any person which requires hospitalization or other treatment by a medical professional, the owner of the conveyance shall submit to the board a report, on a form prescribed by the board, within forty-eight hours. The report must include the date, time, and place of accident.

SECTION 9. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Inspection and testing of conveyances - Removal from service.

1. The owner of a conveyance shall ensure each conveyance is inspected and tested as required by the board.
2. All work required for inspections and tests of conveyances must be performed by an elevator mechanic and must be witnessed by an elevator inspector.
3. Upon completion of an inspection, the elevator inspector shall provide the owner of the conveyance and the board a written inspection report verifying code compliance or describing any code violations found. If a conveyance fails an inspection, the owner of the conveyance shall remove the conveyance from service until the violations are remedied to the satisfaction of the board.
4. The board shall develop a schedule for required testing and inspection of elevators and conveyances in the state.

SECTION 10. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Elevator inspector and contractor registration.

1. An individual may not inspect any conveyance unless the individual is registered with the board. An individual may apply for registration by completing an application form provided by the board, submitting the application fee, and submitting documentation demonstrating the applicant meets the requirements established by the board by rule.
2. A person may not perform, contract to perform, or advertise to perform alteration or maintenance of conveyances unless that person is registered as an elevator contractor with the board. A registered elevator contractor shall employ at least one elevator mechanic.
3. The board shall create and maintain a list of all registered elevator contractors operating in North Dakota.

SECTION 11. APPLICATION. The requirements of this Act must be phased in as follows:

1. After August 1, 2026, each newly installed or altered conveyance must pass an acceptance test witnessed by an elevator inspector.
2. After August 1, 2026, each traction elevator must pass an acceptance test witnessed by an elevator inspector.
3. After August 1, 2027, each hydraulic elevator, escalator, and moving walk must pass an annual acceptance test witnessed by an elevator inspector.
4. After August 1, 2028, the board shall implement a schedule to meet the five-year full load safety testing requirement.
5. After August 1, 2032, each conveyance must pass a five-year full load safety test witnessed by an elevator inspector.

Approved April 3, 2025

Filed April 3, 2025

CHAPTER 386

HOUSE BILL NO. 1126

(Industry, Business and Labor Committee)
(At the request of the State Board of Cosmetology)

AN ACT to create and enact eleven new sections to chapter 43-11 of the North Dakota Century Code, relating to salon and school inspections, nursing home, basic care facility, and assisted living facility salons, military and military spouse reciprocity licensure, advanced esthetician licensing and late renewals for establishments and schools; to amend and reenact sections 43-11-01, 43-11-02, 43-11-03, 43-11-04, 43-11-05, 43-11-06, 43-11-08, 43-11-10, 43-11-11, 43-11-13, 43-11-14, 43-11-15, 43-11-16, 43-11-16.1, 43-11-19, 43-11-20.3, 43-11-21, 43-11-23, 43-11-24, 43-11-25, 43-11-26, 43-11-27, 43-11-28, and 43-11-29 of the North Dakota Century Code, relating to the practice and licensure of cosmetologists, estheticians, advanced estheticians, manicurists, and instructors; to repeal sections 43-11-11.1, 43-11-17, and 43-11-27.1 of the North Dakota Century Code, relating to the use of brush rollers, licenses issued for schools and salons, and esthetician and manicurist licensing qualifications and fees; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-11-01 of the North Dakota Century Code is amended and reenacted as follows:

43-11-01. Definitions.

In this chapter, ~~unless the context or subject matter otherwise requires:~~

1. "Ablative esthetic procedure" means an esthetic procedure to excise, vaporize, disintegrate, or remove living tissue. Ablative procedures may not be performed by cosmetologists, estheticians, advanced estheticians, or manicurists.
2. "Advanced esthetician" means an individual who practices advanced esthetics and esthetics.
3. "Advanced esthetics" means the practice of advanced cosmetic preparations or procedures using the hands or a mechanical or electronic apparatus for esthetic purposes.
 - a. The term includes:
 - (1) Advanced chemical peels;
 - (2) Microneedling;
 - (3) Nonablative procedures; and
 - (4) Extractions using lancets.

b. The term does not include:

- (1) Procedures to treat a medical, physical, or mental ailment; or
- (2) Ablative esthetic procedures.

4. "Apprentice" means an individual who is:

- a. At least sixteen years of age;
- b. Employed in an apprenticeable occupation; and
- c. Registered in North Dakota by the office of apprenticeship of the United States department of labor.

5. "Apprentice program" means a program registered with the office of apprenticeship of the United States department of labor, meeting the terms and conditions for qualifications, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement between an apprentice and an active licensee in an active licensed establishment in accordance with the rules adopted by the board.

6. "Apprentice trainer" means an individual who trains an apprentice in an approved apprenticeship program and who is approved by rule of the board.

7. "Approved apprenticeship establishment" means an establishment approved by rule of the board.

8. "Board" means the state board of cosmetology.

2-9. "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.

3-10. "Cosmetology" means any one or a combination of practices generally and usually performed by and known as the occupation of beauty culturists or cosmeticians or cosmetologists or hairdressers, or of any other individual holding out as practicing cosmetology by whatever designation and within the meaning under this chapter and in and upon whatever place or premises.

a. The term includes:

- (1) Hair care, including arranging, dressing, curling, waving, permanent waving, cleansing, cutting, shaving, trimming, singeing, bleaching, coloring, straightening, or similar work, upon the hair of any individual by any means or with hands or mechanical or electrical apparatus or appliances;
- (2) ~~Skin care~~ Esthetics;
- (3) Manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening;
- (4) Hair extensions using chemical hair joint agents, such as synthetic tape, keratin bonds, or fusion bonds; and
- (5) Manicuring.

b. The term does not include natural hair braiding or threading.

4-11. "Esthetician" means an individual licensed under this chapter to practice esthetics ~~and skin care.~~

5-12. "Esthetics" means ~~manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening and skin care.~~ the practice of a variety of services to beautify or improve the appearance of the skin.

a. The term includes:

(1) Beautifying, massaging, cleansing, or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

(2) Use of a device to care for the skin, including microdermabrasion, dermaplaning, or high frequency;

(3) Cosmetic peels using a concentration of less than:

(a) Thirty percent alpha hydroxy acid;

(b) Twenty percent beta hydroxy acid;

(c) Fifteen percent resorcinol; or

(d) Fifteen percent trichloroacetic acid;

(4) Application of cosmetics, eyelashes, or eyelash extensions;

(5) Perming, laminating, tinting, or lightening eyebrows, eyelashes, or other hair on the body; or

(6) Depilating, tweezing, shaving, sugaring, or waxing hair from the body.

b. The term does not include:

(1) Any procedure invading living tissue below the stratum corneum layer of the epidermis by any means;

(2) Threading hair removal; or

(3) Advanced esthetic procedures.

6-13. "Independent licensee" ~~is means~~ a licensed individual who maintains a separate salon license and operates independently from the establishment owner in which the individual's suite or chair is located practices cosmetology, manicuring, esthetics, or advanced esthetics at a location within, but separate, from a cosmetology establishment. The licensee must abide by the same provisions of this chapter as an establishment.

7-14. "Instructor" means an individual who is a licensed cosmetologist, esthetician, advanced esthetician, or manicurist who teaches cosmetology, esthetics, manicuring, or other practices within the scope of the individual's license, in a duly registered school of cosmetology, and who has met the requirements of section 43-11-27 and has applied for and received an instructor's license.

8. "Invasive care" means any procedure that invades the live tissue of the dermis by any means, including cutting, puncturing, burning, insertion of instruments, and includes:

a. Laser use; and

b. Chemical peels using:

(1) Thirty percent or higher concentration of alpha hydroxy acid;

(2) Twenty percent or higher concentration of beta hydroxy acid;

(3) Two percent or higher concentration of resorcinol;

(4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or

(5) Fifteen percent or higher concentration of phenol.

9-15. "Manicuring" means:

a. Cleansing, cutting, shaping, or beautifying nails;

b. Massaging from the elbow to the fingertips or knee to toes of any individual;

c. Caring for and treating the cuticles and nails; and

d. The application and removal of sculptured or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances.

40-16. "Manicurist" means an individual licensed under this chapter to practice manicuring.

44-17. "Master cosmetologist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master cosmetologist license.

42-18. "Master esthetician" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master esthetician license.

43-19. "Master manicurist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master manicuring license.

14. "Mechanical device" means a clip, comb, crochet hook, curler, curling iron, hairpin, roller, scissors, blunt tipped needle, thread, and hair binder.

45-20. "Natural hair braiding" means the service of twisting, wrapping, weaving, extending, locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is commonly known as "African style hair braiding" but is not limited to any particular cultural, ethnic, racial, or religious forms of hairstyles. hair manipulation that results in tension on hair strands by beading, braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and hair extensions into a variety of shapes, patterns, and textures by hand or by using simple hair braiding devices.

a. The term includes:

- (1) ~~The use of natural or synthetic hair extensions, natural or synthetic hair and fibers, and decorative beads and other hair accessories;~~
- (2) ~~Minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair;~~
- ~~(3)(1)The making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions; and~~
- ~~(4)(2)The use of topical agents, such as conditioners, gels, moisturizers, oils, pomades, and shampoos; in conjunction with performing services under paragraph 1 or 2; and~~
- (3) The maintenance of natural hair braids.

b. The term does not include: the use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles, or chemical hair bleaching agents applied to growing human hair.

- (1) ~~The application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair; or~~
- (2) ~~The use of chemical hair joining agents, such as synthetic tape, keratin bonds, or fusion bonds.~~

c. For purposes of this section, "simple hair braiding devices" means clips, combs, curlers, curling irons, hairpins, rollers, scissors, needles, thread, and hair binders, including adhesives, required for hair braiding.

21. "Nonablative esthetic procedure" means the use of a laser, light, or energy device for the purpose of skin rejuvenation, body contouring, dyschromia reduction, cellulite reduction, hair removal, hair reduction, or tattoo removal and is not intended to excise, vaporize, disintegrate, or remove living tissue.

46-22. "Noninvasive care" includes treatments confined to the nonliving cells of the stratum corneum of the epidermis. Noninvasive care must be in a superficial mode and not for the treatment of medical disorders, and living cells may not be altered, cut, or damaged means procedures or services limited to nonliving cells in the stratum corneum layer of the epidermis.

47-23. "Salon" means an establishment in a fixed location, not used as sleeping or living quarters, licensed under this chapter where cosmetology services are provided.

48-24. "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology, esthetics, advanced esthetics, or manicuring.

49. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, performing noninvasive hair removal, including waxing and tweezing; beautifying, or similar noninvasive care and work on the body of any individual. The term does not include invasive care or threading.

- ~~20-25.~~ "Student" means any individual who is engaged in the learning or acquiring of any or all the practices of cosmetology and while so learning, performs or assists in any of the practices of cosmetology in any school registered or licensed and under the immediate supervision of an instructor licensed as such under this chapter.
- ~~24-26.~~ "Student instructor" means a cosmetologist, esthetician, advanced esthetician, or manicurist who is receiving instruction in teacher's training within the scope of the individual's license in a duly registered school of cosmetology.
- ~~22-27.~~ "Threading" means the method of removing hair from the eyebrows, upper lip, or other body part by using cotton thread to pull hair from follicles.
- The term may include the use of an over-the-counter astringent, gel, and powder, tweezers, and scissors, incidental to the removal of hair by threading.
 - The term does not include the use of chemicals, heat, or any type of wax.
- ~~23-28.~~ "Tuition" means the total cost of an individual's cosmetology studies, and does not include books or demonstration kits.

SECTION 2. AMENDMENT. Section 43-11-02 of the North Dakota Century Code is amended and reenacted as follows:

43-11-02. Exemptions from provisions of chapter.

This chapter does not apply to:

- Services provided by individuals practicing cosmetology upon members of the individual's immediate families.
- Services by nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation.
- Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, estheticians, advanced estheticians, or manicurists from which the general public is excluded. For purposes of this subsection, a "bona fide association of cosmetologists" means any organization whose constitution, bylaws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists, estheticians, advanced estheticians, or manicurists.
- Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration. The board may adopt rules to ensure sanitary conditions for services provided under this exemption.
- Services provided in a licensed hospital, basic care facility, or a nursing home by an individual practicing cosmetology on a volunteer basis without compensation or by a ~~nurse's assistant~~ facility staff.

6. ~~Skin care~~Advanced esthetic procedures provided by a licensed ~~cosmetologist or esthetician outside of a licensed salon if the services are being provided under the supervision, control, and responsibility of a physician;~~
 - a. Physician or physician assistant practicing ~~within the scope of the physician's or physician assistant's license under chapter 43-17; or nurse;~~
 - b. Nurse practicing ~~within the scope of the nurse's license under chapter 43-12.1;~~
 - c. Dentist or dental surgeon practicing under chapter 43-28;
 - d. Optometrist practicing under chapter 43-13; or
 - e. Chiropractor practicing under chapter 43-06.

SECTION 3. AMENDMENT. Section 43-11-03 of the North Dakota Century Code is amended and reenacted as follows:

43-11-03. State board of cosmetology - Appointment - Term - Removal.

The state board of cosmetology consists of ~~five~~seven members appointed by the governor for three years each, with their terms of office so arranged that no more than ~~two~~three terms expire on June thirtieth of each year. Each member shall qualify by taking the oath required of civil officers and shall hold office until a successor is appointed and qualified. The governor may remove from office a member for misconduct, malfeasance, neglect of duty in office, crime in office, gross incompetency, or habitual drunkenness. A vacancy on the board must be filled by appointment by the governor for the unexpired term.

SECTION 4. AMENDMENT. Section 43-11-04 of the North Dakota Century Code is amended and reenacted as follows:

43-11-04. Members of board - Qualifications.

Each member of the board must be ~~a citizen~~an eligible voting resident of this state and have at least three years of practical experience in the occupation. ~~Three of the members of the board must each be a licensed cosmetologist who has had at least three years' practical experience in the occupation. One member of the board must have professional experience as a secondary teacher or as a postsecondary educator. One member of the board must be a licensed health care provider. The board must consist of at least three licensed cosmetologists and one licensed cosmetology instructor, secondary teacher, or postsecondary educator. Three members may be any of the following:~~

1. A licensed cosmetologist;
2. A licensed esthetician;
3. A licensed advanced esthetician; or
4. A licensed manicurist.

SECTION 5. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Material changes.

Material changes to the practice act must be brought to the board before enactment.

SECTION 6. AMENDMENT. Section 43-11-05 of the North Dakota Century Code is amended and reenacted as follows:

43-11-05. Officers of board - Powers - Rulemaking.

1. The members of the board annually shall elect a president and a secretary from the members of the board.
2. The president and the secretary may administer oaths.
3. The board may adopt rules necessary to implement this chapter shall:
 - a. Adopt and enforce rules to administer this chapter after collaborating with affected parties;
 - b. Employ administrative staff and additional staff positions as needed;
 - c. Set fees, manage funds, and authorize expenditures necessary for board operations;
 - d. Collect and analyze data;
 - e. Maintain a registry of licensees and registered individuals;
 - f. Issue licenses for cosmetologists, estheticians, advanced estheticians, manicurists, instructors, establishments, independent licensees, and schools;
 - g. Adopt and enforce rules for continuing competence of licensees and registrants;
 - h. Regulate cosmetology practices; and
 - i. Issue practice statements regarding the interpretation and application of this chapter.

SECTION 7. AMENDMENT. Section 43-11-06 of the North Dakota Century Code is amended and reenacted as follows:

43-11-06. Compensation of members of board - How paid.

Each appointed member of the board is entitled to receive compensation in the ~~an~~ amount provided for members of the legislative management under section 54-35-10 for each day employed in the actual discharge of official duties, as determined by the board by rule, for services rendered in the performance of the member's duties under this chapter. Expenses incurred by a board member in the performance of an official function are payable by the board pursuant to sections 44-08-04 and 54-06-09. The compensation and expenses of all members of the board must be paid from the license fees and other sources of income of the board.

SECTION 8. AMENDMENT. Section 43-11-08 of the North Dakota Century Code is amended and reenacted as follows:

43-11-08. Meetings of the board.

The board shall meet at least ~~twice each year~~ every other month at times determined by the board. The board shall publish annually the time and place of its regularly scheduled meetings. A majority of the members constitutes a quorum.

SECTION 9. AMENDMENT. Section 43-11-10 of the North Dakota Century Code is amended and reenacted as follows:

43-11-10. Records of board - Fees - Expenses - How paid.

The secretary of the board shall keep a record of the board's proceedings and a register of applicants for licensure showing the name of the applicant, the name and location of the applicant's place of occupation or business, and whether the applicant was granted or refused a license. The books and records of the board are prima facie evidence of matters therein contained and constitute public records. All fees and payments required to be paid by applicants for examinations or licenses must be deposited with the secretary of the board. The secretary shall pay all expenses incurred in the operation of maintaining an office for the purpose of carrying out this chapter from fees and other income. The secretary may delegate authority under this section to administrative support staff.

SECTION 10. AMENDMENT. Section 43-11-11 of the North Dakota Century Code is amended and reenacted as follows:

43-11-11. Rules of cleaning and disinfecting - Practice outside salon.

The board with the approval of the department of health and human services shall adopt rules of cleaning and disinfecting necessary to prevent the creating and spreading of infectious and contagious diseases. A cosmetologist, esthetician, advanced esthetician, or manicurist may practice outside of a licensed ~~salon establishment~~ salon establishment under rules adopted by the board. The board shall inspect ~~salon establishments and schools~~ to assure compliance with rules of cleaning and disinfecting.

SECTION 11. AMENDMENT. Section 43-11-13 of the North Dakota Century Code is amended and reenacted as follows:

43-11-13. License required.

An individual may not:

1. Advertise, engage in, or attempt to engage in ~~the occupation of cosmetology, nor conduct a cosmetology salon or school of cosmetology unless having first obtained a license~~ the practice of cosmetology, esthetics, advanced esthetics, or manicuring, or conduct an establishment or school of cosmetology unless having first obtained the proper license.
2. Employ an unlicensed individual to perform cosmetology unless otherwise provided under this chapter.

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

Noninvasive care limitation - Advanced esthetic exception.

1. The practice of cosmetology, manicuring, or esthetics is limited to noninvasive care. A cosmetologist, manicurist, or esthetician may not alter, cut, puncture, or damage any living cells whether superficially or through the use of laser, light, or energy.

2. Certain advanced esthetic services, as determined by rules adopted by the board, may be limited in scope or required to be performed under the supervision or direction of a physician or physician assistant licensed under chapter 43-17 or an advanced registered nurse licensed under chapter 43-12.1, who is sufficiently trained or certified in the procedure being supervised.

SECTION 13. AMENDMENT. Section 43-11-14 of the North Dakota Century Code is amended and reenacted as follows:

43-11-14. Licenses - Board to issue - Form - Displayed.

The board may issue all licenses provided for under this chapter. Each license issued must be:

1. Signed by the secretary of the board;
2. Attested by the seal of the board; and
3. Displayed in clear view to the public ~~where services are being provided.~~

SECTION 14. AMENDMENT. Section 43-11-15 of the North Dakota Century Code is amended and reenacted as follows:

43-11-15. Salon establishment ownership and operation.

1. ~~A salon~~An establishment may be owned by any person authorized to do business in this state.
 - ~~a. A cosmetology salon must be supervised by a master cosmetologist.~~
 - ~~b. A salon providing only skin care or esthetics must be supervised by a master cosmetologist or master esthetician.~~
 - ~~c. A manicuring salon must be supervised by a master cosmetologist or master manicurist.~~
2. The board shall determine the qualifications by rule for licensure and license fees for ~~a salon license~~an establishment.

SECTION 15. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Inspections of establishments, independent licensees, and schools.

1. Each new establishment, independent licensee, and school must be inspected by the board or the board's designee to determine compliance with the laws, rules, and regulations of this chapter as determined by the board.
2. Each establishment, independent licensee, and school must be subject to routine inspections as determined by the board.
3. An establishment, independent licensee, or school may be subject to additional inspections if the establishment, independent licensee, or school:
 - a. Had a violation in a previous inspection;

- b. Changed ownership;
 - c. Did not timely renew the license; or
 - d. Is on probation because of disciplinary action from the board.
4. A reinspection fee, determined by the board, may be charged for additional inspections under subsection 3.
5. Inspections must be made during the establishment's regular hours of operation, or anytime the instruction or practice of cosmetology, esthetics, advanced esthetics, or manicuring is conducted, unless otherwise agreed by all interested persons.
6. Inspections may be authorized by the board or its executive director and the authorized inspection may be conducted with or without notice to the licensee.

SECTION 16. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Inspection generated by a complaint.

- 1. Each establishment, independent licensee, and school may be subject to inspection by the board or its designee, in response to a specific complaint filed with the board for a violation of a law, rule, or regulation under this chapter.
- 2. Any inspection generated by a complaint may be authorized by the board or the board's executive director at any time.

SECTION 17. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Refusal to allow inspection.

Refusal to allow or interference with any inspection by the board or the board's designees is cause for disciplinary action.

SECTION 18. AMENDMENT. Section 43-11-16 of the North Dakota Century Code is amended and reenacted as follows:

43-11-16. Schools of cosmetology - Qualifications for licensure.

- 1. A license must be granted to a school ~~of cosmetology~~ upon an application to the board and the payment of the license fee if the school:
 - a. Is operated and maintained in premises separate from ~~any cosmetology salon or establishment~~;
 - b. Requires training and instruction to be a minimum of ~~one~~:
 - (1) One thousand five hundred hours ~~of training and instruction~~ in cosmetology, ~~six~~;
 - (2) Six hundred hours ~~of training and instruction~~ in esthetics, ~~or three~~;

(3) Three hundred fifty hours of training and instruction in manicuring, not to exceed eight hours per day; or

(4) Eleven hundred hours for advanced esthetics;

- c. Employs at least two full-time equivalent licensed instructors and maintains a maximum student-to-instructor ratio of twenty-four-to-one based on current enrollment, except a school that provides training and instruction limited to esthetics, advanced esthetics, or manicuring shall maintain a maximum student-to-instructor ratio of twelve-to-one based on current enrollment;
- d. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;
- e. Maintains a record of the attendance and performance of each student;
- f. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audiovisual aids, and studies in sanitation, disinfection, sterilization, infection control, and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology all curriculums;

g. Agrees not to:

(1) Permit any student to practice on any individual who is not an instructor or registered student of the school until the student has completed at least twenty percent of the total hours of instruction required under this chapter and only if the practice is under the immediate direction and supervision of a licensed instructor; or

(2) Compensate any of the school's basic students in any way; and

- h. At the time of application for licensure and upon the renewal of a license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. The bond must run in favor of the board, as agent of the state, and must be furnished by a surety company authorized to do business in this state. It must be conditioned upon the bonded school's providing its registered students with the full course of instruction required under this chapter and must provide for a refund of a proportionate amount of each student's tuition fee upon default.

2. A student enrolled in the training or who has completed the training of the esthetician or cosmetologist curriculum in part or as a whole at a board-licensed school or who is a holder of an active North Dakota license as a cosmetologist or esthetician license may receive up to six hundred hours credit toward advanced esthetics requirements as allowed by rule.

2-3. Any school that enrolls student instructors shall set up an adequate course of training with the approval of the board and consisting of:

- a. A minimum of two hundred forty hours for student instructors who have held a cosmetology, esthetician, advanced esthetician, or manicure license for two or more years; or
 - b. Four hundred eighty hours for student instructors who have held a cosmetology, esthetician, advanced esthetician, or manicure license less than two years.
4. A school may not have at any one time more than two student instructors for each full-time equivalent licensed instructor actively engaged in the school.

SECTION 19. AMENDMENT. Section 43-11-16.1 of the North Dakota Century Code is amended and reenacted as follows:

43-11-16.1. Internships and apprenticeship programs.

1. The board may establish internships with the schools of cosmetology and may establish apprenticeship programs. The board may adopt, and rules related to the licensure and discipline of interns and apprentices practicing in programs established under this section. Apprenticeship programs allow for direct entry of individuals into an approved training program under this chapter.
2. An apprenticeship establishment participating in the apprenticeship program must:
 - a. Be an approved apprenticeship program conducted in an approved establishment by the state office of apprenticeship; and
 - b. Provide the board with the names of all individuals acting as apprentice trainers.
3. To act as an apprentice trainer, an individual must be approved by the board. To be approved, the trainer must:
 - a. Hold a current license in the practice of which the individual is providing training for a minimum of three consecutive years; and
 - b. Complete board-approved educator training.
4. If an approved apprenticeship program or apprenticeship establishment implements changes affecting the information required to be provided to the board under this section or rules adopted under this section, the revised information must be submitted to the board before implementing the changes.
5. The board or the board's designee shall audit and inspect approved apprenticeship establishments for compliance with this chapter at least annually.
 - a. If the board determines that an approved apprenticeship establishment is not maintaining the standards required by this chapter, written notice must be given.
 - b. An approved apprenticeship establishment that fails to correct the conditions listed in the notice to the satisfaction of the board within a reasonable time may be subject to penalty.

6. An approved apprenticeship establishment shall post a notice to consumers in the reception area of the establishment stating that services may be provided by an apprentice. The notice must state: "This establishment is a participant in a state-approved apprenticeship program. Apprentices in this program are in training and have not yet received a license."

SECTION 20. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Licensed nursing homes, basic care facilities, and assisted living centers.

Any licensed nursing home, basic care facility, or licensed assisted living center that permits licensed cosmetologists to perform services to residents only, and does not advertise as an establishment, is not required to have an establishment license. A licensed cosmetologist located within a licensed nursing home, basic care facility, or assisted living center who performs cosmetology services on nonresidents of the facility must obtain an establishment license.

SECTION 21. AMENDMENT. Section 43-11-19 of the North Dakota Century Code is amended and reenacted as follows:

43-11-19. Students - Registration.

1. A student must:
 - a. Adhere to the laws and rules regarding the practice of cosmetology;
 - b. ~~Have educational qualifications equivalent to completion of four years of high school~~Be at least sixteen years old;
 - c. Complete at least a tenth grade education or equivalent; and
 - ~~e.d.~~ Have enrolled in a school of cosmetology and complied with the preliminary requirements ~~thereof of the school.~~
2. ~~The names and qualifications of all students~~A student registration form for each student must be certified submitted to the board office by each school of cosmetology enrollment. The certification registration form must be accompanied by a processing fee for each student in an amount as may be determined by the board under section 43-11-28.

SECTION 22. AMENDMENT. Section 43-11-20.3 of the North Dakota Century Code is amended and reenacted as follows:

43-11-20.3. Cancellation of contract for instruction.

Any person has the unrestricted right to rescind, revoke, or cancel a contract for a course of instruction at any school ~~of cosmetology~~ after entering into the contract without incurring any tort or contract liability.

SECTION 23. AMENDMENT. Section 43-11-21 of the North Dakota Century Code is amended and reenacted as follows:

43-11-21. Cosmetologist, esthetician, advanced esthetician, manicurist license - Examination required - Application - Examination - Fees.

Each individual who desires to secure a cosmetologist, esthetician, advanced esthetician, or manicurist license shall file with the board a written application under oath on a form supplied by the board. The application must be accompanied by ~~all of the following~~:

1. An examination fee ~~as may be fixed by the board pursuant to~~ under section 43-11-28;
2. Satisfactory proof that the applicant has completed the ~~required training in a school of cosmetology~~ board-approved training requirements; and
3. A fee for original licensure as required by section 43-11-28.

SECTION 24. AMENDMENT. Section 43-11-23 of the North Dakota Century Code is amended and reenacted as follows:

43-11-23. Examination.

The examination of applicants for license to practice under this chapter must be conducted under rules adopted by the board and must include ~~both practical demonstrations and written or oral tests in reference to theoretical examinations on~~ the practices for which a license is desired and ~~in reference to related studies or subjects as the board may determine necessary for the proper and efficient performance of a practice. The board may require the practical portion of the examination be conducted by schools of cosmetology as part of graduation requirements. The examination may not be confined to any specific system or method and must be consistent with the practical and theoretical requirements of cosmetology.~~

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

43-11-24. Cosmetologist, esthetician, advanced esthetician, or manicurist license - When issued - Failure to pass examination - Re-examination.

1. A cosmetologist, esthetician, advanced esthetician, or manicurist license must be issued to any individual who has met all the following requirements:
 - a. Complied with section 43-11-21.
 - b. Passed to the satisfaction of the board the examination of applicants for a license to practice under this chapter.
2. If the applicant fails to pass the examination, the examination fee may not be returned. If an applicant fails to pass an examination, the applicant may be examined again with the payment of a re-examination fee as set forth in section 43-11-28.

SECTION 26. AMENDMENT. Section 43-11-25 of the North Dakota Century Code is amended and reenacted as follows:

43-11-25. Licensure by reciprocity endorsement.

The board may grant licenses under this chapter upon the payment of a fee for original licensure and the reciprocity fee if the following requirements are met:

4. The applicant has:
 - a. ~~Provided satisfactory proof of a license in good standing with the District of Columbia, or any other state, territory, foreign country, or province where the requirements are equally substantial to those in force in this state at the time the application for the license is filed; or~~
 - b. ~~Provided satisfactory proof:~~
 - (1) ~~The applicant is licensed in good standing in any other state, territory, or jurisdiction of the United States to practice cosmetology;~~
 - (2) ~~The applicant worked in the licensed profession for at least three of the past five years; and~~
 - (3) ~~A license granted to the applicant in any other state, territory, or jurisdiction of the United States is not subject to suspension or revocation, or otherwise restricted in any manner for disciplinary purposes.~~
2. The applicant passes to the satisfaction of the board an examination on North Dakota laws, rules, and regulations.
 1. As used in this section, "issuing jurisdiction" means the duly constituted authority in another state, territory, foreign country, or province that issued a license to an individual.
 2. The board shall issue a license to a cosmetologist, esthetician, advanced esthetician, or manicurist applicant:
 - a. Without an examination if the out-of-state applicant:
 - (1) Is licensed by another jurisdiction with similar scope of work through substantially similar or equivalent licensure standards of examination; the other jurisdiction verifies the out-of-state applicant met minimum education requirements to be licensed in that jurisdiction; the out-of-state applicant has maintained good standing in all jurisdictions in which the person holds a license for at least one year before making application to the North Dakota state board of cosmetology;
 - (2) Has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation;
 - (3) Pays all applicable fees; and
 - (4) Has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the applicant, the board shall determine if the cause for the action was corrected and the matter resolved. If the board determines the matter has not been resolved by the jurisdiction imposing discipline, the board shall not issue or deny a license to the person until the matter is resolved.

b. If the following conditions are met:

- (1) The out-of-state applicant is currently licensed by another jurisdiction and the jurisdiction verifies the applicant met the requirements of that jurisdiction;
- (2) Any out-of-state license held by the applicant, is and has been maintained in good standing;
- (3) The applicant provides satisfactory proof of completing the course curriculum by:
 - (a) Completion of the hours required by the board; or
 - (b) Substantially equal work experience, determined at a rate of one thousand hours as equivalent to one hundred course curriculum hours, capped at five hundred hours if gained in the three years immediately preceding the application;
- (4) The applicant's license has not been revoked or voluntarily surrendered in any other issuing jurisdiction while under investigation;
- (5) The applicant has not been disciplined by any other regulating entity in this state or another issuing jurisdiction, or the board determined the cause for the action was corrected and the matter resolved; and
- (6) The applicant pays all applicable fees.

SECTION 27. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Applications to practice cosmetology - Active-duty military members - Veterans - Spouses.

1. Active-duty military members, spouses of active-duty military members, veterans and spouses of veterans, are eligible for provisional licensure under this chapter.
2. Active-duty military members and spouses of active-duty military members are exempt from having to take an examination to practice under this chapter while on active-duty status, upon filing the following:
 - a. A board-approved application;
 - b. Proof the applicant holds an active license in good standing, or an equivalent, to practice cosmetology in another state, or territory of the United States, for the two years immediately preceding the application, and the applicant's license remains active and in good standing in the original jurisdiction; and
 - c. In the case of:
 - (1) An application from an active-duty military member, a copy of the member's current military orders or current military identification card; or

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- (2) An application from a spouse of an active-duty military member, provide the following:
- (a) Proof the applicant is married to an active-duty military member by providing a copy of a marriage certificate; and
 - (b) Proof the spouse is assigned to a duty station in this state by providing a copy of the official active-duty military orders or proof the spouse has been assigned to active duty in a foreign country and the applicant is relocating to the state during the spouse's deployment.
3. A provisional license issued under subsection 2 must be:
- a. Valid for three years from the date of original issuance;
 - b. Renewable with proof military orders continue to be active in the state; and
 - c. Issued without a fee.
4. For six months following honorable discharge from active duty, veterans and spouses of veterans are exempt from having to take an examination to practice under this chapter and may be issued a provisional license upon filing the following:
- a. A board approved application;
 - b. Proof the applicant holds an active license in good standing, or an equivalent to practice cosmetology in another state or territory of the United States, for the two years immediately preceding the application, and the applicant's license remains active and in good standing in the original jurisdiction; and
 - c. In the case of:
 - (1) An application from a veteran, a copy of the members discharge papers.
 - (2) An application from a spouse of a veteran, provide the following:
 - (a) Proof the applicant is married to the veteran by providing a copy of a marriage certificate; and
 - (b) A copy of the spouse's discharge papers.
5. A provisional license issued under subsection 4 must be:
- a. Valid for three years from the date of original issuance;
 - b. Nonrenewable; and
 - c. Issued without a fee.
6. If discharge of the veteran occurred more than six months prior, veterans and spouses of veterans may be eligible to obtain a license to practice cosmetology in the state under section 43-11-25.

7. The board shall prioritize and expedite an application received under this section from an active-duty military member, the spouse of an active-duty military member, a veteran, spouse of a veteran, or the surviving spouse of a veteran. The board shall record, track, and monitor applications under this section.

SECTION 28. AMENDMENT. Section 43-11-26 of the North Dakota Century Code is amended and reenacted as follows:

43-11-26. Master cosmetologist, master esthetician, and master manicurist - License - Qualifications.

An individual may obtain a master cosmetologist, master esthetician, or master manicurist license upon meeting all the following requirements:

1. Furnishing to the board evidence of having practiced as a cosmetologist, esthetician, or manicurist for at least one thousand hours. Cosmetologists may obtain hours under the direction and control of a master cosmetologist. Estheticians may obtain hours under the direction and control of a master cosmetologist or master esthetician. Manicurists may obtain hours under the direction and control of a master cosmetologist or master manicurist. Cosmetologists and estheticians may obtain a master license under the direction, control, and responsibility of a licensed advanced esthetician, a physician, or a physician assistant practicing within the scope of licensure under chapter 43-17 or a nurse practicing within the scope of the nurse's license under chapter 43-12.1.
2. Paying an original licensure fee as set forth in section 43-11-28.
3. Complying with the other requirements under this chapter applicable to a master license.

SECTION 29. AMENDMENT. Section 43-11-27 of the North Dakota Century Code is amended and reenacted as follows:

43-11-27. Instructor's license - Student instructor's license - Registration - Qualifications.

1. No individual may be licensed as an instructor of cosmetology unless the individual passes a theory and a practical examination required by the board after paying the examination fee set forth in section 43-11-28 ~~and provides evidence of having a general education equivalent to the completion of four years in high school. An applicant shall:~~
 - a. ~~Shall possess~~Possess a current North Dakota license as a cosmetologist, esthetician, advanced esthetician, or manicurist; and ~~must have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology;~~
 - b. ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have been actively engaged in the practice under the scope of the applicant's license for at least one year before application for an instructor's license, supplemented by not less than four hundred eighty hours instructor's training in a school of cosmetology or course of training approved by the board; or~~

- ~~e. Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours instructor's training in a school of cosmetology or course of training approved by the board. No instructor or student instructor may be permitted to practice cosmetology on a patron other than that part of practical work which pertains directly to the teaching of practical operations to students~~
- b. Complete the required hours of instructor training in a school of cosmetology or course approved by the board.
- 2. An instructor or student instructor may not practice cosmetology on a patron at a school other than as part of practical work pertaining directly to the teaching of students.
- 2-3. Student instructors must be registered with the board. The board must record the name, age, and qualifications of the student instructor in a register. Each school of enrollment shall submit to the board a student instructor registration form for each student instructor. The registration form must be accompanied by a fee for a student instructor in an amount determined by the board under section 43-11-28. A student instructor shall possess, at the time of enrollment, a general education equivalent to the completion of four years in high school and hold a license as a cosmetologist, esthetician, advanced esthetician, or manicurist. Upon completion of the course prescribed for student instructors, the student instructor shall make an application on a form provided by the board and pay a fee as provided in section 43-11-28. The board then shall cause the applicant to be examined for an instructor's license. The examination must be given by a special examining committee comprised of the board, assisted by one person designated by the board. Upon successfully passing the examination theoretical and practical examinations, the board shall issue an instructor's license to the applicant.
- 3-4. No individual is entitled to renew an instructor's license unless the instructor has furnished to the board evidence of completion of the continuing education established by the board by rule.
- 4-5. Licensed estheticians and manicurists may only provide instruction within the scope of practice of the respective licenses determined under this chapter.

SECTION 30. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

License requirements - Additional certifications for advanced estheticians.

In addition to the license requirements for an advanced esthetician, a written application and proof of board-approved additional training and certifications must be made to the board before the use of:

- 1. Microneedling pens, rollers, or devices;
- 2. Nonablative devices; or
- 3. Advanced chemical peels.

SECTION 31. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Advanced esthetician license - Grandfather provision.

1. A cosmetologist or esthetician licensed in this state with practical experience of at least one year immediately preceding the enactment date of this Act, may apply for an advanced esthetician license until December 31, 2027, if the applicant:
 - a. Completes a board-approved four-hour safety and infection control training;
 - b. Obtains an active occupational safety and health administration bloodborne pathogens certification;
 - c. Obtains an active board-approved first aid and cardiopulmonary resuscitation certification; and
 - d. Provides:
 - (1) A notarized affidavit from a supervising medical professional certifying the applicant worked under the direct supervision and control of a licensed physician or physician assistant practicing under chapter 43-17, or nurse under chapter 43-12.1, for a minimum of three hundred hours of actual service work within five years immediately preceding application; or
 - (2) Proof of completing one hundred fifty hours of advanced esthetic training approved by the board.
2. A cosmetologist or esthetician licensed in this state who fails to meet the requirements in subsection 1 or fails to apply by December 31, 2027, must complete five hundred hours of training in advanced esthetics in a board-approved program.

SECTION 32. AMENDMENT. Section 43-11-28 of the North Dakota Century Code is amended and reenacted as follows:

43-11-28. Fees and qualifications.

1. The board shall determine the qualifications for licensure of cosmetologists, estheticians, advanced estheticians, manicurists, instructors, establishments, independent licensees, and schools, and may issue licenses upon approval.
2. Fees to be paid by applicants for original registrations, original licenses, renewals, licenses issued upon reciprocity, and examinations as required under this chapter may not exceed the following amounts:

a. Original registrations, licenses, and annual renewals:	MAXIMUM FEE:
(1) Salons, original registration	\$80.00 per year
(2) Salons, renewal	\$30.00 per year
(3) School of cosmetology, original registration	\$505.00 per year
(4) School of cosmetology, annual renewal	\$205.00 per year
(5) Cosmetologist, original license	\$15.00 per year
(6) Cosmetologist, annual renewal	\$15.00 per year

(7) Master cosmetologist, original license	\$25.00 per year
(8) Master cosmetologist, annual renewal	\$20.00 per year
(9) Instructor, original license	\$35.00 per year
(10) Instructor, renewal	\$20.00 per year
(11) Reciprocity license fee	\$105.00 per year
(12) Registration fee for student	\$15.00 per year
(13) Duplicate license	\$10.00 per year
(14) Certification fee	\$20.00 per year
b. Late fees:	
(1) Late renewal within one year	\$50.00
(2) Late renewal after one year but before five years	\$150.00
c. Examinations:	
(1) Cosmetology practical examination	\$25.00
(2) Instructors practical examination	\$55.00
(3) Written examination fees are set and collected by the administrator of the examination and payment is the responsibility of the applicant.	
a. Fees:	
	MAXIMUM FEE:
(1) Establishment, original license	\$150.00
(2) Establishment, annual renewal	\$100.00 per year
(3) Independent licensee, original license	\$150.00
(4) Independent licensee, annual renewal	\$100.00 per year
(5) School, original license	\$550.00
(6) School, annual renewal	\$250.00 per year
(7) Advanced esthetician, original license	\$50.00
(8) Advanced esthetician, annual renewal	\$50.00 per year
(9) Cosmetologist, original license	\$50.00
(10) Cosmetologist, annual renewal	\$50.00 per year
(11) Master cosmetologist, original license	\$50.00
(12) Master cosmetologist, annual renewal	\$50.00 per year
(13) Esthetician, original license	\$50.00
(14) Esthetician, annual renewal	\$50.00 per year
(15) Master esthetician, original license	\$50.00
(16) Master esthetician, annual renewal	\$50.00 per year
(17) Instructor, original license	\$50.00
(18) Instructor, renewal	\$50.00 per year
(19) Manicurist, original license	\$50.00
(20) Manicurist, annual renewal	\$50.00 per year
(21) Master manicurist, original license	\$50.00
(22) Master manicurist, annual renewal	\$50.00 per year
(23) Duplicate license	\$20.00
(24) Individual or business name change	\$20.00
(25) Reciprocity license fee	\$105.00
(26) Registration fee for apprentice	\$15.00
(27) Registration fee for apprentice trainer	\$25.00
(28) Registration fee for student	\$15.00
(29) Reinspection fee	\$75.00
(30) Transcript fee	\$20.00
(31) Verification fee	\$20.00

b. Late fees

(1) <u>Individual late renewal within one year</u>	<u>\$50.00</u>
(2) <u>Individual late renewal after one year but before five years</u>	<u>\$150.00</u>
(3) <u>Establishment late renewal within one year</u>	<u>\$50.00</u>
(4) <u>Independent licensee late renewal within one year</u>	<u>\$50.00</u>
(5) <u>Establishment late renewal after one year</u>	<u>\$100.00 per year expired</u>
(6) <u>Independent licensee late renewal after one year</u>	<u>\$100.00 per year expired</u>
(7) <u>School late renewal within thirty days</u>	<u>\$50.00</u>

2-3. The examination administrator shall set and collect examination fees and the applicant shall pay the fee.

4. Fees are not prorated or returnable.

3-5. The board may establish continuing education requirements for cosmetologists, estheticians, advanced estheticians, manicurists, and instructors. The board may adopt rules related to continuing education hours for each license type under this section.

6. The board shall sponsor an educational program for licenseholders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled cosmetologists, estheticians, advanced estheticians, manicurists, and instructors. The board shall use such portion of the renewal fees as the board may determine for the purpose of providing the educational program.

7. A licensee who has maintained an active license issued by this board for forty-five years or more and who is no longer engaged in the active practice of the profession may apply to the board for a legacy status of license not less than ninety days prior to the expiration of their license. Licenses with legacy status expire on December thirty-first of each year and must be renewed annually for a fee of twenty-five dollars. While in legacy status, continuing education hours are not required for renewal. Legacy status does not apply to an instructor license, establishment license, or independent licensee license. A licensee may remove legacy status by:

a. Applying to the board and paying the applicable renewal fee; and

b. Taking the required annual continuing education hours if applicable.

SECTION 33. AMENDMENT. Section 43-11-29 of the North Dakota Century Code is amended and reenacted as follows:

43-11-29. License renewal - Failure to renew.

1. A license issued by the board expires on December thirty-first. If the application for renewal is not received on or before the expiration date, the license expires.
2. The board may renew a license if:
 - a. An application for renewal is submitted as provided by the board;

- b. The renewal fee is paid; and
 - c. Grounds for denial do not exist under section 43-11-31.
3. The holder of an expired license, within one year from and after the date of the license's expiration, may obtain a reinstatement of the license upon:
- a. Payment of the required late fee; and
 - b. Payment of the current renewal fee.
4. The holder of an expired license, one year after the date of expiration but before five years, may obtain a reinstatement of the license upon:
- a. Payment of the required late fee; ~~and~~
 - b. Payment of the current renewal fee; and
- ~~b.c. Furnishing~~ Furnishment to the board of satisfactory proof of passing the North Dakota law, rules, and regulations examination.
5. The board may not reinstate a license if more than five years has lapsed since the license expired. If a license has not been renewed within five years, the individual may reapply for licensure under the requirements of initial licensure as set forth under this chapter.

SECTION 34. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Establishment, independent licensee license renewal - Failure to renew.

- 1. An establishment license issued by the board expires annually on December thirty-first. If the application for renewal is not received on or before the expiration date, the license expires.
- 2. The board may renew a license if:
 - a. An application for renewal is submitted as provided by the board;
 - b. The renewal fee is paid; and
 - c. Grounds for denial do not exist under section 43-11-31.
- 3. The holder of an expired establishment or independent license, within twelve months from the date of the license's expiration, may obtain a reinstatement of the establishment license upon:
 - a. Payment of the required late fee; and
 - b. Payment of the current renewal fee.
- 4. After twelve months from the date of the license's expiration, the holder of an expired establishment or independent license seeking licensure shall pay the required late penalty fee for each year not renewed and reapply for establishment or independent licensure under this chapter.

SECTION 35. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

School license renewal - Failure to renew.

1. A school license issued by the board expires annually on December thirty-first. If the application for renewal is not received on or before the expiration date, the license expires.
2. The board may renew a license if:
 - a. An application for renewal is submitted as provided by the board;
 - b. The renewal fee is paid; and
 - c. Grounds for denial do not exist under section 43-11-31.
3. A school license not renewed within thirty days of expiration may be cause for disciplinary action.

SECTION 36. REPEAL. Sections 43-11-11.1, 43-11-17, and 43-11-27.1 of the North Dakota Century Code are repealed.

SECTION 37. EFFECTIVE DATE. This Act becomes effective on January 1, 2026.

Approved April 23, 2025

Filed April 23, 2025

CHAPTER 387

HOUSE BILL NO. 1267

(Representatives Warrey, Louser, M. Ruby, Vollmer)
(Senators Barta, Roers)

AN ACT to amend and reenact sections 43-13-01, 43-13-02, 43-13-05, 43-13-07, 43-13-08, 43-13-13, 43-13-13.2, 43-13-13.3, 43-13-15, 43-13-16, 43-13-17, and 43-13-19 of the North Dakota Century Code, relating to optometrist licensure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-13-01 of the North Dakota Century Code is amended and reenacted as follows:

43-13-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the North Dakota state board of optometry.
2. "Diagnosis and treatment" means the determination, interpretation, and treatment of any visual, muscular, neurological, interpretative, or anatomical anomaly of the eye which may be aided, relieved, or corrected through visual training procedures or through the use of lenses, prisms, filters, ophthalmic instruments, pharmaceutical agents, or combinations thereof, held either in contact with the eye, or in frames or mountings, as further authorized by this chapter. Laser therapy and the use of invasive surgery are not permitted under this chapter, except superficial foreign bodies may be removed and primary care procedures may be performed.
3. ~~"Optometry" means a primary health care profession whose practitioners are engaged in the evaluation of disorders of the human eye and the examination, diagnosis, and treatment thereof, together with its appendages.~~ "Distant site provider" means a provider of optometric services through telemedicine from a site other than the patient's origination site. A distant site provider must hold an active license to practice optometry in this state.
4. "Optometric services" means any evaluation, examination, diagnosis, or treatment provided for a patient within the scope of practice of optometry. The term includes the prescription of pharmaceutical agents by a provider to a patient.
5. "Pharmaceutical agent" means diagnostic pharmaceutical agents or therapeutic pharmaceutical agents. The term includes nonscheduled pharmaceutical agents, except for acetaminophen with thirty milligrams of codeine, that have documented use in the treatment of ocular-related disorders or diseases. As used in this subsection:
 - a. "Diagnostic pharmaceutical agents" means pharmaceutical agents administered for the evaluation and diagnosis of disorders of the human eye including anesthetics, mydriatics, myotics, cycloplegics, diagnostic dyes, diagnostic stains, and pharmaceutical agents to evaluate abnormal pupil responses.

- b. "Therapeutic pharmaceutical agents" includes topically administered and prescribed pharmaceutical agents for treatment of ocular-related disorders or disease, locally administered pharmaceutical agents for primary eye care procedures, oral anti-infective agents, oral antihistaminic agents, and oral analgesics for the treatment of ocular-related disorders or diseases.

5-6. "Practicing optometry" means:

- a. Displaying a sign or in any way advertising as an optometrist.
- b. Employing any means for the measurement of the powers of vision or the adaptation of lenses for the aid thereof.
- c. Engaging in any manner in the practice of optometry.

SECTION 2. AMENDMENT. Section 43-13-02 of the North Dakota Century Code is amended and reenacted as follows:

43-13-02. Persons exempt from provisions of chapter.

The provisions of this chapter do not apply to the following persons:

1. Persons who sell spectacles, eyeglasses, or other articles of merchandise without attempting to practice optometry.
2. Student interns who are currently enrolled in an optometry school or college accredited by the accreditation council on optometric education of the American optometric association, or its successor agency, or who have graduated no more than ~~three~~six months prior, and are under the immediate and direct supervision of a licensed optometrist.
3. Physicians and surgeons licensed under chapter 43-17.

SECTION 3. AMENDMENT. Section 43-13-05 of the North Dakota Century Code is amended and reenacted as follows:

43-13-05. ~~Secretary~~Executive director of board - Duties - Record - Custodian of fees - Report.

The ~~secretary~~executive director of the board, or the ~~secretary's~~executive director's designee, has the following duties:

1. Keep a full record of the proceedings of the board.
2. Be custodian of all fees coming into the possession of the board.
3. At such times as may be required by the board, furnish a complete statement of receipts and disbursements under oath, together with vouchers, receipts, and such other evidence of the receipts and disbursements as may be required by the board.

SECTION 4. AMENDMENT. Section 43-13-07 of the North Dakota Century Code is amended and reenacted as follows:

43-13-07. Compensation and expenses of board members.

A member of the board shall receive as compensation for each day the member actually is engaged in performing the duties of office a per diem as established by the board, mileage and travel expenses as are provided for in section 54-06-09, ~~and additional allowance for other necessary expenses incurred in attending said meeting not to exceed five dollars per day. All funds collected or received by the board must be deposited and disbursed in accordance with section 54-44-12.~~

SECTION 5. AMENDMENT. Section 43-13-08 of the North Dakota Century Code is amended and reenacted as follows:

43-13-08. ~~Secretary~~Executive director of board - Compensation.

The ~~secretary~~ executive director of the board shall receive for clerical expenses and other expenses of the board an allowance, and a salary or other compensation, as the board shall determine.

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

43-13-13. Duties of board.

The board has the following duties:

1. To enforce the provisions and carry out the purposes of this chapter.
2. To make and enforce such rules and regulations consistent with law as may be necessary for the proper performance of its duties; the effective enforcement of this chapter; the reasonable regulation of the profession of optometry and the practice thereof by persons licensed under this chapter; and to protect the health, welfare, and safety of the citizens of this state.
3. To proceed in the courts of this state by injunction when considered necessary to restrain any violation of this chapter.
4. To establish the following by rule:
 - a. Application fees;
 - b. License fees;
 - c. Renewal fees;
 - d. Late fees;
 - e. Endorsement fees;
 - f. Licensure verification fee;
 - g. Decorative wall certificate fee; and
 - h. Continuing education fees.

SECTION 7. AMENDMENT. Section 43-13-13.2 of the North Dakota Century Code is amended and reenacted as follows:

**43-13-13.2. Practice of optometry - Certification requirements -
Notification Requirements to practice optometry - Informed consent.**

1. Any person engaged in visual training procedures or who employs or prescribes lenses, prisms, filters, ophthalmic instruments, or combinations thereof, held either in contact with the eye, or in frames or mounting, to aid, relieve, or correct any visual or ocular anomaly, or holds out as being able to do so, is deemed to be engaged in the practice of optometry.
2. ~~Before any optometrist may prescribe and administer pharmaceutical agents in the treatment and management of ocular diseases, the optometrist must first be certified or qualify for certification in the use of diagnostic pharmaceutical agents. For additional certification to prescribe and administer pharmaceutical agents in the treatment and management of ocular disease, the board shall require at least seventy six hours of didactic instruction and twenty four hours of clinical application of pharmaceutical agents for the treatment and management of ocular diseases. The course for therapeutic certification must be provided by an institution accredited by a regional or professional accrediting organization that is recognized and approved by the United States department of education or the council on postsecondary accreditation.~~
3. An optometrist may not dispense therapeutic pharmaceutical agents, except an optometrist may:
 - a. Provide a patient a drug sample at no cost to the patient; or
 - b. Sell contact lenses or ophthalmic devices that are classified by the federal food and drug administration as a drug.
- 4.3. The board shall provide the board of pharmacy upon request a list of licensed optometrists certified in the use of pharmaceutical agents. An optometric telemedicine provider-patient relationship is established when a patient seeks optometric services from a provider, and the provider agrees to provide optometric services to the patient, except in an emergency. The provider-patient relationship may be expressly created or created through implication; however, the provider-patient relationship is not created through receipt of patient health information by the provider unless a prior provider-patient relationship exists. The initial patient relationship must be established through an eye examination conducted by a licensed optometrist with a physical location in this state.
4. A licensed optometrist may act as a distant site provider and use telemedicine to provide care in accordance with standards of practice established by the board by rule. Telemedicine services may include consultation, diagnosis, and treatment for ocular diseases, provided that the optometrist complies with the regulations under this section. Before providing any optometric services to a patient via telemedicine, the provider first shall provide appropriate verification of the provider's identification, licensure, and current contact information.
5. Informed consent regarding the optometric services to be provided via telemedicine must include, at a minimum, information regarding the provider's technology used to provide optometric services via telemedicine and how to mitigate or resolve any technological disconnection or issue.

SECTION 8. AMENDMENT. Section 43-13-13.3 of the North Dakota Century Code is amended and reenacted as follows:

43-13-13.3. Standard of care – ~~When consultation with physician required.~~

4. An optometrist certified by the board in the use of pharmaceutical agents as provided in this chapter must be held to the same standard of care in the use of such agents as are physicians licensed by the North Dakota board of medicine.

2. ~~Any optometrist authorized by the board to use pharmaceutical agents shall consult with a physician duly licensed to practice medicine when any diseased or pathological conditions of the eye do not respond to treatment. The consultation must be documented in the patient's record.~~

SECTION 9. AMENDMENT. Section 43-13-15 of the North Dakota Century Code is amended and reenacted as follows:

43-13-15. Unlawful to practice without license - Sale of glasses - Regulations.

Ne

1. A person may not practice optometry in this state unless the person first obtains a license and complies with the requirements of this chapter. ~~Eyeglasses, spectacles, and lenses may be vended as merchandise only:~~
4. ~~To dealers.~~
2. ~~From permanently located and established places of business in this state.~~

~~Any licensed optometrist, however, may fit and vend eyeglasses, spectacles, and lenses at any place in this state. Notwithstanding any other provision of law, it is unlawful for any person, or any entity other than a licensed optometrist or a licensed physician to dispense, fit, or prescribe to the public contact lenses, or any medical appliance having direct contact with the cornea of the eye.~~

SECTION 10. AMENDMENT. Section 43-13-16 of the North Dakota Century Code is amended and reenacted as follows:

43-13-16. Examination required - When given.

Before any person is granted a license to practice optometry in this state, the person must pass an examination required by the board by rule. ~~The examination may be conducted at such times and places as are prescribed by the board.~~

SECTION 11. AMENDMENT. Section 43-13-17 of the North Dakota Century Code is amended and reenacted as follows:

43-13-17. Application for licensure - Contents - Educational requirements - Fee.

1. Any person desiring to take the examination for or to secure a license to practice optometry in this state shall file with the secretary/executive director of the board a written application in the form prescribed by the board. ~~An application for admission by examination must be filed at least fifteen days before the date of the examination.~~ The applicant also shall furnish satisfactory proof that the applicant:

- 4- a. Is at least eighteen years of age;
- 2- b. Is a person of good moral character; and
- 3- c. Is a graduate of an optometry school or college accredited by the council on optometric education.
2. The applicant shall pay to the ~~secretary~~executive director of the board a ~~registration~~an application fee of a reasonable sum fixed by the board by rule.

SECTION 12. AMENDMENT. Section 43-13-19 of the North Dakota Century Code is amended and reenacted as follows:

43-13-19. License - When issued - Fee.

Every applicant for a license to practice optometry in this state who meets the standards required for licensure, including successfully passing the required examination, must be licensed upon payment to the ~~secretary~~executive director of the board of a reasonable sum fixed by the board.

Approved March 21, 2025

Filed March 24, 2025

CHAPTER 388

HOUSE BILL NO. 1473

(Representatives Nelson, Mitskog, Murphy, Bahl, O'Brien)
(Senators Axtman, Dever, Lee)

AN ACT to create and enact a new subsection to section 43-15.3-08 of the North Dakota Century Code, relating to prohibited acts of drug manufacturers; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 43-15.3-08 of the North Dakota Century Code is created and enacted as follows:

a. For purposes of this subsection:

- (1) "Contract pharmacy" means a pharmacy that has a contract with a covered entity to receive and dispense drugs to the covered entity's patients on its behalf.
- (2) "Covered entity" means an entity participating or authorized to participate in a federal drug discount program under 42 U.S.C. 256b.
- (3) "Drug" means a drug purchased under reduced pricing under section 340B of the federal Public Health Service Act [42 U.S.C. 201 et seq.] by a covered entity.

b. Except as otherwise provided under section 43-15.3-09, it is a class B misdemeanor for a manufacturer, an agent or affiliate of that manufacturer, virtual manufacturer, or third-party logistics provider of a manufacturer's drugs, to:

- (1) Directly or indirectly deny, restrict, prohibit, or otherwise interfere with the acquisition of a drug by a contract pharmacy on behalf of a covered entity unless receipt of the drug is prohibited by federal law.
- (2) Prohibit a contract pharmacy from dispensing a drug by denying access to the drug.
- (3) Require a covered entity or contract pharmacy to submit any claims, encounter, or utilization data as a condition for acquiring or receiving a drug, unless the claims, encounter, or utilization data sharing is required by federal law.
- (4) Interfere with the ability of a covered entity or contract pharmacy to dispense a drug to an eligible patient of the covered entity.
- (5) Offer or otherwise make available a drug in the form of a rebate, unless in the form of a discount at the time of sale and authorized under federal law.

- c. This subsection does not apply to the limited distribution of a drug as required under 21 U.S.C. 355-1.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 389

HOUSE BILL NO. 1039

(Human Services Committee)

(At the request of the North Dakota Board of Medicine)

AN ACT to amend and reenact subsection 4 of section 43-17.3-01 of the North Dakota Century Code, relating to the definition of licensee eligible for participation in the physician health program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 43-17.3-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Licensee" means a physician or other health professional under the jurisdiction of the board, and includes an applicant for licensure or regulation by the board and former licensees of the board.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 390

SENATE BILL NO. 2217

(Senator Cleary)

AN ACT to create and enact a new section to chapter 43-20 and a new section to chapter 43-28 of the North Dakota Century Code, relating to volunteer licenses; and to amend and reenact sections 43-20-01.1, 43-20-01.2, 43-20-01.3, 43-20-01.4, 43-20-03, 43-20-05, 43-20-12, 43-20-12.3, 43-20-13, 43-20-13.1, and 43-20-13.2, subsection 6 of section 43-28-02, section 43-28-03, subsection 5 of section 43-28-04, sections 43-28-05, 43-28-06, 43-28-08, 43-28-11, 43-28-13, 43-28-15, 43-28-16.2, and 43-28-18, subsection 1 of section 43-28-18.1, and sections 43-28-18.2 and 43-28-18.3 of the North Dakota Century Code, relating to the licensing and practice of dental hygienists and dentists, and the board of dental examiners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-20-01.1 of the North Dakota Century Code is amended and reenacted as follows:

43-20-01.1. Definitions.

As used in this chapter and chapter 43-28, unless the context otherwise requires:

1. "Dental anesthesia assistant" means an individual authorized to perform anesthesia-related duties under the supervision of a dentist established by rule and does not include individuals issued a permit by the board for the application of local anesthetic, such as block or infiltration anesthesia.
2. "Dental assistant" means an individual who provides dental assistance under the supervision of a dentist and within the scope of practice established by rule and section 43-20-13.
- ~~2-3.~~ "Dental hygienist" means an individual licensed to practice dental hygiene.
- ~~3-4.~~ "Qualified dental assistant" means an individual registered as a qualified dental assistant to provide dental assistance as established by rule.
5. "Qualified dental assistant limited radiology registrant" means an individual registered with the board as a qualified dental assistant limited radiology registrant who may carry out dental assisting duties, including taking radiographs, under the supervision of a dentist as established by rule.
- ~~4-6.~~ "Registered dental assistant" means an individual registered as a registered dental assistant to provide dental assistance as established by rule.

SECTION 2. AMENDMENT. Section 43-20-01.2 of the North Dakota Century Code is amended and reenacted as follows:

43-20-01.2. Dental hygienist licensing.

1. An individual seeking a license, registration, permit, credential, or endorsement related to the practice of dental hygiene in this state shall apply to the executive director of the board on forms prescribed by the board.
2. The application must ~~be verified~~:
 - a. Be verified under oath ~~to the effect~~ that all of the statements contained in the application are true to the applicant's own knowledge, ~~and must be received by the executive director of the board at least thirty days before the board meeting at which the application is considered. The applicant shall enclose with the application~~;
 - b. Contain a recent autographed picture of the applicant; and ~~an~~
 - c. Include the application fee established by the board ~~by rule~~.
3. ~~The board may, by rule, create or modify fees associated with any license, registration, permit, credential, or endorsement. A fee created or modified under this section is not a new fee for purposes of subsection 7 of section 54-35-27.~~
4. The board may grant a license to practice dental hygiene to an applicant who has met ~~all of~~ the following requirements:
 - 1- a. The applicant is a graduate of a dental hygiene school accredited by the American dental association's commission on dental accreditation.
 - 2- b. The applicant has passed an examination administered by the joint commission on national dental examinations.
 - 3- c. The applicant has passed a clinical competency examination administered by a regional dental testing service or a licensing jurisdiction approved by the board by rule.
 - 4- d. The applicant has passed, within one year of making application, a written examination on the laws and rules governing the practice of dentistry in this state.
 - 5- e. Grounds for denial of the application under section 43-20-05 do not exist.
 - 6- f. The applicant has met any requirement for licensure established by the board by rule.

SECTION 3. AMENDMENT. Section 43-20-01.3 of the North Dakota Century Code is amended and reenacted as follows:

43-20-01.3. Licensure by credential review.

Applications for licensure to practice dental hygiene by credential review must be made on forms provided by the board ~~and submitted thirty days before the examination administered by the board~~. The board may issue a license and certificate of registration to practice dental hygiene to an applicant who meets all of the following requirements:

1. The applicant, for at least three years immediately preceding application, has been licensed in good standing and has been actively practicing dental hygiene in another jurisdiction where the requirements are at least substantially equivalent to those of this state.
2. Grounds for denial of the application under section 43-20-05 do not exist.
3. The applicant has paid to the board the fee established by the board by rule.
4. The applicant has delivered to the board a certificate from the examining or licensing board of every jurisdiction in which the individual is licensed to practice, certifying that the individual is a licensed and registered dental hygienist in good standing in that jurisdiction.
5. The applicant has passed a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
6. The applicant has met any requirement for licensure established by the board by rule.

SECTION 4. AMENDMENT. Section 43-20-01.4 of the North Dakota Century Code is amended and reenacted as follows:

43-20-01.4. License renewal - Audit.

1. Dental hygienist licenses expire on December thirty-first of every odd-numbered year.
2. Licenses may be renewed by December thirty-first of the odd-numbered year by submitting a renewal application, a renewal fee established by the board by rule, and proof of completion of the continuing education requirements established by the board by rule, provided ~~the dental hygienist's license is not revoked or~~ grounds for denial under section 43-20-05 do not exist as determined by the board.
3. If the renewal application, renewal fee, and proof of completion of continuing education are not received by December thirty-first of the odd-numbered year, the license expires and the ~~dental hygienist~~ individual may not practice dental hygiene.
4. Within sixty days after December thirty-first of the odd-numbered year, an expired license may be renewed ~~by submitting~~ if the individual submits the renewal application, renewal fee, proof of completion of continuing education, and a late fee established by the board by rule.
5. Between sixty-one days and one year after December thirty-first of the odd-numbered year, an expired license may be renewed if the individual submits a renewal application, pays the renewal fee, pays an amount equal to twice the late renewal fee, and submits other documentation sought by the board confirming the individual retains the skills necessary to practice.
6. If the renewal application, renewal fee, proof of completion of continuing education, and late fee are not received within ~~sixty days~~ one year after December thirty-first of the odd-numbered year, the license may not be renewed, and the ~~dental hygienist~~ individual must apply for and meet the requirements for licensure to be granted a license.

- 6-7. The board may extend the renewal deadlines for a ~~dental hygienist~~ individual providing proof of medical or other hardship rendering the ~~dental hygienist~~ individual unable to meet the deadline.
- 7-8. The board may audit continuing education credits. Each licensee shall maintain certificates or records of continuing education activities for three years. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

SECTION 5. A new section to chapter 43-20 of the North Dakota Century Code is created and enacted as follows:

Volunteer license.

The board may establish rules governing the issuance of a volunteer license to practice dental hygiene to an individual previously licensed in this state or an individual who holds a license in good standing, to practice dental hygiene issued by another state.

SECTION 6. AMENDMENT. Section 43-20-03 of the North Dakota Century Code is amended and reenacted as follows:

43-20-03. Dental hygienists - Practice by.

1. As used in this chapter, "dental hygiene" and the practice thereof means the removal of accumulated matter from the natural and restored surfaces of teeth and from restorations in the human mouth, the polishing of such surfaces, and the topical application of drugs to the surface tissues of the mouth and to the surface of teeth if ~~such acts are performed under the direct, indirect, or general supervision of a licensed dentist. General supervision may be used if the procedures are authorized in advance by the supervising dentist, except procedures which may only be used under direct supervision as established by the board by rule.~~
2. Only a person licensed as a dental hygienist may be referred to as a dental hygienist. ~~Additional~~
3. The board may outline by rule additional tasks permitted to be performed by licensed dental hygienists may be outlined by the board of dental examiners by appropriate rules.

SECTION 7. AMENDMENT. Section 43-20-05 of the North Dakota Century Code is amended and reenacted as follows:

43-20-05. Licenses and registrations - Denial and discipline.

1. The board may deny an application for or take disciplinary action against a dental hygienist's license or a registered or qualified dental assistant's registration, upon any one or more of the following grounds:
4. a. Gross immorality or unprofessional conduct, which includes knowingly failing to comply with commonly accepted national infection control guidelines and standards.

- 2. b. Failure, neglect, or refusal to renew a license biennially.
- 3. c. Nonobservance or violation of this chapter, or of any board rule adopted under this chapter.
- 4. d. Gross incompetency in the practice of dental hygiene.
- 5. e. Conviction of an offense determined by the board to have a direct bearing on the individual's ability to serve the public as a dental hygienist or a registered or qualified dental assistant, or the board determines, following conviction for any offense, that the individual is not sufficiently rehabilitated under section 12.1-33-02.1.
- 6. f. Been adjudged mentally ill and not judicially restored by the regularly constituted authorities, or having a physical or mental disability materially affecting the ability to carry out the duties within the scope of practice in a competent manner.
- 7. ~~Abused, is dependent on, or addicted to the~~
 - g. The use of alcohol or drugs to such a degree as to interfere with the licensee's ability to safely perform the duties within the scope of practice for dental hygiene or dental assisting.
- 8. h. Engaged in fraud or deceit in obtaining a dental hygiene license or dental assisting registration.
- 9. i. Disclosed confidential information.
- 10. j. Received a fee for the referral of patients to a dentist or dental hygienist.
- 11. k. Used unethical measures to draw dental patronage from the practice of another licensee.
- 12. l. Fraudulently prescribed or dispensed drugs or medications.
- 13. m. Knowingly submitted misleading, deceptive, untrue, or fraudulent information on a claim form, bill, or statement to a third party.
- 14. n. Advised or directed patients to dental laboratories or dental laboratory technicians for a dental service or advised or directed patients to deal directly with laboratories or dental laboratory technicians.
- 15. o. Violated the code of ethics adopted by the board by rule.
- 16. p. Had a registration or license suspended, revoked, or disciplined in another jurisdiction.
- 17. q. Failed to report to the board in writing within sixty days a violation of this chapter or chapter 43-28.
- 18. r. Practiced outside the scope of practice established by the board by rules and this chapter.
 - s. Failed to fully and completely cooperate in any investigation initiated by the board, including the failure to promptly provide any information legally sought by the board, its investigative panel, its investigators, or its authorized agents.

t. Noncompliance with the terms of a program contracted for under section 43-28-06.

2. The procedure ~~to be followed~~ for taking disciplinary action under this section must be the same as ~~the procedure~~ required by section 43-28-18.2.

SECTION 8. AMENDMENT. Section 43-20-12 of the North Dakota Century Code is amended and reenacted as follows:

43-20-12. Dental hygienist - Scope of permitted practice.

A licensed dentist may delegate to a competent dental hygienist those procedures over which the dentist exercises full responsibility, except those procedures that require professional judgment and skill ~~such as in~~ diagnosis and, treatment planning, ~~or the cutting of hard or soft tissue, or any intraoral procedure which would lead to the fabrication of any appliance that, when worn by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury.~~ The board of dental examiners may adopt rules governing the scope of practice of dental hygienists.

SECTION 9. AMENDMENT. Section 43-20-12.3 of the North Dakota Century Code is amended and reenacted as follows:

43-20-12.3. Supervised administration of ~~anesthesia~~local anesthetic - Board rules.

A licensed dentist may delegate to a dental hygienist licensed by the board the administration of block and infiltration anesthesia to a patient ~~who is at least eighteen years old.~~ The dental hygienist administering local anesthetic under this section must be under the direct supervision of a dentist, as established by rule, and the dental hygienist must complete the educational requirements as required by the commission on dental accreditation and approved by the board. The board shall adopt rules to implement this section.

SECTION 10. AMENDMENT. Section 43-20-13 of the North Dakota Century Code is amended and reenacted as follows:

43-20-13. Dental assistant - Scope of permitted practice.

A dental assistant is an auxiliary to the practice of dentistry. To the extent applicable and to the extent they are not inconsistent with this chapter, the requirements and rules adopted by the board of dental examiners under chapter 43-28 apply to the practice of dental assistants. A dentist may delegate to a dental assistant who is under that dentist's ~~direct, indirect, or general~~ supervision procedures over which the dentist exercises full responsibility as provided by rules adopted by the board ~~of dental examiners.~~

SECTION 11. AMENDMENT. Section 43-20-13.1 of the North Dakota Century Code is amended and reenacted as follows:

43-20-13.1. Registration renewal - Continuing education audit.

1. All ~~registrations of registered and qualified dental assistants~~assistant registrations, including any permits, credentials, or endorsements issued by the board, expire on December thirty-first of every even-numbered year.

2. A registration may be renewed by submitting a renewal application, renewal fee established by the board by rule, and proof of completion of the continuing education requirements established by the board by rule, provided the registration is not revoked or grounds for denial under section 43-20-05 do not exist.
3. If the renewal application, renewal fee, and proof of completion of continuing education are not received by December thirty-first of the even-numbered year, the registration expires and the ~~registered or qualified dental assistant individual~~ may not practice as a registered or qualified dental assistant.
4. Within sixty days after December thirty-first of the even-numbered year, an expired registration may be renewed by submitting the renewal application, renewal fee, proof of completion of continuing education, and a late fee established by the board by rule.
5. Between sixty-one days and one year after December thirty-first of the odd-numbered year, an expired license may be renewed if the individual submits a renewal application, pays the renewal fee, pays an amount equal to twice the late renewal fee, and submits other documentation sought by the board confirming the individual retains the skills necessary to practice.
6. If the renewal application, renewal fee, proof of completion of continuing education, and late fee are not received within ~~sixty days~~ one year after December thirty-first of the even-numbered year, the registration may not be renewed, and the ~~registered or qualified dental assistant individual~~ must apply for and meet the requirements for registration to be granted registration.
- 6-7. The board may extend the renewal deadline for a ~~registered or qualified dental assistant individual~~ providing proof of medical or other hardship rendering the ~~registered or qualified dental assistant individual~~ unable to meet the deadline.
8. The board may audit continuing education credits. Each dental assistant who is required to be registered with the board shall maintain certificates or records of continuing education activities for three years. Upon receiving notice of an audit from the board, a dental assistant shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities listed on the dental assistant's continuing education form. Failure to comply with the audit is grounds for nonrenewal or disciplinary action against the dental assistant.

SECTION 12. AMENDMENT. Section 43-20-13.2 of the North Dakota Century Code is amended and reenacted as follows:

43-20-13.2. Registered and qualified dental assistant registration
Registration of dental assistants.

To be registered as a registered ~~or dental assistant~~, qualified dental assistant, dental anesthesia assistant, qualified dental assistant limited radiology registrant, or for any individual to be issued a permit, credential, or endorsement by the board related to dental assisting, an individual shall apply and meet the requirements established by the board by rule.

SECTION 13. AMENDMENT. Subsection 6 of section 43-28-02 of the North Dakota Century Code is amended and reenacted as follows:

6. To a registered nurse, licensed practical nurse, ~~registered~~ dental hygienist, or ~~registered~~ dental assistant who is applying topical fluoride varnish to an individual and is acting under the direct or general supervision of a physician or licensed dentist if the registered nurse, licensed practical nurse, ~~registered~~ dental hygienist, or ~~registered~~ dental assistant has successfully completed a training program approved by the board.

SECTION 14. AMENDMENT. Section 43-28-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The state board of dental examiners consists of nine members appointed by the governor. The membership of the board must include ~~six~~:
 - a. Six dentist members, at least one of whom is a board-eligible or board-certified oral and maxillofacial surgeon; ~~one~~
 - b. One dental hygienist member; ~~one~~
 - c. One dental assistant member; and ~~one~~
 - d. One independent consumer member.
2. Appointment to the board is for a term of five years, with terms of office arranged so no more than two terms expire on March sixteenth of each year. Each member of the board shall hold office until a successor is appointed and qualified. An individual appointed to the board qualifies by taking the oath required of civil officers.
3. A member may not serve more than ~~ten years~~ or two full and consecutive 5-year appointed terms of office. An appointment to fill a vacancy occurring for reasons other than the expiration of a term may be made only for the remainder of the unexpired term, and does not constitute a full term or apply to term limits.
4. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy to exist.
5. All vacancies on the board must be filled by the governor by appointment.

SECTION 15. AMENDMENT. Subsection 5 of section 43-28-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The dental hygienist, dental assistant, and independent consumer member of the board shall exercise full voting privileges in all areas except that the dental hygienist may not participate in the clinical examination of dentists for licensure and the dental assistant and independent consumer member may not participate in the clinical examination of dentists or hygienists for licensure. Each appointee must continue to meet the criteria for appointment for the duration of the appointee's term.

SECTION 16. AMENDMENT. Section 43-28-05 of the North Dakota Century Code is amended and reenacted as follows:

43-28-05. Meeting of board - Officers - Bond - Compensation of members - Quorum.

1. The board shall hold a regular annual meeting at a place designated by the board and special meetings when necessary. ~~At the regular meeting of the board, the members~~ The board shall elect from ~~their number a~~ its members:
 - a. ~~A president, a member who has at least two years remaining on that member's term;~~
 - b. ~~A president-elect, a member who has at least three years remaining on that member's term;~~ and a
 - c. ~~A secretary-treasurer. The executive director shall furnish a bond in the amount fixed by the board.~~
2. Each member of the board shall receive as compensation for each day actually engaged in the duties of the office per diem at a rate established by the board and reimbursement for expenses as provided in section 54-06-09 while attending meetings of the board. The executive director may be paid an annual salary in an amount determined by the board. ~~Four members of the board constitute a quorum but a smaller number may adjourn from time to time.~~

SECTION 17. AMENDMENT. Section 43-28-06 of the North Dakota Century Code is amended and reenacted as follows:

43-28-06. Powers of board.

The board may:

1. Adopt and enforce reasonable rules to govern its proceedings and to carry out this chapter.
2. Examine applicants for licenses, or registration to practice dentistry, dental hygiene, or dental assisting in this state, either by direct examination or by accepting the results of national or regional dental testing services in which the board participates or which the board recognizes.
3. Issue, suspend, revoke, limit, cancel, restrict, and reinstate licenses registrations, permits, credentials, or endorsements related to the practice of dentistry, dental assisting, or dental hygiene and the biennial certificates of registration upon any grounds authorized by this chapter or rules adopted by the board.
4. Issue subpoenas to require the attendance of witnesses and the production of documentary evidence and may administer oaths. Any member or executive officer of the board may administer oaths to witnesses, or issue subpoenas; ~~but all subpoenas so issued must be attested by the secretary who shall affix the seal of the board thereto.~~

5. Employ and compensate an executive director, attorneys, investigative staff, and clerical assistants and may perform any other duties imposed upon the board by this chapter.
6. Establish minimum continuing professional education requirements for dentists, dental hygienists, and dental assistants.
7. Enter an agreement with the same professional organization with which the North Dakota board of medicine has entered an agreement under subsection 6 of section 43-17-07.1 and adopt rules to establish an alternative to discipline program through that contract. Records of an alternative to discipline program, including the identity of a licensee participating in the alternative to discipline program, are exempt records under section 44-04-17.1. Records of an alternative to discipline program may be disclosed by the board if the board determines disclosure of the records is necessary to protect health, safety, and welfare of the public, if ordered by a court of competent jurisdiction, or if otherwise determined by the board. Fees assessed by rule for this program are not new fees as contemplated by subsection 7 of section 54-35-27.
8. Impose fines, not to exceed five thousand dollars for each violation of section 43-28-18.2. All fines collected by the board must be deposited in the general fund.

SECTION 18. AMENDMENT. Section 43-28-08 of the North Dakota Century Code is amended and reenacted as follows:

43-28-08. Records of board - Use as evidence.

The board shall keep full and complete minutes of its proceedings and of its receipts and disbursements and a full and accurate list of all persons licensed and registered by it. The records of the board, together with the list of all licensed and registered dentists, are public records and must be open to public inspection at all reasonable times. Such records, or a transcript of the same or any part thereof, under the seal of the board, duly certified by its secretary treasurer, are competent evidence of the facts therein stated. A certificate of the secretary treasurer under the seal of the board stating that any person is or is not a duly licensed and registered dentist is prima facie evidence of such fact. the board, and shall maintain all records in full compliance with chapter 44-04.

SECTION 19. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:

Volunteer license.

The board may establish rules governing the issuance of a volunteer license to practice dentistry to an individual previously licensed in this state or an individual who holds a license, in good standing, to practice dentistry issued by another state.

SECTION 20. AMENDMENT. Section 43-28-11 of the North Dakota Century Code is amended and reenacted as follows:

43-28-11. Application - Fees.

1. An individual seeking to practice dentistry in this state shall apply to the executive director of the board on forms prescribed by the board a license, registration, permit, credential, or endorsement related to the practice of dentistry, shall apply to the executive director on forms prescribed by the board.

2. The application must ~~be verified~~;

a. ~~Be verified under oath to the effect that all of the statements contained in the application are true to the applicant's own knowledge, and must be received by the executive director of the board at least thirty days before the board meeting at which it is considered. The applicant shall enclose with the application;~~

b. ~~Contain~~ a recent autographed picture of the applicant; and ~~an~~

c. ~~Include the~~ application fee ~~as determined~~ established by the board ~~by rule~~.

3. The board may, by rule, create or modify fees associated with any license, registration, permit, credential, or renewal. A fee created or modified under this section is not a new fee for purposes of subsection 7 of section 54-35-27.

SECTION 21. AMENDMENT. Section 43-28-13 of the North Dakota Century Code is amended and reenacted as follows:

43-28-13. When re-examination required.

~~Any dentist~~An individual who does not undertake the actual practice of dentistry within five years from the date of the ~~dentist's individual's~~ license and registration; ~~or any holder of any privilege related to the practice of dentistry~~ shall, before engaging in the practice of dentistry in this state, notify the board of the intention in writing. The board, after a full investigation, may re-examine the ~~dentist individual~~ as to the ~~dentist's individual's~~ qualifications to practice dentistry in this state, if the board deems such re-examination necessary. The failure of the ~~dentist individual~~ to give the written notice to the board before engaging in the practice of dentistry in this state is grounds for disciplinary action.

SECTION 22. AMENDMENT. Section 43-28-15 of the North Dakota Century Code is amended and reenacted as follows:

43-28-15. Licensure by credential review.

1. The board may issue a license and certificate of registration to practice dentistry in this state to an applicant who meets ~~all of~~ the following requirements:

4. a. The applicant, for at least five years immediately preceding application, has been licensed in good standing and has been actively practicing dentistry in another jurisdiction where the requirements are at least substantially equivalent to those of this state-;

2. b. Grounds for denial of the application under section 43-28-18 do not exist-;

3. c. The applicant pays to the board the fee determined by the board by rule-;

4. d. The applicant delivers to the board a certificate from the examining or licensing board of every jurisdiction in which the individual is practicing or is licensed to practice, certifying that the individual is a licensed and registered dentist in good standing in that jurisdiction-;

- ~~5- e.~~ The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting-; and
- ~~6- f.~~ The applicant meets any requirement for licensure established by the board by rule.
2. The board may issue a license and certificate of registration to practice dentistry in this state to an applicant who is in good standing under the laws of another jurisdiction, has passed a hand skills examination approved by the board, and possesses qualifications, education, and experience substantially similar to the requirements in subsection 1.

SECTION 23. AMENDMENT. Section 43-28-16.2 of the North Dakota Century Code is amended and reenacted as follows:

43-28-16.2. License renewals.

1. Licenses expire on December thirty-first of every odd-numbered year.
2. Licenses may be renewed by December thirty-first of the odd-numbered year by submitting a renewal application, a renewal fee established by the board by rule, and proof of completion of the continuing education requirements established by the board by rule, provided ~~the dentist's license is not revoked~~ or grounds for denial under section 43-28-18 do not exist as determined by the board.
3. If the renewal application, renewal fee, and proof of completion of continuing education are not received by December thirty-first of the odd-numbered year, the license expires and the ~~dentist~~individual may not practice dentistry.
4. Within sixty days after December thirty-first of the odd-numbered year, an expired license may be renewed by submitting the renewal application, renewal fee, proof of completion of continuing education, and a late fee established by the board by rule.
5. Between sixty-one days and one year after December thirty-first of the odd-numbered year, an expired license may be renewed if the individual submits a renewal application, pays the renewal fee, pays an amount equal to twice the late renewal fee, and submits other documentation sought by the board confirming the individual retains the skills necessary to practice.
- ~~6.~~ If the renewal application, renewal fee, proof of completion of continuing education, and late fee are not received within ~~sixty days~~one year after December thirty-first of the odd-numbered year, the license may not be renewed, and the ~~dentist~~individual must apply for and meet the requirements for licensure to be granted a license.
- ~~6-7.~~ The board may extend the renewal deadlines for a ~~dentist~~an individual providing proof of medical or other hardship rendering the ~~dentist~~individual unable to meet the deadline.

SECTION 24. AMENDMENT. Section 43-28-18 of the North Dakota Century Code is amended and reenacted as follows:

43-28-18. Grounds for denial of or disciplinary action against license and certificate.

The board may deny an application or take disciplinary action against the license and the certificate of registration of any applicant or dentist who has:

1. Engaged in dishonorable, unprofessional, or immoral conduct.
2. Been convicted of an offense determined by the board to have a direct bearing upon the individual's ability to serve the public as a dentist, or the board determines, following conviction for any offense, that the individual is not sufficiently rehabilitated under section 12.1-33-02.1.
3. Been adjudged mentally ill and not judicially restored by the regularly constituted authorities or have a physical or mental disability materially affecting the ability to carry out the duties within the scope of practice in a competent manner.
4. ~~Abused, is dependent on, or addicted to the use of~~ Used alcohol or drugs to such a degree as to interfere with the licensee's ability to safely perform the duties within the scope of practice for dentistry.
5. Employed or permitted an unlicensed individual to practice dentistry in the office under the dentist's control.
6. Been grossly negligent in the practice of dentistry.
7. Engaged in fraud or deceit in obtaining the license or in the practice of dentistry.
8. Disclosed confidential information.
9. Shared any professional fee with anyone or paid anyone for sending or referring patients to the dentist. However, this does not prohibit dentists from practicing in a partnership and sharing one another's professional fees, nor prohibit a dentist from employing any other dentist or dental hygienist.
10. Used any advertising of any character tending to mislead and deceive the public, including advertising the public could reasonably interpret as indicating the dentist is qualified to practice a dental specialty, if the practice of that dental specialty would be outside the scope of practice for which the dentist is qualified to practice.
11. Failed to meet minimum standards of professional competence.
12. Prescribed, administered, or dispensed medications for reasons or conditions outside the scope of dental practice.
13. Fraudulently, carelessly, negligently, or inappropriately prescribed drugs or medications.
14. Directed others to perform acts or provide dental services for which they were not licensed or qualified or were prohibited by law or rule from performing or providing.
15. Submitted fraudulent insurance claims.

16. Made any false, fraudulent, deceptive, or untrue statements in connection with the practice of dentistry, or in an application for an examination to obtain a license to practice dentistry.
17. Made any false representations that the individual is the holder of a license or certificate of registration to practice dentistry.
18. Made any false claims that the individual is a graduate of a dental college or the holder of any diploma or degree from a dental college.
19. Failed to comply with commonly accepted national infection control guidelines and standards.
20. Abandoned the dentist's practice in violation of rules adopted by the board.
21. Failed to report to the board as required under section 43-28-18.1.
22. Failed to practice within the scope of that dentist's education or advanced training as recognized by the board, the American dental association, or other professional entity recognized by the board.
23. Failed to release, within a reasonable time, copies of dental or medical records requested by a patient of record or violated section 23-12-14, or failure to provide a complying written statement to a patient, the board, or other requester. Dental records may include any document, charting, study models, doctor's notations, billing information, insurance document or combination of documents that pertains to a patient's medical history, diagnosis, prognosis, or medical condition, which is generated and maintained in the process of the patient's dental health care treatment. Within ten days after receipt of request, a dentist who fails to release patient records shall provide a written statement, detailing the cause of delay and an estimation of when records will be produced, to the patient or requester.
24. Advised or directed patients to dental laboratories or dental laboratory technicians for any dental service or advised or directed patients to deal directly with laboratories or dental laboratory technicians without first having furnished the dental laboratory or dental laboratory technician a written prescription.
25. Worked or cooperated with dental laboratories that advertise for public patronage by delegating work to such laboratories in return for the referral of laboratory patrons for professional services.
26. Used the services of a person or entity not licensed to practice dentistry in this state, or constructed, altered, repaired, or duplicated a denture, plate, partial plate, bridge, splint, or orthodontic or prosthetic appliance, except as provided by rule adopted by the board.
27. Violated the code of ethics adopted by the board by rule.
28. Violated this chapter or rules adopted by the board.
29. Had the applicant's or dentist's license suspended, revoked, or disciplined in another jurisdiction.

30. Maintained a lack of appropriate documentation in dental records for diagnosis, testing, or treatment of patients.
31. Failed to fully and completely cooperate in an investigation by the board, including failure to promptly provide legally sought information to the board or any investigative panel, investigator, or authorized agent of the board.
32. Failed to comply with the terms of a program contracted for under section 43-28-06.

SECTION 25. AMENDMENT. Subsection 1 of section 43-28-18.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A dentist shall report to the board in writing within sixty days of the event any illegal, unethical, or errant behavior or conduct of the dentist, including the following events, proceedings, or formal or informal actions:
 - a. A dental malpractice judgment or malpractice settlement or a final judgment by a court in favor of any party and against the licensee.
 - b. A final disposition regarding the surrender of a license, or adverse action taken against a license by a licensing agency in another state, territory, or country; a governmental agency; a law enforcement agency; or a court for an act or conduct that would constitute grounds for discipline under this chapter.
 - c. A mortality or other incident occurring in an outpatient facility of the dentist which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during or as a direct result of a dental procedure or related use of general anesthesia, deep sedation, conscious sedation with a parenteral drug, or enteral sedation.
 - d. An arrest by a law enforcement officer or criminal charges filed by a prosecutor.

SECTION 26. AMENDMENT. Section 43-28-18.2 of the North Dakota Century Code is amended and reenacted as follows:

43-28-18.2. Disciplinary procedure.

1. A person may file a written and signed complaint with the board alleging a dentist engaged in conduct identified as grounds for disciplinary action under section 43-28-18. The board may also initiate a complaint and investigation on the board's motion.
2. The board may direct a complaint committee to investigate a complaint and recommend whether the board should initiate a disciplinary action against the dentist.
3. The board or complaint committee shall notify the dentist of the complaint, and require a written response from the dentist. The board or complaint committee may examine and copy records, including patient records, examine witnesses, obtain expert opinions, require the dentist to be physically or mentally examined, or both, by qualified professionals selected by the board, and take any other action necessary to investigate the complaint. A request by the board or complaint committee ~~is authorized~~ provides sufficient authorization to

disclose patient information and records to the board or complaint committee. Patient information and records disclosed to the board or complaint committee are confidential. The dentist shall cooperate with the board or the complaint committee in the investigation, including responding promptly, truthfully, and completely to a request or requirement.

4. The complaint, response, and any record received by the board ~~in investigating the~~ during the investigation of a complaint or other allegation are exempt records, as defined in section 44-04-17.1, until the board determines to proceed with a disciplinary action.
5. The board shall determine if there is a reasonable basis to believe the dentist engaged in conduct identified as grounds for disciplinary action under section 43-28-18. If the board determines there is not a reasonable basis to believe, the board shall notify the complainant and the dentist. If the board determines there is a reasonable basis to believe, the board shall proceed with a disciplinary action in accordance with chapter 28-32.
6. The board, at any time, may offer or accept a proposal for informal resolution of the complaint or disciplinary action.
7. The board may impose a fee on the dentist for all or part of the costs of an investigation or action resulting in discipline, including administrative costs, investigation costs, attorney's fees, witness fees, the cost of the office of administrative hearings' services, and court costs.
8. In any agreement, order, or decision arising out of any disciplinary investigation or action undertaken by the board, the board may direct the licensee or registrant to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorneys fees incurred by the board or investigative panels of the board in the investigation or prosecution. The board may suspend a license or registration until costs are paid to the board. Within thirty days of the issuance of an agreement, order, or decision, a licensee or registrant may challenge the reasonableness of any cost item by requesting a hearing under chapter 28-32. An 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 license or registration may be suspended for nonpayment.

SECTION 27. AMENDMENT. Section 43-28-18.3 of the North Dakota Century Code is amended and reenacted as follows:

43-28-18.3. Temporary suspension - Appeal.

1. When, based on verified evidence, the board determines by a clear and convincing standard that the evidence presented to the board indicates that the continued practice by the dentist would create a significant risk of serious and ongoing harm to the public while a disciplinary proceeding is pending, and that immediate suspension of the dentist's license is required to reasonably protect the public from that risk of harm, the board may order a temporary suspension ex parte. For purposes of this section, "verified evidence" means testimony taken under oath and based on personal knowledge. The board shall give prompt written notice to the dentist of the ex parte temporary suspension to the dentist, which must include a copy of the order and complaint, the date set for a full hearing on the merits of the evidence that resulted in the ex parte temporary suspension, and a specific description of

the nature of the evidence, including a list of all known witnesses and a description of any documents relied upon by the board in ordering the ex parte temporary suspension which, upon request, must be made available to the dentist.

2. ~~An~~ Unless the ex parte temporary suspension is otherwise terminated by the board, an ex parte temporary suspension remains in effect until a final order is issued after following a full hearing on the merits conducted under chapter 28-32 or following an appeal under this section or until the suspension is otherwise terminated by the board.
3. ~~The board shall conduct a full~~ hearing on the merits of the allegations to determine what disciplinary action, if any, must be taken against the dentist who is the subject of the ex parte temporary suspension. ~~That hearing~~ must be held not later than thirty days from the issuance of the ex parte temporary suspension order or as soon as practicable as determined by the hearing officer. The dentist is entitled to a continuance of the thirty-day period upon request for a period determined by the hearing officer.
4. The dentist may appeal the ex parte temporary suspension order before the full hearing. ~~For purposes of appeal, on the merits occurs. The appeal must be filed with the district court of Burleigh County. The district court shall decide whether the board acted reasonably or arbitrarily when ordering the ex parte temporary suspension. The district court shall give priority to the appeal for prompt disposition.~~
5. A dental or medical record of a patient, or other document containing personal information relating to a patient, ~~which is~~ obtained by the board is confidential.

Approved March 25, 2025

Filed March 26, 2025

CHAPTER 391

HOUSE BILL NO. 1125

(Representative Louser)

AN ACT to amend and reenact sections 43-23-06.1, 43-23-08, 43-23-13.1, and 43-23-24 of the North Dakota Century Code, relating to real estate licensing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23-06.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-06.1. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Appointed agent" means a licensee appointed by a designated broker of the licensee's real estate brokerage firm to act solely for a client of that brokerage firm to the exclusion of other licensees of that brokerage firm.
2. "Client" means a person that has entered a written agency agreement with a real estate brokerage firm.
3. "Commission" means the North Dakota real estate commission.
4. "Customer" means a buyer, prospective buyer, seller, lessee, or lessor that is not represented by that real estate brokerage firm in a real property transaction.
5. "Designated broker" means a licensee designated by a real estate brokerage firm to act on behalf of the brokerage firm.
6. "Dual agency" means a situation in which a real estate brokerage firm or the real estate brokerage firm's licensees owe a duty to more than one party in a real estate transaction. Dual agency is established only as follows:
 - a. When one licensee represents both the buyer and the seller in a real estate transaction; or
 - b. When two or more licensees, licensed to the same broker, each represents a party to the real estate transaction.

"Dual agency" does not exist unless both the seller and the buyer in a real estate transaction have written agency agreements with the same real estate brokerage firm. For purposes of "dual agency" a subagency arrangement is not a written agency agreement.

7. "Licensee" means a real estate broker, an associate real estate broker, or a real estate salesperson who is associated with a real estate brokerage firm.

8. "Real estate", "real property", "realty", or words of like import, means any interest or estate in land, including leaseholds, whether such interest or estate is corporeal, incorporeal, freehold, or nonfreehold, and whether situated in this state or elsewhere; provided, however, that the meaning as used in this chapter does not include oil, gas, or mineral leases, nor does it include any other mineral leasehold, mineral estate, or mineral interest of any nature whatsoever.
9. "Real estate broker", or "broker", means any person that, for another, for a fee, commission, salary, or other consideration, or with the intention or expectation of receiving or collecting such compensation from another, engages in or offers or attempts to engage in, either directly or indirectly by a continuing course of conduct or by a single act or transaction, any of the following acts:
 - a. Lists, offers, attempts, or agrees to list real estate or any interest in that real estate, or any improvements affixed on that real estate for sale, exchange, or lease.
 - b. Sells, exchanges, purchases, or leases real estate or any interest in that real estate, or any improvements affixed on that real estate.
 - c. Offers to sell, exchange, purchase, or lease real estate or any interest in that real estate, or any improvements affixed on that real estate.
 - d. Negotiates or offers, attempts, or agrees to negotiate the sale, exchange, purchase, or leasing of real estate or any interest in that real estate, or any improvements affixed on that real estate.
 - e. Buys, sells, offers to buy or sell, or otherwise deals in options on real estate or any interest in that real estate, or any improvements on that real estate.
 - f. Who is a licensee under this chapter and performs any of the acts set out in this subsection while acting in the licensee's own behalf.
 - g. Advertises or holds out as being engaged in the business of buying, selling, exchanging, or leasing of real estate or any interest in that real estate, or any improvements on that real estate.
 - h. Assists or directs in the procuring of prospects or refers a prospect, calculated to result in the sale, exchange, or leasing of real estate or any interest in that real estate, or any improvements on that real estate. A licensed broker in this state may divide or share a real estate commission with a licensed broker in another state if the out-of-state broker does not carry on any of the negotiations on behalf of the referred client or prospect in this state, either by physically entering the state or by communicating with the broker electronically or through other means.
 - i. Publicly markets for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser.

10. "Real estate brokerage firm" means a person that is providing real estate brokerage services through that person's licensees and which is licensed by the commission as a real estate brokerage firm.
11. "Real estate salesperson" means any person that for a fee, compensation, salary, or other consideration, or in the expectation or upon the promise of that compensation, is employed or engaged by a licensed real estate broker to do any act or deal in any transaction as provided in subsection 9 for or on behalf of such licensed real estate broker.

SECTION 2. AMENDMENT. Section 43-23-08 of the North Dakota Century Code is amended and reenacted as follows:

43-23-08. License standards.

1. Licenses and license renewals may be granted only to persons who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of a real estate broker or a real estate salesperson in such manner as to safeguard the interest of the public, and whose real estate license has not been revoked in this or any other state within two years before the date of application. To determine the competency of applicants, the commission shall prescribe and hold examinations at designated times and places.
2. In addition to the requirements established by subsection 1, an applicant for a broker's or salesperson's license must be at least eighteen years of age.
3. Every applicant for a license as a real estate broker:
 - a. Must have been actively engaged as a licensed real estate salesperson for a period of at least two years preceding the date of application; or
 - b. Must have had experience as determined by the commission to be substantially equal to that which a licensed real estate salesperson would ordinarily receive during a period of two years.
4. As a prerequisite for licensure, an applicant for a salesperson's license shall furnish to the commission evidence the applicant has successfully completed at least ninety hours in courses of study approved by the commission. An applicant for a broker's license must have successfully completed an additional sixty hours in courses of study approved by the commission. An applicant for a salesperson's or broker's license may take the licensing examination before fulfillment of the prerequisite educational requirement; however, the commission may not issue a ~~salesperson's~~ license to an applicant unless satisfactory evidence of completion of this prerequisite educational requirement is furnished to the commission. ~~An applicant for a broker's license must have satisfactorily fulfilled the educational requirement before taking the broker's licensing examination.~~
5. If the commission finds an applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where the salesperson resides, the experience requirements established in subdivisions a and b of subsection 3 may be waived by the commission. The educational requirements of subsection 4 may not be waived by the commission, but guidelines may be established by which applicants who have engaged in certain educational courses of study which are closely related to the real estate profession may be deemed to have satisfied this requirement.

6. The commission may adopt reasonable rules and regulations pursuant to the provisions of chapter 28-32 relative to procedures for licensing, approval of coursework, and for the type of certification or proof of coursework completion that must be submitted.

SECTION 3. AMENDMENT. Section 43-23-13.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-13.1. License renewal.

1. Every person licensed to practice as a real estate broker or real estate salesperson shall register ~~annually~~ with the commission at a regular interval set by the commission not less than annually and pay the appropriate ~~annual~~ renewal fee as provided in section 43-23-13. The application for renewal must be accompanied by such certification as required by this chapter and rules of the commission to show compliance with the educational requirements of sections 43-23-08 and 43-23-08.2, and must be submitted to the commission with the appropriate fee no later than the application deadline set by the commission. A licensee that fails to file a timely application for the renewal of any license and pay the renewal fee on or before the application deadline set by the commission may file a late renewal application, together with the required educational certification, ~~before January fifteenth of the subsequent year or before a date set by the commission~~ and shall pay, in addition to the renewal fee, a late fee as set by the commission for each month or fraction of a month after the application deadline. Any license not renewed by ~~January fifteenth~~ the late renewal date set by the commission must be canceled. The cancellation must be performed without any notice or opportunity for hearing. Any person whose license has been canceled and which desires relicensure must be required to satisfy the application and examination requirements for prospective licensees in accordance with this chapter and rules of the commission.
2. A licensee may not engage in any activity after ~~December thirty first~~ the license renewal date set by the commission of any year for which a license is required under this chapter unless that person's license has been renewed by the commission.

SECTION 4. AMENDMENT. Section 43-23-24 of the North Dakota Century Code is amended and reenacted as follows:

43-23-24. Wholesale buyers and sellers - Disclosure.

1. As used in this section:
 - a. ~~"Residential real property" means real property with fewer than five dwelling units.~~
 - b. ~~"Wholesaler"~~ "Wholesaler" means a person that enters an agreement to make income or profit from the transfer of or equitable interest in ~~residential~~ real property.
2. A wholesaler of ~~residential~~ real property shall disclose in writing to all parties to the agreement that the wholesaler holds an equitable interest in the property, may not be able to convey title to the property, and intends to make a profit or income from the transfer of the equitable interest.

3. Notwithstanding any other provision contained in a contract for sale of ~~residential~~ real property, if a wholesaler violates this section, the seller may cancel the contract for sale at any time before the close of escrow without penalty and may retain any earnest money paid by the wholesaler.
4. Notwithstanding any other provision contained in the contract for sale, if a wholesaler violates this section, the buyer may cancel the contract for sale at any time before the close of escrow without penalty and must be refunded all earnest money paid by the buyer.

Approved April 7, 2025

Filed April 8, 2025

CHAPTER 392

HOUSE BILL NO. 1354

(Representatives D. Ruby, Swiontek, Wolff, Vetter)
(Senators Barta, Meyer, Thomas)

AN ACT to create and enact a new section to chapter 43-23.3 of the North Dakota Century Code, relating to evaluations conducted by appraisers; and to amend and reenact sections 43-23.3-01, 43-23.3-04, and 43-23.3-18 of the North Dakota Century Code, relating to the definitions of agency and evaluation, an exemption from appraisal permit requirements, and the standards of professional appraisal practice.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23.3-01 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Agency" means the:

- a. Board of governors of the federal reserve system;
- b. Consumer financial protection bureau;
- c. Farm credit administration;
- d. Federal deposit insurance corporation;
- e. National credit union administration;
- f. Office of the comptroller of the currency; and
- g. State financial regulator.

2. "Analysis" means a study of real estate other than estimating value.

~~2-3.~~ "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis. The term does not include an evaluation.

~~3-4.~~ "Appraisal assignment" means an engagement for which a person is employed or retained to act, or would be perceived by the public as acting, as a disinterested party in rendering an unbiased supportable appraisal.

~~4-5.~~ "Appraisal foundation" means the appraisal foundation incorporated as an Illinois corporation on November 30, 1987.

- ~~5-6.~~ "Appraisal report" means any communication of an appraisal.
- ~~6-7.~~ "Appraisal subcommittee" means the appraisal subcommittee of the federal financial institutions examination council.
- ~~7-8.~~ "Appraiser" means a person who engages in appraisal activity for valuable consideration.
- ~~8-9.~~ "Apprentice appraiser" means a person who holds a valid permit as an apprentice appraiser.
- ~~9-10.~~ "Board" means the North Dakota real estate appraiser qualifications and ethics board.
- ~~10-11.~~ "Certified appraiser" means a person who holds a valid permit as a certified residential or general appraiser.
- ~~11-12.~~ "Certified general appraiser" means a person who holds a valid permit as a certified general appraiser.
- ~~12-13.~~ "Certified residential appraiser" means a person who holds a valid permit as a certified residential appraiser.
14. "Evaluation" means an estimate of the value of real property and real estate made in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73, 103 Stat. 183] and provided to an entity regulated by an agency for use in a real estate-related financial transaction for which an appraisal is not required by federal law.
- ~~13-15.~~ "Licensed appraiser" means a person who holds a valid permit as a licensed appraiser.
- ~~14-16.~~ "Permit" means the document issued by the board, verifying that the person named on the permit has fulfilled all prerequisites to practice either as an apprentice appraiser, a licensed appraiser, or a certified appraiser.
- ~~15-17.~~ "Real estate" means an identified parcel or tract of land including improvements, ~~and interests, benefits, and rights inherent in the ownership of real estate if any.~~
- ~~16-18.~~ "Real property" means one or more defined interests, benefits, and rights inherent in the ownership of real estate.
19. "Uniform standards of professional appraisal ~~practices~~practice" means standards of appraisal promulgated by the appraisal standards board of the appraisal foundation as adopted by the board.
- ~~17-20.~~ "Valuation" means an estimate of the value of real estate or real property.

SECTION 2. AMENDMENT. Section 43-23.3-04 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-04. Permit required - Exemptions.

1. Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter.

2. An appraiser, ~~that is~~ apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1.
3. This chapter does not apply to a:
 - a. ~~A licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal.~~
4. ~~This chapter does not apply to a~~
 - b. A person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.
5. ~~This chapter does not apply to a~~
 - c. A person employed by the Bank of North Dakota when providing evaluations or reviews of appraisals for federally insured depository institutions under federal financial institution regulatory agency appraisal exemptions.
 - d. A person, who is not an apprentice, licensed, or certified appraiser, who prepares or provides an evaluation.

SECTION 3. AMENDMENT. Section 43-23.3-18 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-18. Standards of professional appraisal practice - Exception.

An apprentice, licensed, or certified appraiser shall comply with the standards of professional appraisal practice and ethical rules specified by the uniform standards of professional appraisal practice and all other standards and ethical requirements adopted by the appraisal standards board of the appraisal foundation, except as authorized under section 4 of this Act.

SECTION 4. A new section to chapter 43-23.3 of the North Dakota Century Code is created and enacted as follows:

Evaluation by appraiser.

1. An apprentice, licensed, or certified appraiser may provide an evaluation if the evaluation is permitted by law, regulation, or regulatory guidelines. An evaluation performed by an appraiser under this section must be conducted in accordance with federal and state laws and rules, regulatory guidelines, and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73, 103 Stat.183].
2. An evaluation prepared or provided by an appraiser under this section must be identified conspicuously as an evaluation and not an appraisal.

Approved April 16, 2025

Filed April 16, 2025

CHAPTER 393

HOUSE BILL NO. 1080

(Industry, Business and Labor Committee)

(At the request of the North Dakota Real Estate Appraiser Qualifications and Ethics Board)

AN ACT to amend and reenact sections 43-23.5-01, 43-23.5-07, 43-23.5-08, and 43-23.5-15 and subsection 6 of section 43-23.5-21 of the North Dakota Century Code, relating to the regulation of appraisal management companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23.5-01 of the North Dakota Century Code is amended and reenacted as follows:

43-23.5-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Appraisal firm" means any person or entity that exclusively employs persons on an employer and employee basis for the performance of real estate appraisal services in the normal course of its business and the real estate appraisal services being performed are in accordance with the uniform standards of professional appraisal practices.
2. "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen certified or licensed appraisers in this state or twenty-five or more nationally within a given year, that is authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter or other principal in the secondary mortgage markets that engages in appraisal management services.
3. "Appraisal management services" means to, directly or indirectly, perform any of the following functions on behalf of a lender, financial institution, client, or any other person in conjunction with a consumer credit transaction that is secured by a consumer's primary dwelling:
 - a. Administer an appraiser panel.
 - b. Recruit, retain, or select appraisers.
 - c. Qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel.
 - d. Contract with appraisers to perform appraisal assignments.
 - e. Receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion.

- f. Manage the process of having an appraisal performed, including providing administrative duties, such as receiving appraisal orders and reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed.
 - g. Track and determine the status of appraisal orders.
 - h. Conduct an appraisal review or other quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal.
 - i. Provide a completed appraisal performed by an appraiser to one or more clients.
- 4. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:
 - a. A general examination for grammatical, typographical, or other similar errors.
 - b. A general examination for completeness, including regulatory client requirements, or both, as specified in the agreement process that does not communicate an opinion.
- 5. "Appraiser panel" means a network of licensed or certified appraisers who have:
 - a. Responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons that have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as requested and assigned by the appraisal management company.
 - b. Been selected and approved by an appraisal management company to perform appraisals for any client of the appraisal management company that has ordered an appraisal through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.
- 6. "Board" means the North Dakota real estate appraiser qualifications and ethics board.
- 7. "Controlling person" means:
 - a. An officer, director, or owner of greater than a ten percent interest of a corporation, partnership, or other business entity seeking to act as an appraisal management company in this state.

- b. An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter a contractual relationship with other persons for performance of services requiring registration as an appraisal management company and has the authority to enter agreements with appraisers for the performance of appraisals.
 - c. An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.
8. "Federal financial institutions regulatory agencies" includes the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, and the national credit union administration.
9. "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. 1813 and regulated by the office of the comptroller of the currency, the board of governors of the federal reserve system, or the federal deposit insurance corporation.
10. "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for, or regulates, and requires the services of an appraiser.
- ~~40-11.~~ "Real estate-related financial transaction" means any transaction involving:
- a. The sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof.
 - b. The refinancing of real property or interests in real property.
 - c. The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

SECTION 2. AMENDMENT. Section 43-23.5-07 of the North Dakota Century Code is amended and reenacted as follows:

43-23.5-07. Exemptions.

The provisions of this chapter do not apply to:

- 1. An appraisal firm.
- 2. A federally regulated appraisal management company or a financial institution, including a department or unit within the institution, that is regulated by an agency of this state or the United States government.
- 3. A person that enters an agreement with an appraiser for the performance of an appraisal that upon completion results in a report signed by both the appraiser who completed the appraisal and the appraiser who requested completion of the appraisal.

4. An appraisal management company with an appraisal panel of fewer than sixteen certified or licensed appraisers in this state or fewer than twenty-five nationally within a given year.
5. An appraisal management company that is a subsidiary owned and controlled by a financial institution that is subject to appraisal independence standards at least as stringent as those under chapter 43-23.5-21, if regulated by an agency of this state, or the Truth in Lending Act [15 U.S.C. 1601 et seq.], if regulated by the United States government.

SECTION 3. AMENDMENT. Section 43-23.5-08 of the North Dakota Century Code is amended and reenacted as follows:

43-23.5-08. Owner requirements.

1. An appraisal management company applying for, holding, or renewing a registration under this chapter may not be, in whole or in part, directly or indirectly, owned by:
 - a. ~~An an individual who has had an appraiser license or certification in this state or in any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated for a substantive cause, as determined by the board.~~
 - b. ~~An entity that is owned by any individual who has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.~~
2. Each person that owns more than ten percent of an appraisal management company applying for, holding, or renewing a registration under this chapter:
 - a. Must be of good moral character.
 - b. Shall submit to a criminal background investigation for an initial application or as required by the board.
3. Each appraisal management company applying for a registration or for renewal of a registration under this chapter shall certify to the board on a form prescribed by the board that the company has reviewed each entity that owns the appraisal management company and that no entity that owns the appraisal management company is owned by ~~any person an individual~~ that has had an appraiser license or certification in this state or any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked, ~~or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated for a substantive cause, as determined by the board.~~
4. An appraisal management company is not barred from registration if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and has not been reinstated by the jurisdiction in which the appraiser was licensed or certified.

SECTION 4. AMENDMENT. Section 43-23.5-15 of the North Dakota Century Code is amended and reenacted as follows:

43-23.5-15. Retention of records.

1. Each appraisal management company seeking to be registered or to renew an existing registration in this state shall certify to the board on a form prescribed by the board that the company maintains a detailed record of each service request that the company receives for appraisal of real property located in this state.
2. An appraisal management company registered in this state shall retain for five years all records required to be maintained under this chapter as described in rules. This five-year period shall commence on the date of the final action by the appraisal management company for each individual transaction or, if the appraisal management company is notified that the transaction is involved in litigation, the five-year period shall commence on the date the litigation is finally disposed.
3. All records required to be maintained by the registered appraisal management company ~~may~~must, upon request by the board, be made available for inspection and copying by the board on reasonable notice to the appraisal management company.

SECTION 5. AMENDMENT. Subsection 6 of section 43-23.5-21 of the North Dakota Century Code is amended and reenacted as follows:

6. ~~Except within the first ninety days after an independent appraiser is added to an appraiser panel, remove~~Remove an independent appraiser from an appraiser panel without prior written notice to the appraiser, with the prior written notice including evidence of the following, if applicable:
 - a. The appraiser's illegal conduct.
 - b. A violation of the uniform standards of professional appraisal practice, this chapter, or the rules adopted by the board.
 - c. Improper or unprofessional conduct.

Approved March 25, 2025

Filed March 26, 2025

CHAPTER 394

SENATE BILL NO. 2273

(Senators Bekkedahl, Boschee, Lee)
(Representatives Koppelman, Satrom)

AN ACT to amend and reenact subsection 14 of section 43-26.1-01 and section 43-26.1-11.1 of the North Dakota Century Code, relating to diagnostic imaging by physical therapists.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 14 of section 43-26.1-01 of the North Dakota Century Code is amended and reenacted as follows:

14. "Practice of physical therapy" means:

- a. Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement and mobility, and disabilities or other health and movement-related conditions to determine a diagnosis for physical therapy, prognosis, and plan of therapeutic intervention, and to assess the ongoing effects of intervention. The term includes ordering ~~musculoskeletal diagnostic imaging consisting of plain film radiographs to be performed by a professional authorized by chapter 43-62 and interpreted by a licensed physician trained in radiology interpretation, and using these results to determine if a referral to another health care provider is necessary or indicates the necessary treatment is within the physical therapist's scope of practice.~~
- b. Alleviating impairments, functional limitations in movement and mobility, and disabilities by designing, implementing and modifying therapeutic interventions that may include therapeutic exercise; neuromuscular education; functional training related to positioning, movement, and mobility in self-care and in-home, community, or work integration or reintegration; manual therapy; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective, and supportive devices and equipment related to positioning, movement, and mobility; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physiotherapy; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction.
- c. Engaging as a physical therapist in reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health, and wellness in populations of all ages.
- d. Engaging as a physical therapist in administration, consultation, education, and research.

SECTION 2. AMENDMENT. Section 43-26.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

43-26.1-11.1. Ordering imaging.

1. A physical therapist may order ~~musculoskeletal diagnostic imaging consisting of plain film radiographs~~ if the physical therapist ~~holds~~:
 - a. ~~Holds~~ a clinical doctorate degree in physical therapy; or ~~has completed~~
 - b. Completed a board-approved formal medical imaging training program.
2. A physical therapist ordering diagnostic imaging shall report the results to the patient's designated specialty or primary care provider within seven days of receipt of the image to ensure coordination of care, unless:
 - a. The patient does not have a specialty or primary care provider; or
 - b. The specialty or primary care provider received the images from the health care professional who performed or interpreted the images.

Approved April 10, 2025

Filed April 11, 2025

CHAPTER 395

SENATE BILL NO. 2169

(Senators Burckhard, Barta, Boschee)
(Representative Karls)

AN ACT to amend and reenact subsection 6 of section 43-26.1-11 of the North Dakota Century Code, relating to physical therapy patient management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 43-26.1-11 of the North Dakota Century Code is amended and reenacted as follows:

6. The physical therapist shall communicate the overall plan of care with and obtain informed consent from, the patient or the patient's legally authorized representative.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 396

SENATE BILL NO. 2375

(Senators Castaneda, Bekkedahl, Lee, Barta)
(Representatives Vigesaa, Ostlie)

AN ACT to create and enact a new section to chapter 43-28 of the North Dakota Century Code, relating to joint negotiations by dental providers with dental insurers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:

Joint negotiations by dental providers with dental insurers.

1. As authorized under this section, a dental provider and a dental insurer may enter into voluntary non-fee-related joint negotiations. Before commencing voluntary joint negotiations, a joint negotiation representative shall notify the attorney general of its intent to engage in voluntary joint negotiations. The notice must be in writing and include:
 - a. The matters, including terms and conditions, to be negotiated;
 - b. The identity and location of all dental providers participating in the voluntary joint negotiations;
 - c. The identity, location, and market share of the dental insurer the dental providers seek to engage in voluntary joint negotiations;
 - d. A statement explaining the circumstances create the need for voluntary joint negotiations and the benefits anticipated from the voluntary joint negotiations; and
 - e. The joint negotiation representative's procedures to ensure compliance with this section.
2. At the time of the filing with the attorney general, the joint negotiation representative shall provide a copy to the dental insurer of its notice and any other materials submitted to the attorney general. The dental insurer may provide additional information to the attorney general regarding matters described in this section.
3. The attorney general shall review the notice to determine whether the proposed voluntary joint negotiations comply with law and public policy, and shall, within ninety days, unless a thirty day extension is approved by the parties, notify the joint negotiation representative and the dental insurer whether voluntary joint negotiations are authorized under this section. The attorney general, in determining whether voluntary joint negotiations are authorized, shall consider the following factors:

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- a. The stated necessity and anticipated benefits of voluntary joint negotiations;
 - b. The market and bargaining power of the parties;
 - c. A party's ability to control or steer consumers, dictate terms of contracts, impose final or nonnegotiable terms, or dictate or limit products or services available or offered to consumers;
 - d. The contract terms to be negotiated, and the contract terms' potential effect on the ability to provide quality care or medically appropriate care without delay and difficulty;
 - e. The risk of anticompetitive effects; and
 - f. The potential effect on price, quality, choice, or access to products or services for consumers or others.
4. The attorney general may request additional information from the parties at any point during the process or during the parties' negotiations.
 5. Upon a determination by the attorney general that voluntary joint negotiation is authorized under this section, and after a duly authorized officer of the dental insurer and all dental providers seeking voluntary joint negotiations have granted written consent, two or more dental providers practicing in the service area of the dental insurer may jointly engage in voluntary negotiations with the dental insurer regarding the following non-fee-related matters:
 - a. Definition of medical necessity and other conditions of coverage.
 - b. Utilization management criteria and procedures.
 - c. Clinical practice guidelines.
 - d. Preventative care and other medical management policies.
 - e. Patient referral standards and procedures.
 - f. Drug formularies and standards for prescribing off-formulary drugs.
 - g. Quality assurance programs.
 - h. Liability terms for a dental provider and dental insurer.
 - i. Administrative procedures.
 - j. Credentialing standards and procedures for selection, retention, and termination of participating dentists.
 - k. Mechanisms for resolving disputes between the dental insurer and dental providers.
 - l. Inclusion or alteration of a contractual term or condition, unless the inclusion or alteration is otherwise required by federal or state law.

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6. As used in this section, "fee-related matters" includes the amount of payment, the amount of discount, procedure codes or descriptions of services covered by payment, appropriate grouping of procedure codes, and any other matter directly relating to the amount of reimbursements paid to or revenue received by dental providers.
 7.
 - a. Upon a determination by the attorney general that voluntary joint negotiations are authorized under this section, dental providers may communicate with each other and a joint negotiation representative authorized to negotiate on behalf of the dental providers with the dental insurer concerning any contractual term or condition to be negotiated, subject to any limitations imposed by the attorney general. As used in this section, a "joint negotiation representative" means a representative selected by two or more independent dental providers to engage in voluntary joint negotiations with a dental insurer on behalf of the dental providers.
 - b. The dental providers may agree to be bound by the terms and conditions negotiated by the joint negotiation representative.
 8. A person may not act as a joint negotiation representative without express permission from the office of the attorney general.
 9.
 - a. Upon the joint negotiation representative and dental insurer determining a voluntary agreement has been reached on contractual terms or conditions that are the subject matter of the negotiations, the joint negotiation representative shall submit to the attorney general, for its determination, a copy of the proposed contract or agreed upon terms between the dental providers and the dental insurer. At the time of the submission to the attorney general, the joint negotiation representative shall provide a copy of the proposed materials submitted to the attorney general to the dental insurer, which may provide additional information to the attorney general regarding the matters in this section.
 - b. Within ninety days of receipt of the proposed contract or agreed upon terms, the attorney general shall review the proposed contract or agreed upon terms and provide a determination.
 - c. The attorney general may consider the following factors in reviewing a proposed contract or term, a negotiated contract or term, and the plan of action for implementing a negotiated contract or term under this section:
 - (1) Fairness of the contract and whether the contract terms are consistent with applicable laws and regulations;
 - (2) Details provided about the negotiation process;
 - (3) The market and bargaining power of the parties;
 - (4) The contract terms and the benefits achieved by the parties;
 - (5) Potential benefit to consumers and other purchasers of dental insurance;

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- (6) Risk of harm to consumers and others, including the likelihood of increase in prices or reduction in quality, choice, or access to dental care or dental insurance;
 - (7) Risk of anticompetitive effects and potential effects on third parties, including creation of barriers to entry for new market participants, unfair competition, or exclusionary effects; and
 - (8) Promotion of increased infrastructure and innovation in a market.
- d. Upon request from the attorney general, the joint negotiation representative, a participating dental provider, and the dental insurer shall provide additional information to inform the attorney general's determination under this section.
- 10. The attorney general may adopt rules and procedures as necessary to carry out the responsibilities of this section.
 - 11. This section does not apply to dental benefit plans providing covered services exclusively or primarily to individuals who are eligible for medical assistance.
 - 12. This section may not be construed to:
 - a. Permit a coordinated cessation, reduction, or limitation of dental services.
 - b. Affect government approval of, or otherwise restrict activity by, dental providers which is not prohibited under federal antitrust law or require approval or contract terms to the extent the terms are exempt from state regulation under federal law.

Approved April 21, 2025

Filed April 22, 2025

CHAPTER 397

SENATE BILL NO. 2129

(Workforce Development Committee)

(At the request of the State Board of Veterinary Medical Examiners)

AN ACT to create and enact ten new sections to chapter 43-29 of the North Dakota Century Code, relating to the practice of veterinary medicine, veterinary technology, and recognized animal services; to amend and reenact section 43-29-01.1, subsection 1 of section 43-29-02, sections 43-29-03, 43-29-04, 43-29-05, 43-29-05.1, 43-29-06, 43-29-07, 43-29-07.1, 43-29-07.2, 43-29-07.3, 43-29-08.1, 43-29-13, 43-29-14, and 43-29-15, subsection 2 of section 43-29-16, sections 43-29-16.1 and 43-29-17, and subsection 2 of section 43-29-19 of the North Dakota Century Code, relating to the practice of veterinary medicine and veterinary technology; to repeal sections 43-29-09, 43-29-10, 43-29-11, and 43-29-12.1 of the North Dakota Century Code, relating to the practice of veterinary medicine and veterinary technology; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-29-01.1 of the North Dakota Century Code is amended and reenacted as follows:

43-29-01.1. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Accepted livestock management practice" means a procedure that is commonly performed as part of the routine management of livestock which includes vaccination, implantation of growth hormones, branding, castration, dehorning, docking, earmarking, semen collection, nonsurgical artificial insemination, and assisting in a nonsurgical birthing process.
2. "Animal" means a member of the animal kingdom other than a human being whether living or dead.
3. "~~Accredited~~Approved college of veterinary medicine" means ~~any~~a veterinary college or division of a university or college which offers the degree of doctor of veterinary medicine or its equivalent and which conforms to the standards required for accreditation by the council on education of the American veterinary medical associationan accrediting entity approved by the board, if the entity is nationally recognized and develops and maintains accreditation standards for veterinary education.
- ~~2-4.~~ "~~Accredited~~Approved program in veterinary technology" means any postsecondary educational program of two or more academic years that is accredited by the committee on veterinary technician education and activities of the American veterinary medical associationthat offers a degree in veterinary technology or its equivalent and has been approved by the board by rule.

3. "Animal" means any animal other than a human being. The term includes any mammal, bird, fish, reptile, or fowl, whether wild or domestic, living or dead.
- 4-5. "Board" means the board of veterinary medical examiners.
- 5-6. "Certificate" means a certificate issued by the educational commission for foreign veterinary graduates or the educational equivalence program of the American association of veterinary state boards, indicating the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine.
6. "Licensed veterinarian" means a person who is licensed by the board to practice veterinary medicine.
7. "Licensed veterinary technician" means a person who has graduated from an accredited program in veterinary technology or an equivalent program as determined by the board, and who has passed an examination prescribed by the board.
8. "Client" means the patient's owner, owner's agent, or other individual presenting the patient for care.
7. "Complementary, integrative, and alternative therapies" means a heterogeneous group of preventative, diagnostic, and therapeutic philosophies and practices not considered part of conventional veterinary medicine practiced by most veterinarians.
8. "Consent" means the veterinarian has informed the client of the diagnostic and treatment options, risk assessment, and prognosis, and the client has authorized the recommended services.
9. "Consultation" means advice or assistance received by a veterinarian in person, or by any method of communication, from a veterinarian or other individual whose expertise, in the opinion of the veterinarian, would benefit a patient.
10. "Direct supervision" means supervision by a veterinarian who is readily available on the premises where the patient is being treated and has assumed responsibility for the veterinary care given to the patient by an individual working under the direction of the veterinarian.
11. "Foreign practitioner" has the same meaning as defined under section 43-51-01.
12. "Immediate supervision" means supervision by a veterinarian who is in the immediate area and within audible and visual range of the patient and the individual treating the patient and has assumed responsibility for the veterinary care given to the patient by an individual working under the direction of the veterinarian.
13. "Impaired veterinarian" means a veterinarian who is unable to practice veterinary medicine with reasonable skill and safety because of a physical or mental disability or the use of alcohol, drugs, or other habit-forming chemicals.

14. "Impaired veterinary technician" means a veterinary technician who is unable to practice veterinary technology with reasonable skill and safety because of a physical or mental disability or the use of alcohol, drugs, or other habit-forming chemicals.
15. "Indirect supervision" means the supervision by a veterinarian who is not on the premises where the patient is being treated but has given written or oral instructions for the treatment of the patient, is readily available for communication, and has assumed responsibility for the veterinary care given to the patient by an individual working under the direction of the veterinarian.
16. "Jurisdiction" means any commonwealth, state, or territory of the United States of America, including the District of Columbia, or any province of Canada.
17. "Patient" means an animal or group of animals examined or treated by a veterinarian.
18. "Practice of veterinary medicine" means to the:
 - a. Diagnose, treat, correct, change, relieve, or prevent animalDiagnosis, prognosis, correction, supervision, recommendation, or performance of any medical or surgical treatment, including complementary, integrative or alternative therapies, for the diagnosis, prevention, cure, or relief of a wound, disease, deformity, defect, fracture, bodily injury, or other dental, physical, behavioral, or mental conditions. The term includes the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above condition of an animal;
 - b. RepresentPrescription, distribution, or administration of a drug, medicine, anesthetic, biologic, appliance, apparatus, application, or treatment to an animal;
 - c. Provision of any manual or mechanical procedure for the diagnosis or treatment of pregnancy, sterility, or infertility of an animal;
 - d. Determination of the health, fitness, or soundness of an animal;
 - e. Representation of oneself, directly or indirectly, publicly or privately, an ability and willingness to do an act described in subdivision a as engaging in the practice of veterinary medicine; or
 - e.f. Use of any title, word, abbreviation, or letter in a manner or under circumstances that induce the belief the person that the individual using the such title, word, abbreviation, or letter is qualified to do any act described in subdivision a authorized to practice veterinary medicine under this chapter.
 - d. Apply principles of environmental sanitation, food inspection, environmental pollution control, animal nutrition, zoonotic disease control, and disaster medicine in the promotion and protection of public health.

19. a. "Practice of veterinary technology" means the:

- (1) Provision of professional medical care, monitoring, or treatment on the basis of written or oral instructions from a veterinarian;
- (2) Representation of oneself, directly or indirectly, as engaging in the practice of veterinary technology; or
- (3) Use of any title, word, abbreviation, or letter in a manner or under circumstances inducing the belief the individual using such title is authorized to practice veterinary technology under this chapter.

b. This section may not be construed to permit a veterinary technician to do the following:

- (1) Surgery, except when acting as a surgical assistant to a veterinarian;
- (2) Diagnose;
- (3) Prognose; or
- (4) Prescribe.

20. "State board examination" means the jurisprudence examination administered by the board.

21. "Supervising veterinarian" means a veterinarian who has a valid veterinarian-client-patient relationship and assumes responsibility for the veterinary care provided to the patient by an individual working under the direction of the veterinarian.

22. "Teleadvice" means the provision of any health information, opinion, or guidance that is not specific to a particular animal's health, illness, or injury and is not intended to diagnose, prognose, or treat an animal.

23. "Telehealth" means the use of technology to gather and deliver health information, advice, education, or patient care remotely.

24. "Triage" means electronic communication with the client to determine urgency and need for immediate referral to a veterinarian.

25. "Veterinarian" means an individual who is licensed to practice veterinary medicine under this chapter.

9-26. "Veterinarian-client-patient relationship" means:

- a. A relationship in which the veterinarian has assumed the responsibility for making medical judgments regarding the health of an animal and the need for medical treatment, a patient and the client, who is the owner or other caretaker, has agreed to follow the instructions of the veterinarian.
- b. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal.

- e. ~~The practicing veterinarian is readily available for followup in the case of adverse reactions or failure of the regimen of therapy. This relationship exists only when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal and by medically appropriate and timely visits to the premises where the animal is kept.~~
- ~~40-27. "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, chiropractic, acupuncture, and all other branches or specialties of veterinary medicine.~~
28. "Veterinary premises" means any premises or facility where the practice of veterinary medicine is performed but may not include the premises of a client, research facility, military base, or an approved college of veterinary medicine.
29. "Veterinary technician" means an individual who is licensed to practice veterinary technology under this chapter.
30. "Veterinary technology" includes all branches or specialties of veterinary technology.
31. "Veterinary telemedicine" means the virtual practice of veterinary medicine over the telecommunications infrastructure.

SECTION 2. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Requirements of a veterinarian-client-patient relationship.

1. A veterinarian-client-patient relationship may not be established unless the veterinarian has sufficient knowledge of the patient to initiate a general or preliminary diagnosis of the medical condition of the patient. To establish a veterinarian-client-patient relationship, the veterinarian must be personally acquainted with the keeping and care of the patient by virtue of a medically appropriate and timely in-person examination of the patient by the veterinarian, or by a timely in-person visit to the premises where the patient is managed or resides.
2. The veterinarian must be reasonably available for patient followup care after a veterinarian-client-patient relationship is established.
3. The veterinarian shall provide oversight of patient treatment.
4. Patient records must be maintained according to rules promulgated by the board.
5. A veterinarian-client-patient relationship may not be established solely through veterinary telemedicine.
6. A veterinarian seeking consultation shall maintain the veterinarian-client-patient relationship.
7. A veterinarian may terminate a veterinarian-client-patient relationship by notifying the client that the veterinarian no longer wishes to serve the patient and client.

8. The veterinarian shall provide medical records to the client, another veterinarian, or a foreign practitioner designated by the client if the veterinarian-client-patient relationship has been terminated. The veterinarian shall allow the client a reasonable amount of time to arrange care with another veterinarian unless the circumstance, patient, or client threatens the safety of the veterinarian or the staff.
9. A veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency care may not be subject to penalty based solely on the inability to establish a veterinarian-client-patient relationship.
10. The veterinarian-client-patient relationship may extend to all veterinarians within the same practice with access to the patient records.

SECTION 3. AMENDMENT. Subsection 1 of section 43-29-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The state board of veterinary medical examiners consists of five gubernatorially appointed members. In appointing the board members, the governor shall appoint three veterinarians, one ~~veterinarian~~ veterinary technician, and one individual representing the public. In appointing the veterinarian members of the board, the governor shall make an effort to appoint:
 - a. One veterinarian whose practice has a predominant focus on large animals;
 - b. One veterinarian whose practice has a predominant focus on small animals; and
 - c. One veterinarian whose practice focuses on both large and small animals.

SECTION 4. AMENDMENT. Section 43-29-03 of the North Dakota Century Code is amended and reenacted as follows:

~~43-29-03. Officers of board - Seal - Meetings - Limitations on meetings - ExaminationsDuties of board - Rules - Code of ethics - Inspection of facilities - Educational requirements - ReciprocityFees.~~

1. The board shall elect a president and a ~~secretary~~. ~~The board shall have a seal, and the president and the secretary may administer oaths~~ vice president. The board shall hold meetings semiannually in the spring and fall of each year for the ~~examinationapproval of candidates at a time and place specified by the board~~ approval of candidates at a time and place specified by the board applicants for licensure. The board may hold any other meeting it determines necessary at the time and place it designates. No session of the board may exceed two days. A quorum ~~of the board consists of two members and such quorum is sufficient~~ must be present to conduct the business and proceedings of the board, ~~except that any changes in the rules must be taken at a meeting at which all the members are present.~~
2. The board may adopt and enforce reasonable rules, and orders that it determines to be necessary to the performance of its duties and the regulation of the practice of veterinary medicine; ~~establish standards for professional conduct, inspection of facilities, and educational requirements for renewal and granting of licenses; prescribe forms for application for examination; prepare~~

~~and supervise examination of applicants for license to practice veterinary medicine; obtain the services of professional examination agencies in lieu of its own preparation of such examinations; and issue and revoke licenses as provided in this chapter. All rules must be submitted to the attorney general in accordance with chapter 28-32, veterinary technology, and veterinary telemedicine, including to:~~

- ~~a. Establish standards for professional conduct and inspection of veterinary premises;~~
- ~~b. Establish requirements for granting of licenses and temporary licenses;~~
- ~~c. Establish requirements for renewal of licenses and continuing education;~~
- ~~d. Prepare application forms for licensure and renewal;~~
- ~~e. Administer the state board examination for qualified applicants;~~
- ~~f. Obtain the services of professional examination agencies to administer national examinations; and~~
- ~~g. Issue, suspend, revoke, or place on probationary status licenses and temporary licenses as provided in this chapter.~~

~~3. All rules must be submitted to the attorney general in accordance with chapter 28-32.~~

~~3-4. The board may, in its discretion, enter reciprocal agreements with the examining boards of other states and nations, governing the granting of licenses to practice veterinary medicine and surgery in this state without the applicant taking a written examination. Under no circumstances, however, may any reciprocal agreement be entered with the board of another state or nation unless the requirements for the granting of licenses in the other state or nation are on an equal or higher standard to the requirements of this state. The board may prescribe by rule any other terms or conditions to be contained in the agreements. The board shall determine the fee for license by reciprocity agreement shall set the following by rule:~~

- ~~a. Application fee;~~
- ~~b. License fee;~~
- ~~c. Temporary license fee;~~
- ~~d. Renewal fee;~~
- ~~e. Late renewal fee; and~~
- ~~f. Continuing education fee.~~

SECTION 5. AMENDMENT. Section 43-29-04 of the North Dakota Century Code is amended and reenacted as follows:

43-29-04. Record of proceedings of board - Register of applicants kept by board - Records and register as evidence.

The ~~state board of veterinary medical examiners~~ shall keep a record of all its proceedings and a register of applicants for licenses showing the name of each applicant, the time spent by each applicant in the study and practice of veterinary medicine, ~~surgery, or dentistry or veterinary technology~~, and the name and location of the ~~school, college, or university program~~ which granted the applicant a degree or diploma. Such books and records are prima facie evidence of the matters recorded therein.

SECTION 6. AMENDMENT. Section 43-29-05 of the North Dakota Century Code is amended and reenacted as follows:

43-29-05. Compensation and expenses of members of board.

Members of the board may receive for each day ~~during which they~~ the members are ~~actually~~ engaged in the performance of the duties of their office ~~such~~ the per diem ~~as must be fixed by the board. They may also~~ The members also may be reimbursed for necessary travel expenses and meals and lodging expenses at the same rate and in the same manner as are elected officials and employees of the state.

~~The board may select one of its members to attend the annual meeting of the national organization of state examining boards. The member so selected may be reimbursed for necessary travel expenses and meals and lodging expenses at the same rate and in the same manner as are elected officials and employees of the state.~~

~~The board may incur no expense exceeding the sum received as fees, as hereinafter provided.~~

SECTION 7. AMENDMENT. Section 43-29-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-29-05.1. Executive ~~secretary~~director.

The board may employ an executive ~~secretary~~ director and ~~such other persons~~ individuals as it deems advisable necessary to carry out the purpose of this chapter at such salaries as it may determine.

~~Each biennium the executive secretary shall prepare the budget of the board for presentation to the executive office of the budget. The executive secretary shall also carry out all routine secretarial and other duties as directed by the board.~~

SECTION 8. AMENDMENT. Section 43-29-06 of the North Dakota Century Code is amended and reenacted as follows:

~~43-29-06. Graduation from recognized school and certificate or permit from board~~ License required.

~~Only a graduate of the veterinary course offered in a veterinary school, college, or university recognized by the board, and who possesses a certificate of registration~~ An individual must have a license or temporary license issued by the board which is in effect, may engage in the to practice of veterinary medicine or veterinary technology.

SECTION 9. AMENDMENT. Section 43-29-07 of the North Dakota Century Code is amended and reenacted as follows:

43-29-07. Application for license — ~~Change of address~~ — ~~Display of certificate of registration~~ Requirements for veterinarian licensure.

1. A person desiring

~~The board may grant a license to practice veterinary medicine in this state shall make written application to the board. The application must show the applicant is a graduate of an accredited college of veterinary medicine or the holder of a certificate. The application must also show the applicant is a person of good moral character and any other information and proof the board may require. The application must be accompanied by a fee in the amount established by the board. If the board determines an applicant possesses the proper qualifications, the board shall admit the applicant to the next examination. If the applicant is eligible for license without examination under section 43-29-07.2, the board may grant the applicant a license. If an applicant is found not qualified to take the examination or for a license without examination, the board shall immediately notify the applicant in writing of this finding and the grounds of this finding. An applicant found unqualified may request a hearing on the question of the applicant's qualifications.~~

2. Each veterinarian licensed by the board, whether a resident or not, shall notify the secretary of any change in that person's office address or employment within sixty days after the change has taken place. Any person licensed to practice veterinary medicine after the fifteenth day of April, or any person issued a temporary permit to practice veterinary medicine after that date, is exempt from this requirement to pay the annual registration fee until the first day of July of the year following licensure.

3. Registration is a condition precedent to the practice of veterinary medicine and surgery in this state, and a certificate of registration currently in effect must be on display at all times in the office of each veterinarian engaged in active practice to an applicant who:

- 1. Is a graduate of an approved college of veterinary medicine or has completed an equivalency program of veterinary medicine as established by the board by rule;**
- 2. Passes the national board examination and clinical competency test, or the North American veterinary licensing examination;**
- 3. Passes the state board examination;**
- 4. Has no grounds for license refusal under section 43-29-14; and**
- 5. Meets any additional requirements for licensure established by the board by rule.**

SECTION 10. AMENDMENT. Section 43-29-07.1 of the North Dakota Century Code is amended and reenacted as follows:

43-29-07.1. ~~Veterinary technicians~~ — ~~Examinations~~ Requirements for veterinary technician licensure.

1. An

The board may grant a license to practice veterinary technology to an applicant for licensure as a veterinary technician must have an examination date offered at least annually at a time, place, and date determined by the board at least ninety days before the scheduled examination.

- ~~2. An applicant for licensure as a veterinary technician must pass the veterinary technician national examination with a score approved by the board.~~
- ~~3. An applicant for licensure as a veterinary technician who has successfully passed the veterinary technician national examination shall request that the applicant's examination scores be forwarded to the board. An applicant is eligible for licensure upon meeting the licensure requirements set by the board who:~~
 1. Is a graduate of an approved program of veterinary technology or completed an equivalency program of veterinary technology as established by the board by rule;
 2. Passes the veterinary technician national examination;
 3. Passes the state board examination;
 4. Has no grounds for license refusal under section 43-29-14; and
 5. Meets any additional requirements for licensure established by the board by rule.

SECTION 11. AMENDMENT. Section 43-29-07.2 of the North Dakota Century Code is amended and reenacted as follows:

43-29-07.2. Examination — License without examination — Temporary permit license.

- ~~1. The board shall hold at least two examinations a year. The board shall adopt rules governing preparation, administration, and grading of examinations. Examinations must be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove competency to practice veterinary medicine in the judgment of the board. An examinee must be tested by written examination, supplemented by any oral interview and practical demonstration the board determines necessary. The board may adopt and use the examination prepared by the national board of veterinary medical examiners. After each examination, the board shall notify each examinee of the result of the examination, and the board shall issue a license to each person who passed the examination. The board shall record each new license and issue a certificate of registration to each new licensee. Any person failing an examination may be admitted to any subsequent examination on approval by the board and payment of the application fee.~~
- ~~2. The board may issue a license without a written examination to a qualified applicant who furnishes satisfactory proof of graduation from an accredited or approved college of veterinary medicine, or holds a certificate, and who:~~
 - ~~a. Has for the five years immediately before filing of the application been a practicing veterinarian licensed in a state having license requirements at the time the applicant was first licensed which were substantially equivalent to the requirements of this chapter;~~

- b. ~~Has within the three years immediately before filing the application successfully completed the examinations provided by the national board of veterinary medical examiners; or~~
 - e. ~~Currently holds a license to practice in at least one state, has active diplomat status in a specialty organization recognized by the American veterinary medical association, and whose practice is limited to the certified specialty in the state in which the specialist is licensed without examination.~~
3. The board may issue ~~without examination~~ a temporary ~~permit~~license to practice veterinary medicine in this state to:
- a. ~~A qualified applicant for license pending examination, if the temporary permit expires the day after the notice of results of the first examination given after the permit is issued. A temporary permit may not be issued to an applicant who previously has failed the examination in this or any other state or a foreign country.~~
 - b. ~~A nonresident veterinarian validly licensed in another state or a foreign country who pays the fee established and published by the board if the temporary permit is issued for a period of no more than sixty days and no more than one permit is issued to a person during each calendar year.~~
 - c. ~~A senior veterinary student who practices in the office of and under the direct supervision of a licensed veterinarian. A temporary student permit may not exceed six months from its date of issuance and is granted without payment of a fee.~~
 - d. ~~A graduate of a nonaccredited college of veterinary medicine, who has satisfactorily completed the fourth year of clinical study at an accredited or approved college of veterinary medicine, has successfully passed the examination provided by the national board of veterinary medical examiners, and is enrolled in the educational commission for foreign veterinary graduates program. The holder of a temporary permit issued under this subdivision must practice under the supervision of a licensed veterinarian. A temporary permit issued under this subdivision is valid until the holder obtains a certificate or for two years a qualified applicant who has met the requirements established by the board.~~

SECTION 12. AMENDMENT. Section 43-29-07.3 of the North Dakota Century Code is amended and reenacted as follows:

43-29-07.3. LicenseVeterinarian - License renewal - Continuing education requirements.

1. ~~All licenses expire~~A veterinarian license expires annually as of July first but may be renewed by registration with the board and payment of the registration renewal fee established by the board. On June first of each year, the board shall mail a notice to each licensed veterinarian that the licensee's license will expire as of July first and provide the licensee with a form for registration. The board shall issue a new certificate of registration to a person reregistering under this section. Any person who willfully or by neglect fails to renew a license and who practices veterinary medicine after the expiration of the license is practicing in violation of this chapter on June thirtieth.

2. A veterinarian license may be renewed by submission of the following to the board, no later than June thirtieth:
 - a. A complete renewal application;
 - b. Payment of the renewal fee established by the board; and
 - c. Proof of completion of board required continuing education.
3. An individual who neglects or willfully fails to renew a license and practices veterinary medicine after the expiration of the license, is practicing veterinary medicine in violation of this chapter.
- ~~2.4. Any qualified person~~An individual may renew an expired license within ~~two~~five years of the date of its expiration by ~~making written~~completing an application for renewal ~~and, paying the current renewal fee plus all delinquent renewal fees, and completing all required continuing education.~~ After ~~two~~five years have elapsed since the date of expiration, a license may not be renewed, but the holder may ~~make application~~apply for a new license ~~and take the license examination.~~ The board may by rule waive the payment of the registration renewal fee of a licensed veterinarian during the period when the veterinarian is on active duty with any branch of the armed services of the United States, ~~not to exceed the longer of three years or the duration of active duty.~~
- ~~3.5. The board may adopt rules establishing requirements for the continuing education of veterinarians and veterinary technicians. The board may refuse to renew or may suspend, revoke, or place on probationary status any license issued under this chapter upon proof the licensee~~veterinarian ~~has failed to meet the applicable continuing education requirements. Applicants for accreditation of continuing education courses, classes, or activities may be charged a reasonable fee determined by the board.~~

SECTION 13. AMENDMENT. Section 43-29-08.1 of the North Dakota Century Code is amended and reenacted as follows:

43-29-08.1. Veterinary technician - Renewal of license - Continuing education requirements.

- ~~1. A license issued to a veterinary technician under this chapter expires~~license expires annually on December thirty-first.
- ~~2. A veterinary technician shall submit renewal fees and current mailing address before license may be renewed by submission of the following to the board, no later than December thirty-first on an application form provided and mailed to the licenseholder by the board:~~
 - a. A complete renewal application;
 - b. Payment of a renewal fee established by the board; and
 - c. Proof of completion of board required continuing education.
- ~~3. A veterinary technician shall submit evidence of completion of required continuing education credits in the veterinary field during the calendar year in order to apply for a license renewal.~~An individual who neglects or willfully fails to renew a license and practices veterinary technology after the expiration of the license, is practicing veterinary technology in violation of this chapter.

4. ~~Failure to submit the appropriate renewal fee every year results in forfeiture of all rights and privileges under this chapter and the veterinary technician may not perform veterinary technician services unless the veterinary technician pays a delinquency fee in addition to the license within five years of the date of its expiration by completing an application for renewal, paying the current renewal fee plus all delinquent renewal fees, and completing all required continuing education. After five years have elapsed since the date of expiration, a license may not be renewed, but the holder may apply for a new license.~~ An individual may renew an expired license within five years of the date of its expiration by completing an application for renewal, paying the current renewal fee plus all delinquent renewal fees, and completing all required continuing education. After five years have elapsed since the date of expiration, a license may not be renewed, but the holder may apply for a new license.
5. The board may refuse to renew or may suspend, revoke, or place on probationary status any license issued under this chapter upon proof the veterinary technician has failed to meet the applicable continuing education requirements.

SECTION 14. AMENDMENT. Section 43-29-13 of the North Dakota Century Code is amended and reenacted as follows:

43-29-13. ~~Practices excepted from chapter~~ Exceptions to the practice of veterinary medicine.

1. The following ~~persons~~ individuals may not be considered to be engaging in the practice of veterinary medicine in this state:
 1. ~~Those~~ An individual who ~~administer to livestock~~ treats animals, the title to which rests ~~in-owned by~~ themselves, or in ~~their~~ the individual's regular employer, except ~~when their ownership of the animal was transferred or otherwise manipulated to avoid the requirements of this chapter, or those who perform gratuitous services.~~
 2. ~~Anyone~~ An individual who conducts experiments in scientific research in the development of methods, techniques, or treatment, directly or indirectly applicable to the problems of medicine, and who in connection with these activities uses animals.
 3. ~~Anyone who is a regular~~ A student enrolled in an ~~accredited or approved~~ college of veterinary medicine performing duties or actions assigned by an instructor or working under the direct supervision of a ~~licensed~~ veterinarian during a school vacation period.
 4. ~~Anyone licensed in another state or nation when~~ An individual engaged in this state in consultation with veterinarians legally practicing herein.
 5. ~~A senior student who is in an approved school of veterinary medicine and who obtains from the board a student permit to practice in the office and under the direct supervision of any veterinarian practicing within this state.~~
 6. ~~Any~~ An employee of the United States or this state while in the performance of duties as ~~employees~~ an employee.
 7. ~~Any~~ A merchant or manufacturer selling nonprescription medicine, feed, an appliance, or any other product ~~used for use as labeled~~ in the prevention or treatment of animal diseases.
 8. ~~Any veterinary technician or other~~ An employee of a ~~licensed~~ veterinarian performing duties under the direction ~~and/or~~ and supervision of the veterinarian responsible for the ~~technician's or other~~ employee's performance, except the following duties:

- (1) Performing surgery;
 - (2) Diagnosing;
 - (3) Prognosing; or
 - (4) Prescribing.
9. ~~h. Any member of the faculty of an accredited college of veterinary medicine performing regular functions or a person~~An individual lecturing or giving instructions or demonstrations within the individual's area of professional expertise at an accredited college of veterinary medicine or in connection with a continuing education course or seminar.
10. ~~i. Any person~~An individual selling or applying any pesticide, insecticide, or herbicide.
11. ~~j. Any~~An individual who is not a graduate of a foreign ~~an approved college of veterinary medicine who, and is in the process of obtaining a certificate and is enrolled in an equivalency program of veterinary medicine as approved by the board, performing duties or actions assigned by the ~~graduate's instructors~~an instructor in an accredited ~~approved~~ college of veterinary medicine.~~
12. ~~k. Any person~~An individual performing a direct embryo transfer procedure on a recipient cow. Except as provided in this subsection, ~~a person~~an individual performing a direct embryo transfer procedure on a recipient cow may not administer prescription drugs to the cow during, or as part of, the procedure. The owner of the recipient cow, however, may administer or cause the administration of prescription drugs to the recipient cow during, or as part of, the procedure ~~if a veterinarian-client-patient relationship exists~~as prescribed by a veterinarian.
- l. An individual who administers medication or treatment as prescribed by a veterinarian.
- m. An individual who performs gratuitous services for an animal in a life-threatening situation.
2. This section may not be construed to protect individuals from animal cruelty laws in this state.

SECTION 15. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Exceptions to practice of veterinary technology.

- 1. The following individuals may not be considered to be engaging in the practice of veterinary technology in this state:
 - a. An individual who treats an animal owned by the individual or the individual's regular employer, except if ownership of the animal was transferred or otherwise manipulated to avoid the requirements of this chapter.

- b. An individual who conducts experiments in scientific research in the development of methods, techniques, or treatment, directly or indirectly applicable to the problems of medicine, and who in connection with these activities uses animals.
 - c. A student enrolled in an approved program of veterinary technology performing duties or actions assigned by an instructor or working under the direct supervision of a veterinarian.
 - d. An employee of the United States or this state while in the performance of duties as employees.
 - e. An employee of a veterinarian performing duties under the direction or supervision of the veterinarian responsible for the employee's performance.
 - f. An individual lecturing or giving instructions or demonstrations within the individual's area of professional expertise in connection with a continuing education course or seminar.
 - g. An individual who is not a graduate of an approved program of veterinary technology, enrolled in an equivalency program of veterinary technology as approved by the board, performing duties or actions assigned by an instructor in an approved program of veterinary technology.
 - h. An individual who administers medication or treatment as prescribed by a veterinarian.
 - i. An individual who performs gratuitous services for an animal in a life-threatening situation.
2. This section may not be construed to protect individuals from animal cruelty laws in this state.

SECTION 16. AMENDMENT. Section 43-29-14 of the North Dakota Century Code is amended and reenacted as follows:

43-29-14. Refusal, suspension, and revocation of license ~~and certificate~~ - Reinstatement and relicense.

1. ~~The state board of veterinary medical examiners may refuse to issue a license or certificate of registration, temporary license, or may suspend or revoke a license and certificate of registration or temporary license, upon any of the following grounds:~~
 - a. ~~Fraud or deception in procuring the license, including conduct that violates the security or integrity of any licensing examination.~~
 - b. ~~The use of advertising or solicitation that is false, misleading, or otherwise determined unprofessional under rules adopted by the board.~~
 - c. ~~Habitual intemperance in the use of intoxicating liquors, or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs.~~ The determination that an individual is an impaired veterinarian as defined by section 43-29.01.1 or an impaired veterinary technician as defined by section 43-29-01.1.

- d. ~~Immoral, unprofessional, or dishonorable~~Unprofessional conduct manifestly disqualifying the licensee from practicing veterinary medicine ~~as defined by the rules adopted by the board, or violating the code of ethics adopted by the board by rule.~~
 - e. Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine or veterinary technology.
 - f. Employment of unlicensed ~~persons~~individuals to perform work that under this chapter can lawfully be done only by ~~persons~~individuals licensed to practice veterinary medicine or veterinary technology.
 - g. Fraud or dishonest conduct in applying or reporting diagnostic biological tests, inspecting foodstuffs, or in issuing ~~health certificates~~regulatory documents.
 - h. Failure ~~of the licensee~~ to keep the premises and equipment used ~~in the licensee's practice~~ in a reasonably clean and sanitary condition and failure to use reasonably sanitary methods in the practice of veterinary medicine or veterinary technology.
 - i. Violation of the rules adopted by the board.
 - j. Conviction of an offense determined by the board to have a direct bearing upon ~~a person's~~the ability of an individual to serve the public as a veterinarian or veterinary technician, or when the board determines, following conviction of any offense, that ~~a person~~an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
 - k. Willful or repeated violations of this chapter or any rule adopted by the board.
 - l. Failure to report, as required by law, or making false report of, any contagious or infectious disease.
 - m. Cruelty to animals as defined under chapter 36-21.2.
 - n. Revocation of a license to practice veterinary medicine or veterinary technology by another ~~state~~jurisdiction on grounds other than nonpayment of a ~~registration~~renewal fee.
 - o. The use, prescription, or dispensing of any veterinary prescription drug, or the prescription or extra-label use of any over-the-counter drug, in the absence of a valid veterinarian-client-patient relationship, except as provided by section 43-29-19.
2. ~~Any person~~An individual whose license has been revoked may apply to the board for reinstatement and relicensure one year after the date of revocation. The board may reissue a license if the board is satisfied the applicant is qualified to practice veterinary medicine or veterinary technology, meets the existing requirements for licensure, and will comply with the rules regarding the practice of veterinary medicine or veterinary technology.

SECTION 17. AMENDMENT. Section 43-29-15 of the North Dakota Century Code is amended and reenacted as follows:

43-29-15. Complaints - Investigations.

1. ~~Any person~~An individual may file a written complaint with the board setting forth the specific charges upon which the complaint is made. Upon receiving a complaint, the board shall notify the veterinarian or veterinary technician of the complaint and request a written response from the veterinarian or veterinary technician. The board may adopt rules establishing a peer review committee for the purpose of investigating complaints and providing recommendations to the board. A veterinarian or veterinary technician who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation and providing copies of records when reasonably requested by the board. Failure to cooperate in the investigative process may be grounds for disciplinary action against the veterinarian or veterinary technician.
2. To pursue the investigation, the board may ~~subpoena and examine witnesses and records, including medical records, copy, photograph, or take samples. The board may require the veterinarian to give statements under oath, to submit to a physical or psychological examination, or both, by a physician or other qualified evaluation professional selected by the board if it appears to be in the best interest of the public that this evaluation be secured. After review of the complaint, the veterinarian's response, and information obtained in the investigation, the board shall determine if there is a reasonable basis to believe the allegations are true and that the allegations constitute a violation of this chapter or the rules of the board. If the board determines there is a reasonable basis to believe the allegations are true and the allegations constitute a violation of this chapter or the rules of the board, the board shall take appropriate action. If a reasonable basis is not found by the board, the board shall notify the complaining party and the veterinarian in writing:~~
 - a. Subpoena and examine witnesses, records, medical records, copy, photograph, or take samples;
 - b. Require the veterinarian or veterinary technician to give statements under oath;
 - c. Require the veterinarian or veterinary technician to submit to a physical examination, chemical dependency evaluation, or psychological examination by a physician or other qualified evaluation professional selected by the board if there is reasonable cause to believe the veterinarian or veterinary technician is impaired as defined by section 43-29-01.1; and
 - d. Require the veterinarian or veterinary technician to enroll in a treatment or monitoring program approved by the board if the board determines in good faith enrollment would be beneficial to the veterinarian or veterinary technician or to protect the public.
3. After review of the complaint, the response from the veterinarian or veterinary technician, and information obtained in the investigation, the board shall determine if there is a reasonable basis to believe the allegations are true and if the allegations constitute a violation of this chapter or the rules of the board. If the board determines there is a reasonable basis to believe the allegations are true and the allegations constitute a violation of this chapter or the rules of the board, the board shall take appropriate action. If a reasonable basis is not found by the board, the board shall notify the complaining party and the veterinarian or veterinary technician in writing.

4. Unless the board proceeds with a disciplinary action, the complaint, the response, and any records received by the board during an investigation of a complaint under this section are exempt records, as defined in section 44-04-17.1.
5. A veterinarian or veterinary technician shall report in good faith any impaired veterinarian or impaired veterinary technician as defined by section 43-29-01.1.
6. The board may adopt rules as necessary to carry out this section.

SECTION 18. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Self-reporting and self-referral.

1. A veterinarian or veterinary technician may voluntarily self-report or self-refer to a treatment or monitoring program approved or contracted by the board to seek assistance for a potential or existing impairment due to a mental health or substance use disorder.
2. A veterinarian or veterinary technician who under this section voluntarily seeks assistance from a treatment or monitoring program in assessing or treating a potential or existing impairment will not be reported to the board solely on the basis of self-reporting or self-referral.
3. The identity of the veterinarian or veterinary technician and findings of the evaluation only may be reported to the board when:
 - a. A veterinarian or veterinary technician refuses to undergo an evaluation by the program;
 - b. The evaluation reveals evidence of an impairment that could affect the ability of the veterinarian or veterinary technician to practice, or constitutes a threat to the safety of a patient or the public; or
 - c. The veterinarian or veterinary technician refuses to cooperate with a treatment plan, monitoring and followup, or aftercare directed by the program, including a recommendation about continuing practice.
4. Participation in the program does not protect a veterinarian or veterinary technician from disciplinary action resulting from a complaint.
5. A veterinarian or veterinary technician who self-reports or self-refers to the board for a potential or existing impairment may be referred by the board to a treatment or monitoring program in a manner prescribed by the board by rule, and subsequent reporting by the program to the board is at the discretion of and in the manner prescribed by the board.
6. A veterinarian or veterinary technician who has completed a treatment or monitoring program and is in full compliance with all parts of the treatment or monitoring plan and aftercare, may answer in the negative to a question on an application to the board for licensure or licensure renewal regarding current impairment by the condition for which the veterinarian or veterinary technician completed treatment. However, any recurrence of the impairment or the existence of other potential impairments that are not currently known to the program must be reported on the application.

7. Notwithstanding section 44-04-18, except as otherwise provided in this chapter, all records related to participation in a treatment or monitoring program established under this section containing identifying information about a veterinarian or veterinary technician are confidential and only may be disclosed when:
 - a. Disclosure is reasonably necessary for the accomplishment of the purposes of intervention, rehabilitation, referral assistance, or supportive services;
 - b. Disclosure is required by law in a legal or administrative hearing or requested by the board for a formal disciplinary action;
 - c. Disclosure is necessary regarding a veterinarian's or veterinary technician's noncompliance with the program;
 - d. A staff member is handling records for administrative purposes as provided under this section; and
 - e. A person is participating in treatment or program monitoring, evaluations, or followup.
8. A person in attendance at any meeting of a treatment or monitoring program is not required to testify as to the content of any findings, committee discussions, or proceedings, unless requested by the board for a disciplinary proceeding or regarding noncompliance with the program.

SECTION 19. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Immunity from liability.

The following individuals are immune from liability in any civil or criminal proceeding brought against the individual for any action occurring while the individual was acting in good faith within the scope of the individual's respective capacity:

1. A member of the board;
2. A member of a peer review committee;
3. A witness testifying in a proceeding or hearing authorized under this chapter or administrative proceeding held under chapter 28-32;
4. A treating professional;
5. An individual who files a complaint pursuant to this Act; and
6. An individual reporting an impaired veterinarian or impaired veterinary technician as defined by section 43-29-01.1.

SECTION 20. AMENDMENT. Subsection 2 of section 43-29-16 of the North Dakota Century Code is amended and reenacted as follows:

2. In any order or decision issued by the board in which disciplinary action is imposed against a ~~licensee~~ veterinarian or veterinary technician, the board may direct the ~~licensee~~ veterinarian or veterinary technician to pay the board a

sum not to exceed the reasonable and actual costs, including attorney's fees, incurred by the board in the investigation and prosecution of the case. ~~When applicable, the licensee's license may be suspended until the costs are paid to the board.~~

SECTION 21. AMENDMENT. Section 43-29-16.1 of the North Dakota Century Code is amended and reenacted as follows:

43-29-16.1. Abandonment of animals by owner/client - Disposal of remains.

1. Any animal placed in the custody of a ~~licensed doctor of veterinary medicineveterinarian~~ for treatment, boarding, or other care, which is abandoned by ~~its owner or its owner's agentthe client~~ for a period of more than ten days after a written notice, by registered or certified letter, return receipt requested, is ~~givenmailed~~ to the ~~owner or its owner's agentclient~~ at the last-known address, may be turned over to the custody of the nearest humane society or ~~dog~~ pound in the area or disposed of as such custodian may deem proper.
2. The ~~giving~~service of notice to the ~~owner, or the agent of the ownerclient~~, of such animal by the ~~doctor of veterinary medicineveterinarian~~, as provided in subsection 1, shall relieve the ~~doctor of veterinary medicineveterinarian~~ and any custodian to whom such animal may be given of any further liability for disposal; ~~it is further provided that such.~~ Such procedure by the ~~licensed doctor of veterinary medicineveterinarian~~ does not constitute grounds for disciplinary procedure under this chapter.
3. For the purpose of this section, the term "abandoned" means to forsake entirely or to neglect or refuse to provide or perform the care and support of an animal by ~~its owner or its owner's agentthe client~~; such abandonment constitutes the relinquishment of all rights and claim by the owner of such animal.
4. Any animal remains that are left in the possession of a veterinarian and have not been claimed by the client for a period of more than ten days after a written notice, by registered or certified letter, return receipt requested, is mailed to the client at the last-known address, may be disposed of by the veterinarian as deemed proper.

SECTION 22. AMENDMENT. Section 43-29-17 of the North Dakota Century Code is amended and reenacted as follows:

43-29-17. Unlawful practice of veterinary medicine - Penalty - Civil remedy.

Any person who

1. An individual is guilty of a class B misdemeanor if the individual:
4. a. Practices veterinary medicine, ~~surgery, or dentistry~~ in this state without compliance with the provisions of this chapter;
2. b. Willfully and falsely claims or pretends to have or hold a ~~certificate of registrationlicense or temporary license~~ issued by the ~~state~~ board of ~~veterinary medical examiners~~; or

3. ~~c. Willfully and falsely, with intent to deceive the public, claims or pretends to be a graduate of, or to hold a degree or diploma showing the satisfactory completion of a course in veterinary science in a school, college, or university recognized from a program of veterinary medicine approved by the board;~~

is guilty of a class B misdemeanor.

2. In addition to the criminal penalty provided, the civil remedy of injunction is available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by ~~any person an individual~~, upon application and unanimous vote of all members of the ~~state board of veterinary medical examiners~~.

SECTION 23. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Unlawful practice of veterinary technology - Penalty - Civil remedy.

1. An individual is guilty of a class B misdemeanor if the individual:
- Practices veterinary technology in this state without compliance with the provisions of this chapter;
 - Willfully and falsely claims or pretends to have or hold a license issued by the board; or
 - Willfully and falsely, with intent to deceive the public, claims or pretends to be a graduate of, or to hold a degree or diploma from, a program of veterinary technology approved by the board.
2. In addition to the criminal penalty provided, the civil remedy of injunction is available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by an individual, upon application and unanimous vote of all members of the board.

SECTION 24. AMENDMENT. Subsection 2 of section 43-29-19 of the North Dakota Century Code is amended and reenacted as follows:

2. Other than a controlled substance, a ~~licensed~~ veterinarian may dispense a veterinary prescription drug without establishing a veterinarian-client-patient relationship if:
- The drug is prescribed by a ~~licensed~~ veterinarian or by a ~~veterinarian licensed in another jurisdiction~~ foreign practitioner who has established a veterinarian-client-patient relationship;
 - The prescribing veterinarian or foreign practitioner has an inadequate supply of the drug, failure to dispense the drug would interrupt a therapeutic regimen, or failure to dispense the drug would cause an animal to suffer; ~~and~~
 - The dispensing veterinarian verifies the prescription with the prescribing veterinarian or foreign practitioner; and

- d. The dispensing veterinarian is not presumptively aware of any disciplinary action against the prescribing veterinarian or foreign practitioner.

SECTION 25. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Veterinary telemedicine - Teleadvice and teletriage.

1. A veterinarian shall establish a veterinarian-client-patient relationship by virtue of a medically appropriate and timely in-person examination of a patient by the veterinarian, or by a timely in-person visit to the premises where the patient is managed or resides before the provision of veterinary telemedicine services.
2. The provision of teleadvice or teletriage by a veterinarian does not require the prior establishment of a veterinarian-client-patient relationship.
3. A veterinary technician may perform teleadvice and teletriage without instructions from a veterinarian.
4. The board may adopt rules as necessary to carry out this section.

SECTION 26. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Source of data.

The board shall be authorized to rely upon the expertise of and verified data gathered and stored by not-for-profit organizations that share in the public protection mission of the board including the American association of veterinary state boards to make determinations under this chapter and to promote uniformity and administrative efficiencies.

SECTION 27. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Location of the practice of veterinary medicine.

The provision of veterinary services to a patient in this state which fall within the standard of practice of veterinary medicine regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of veterinary medicine in this state and is subject to regulation by the board.

SECTION 28. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Indirect practice without a license for foreign practitioners.

A foreign practitioner may provide veterinary services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this chapter without obtaining a license from the board if the services are provided through telehealth and are a continuation of an existing veterinarian-client-patient relationship as established under this chapter.

SECTION 29. A new section to chapter 43-29 of the North Dakota Century Code is created and enacted as follows:

Recognized animal services - Exceptions.

1. The provision of a recognized animal service does not constitute the practice of veterinary medicine if provided by an individual who is not a veterinarian or veterinary technician and not otherwise excepted from the practice of veterinary medicine under section 43-29-13.
2. For purposes of this section, "recognized animal service" means:
 - a. Grooming;
 - b. Training or conditioning;
 - c. Horseshoeing or farrier work;
 - d. Massage therapy or acupressure;
 - e. Microchip implantation; and
 - f. An accepted livestock management practice.
3. This section does not permit an individual who is not a veterinarian to diagnose, prescribe, or perform surgical procedures, other than surgical procedures considered to be an accepted livestock management practice.
4. The exceptions provided under this section do not extend to any other animal services.

SECTION 30. REPEAL. Sections 43-29-09, 43-29-10, 43-29-11, and 43-29-12.1 of the North Dakota Century Code are repealed.

Approved April 29, 2025

Filed April 30, 2025

CHAPTER 398

HOUSE BILL NO. 1045

(Industry, Business and Labor Committee)
(At the request of the Private Investigative and Security Board)

AN ACT to create and enact two new subsections to section 43-30-16 of the North Dakota Century Code, relating to application fees for a non-live remote or online classroom instruction course for apprentice security officers and renewal and late fees for all nonlicensed officers and owners of at least a ten percent interest in a private security or detective agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁹ **SECTION 1.** Two new subsections to section 43-30-16 of the North Dakota Century Code are created and enacted as follows:

The application fee for a non-live remote or online classroom instruction course for apprentice security officers may not exceed sixty dollars.

The fee for the renewal of all nonlicensed officers and owners of at least a ten percent interest in a private security or detective agency may not exceed sixty dollars. A late fee not to exceed twenty dollars may be charged for each month the renewal fee is due and unpaid.

Approved March 14, 2025

Filed March 14, 2025

¹⁶⁹ Section 43-30-16 was also amended by section 1 of Senate Bill No. 2051, chapter 399.

CHAPTER 399

SENATE BILL NO. 2051

(Industry and Business Committee)

(At the request of the Private Investigative and Security Board)

AN ACT to amend and reenact section 43-30-16 of the North Dakota Century Code, relating to fees charged by the North Dakota private investigative and security board; to provide for a performance audit of the North Dakota private investigative and security board; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁰ **SECTION 1. AMENDMENT.** Section 43-30-16 of the North Dakota Century Code is amended and reenacted as follows:

43-30-16. Examination, license, and registration fees.

The board may ~~establish by rule and~~ charge the following fees:

1. The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a license as a private investigator or a license to provide private security services ~~may not exceed one hundred~~ is one hundred fifty dollars.
2. The fee to be paid by an applicant for the initial issuance or the renewal of a license as a private investigator or a license to provide private security services ~~may not exceed one hundred fifty~~ is two hundred twenty-five dollars. A late fee ~~not to exceed fifty~~ of seventy-five dollars may be charged for each month the renewal fee is due and unpaid.
3. The fee to be paid by an applicant to apply for a license to conduct a private security or detective agency ~~may not exceed one hundred~~ is one hundred fifty dollars.
4. The fee for the issuance or the renewal of a license to conduct a private security or detective agency ~~may not exceed three hundred~~ is four hundred fifty dollars. A late fee ~~not to exceed one hundred~~ of one hundred fifty dollars may be charged for each month the renewal fee is due and unpaid.
5. The ~~one-time initial~~ fee to be paid by an applicant for the issuance of a private security training certificate ~~may not exceed twenty-five~~ is forty dollars. The fee for the renewal of a private security training certificate is forty dollars. A late fee of fifteen dollars may be charged for each month the renewal fee is due and unpaid.
6. The annual fee to be paid by an applicant for the issuance of an armed certificate ~~may not exceed thirty~~ is forty-five dollars. A late fee ~~not to exceed ten of fifteen~~ of fifteen dollars may be charged for each month the renewal fee is due and unpaid.

¹⁷⁰ Section 43-30-16 was also amended by section 1 of House Bill No. 1045, chapter 398.

7. The fee to be paid for the issuance of a duplicate license ~~may not exceed twenty~~is thirty dollars.
8. The initial registration fee to provide private investigative service or private security service ~~may not exceed thirty~~is forty-five dollars. The fee for the renewal of a registration to provide private investigative service or private security service ~~may not exceed thirty~~is forty-five dollars. A late fee ~~not to exceed ten of fifteen~~ dollars may be charged for each month the renewal fee is due and unpaid.
9. The initial application fee for a certified course instructor for an armed first responder training certification ~~may not exceed four hundred~~is six hundred dollars. A fee for renewal of a course instructor certification for an armed first responder program ~~may not exceed three hundred~~is four hundred fifty dollars.

SECTION 2. PERFORMANCE AUDIT - NORTH DAKOTA PRIVATE INVESTIGATIVE AND SECURITY BOARD. The state auditor shall conduct a performance audit of the North Dakota private investigative and security board, in accordance with chapter 54-10, during the biennium beginning July 1, 2025, and ending June 30, 2027. The performance audit must be in addition to the requirements under section 54-10-27.

SECTION 3. EMERGENCY. Section 1 of this Act is declared to be an emergency measure.

Approved April 21, 2025

Filed April 22, 2025

CHAPTER 400

SENATE BILL NO. 2058

(Workforce Development Committee)
(At the request of the Department of Water Resources)

AN ACT to amend and reenact subsection 5 of section 43-35-13, section 43-35-14, subsection 1 of section 43-35-17, and sections 43-35-21 and 43-35-23 of the North Dakota Century Code, relating to the operations of the board of water well contractors; and to repeal section 43-35-16 of the North Dakota Century Code, relating to the operations of the board of water well contractors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷¹ **SECTION 1. AMENDMENT.** Subsection 5 of section 43-35-13 of the North Dakota Century Code is amended and reenacted as follows:

5. A person applying to take a certification examination shall pay to the board treasurer a nonrefundable examination fee in the an amount of one hundred dollars set by the board by rule. If upon examination the applicant is found to be qualified as a water well contractor, a water well pump and pitless unit installer, a monitoring well contractor, or a geothermal system driller, the board shall issue to that person an appropriate certificate upon the applicant's executing and filing with the board a bond as required in this chapter. The board may offer a combined examination for certification of a person as a water well contractor and a water well pump and pitless unit installer and may issue a single certificate for successful completion of the combined examination. Certificates issued under this chapter are not transferable.

¹⁷² **SECTION 2. AMENDMENT.** Section 43-35-14 of the North Dakota Century Code is amended and reenacted as follows:

43-35-14. Bond required.

Before receiving a certificate under this chapter, a qualified applicant shall execute and deposit with the board a surety bond conditioned for the faithful performance of all water well, monitoring well, pump and pitless unit, or geothermal system installation contracts undertaken by the applicant and the strict compliance with this chapter. The required amount of a surety bond is fifteen thousand dollars for a water well contractor and is two thousand dollars for a monitoring well, pump and pitless unit, or geothermal system installation contractor must be set by the board by rule.

¹⁷¹ Section 43-35-13 was repelaed by section 39 of Senate Bill No. 2308, chapter 479.

¹⁷² Section 43-35-14 was repelaed by section 39 of Senate Bill No. 2308, chapter 479.

¹⁷³ **SECTION 3. AMENDMENT.** Subsection 1 of section 43-35-17 of the North Dakota Century Code is amended and reenacted as follows:

1. A certificate issued under this chapter is valid for up to one year and expires on the thirty-first day of December in the year of issuance. To renew a certificate, a certificate holder shall submit to the board a completed renewal application. The completed renewal application must be:
 - a. Submitted to the board before April first in the year following the certificate's expiration;
 - b. Accompanied by a fee in an amount set by the board ~~not to exceed two hundred dollars by rule;~~
 - c. Accompanied by any continuing education reporting information as required under this section by the board by rule; and
 - d. Accompanied by a bond as provided ~~in section 43-35-14 by the board by rule.~~

¹⁷⁴ **SECTION 4. AMENDMENT.** Section 43-35-21 of the North Dakota Century Code is amended and reenacted as follows:

43-35-21. Certification to nonresidents - Reciprocity.

To the extent other states providing for the certification of water well contractors, monitoring well contractors, water well pump and pitless unit installers, or geothermal system drillers provide for similar action, the board may grant certification to water well contractors, monitoring well contractors, water well pump and pitless unit installers, and geothermal system drillers certified by other states, upon payment by the applicant of the required fee and the furnishing of a bond as ~~provided by section 43-35-14 set by the board by rule,~~ after being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of such certificates in this state.

¹⁷⁵ **SECTION 5. AMENDMENT.** Section 43-35-23 of the North Dakota Century Code is amended and reenacted as follows:

43-35-23. Continuing education - Preapproval requirements.

1. ~~As provided under section 43-35-17, each~~Each certificate holder shall earn board-approved continuing education during every two-year reporting cycle to qualify for certificate renewal, except a new certificate holder is not required to earn continuing education until the second renewal year following initial certification. The board shall establish by rule an approval process for continuing education courses.
2. ~~Continuing education coursework may be provided by the national ground water association, the North Dakota well drillers association, incorporated, a board-sponsored workshop, the department of environmental quality, the state water commission, or by any board-approved course provider.~~

¹⁷³ Section 43-35-17 was repelaed by section 39 of Senate Bill No. 2308, chapter 479.

¹⁷⁴ (400) Section 43-35-21 was repelaed by section 39 of Senate Bill No. 2308, chapter 479.

¹⁷⁵ Section 43-35-23 was repelaed by section 39 of Senate Bill No. 2308, chapter 479.

- ~~3. A continuing education course must be preapproved by the board unless otherwise provided under this section. A continuing education course provider or a certificate holder shall request preapproval of continuing education coursework by submitting to the board a course outline, the instructor's name, the length of the training, and an explanation of how the training relates to the construction and service of water wells.~~
- ~~4. A certificate holder may request approval of education that was not preapproved by submitting to the board verification of attendance, a course outline, and an explanation of why preapproval was not obtained. The board shall determine on a case by case basis whether to approve education that was not preapproved.~~

¹⁷⁶ **SECTION 6. REPEAL.** Section 43-35-16 of the North Dakota Century Code is repealed.

Approved April 21, 2025

Filed April 22, 2025

¹⁷⁶ Section 43-35-16 was also repealed by section 39 of Senate Bill No. 2308, chapter 479.

CHAPTER 401

HOUSE BILL NO. 1049

(Human Services Committee)

(At the request of the Board of Examiners on Audiology and Speech-Language Pathology)

AN ACT to amend and reenact subsection 2 of section 43-37-02 and sections 43-37-04 and 43-37-13 of the North Dakota Century Code, relating to licensure requirements of a speech-language pathology licensed assistant, temporary licensure, and investigation of an alleged violation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 43-37-02 of the North Dakota Century Code is amended and reenacted as follows:

2. "Audiology" means the application of principles, methods, and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, or rehabilitation related to hearing and disorders of hearing including vestibular testing, for the purpose of evaluating, identifying, managing, preventing, ameliorating, or modifying such disorders and conditions in individuals or groups of individuals.

SECTION 2. AMENDMENT. Section 43-37-04 of the North Dakota Century Code is amended and reenacted as follows:

43-37-04. Eligibility for licensure.

To be eligible for licensure by the board as an audiologist, speech-language pathologist, or speech-language pathology assistant, an applicant shall meet all the following requirements:

1. ~~Be of good moral character.~~
2. Possess an appropriate degree from an educational institution recognized by the board.
 - a. An applicant for a speech-language pathologist license must possess at least a master's degree in speech-language pathology.
 - b. An applicant for an audiologist license must possess at least a doctorate degree in audiology.
 - c. An applicant for a speech-language pathology assistant license must possess ~~at least one hundred hours of supervised clinical experience or fieldwork and:~~
 - (1) A certificate of completion for speech-language pathology paraprofessionals issued by the superintendent of public instruction prior to August 1, 2026;

(2) A bachelor's degree in speech-language pathology or communication disorders; or

(3) A two-year degree in speech-language pathology assistants program or a bachelor's degree in another field with coursework in the following areas:

(a) Introduction to communication disorders;

(b) Phonetics;

(c) Speech sound disorders;

(d) Language development;

(e) Language disorders; and

(f) Anatomy and physiology of speech and hearing mechanisms.

d. An applicant for a temporary license must show proof of active licensure within the past five years in the state or another jurisdiction. Limitations on temporary licensure length and qualifications to obtain full licensure must be prescribed by rules of the board.

3-2. Submit evidence showing qualifications prescribed by rules of the board.

4-3. Within one year of application an applicant for licensure as a speech-language pathologist, speech-language pathology assistant, or audiologist must pass any applicable examination prescribed by rules adopted by the board.

5-4. Pay the prescribed fee.

SECTION 3. AMENDMENT. Section 43-37-13 of the North Dakota Century Code is amended and reenacted as follows:

43-37-13. Disciplinary actions.

1. The board may refuse to issue or renew a license, suspend or revoke a license, or take other disciplinary action against a licensee if the licensee or applicant for license engaged in unprofessional conduct. Unprofessional conduct includes:
 - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
 - b. Engaging in unprofessional conduct, as defined by the rules adopted by the board, or violating the code of ethics adopted by the board by rule.
 - c. Being convicted of an offense if the acts for which that individual is convicted are determined by the board to have a direct bearing on that applicant's or licensee's ability to serve the public in the capacity of a speech-language pathologist, speech-language pathology assistant, or audiologist; or the board determines that applicant or licensee, following conviction of any other offense, is not sufficiently rehabilitated under section 12.1-33-02.1.

- d. Violating an order or rule adopted by the board.
 - e. Violating this chapter.
 - f. Receiving remuneration of any kind from the sale of any type of hearing aid, unless licensed under chapter 43-33.
2. When conducting an investigation of an alleged violation of this chapter, the board may subpoena and examine records, including client or patient records, and may copy, photograph, or take samples of the records. The board may require a licensee to give statements under oath, submit to a physical or psychological examination, or both if the board reasonably believes an examination is in the best interests of the public. The client and patient records released to the board are not public records.
3. One year from the date of revocation of a license, the licensee may make application to the board for reinstatement. The board may accept or reject an application for reinstatement or may require an examination for reinstatement.

Approved April 28, 2025

Filed April 28, 2025

CHAPTER 402

SENATE BILL NO. 2146

(Senators Roers, Barta)
(Representatives Frelich, Holle, M. Ruby, O'Brien)

AN ACT to create and enact chapter 43-40.1 of the North Dakota Century Code, relating to the occupational therapy licensure compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 43-40.1 of the North Dakota Century Code is created and enacted as follows:

43-40.1-01. Purpose.

1. The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient is located at the time of the patient encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
2. This compact is designed to:
 - a. Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;
 - b. Enhance the states' ability to protect the public's health and safety;
 - c. Encourage the cooperation of member states in regulating multistate occupational therapy practice;
 - d. Support spouses of relocating military members;
 - e. Enhance the exchange of licensure, investigative, and disciplinary information between member states;
 - f. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and
 - g. Facilitate the use of telehealth technology to increase access to occupational therapy services.

43-40.1-02. Definitions.

As used in this compact:

1. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders under 10 U.S.C. chapter 1209 and 10 U.S.C. chapter 1211.

2. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's license or compact privilege, including censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.
3. "Alternative program" means a nondisciplinary monitoring process approved by an occupational therapy licensing board.
4. "Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient is located at the time of the patient encounter.
5. "Continuing education" means a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, educational and professional activities relevant to practice or area of work.
6. "Current significant investigative information" means investigative information a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.
7. "Data system" means a repository of information about licensees, including license status, investigative information, compact privileges, and adverse actions.
8. "Encumbered license" means a license in which an adverse action restricts the practice of occupational therapy by the licensee or the adverse action has been reported to the national practitioner data bank.
9. "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.
10. "Home state" means the member state that is the licensee's primary state of residence.
11. "Impaired practitioner" means an individual whose professional practice is adversely affected by substance abuse, addiction, or other health-related condition.
12. "Investigative information" means information, records, or documents received or generated by an occupational therapy licensing board pursuant to an investigation.
13. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state.

14. "Licensee" means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant.
15. "Member state" means a state that has enacted this compact.
16. "Occupational therapist" means an individual who is licensed by a state to practice occupational therapy.
17. "Occupational therapy", "occupational therapy practice", and the "practice of occupational therapy" mean the care and services provided by an occupational therapist or an occupational therapy assistant as provided under the member state's statutes and regulations.
18. "Occupational therapy assistant" means an individual who is licensed by a state to assist in the practice of occupational therapy.
19. "Occupational therapy compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted this compact.
20. "Occupational therapy licensing board" or "licensing board" means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants.
21. "Primary state of residence" means the state in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by a driver's license, federal income tax return, lease, deed, mortgage, or voter registration, or other verifying documentation as provided under commission rules.
22. "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.
23. "Rule" means a regulation adopted by the commission which has the force of law.
24. "Single-state license" means an occupational therapist or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a compact privilege in any other member state.
25. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of occupational therapy.
26. "Telehealth" means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention, or consultation.

43-40.1-03. State participation in the compact.

1. To participate in the compact, a member state shall:
 - a. License occupational therapists and occupational therapy assistants;
 - b. Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules of the commission;

- c. Have a mechanism in place for receiving and investigating complaints about licensees;
 - d. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;
 - e. Implement or use procedures for considering the criminal history records of applicants for an initial compact privilege. The procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.
 - (1) A member state shall, within a time frame established by the commission, require a criminal background check for a licensee applying for a compact privilege whose primary state of residence is that member state, by receiving the results of the federal bureau of investigation criminal record search, and shall use the results in making licensure decisions.
 - (2) Communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact may not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;
 - f. Comply with the rules of the commission;
 - g. Use only a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and
 - h. Have continuing education requirements as a condition for license renewal.
- 2. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.
 - 3. Member states may charge a fee for granting a compact privilege.
 - 4. A member state shall provide for the state's delegate to attend all occupational therapy compact commission meetings.
 - 5. An individual not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. The single-state license granted to the individual may not be recognized as granting the compact privilege in any other member state.
 - 6. This compact does not affect the requirements established by a member state for the issuance of a single-state license.

43-40.1-04. Compact privilege.

- 1. To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

- a. Hold a license in the home state;
 - b. Have a valid United States social security number or national practitioner identification number;
 - c. Have no encumbrance on any state license;
 - d. Be eligible for a compact privilege in any member state in accordance with subsections 4, 6, 7, and 8;
 - e. Have paid all fines and completed all requirements resulting from any adverse action against any license or compact privilege, and two years have elapsed from the date of completing the requirements;
 - f. Notify the commission that the licensee is seeking the compact privilege within a remote state;
 - g. Pay any applicable fee, including any state fee, for the compact privilege;
 - h. Complete a criminal background check in accordance with subdivision e of subsection 1 of section 43-40.1-03. The licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check;
 - i. Meet any jurisprudence requirement established by the remote state in which the licensee is seeking a compact privilege; and
 - j. Report adverse action taken by any nonmember state to the commission within thirty days from the date the adverse action is taken.
2. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection 1 to maintain the compact privilege in the remote state.
 3. A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.
 4. Occupational therapy assistants practicing in a remote state must be supervised by an occupational therapist licensed or holding a compact privilege in that remote state.
 5. A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of the remote state's citizens. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.
 6. If a home state license is encumbered, the licensee loses the compact privilege in any remote state until:
 - a. The home state license is no longer encumbered; and

- b. Two years have elapsed from the date on which the home state license is no longer encumbered in accordance with subdivision a.
- 7. If an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection 1 to obtain a compact privilege in any remote state.
- 8. If a licensee's compact privilege in any remote state is removed, the licensee may lose the compact privilege in any other remote state until:
 - a. The specific period of time for which the compact privilege was removed has ended;
 - b. All fines have been paid and all conditions have been met;
 - c. Two years have elapsed from the date of completing the requirements under subdivisions a and b; and
 - d. The compact privileges are reinstated by the commission, and the compact data system is updated to reflect reinstatement.
- 9. If a licensee's compact privilege in any remote state is removed due to an erroneous charge, privileges must be restored through the compact data system.
- 10. If the requirements of subsection 8 have been met, the licensee must meet the requirements in subsection 1 to obtain a compact privilege in a remote state.

43-40.1-05. Obtaining a new home state license by virtue of compact privilege.

- 1. An occupational therapist or occupational therapy assistant may hold a home state license, which allows for compact privileges in member states, in only one member state at a time.
- 2. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two member states:
 - a. The occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a compact privilege, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the commission.
 - b. Upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in section 43-40.1-04 through the data system, without need for primary source verification except for:
 - (1) A federal bureau of investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

- (2) Any other criminal background check as required by the new home state; and
- (3) Submission of any requisite jurisprudence requirements of the new home state.
- c. The former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.
- d. Notwithstanding any other provision of this compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in section 43-40.1-04, the new home state shall apply its requirements for issuing a new single-state license.
- e. The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.
- 3. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria applies for issuance of a single-state license in the new state.
- 4. Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states. For the purposes of this compact, a licensee only may have one home state license.
- 5. This compact does not affect the requirements established by a member state for the issuance of a single-state license.

43-40.1-06. Active duty military personnel or their spouses.

Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual only shall change their home state through application for licensure in the new state or through the process described in section 43-40.1-05.

43-40.1-07. Adverse actions.

- 1. A home state has exclusive power to impose adverse action against an occupational therapist's or occupational therapy assistant's license issued by the home state.
- 2. In addition to the other powers conferred by state law, a remote state may:
 - a. Take adverse action against an occupational therapist's or occupational therapy assistant's compact privilege within that member state.
 - b. Issue a subpoena for hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. A subpoena issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence

- from another member state must be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before the court. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.
3. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.
 4. The home state shall complete any pending investigation of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigation. The home state, where the investigation was initiated may take appropriate action and shall promptly report the conclusion of the investigation to the occupational therapy compact commission data system. The occupational therapy compact commission data system administrator shall promptly notify the new home state of any adverse action.
 5. A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the cost of an investigation and disposition of a case resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.
 6. A member state may take adverse action based on the factual findings of the remote state, provided the member state follows its own procedures for taking the adverse action.
 7. Joint investigations:
 - a. In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees.
 - b. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.
 8. If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's compact privilege in all other member states must be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license must include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.
 9. If a member state takes adverse action, the member state shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse action by a remote state.

10. This compact does not override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

43-40.1-08. Establishment of the occupational therapy compact commission.

1. The compact member states hereby create and establish a joint public agency known as the occupational therapy compact commission.
 - a. The commission is an instrumentality of the compact states.
 - b. Venue is proper and judicial proceedings by or against the commission must be brought exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent the commission adopts or consents to participate in alternative dispute resolution proceedings.
 - c. This compact may not be construed to be a waiver of sovereign immunity.
2. Membership, voting, and meetings.
 - a. Each member state has and is limited to one delegate selected by that member state's licensing board.
 - b. The delegate must be:
 - (1) A current member of the licensing board, who is an occupational therapist, occupational therapy assistant, or public member; or
 - (2) An administrator of the licensing board.
 - c. A delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.
 - d. The member state board shall fill any vacancy occurring in the commission within ninety days.
 - e. Each delegate is entitled to one vote with regard to the adoption of rules and creation of bylaws and must have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by any other means provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.
 - f. The commission shall meet at least once during each calendar year. Additional meetings must be held as provided in the bylaws.
 - g. The commission shall establish by rule a term of office for delegates.
3. The commission has the power and duty to:
 - a. Establish a code of ethics for the commission.
 - b. Establish the fiscal year of the commission.
 - c. Establish bylaws.

- d. Maintain financial records in accordance with the bylaws.
 - e. Meet and take actions consistent with the provisions of this compact and the bylaws.
 - f. Adopt uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all member states.
 - g. Bring and prosecute legal proceedings or actions in the name of the commission, provided the standing of any state occupational therapy licensing board to sue or be sued under applicable law is not affected.
 - h. Purchase and maintain insurance and bonds.
 - i. Borrow, accept, or contract for services of personnel, including employees of a member state.
 - j. Hire employees, elect or appoint officers, fix compensation, define duties, grant the individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.
 - k. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, use and dispose of the same; provided that at all times the commission avoids any appearance of impropriety and conflict of interest.
 - l. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property; real, personal, or mixed; provided the commission avoids any appearance of impropriety.
 - m. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property; real, personal, or mixed.
 - n. Establish a budget and make expenditures.
 - o. Borrow money.
 - p. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and other interested persons as designated in this compact and the bylaws.
 - q. Provide and receive information from, and cooperate with, law enforcement agencies.
 - r. Establish and elect an executive committee.
 - s. Perform other functions as necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of occupational therapy licensure and practice.
4. The executive committee.

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- a. The executive committee has the power to act on behalf of the commission according to the terms of this compact.
 - b. The executive committee is composed of nine members:
 - (1) Seven voting members who are elected by the commission from the current membership of the commission;
 - (2) One ex-officio, nonvoting member from a recognized national occupational therapy professional association; and
 - (3) One ex-officio, nonvoting member from a recognized national occupational therapy certification organization.
 - c. The ex-officio members will be selected by their respective organizations.
 - d. The commission may remove any member of the executive committee as provided in bylaws.
 - e. The executive committee shall:
 - (1) Meet at least annually;
 - (2) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states including, annual dues, and any commission compact fee charged to licensees for the compact privilege;
 - (3) Ensure compact administration services are appropriately provided, contractual or otherwise;
 - (4) Prepare and recommend the budget;
 - (5) Maintain financial records on behalf of the commission;
 - (6) Monitor compact compliance of member states and provide compliance reports to the commission;
 - (7) Establish additional committees as necessary; and
 - (8) Perform other duties as provided in rules or bylaws.
5. Meetings of the commission.
- a. All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in section 43-40.1-10.
 - b. The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:
 - (1) Noncompliance of a member state with its obligations under the compact;

- (2) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;
 - (3) Current, threatened, or reasonably anticipated litigation;
 - (4) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 - (5) Accusing any individual of a crime or formally censuring any individual;
 - (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - (7) Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (8) Disclosure of investigative records compiled for law enforcement purposes;
 - (9) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or
 - (10) Matters specifically exempted from disclosure by federal or member state statute.
 - c. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.
 - d. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for taking the actions, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.
6. Financing of the commission.
- a. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
 - b. The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.
 - c. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the commission each year for which revenue is not provided by other sources.

The aggregate annual assessment amount must be allocated based on a formula determined by the commission, which shall adopt a rule binding on all member states.

- d. The commission may not incur obligations before securing adequate funds to meet the obligations or pledge the credit of any of the member states, except by and with the authority of the member state.
- e. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

7. Qualified immunity, defense, and indemnification.

- a. The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities. This subdivision may not be construed to protect any such individual from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that individual.
- b. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities. This subdivision may not be construed to prohibit that individual from retaining counsel or that the actual or alleged act, error, or omission did not result from that individual's intentional, willful, or wanton misconduct.
- c. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that individual arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the individual had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that individual.

43-40.1-09. Data system.

- 1. The commission shall provide for the development, maintenance, and use of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

2. A member state shall submit a uniform data set to the data system on all individuals to whom this compact applies, as required by the rules of the commission using a unique identifier that includes:
 - a. Identifying information;
 - b. Licensure data;
 - c. Adverse actions against a license or compact privilege;
 - d. Nonconfidential information related to alternative program participation;
 - e. Any denial of application for licensure, and the reason for the denial;
 - f. Other information that may facilitate the administration of this compact, as determined by the rules of the commission; and
 - g. Current significant investigative information.
3. Current significant investigative information and other investigative information pertaining to a licensee in any member state only will be available to other member states.
4. The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.
5. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.
6. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information must be removed from the data system.

43-40.1-10. Rulemaking.

1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment.
2. The commission shall adopt rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, if the commission exercises its rulemaking authority in a manner beyond the scope of the purposes of the compact, or the powers granted under the compact, then the action by the commission is invalid and has no force and effect.
3. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, the rule has no further force and effect in any member state.
4. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

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5. Before adoption of a final rule by the commission, and at least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:
 - a. On the website of the commission or other publicly accessible platform; and
 - b. On the website of each member state occupational therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.
 6. The notice of proposed rulemaking must include:
 - a. The proposed time, date, and location of the meeting in which the rule will be considered and voted on;
 - b. The text of the proposed rule or amendment and the reason for the proposed rule;
 - c. A request for comments on the proposed rule from any interested person; and
 - d. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.
 7. Before adoption of a proposed rule, the commission shall allow an individual to submit written data, facts, opinions, and arguments, which must be made available to the public.
 8. The commission shall grant an opportunity for a public hearing before the commission adopts a rule or amendment if a hearing is requested by:
 - a. At least twenty-five individuals;
 - b. A state or federal governmental subdivision or agency; or
 - c. An association or organization having at least twenty-five members.
 9. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held through electronic means, the commission shall publish the mechanism for access to the electronic hearing.
 - a. Any individual wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.
 - b. Hearings must be conducted in a manner providing an individual who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
 - c. All hearings must be recorded. A copy of the recording must be made available on request.

- d. This section may not be construed to require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.
- 10. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.
- 11. If written notice of intent to attend the public hearing by interested parties is not received, the commission may proceed with adoption of the proposed rule without a public hearing.
- 12. The commission shall, by majority vote of all members, take final action on the proposed rule and determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- 13. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided the usual rulemaking procedures provided in the compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
 - a. Meet an imminent threat to public health, safety, or welfare;
 - b. Prevent a loss of commission or member state funds;
 - c. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
 - d. Protect public health and safety.
- 14. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision is subject to challenge by any individual for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission before the end of the notice period. If a challenge is not made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

43-40.1-11. Oversight, dispute resolution, and enforcement.

- 1. Oversight.
 - a. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules adopted hereunder have standing as statutory law.

- b. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
 - c. The commission is entitled to receive service of process in any such proceeding, and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. Default, technical assistance, and termination.
- a. If the commission determines a member state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall:
 - (1) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the commission; and
 - (2) Provide remedial training and specific technical assistance regarding the default.
 - b. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
 - c. Termination of membership in the compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
 - d. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
 - e. The commission may not incur any costs related to a state that is found to be in default or has been terminated from the compact, unless agreed on in writing between the commission and the defaulting state.
 - f. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member must be awarded all costs of litigation, including reasonable attorney's fees.
3. Dispute resolution.

- a. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.
 - b. The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
4. Enforcement.
- a. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
 - b. By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia, or the federal district where the commission has its principal offices, against a member state in default to enforce compliance with the provisions of the compact and its rules and bylaws. The relief sought may include injunctive relief and damages. If judicial enforcement is necessary, the prevailing member must be awarded all costs of litigation, including reasonable attorney's fees.
 - c. The remedies herein are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

43-40.1-12. Date of implementation of the interstate compact for occupational therapy practice and associated rules, withdrawal, and amendment.

1. The compact becomes effective on the date the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, are limited to the powers granted to the commission relating to assembly and the adoption of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.
2. Any state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.
3. Any member state may withdraw from this compact by enacting a statute repealing the compact.
 - a. A member state's withdrawal may not take effect until six months after enactment of the repealing statute.
 - b. Withdrawal may not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this compact before the effective date of withdrawal.
4. The compact may not be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state which does not conflict with the provisions of this compact.

5. This compact may be amended by the member states. An amendment to this compact may not become effective and binding on any member state until the amendment is enacted into the laws of all member states.

43-40.1-13. Construction and severability.

This compact must be liberally construed to effectuate the purposes of the compact. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, individual, or circumstance are not affected thereby. If this compact is held contrary to the constitution of any member state, the compact remains in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

43-40.1-14. Binding effect of compact and other laws.

1. A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.
2. This compact does not prevent the enforcement of any other law of a member state which is not inconsistent with the compact.
3. A law in a member state in conflict with the compact is superseded to the extent of the conflict.
4. Any lawful actions of the commission, including all rules and bylaws adopted by the commission, are binding on the member states.
5. All agreements between the commission and the member states are binding in accordance with the terms of the agreement.
6. If a provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 403

HOUSE BILL NO. 1035

(Legislative Management)
(Workforce Committee)

AN ACT to create and enact chapter 43-41.1 of the North Dakota Century Code, relating to adoption of the social work licensure compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 43-41.1 of the North Dakota Century Code is created and enacted as follows:

43-41.1-01. Social work licensure compact.

The social work licensure compact is entered with all states legally joining the compact, in the form substantially as follows:

ARTICLE I - PURPOSE

1. The purpose of this compact is to facilitate interstate practice of regulated social workers by improving public access to competent social work services.
2. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
3. This compact is designed to:
 - a. Increase public access to social work services;
 - b. Reduce overly burdensome and duplicative requirements associated with holding multiple licenses;
 - c. Enhance the member states' ability to protect the public's health and safety;
 - d. Encourage the cooperation of member states in regulating multistate practice;
 - e. Promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple states by providing for the mutual recognition of other member state licenses;
 - f. Support military families;
 - g. Facilitate the exchange of licensure and disciplinary information among member states;
 - h. Authorize all member states to hold a regulated social worker accountable for abiding by a member state's laws, regulations, and applicable professional standards in the member state in which the client is located at the time care is rendered; and

- i. Allow for the use of telehealth to facilitate increased access to regulated social work services.

ARTICLE II - DEFINITIONS

As used in this compact:

1. "Active military member" means any individual with full-time duty status in the active armed forces of the United States, including members of the national guard and reserve.
2. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing authority or other authority against a regulated social worker, including actions against an individual's license or multistate authorization to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a regulated social worker's authorization to practice, including issuance of a cease and desist action.
3. "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a licensing authority to address practitioners with an impairment.
4. "Charter member states" means member states that have enacted legislation to adopt this compact where the legislation predates the effective date of this compact as described in article XIV.
5. "Compact commission" or "commission" means the government agency whose membership consists of all states that have enacted this compact, which is known as the social work licensure compact commission, as described in article X, and which operates as an instrumentality of the member states.
6. "Current significant investigative information" means:
 - a. Investigative information that a licensing authority, after a preliminary inquiry that includes notification and an opportunity for the regulated social worker to respond, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as defined by the commission; or
 - b. Investigative information that indicates the regulated social worker represents an immediate threat to public health and safety, as defined by the commission, regardless of whether the regulated social worker has been notified and has had an opportunity to respond.
7. "Data system" means a repository of information about licensees, including continuing education, examination, licensure, current significant investigative information, disqualifying event, multistate licenses, and adverse action information or other information as required by the commission.
8. "Disqualifying event" means any adverse action or incident which results in an encumbrance that disqualifies or makes the licensee ineligible to either obtain, retain, or renew a multistate license.

9. "Domicile" means the jurisdiction where the licensee resides and intends to remain indefinitely.
10. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of social work licensed and regulated by a licensing authority.
11. "Executive committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to the delegates by, the compact and commission.
12. "Home state" means the member state that is the licensee's primary domicile.
13. "Impairment" means a condition that may impair a practitioner's ability to engage in full and unrestricted practice as a regulated social worker without some type of intervention and may include alcohol and drug dependence, mental health impairment, and neurological or physical impairments.
14. "Licensee" means an individual who holds a license from a state to practice as a regulated social worker.
15. "Licensing authority" means the board or agency of a member state, or equivalent, which is responsible for the licensing and regulation of regulated social workers.
16. "Member state" means a state, commonwealth, district, or territory of the United States that has enacted this compact.
17. "Multistate authorization to practice" means a legally authorized privilege to practice, which is equivalent to a license, associated with a multistate license permitting the practice of social work in a remote state.
18. "Multistate license" means a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all member states under multistate authorization to practice.
19. "Qualifying national exam" means a national licensing examination approved by the commission.
20. "Regulated social worker" means any clinical, master's, or bachelor's social worker licensed by a member state regardless of the title used by that member state.
21. "Remote state" means a member state other than the licensee's home state.
22. "Rules" or "rules of the commission" means a regulation adopted by the commission, as authorized by the compact, which has the force of law.
23. "Single state license" means a social work license issued by any state that authorizes practice only within the issuing state and does not include multistate authorization to practice in any member state.
24. "Social work" or "social work services" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore

or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a regulated social worker as provided by the member state's statutes and regulations in the state where the services are being provided.

25. "State" means any state, commonwealth, district, or territory of the United States that regulates the practice of social work.
26. "Unencumbered license" means a license that authorizes a regulated social worker to engage in the full and unrestricted practice of social work.

ARTICLE III - STATE PARTICIPATION IN THE COMPACT

1. To be eligible to participate in the compact, a potential member state shall:
- a. License and regulate the practice of social work at either the clinical, master's, or bachelor's category;
 - b. Require an applicant for licensure to graduate from a program that:
 - (1) Is operated by a college or university recognized by the licensing authority;
 - (2) Is accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:
 - (a) The council for higher education accreditation, or its successor; or
 - (b) The United States department of education; and
 - (3) Corresponds to the licensure sought as provided in article IV;
 - c. Require an applicant for clinical licensure to complete a period of supervised practice; and
 - d. Have a mechanism in place for receiving, investigating, and adjudicating complaints about a licensee.
2. To maintain membership in the compact, a member state shall:
- a. Require an applicant for a multistate license pass a qualifying national exam for the corresponding category of multistate license sought as provided in article IV;
 - b. Fully participate in the commission's data system, including using the commission's unique identifier as defined in rules;
 - c. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee;
 - d. Implement a procedure for considering the criminal history record of an applicant for a multistate license. The procedure must include the submission of fingerprints or other biometric-based information by an applicant for the purpose of obtaining the applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

- e. Comply with the rules of the commission;
 - f. Require an applicant to obtain or retain a license in the applicant's home state and meet the home state's qualifications for licensure or renewal of licensure, and all other applicable home state laws;
 - g. Authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the compact and rules of the commission; and
 - h. Designate a delegate to participate in the commission meetings.
3. A member state meeting the requirements of subsections 1 and 2 shall designate the categories of social work licensure that are eligible for issuance of a multistate license for applicants in the member state. To the extent a member state does not meet the requirements for participation in the compact at any particular category of social work licensure, the member state may issue a multistate license to an applicant who otherwise meets the requirements of article IV for issuance of a multistate license in the category or categories of licensure.
4. The home state may charge a fee for granting the multistate license.

ARTICLE IV - SOCIAL WORKER PARTICIPATION IN THE COMPACT

1. To be eligible for a multistate license under this compact, an applicant, regardless of category shall:
- a. Hold or be eligible for an active, unencumbered license in the home state;
 - b. Pay any applicable fees, including any state fee, for the multistate license;
 - c. Submit, in connection with an application for a multistate license, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;
 - d. Notify the home state of any adverse action, encumbrance, or restriction on any professional license taken by any member state or nonmember state within thirty days from the date the action is taken;
 - e. Meet any continuing competence requirements established by the home state; and
 - f. Abide by the laws, regulations, and applicable standards in the member state where the client is located at the time care is rendered.
2. An applicant for a clinical-category multistate license shall:
- a. Fulfill a competency requirement, which must be satisfied by:
 - (1) Passage of a clinical-category qualifying national exam;
 - (2) Licensure of the applicant in the applicant's home state at the clinical category, beginning before the time a qualifying national exam was

(3) The substantial equivalency of the requirements in paragraph 1 or 2, which the commission may determine by rule;

(1) Operated by a college or university recognized by the licensing authority; and

(a) The council for higher education accreditation or its successor; or

(b) The United States department of education; and

c. Fulfill a practice requirement, which must be satisfied by demonstrating completion of:

(1) A period of postgraduate supervised clinical practice equal to a minimum of three thousand hours;

(2) A minimum of two years of full-time postgraduate supervised clinical practice; or

(3) The substantial equivalency of the requirements in paragraph 1 or 2, which the commission may determine by rule.

3. An applicant for a master's-category multistate license shall:

a. Fulfill a competency requirement, which must be satisfied by:

(1) Passage of a master's-category qualifying national exam;

(2) Licensure of the applicant in the applicant's home state at the master's category, beginning before the time a qualifying national exam was required by the home state at the master's category and accompanied by a continuous period of social work licensure thereafter, which may be further governed by the rules of the commission; or

(3) The substantial equivalency of the requirements in paragraph 1 or 2, which the commission may determine by rule; and

b. Attain at least a master's degree in social work from a program that is:

(1) Operated by a college or university recognized by the licensing authority; and

(2) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by:

(a) The council for higher education accreditation or its successor; or

- (b) The United States department of education.
4. An applicant for a bachelor's-category multistate license shall:
- a. Fulfill a competency requirement, which must be satisfied by:
- (1) Passage of a bachelor's-category qualifying national exam;
- (2) Licensure of the applicant in the applicant's home state at the bachelor's category, beginning before the time a qualifying national exam was required by the home state and accompanied by a period of continuous social work licensure thereafter, which may be further governed by the rules of the commission; or
- (3) The substantial equivalency of the requirements in paragraph 1 or 2, which the commission may determine by rule; and
- b. Attain at least a bachelor's degree in social work from a program that is:
- (1) Operated by a college or university recognized by the licensing authority; and
- (2) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by:
- (a) The council for higher education accreditation or its successor; or
- (b) The United States department of education.
5. The multistate license for a regulated social worker is subject to the renewal requirements of the home state. The regulated social worker must maintain compliance with the requirements of subsection 1 to be eligible to renew a multistate license.
6. The regulated social worker's services in a remote state are subject to the member state's regulatory authority. A remote state may, in accordance with due process and the member state's laws, remove a regulated social worker's multistate authorization to practice in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of the state's citizens.
7. If a multistate license is encumbered, the regulated social worker's multistate authorization to practice must be deactivated in all remote states until the multistate license is no longer encumbered.
8. If a multistate authorization to practice is encumbered in a remote state, the regulated social worker's multistate authorization to practice may be deactivated in that state until the multistate authorization to practice is no longer encumbered.

ARTICLE V - ISSUANCE OF A MULTISTATE LICENSE

1. Upon receipt of an application for a multistate license, the home state licensing authority shall determine the applicant's eligibility for a multistate license in accordance with article IV.

2. If an applicant is eligible under article IV, the home state licensing authority shall issue a multistate license that authorizes the applicant or regulated social worker to practice in all member states under a multistate authorization to practice.
3. Upon issuance of a multistate license, the home state licensing authority shall designate whether the regulated social worker holds a multistate license in the bachelor's, master's, or clinical category of social work.
4. A multistate license issued by a home state to a resident in that state must be recognized by all compact member states as authorizing social work practice under a multistate authorization to practice corresponding to each category of licensure regulated in each member state.

ARTICLE VI - AUTHORITY OF INTERSTATE COMPACT COMMISSION AND MEMBER STATE LICENSING AUTHORITIES

1. This compact or any rule of the commission may not be construed to limit, restrict, or reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of social work in that state, where those laws, regulations, or other rules are not inconsistent with the provisions of this compact.
2. This compact may not affect the requirements established by a member state for the issuance of a single state license.
3. This compact or any rule of the commission may not be construed to limit, restrict, or reduce the ability of a member state to take adverse action against a licensee's single state license to practice social work in that state.
4. This compact or any rule of the commission may not be construed to limit, restrict, or reduce the ability of a remote state to take adverse action against a licensee's multistate authorization to practice in that state.
5. This compact or any rule of the commission may not be construed to limit, restrict, or reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based on information provided by a remote state.

ARTICLE VII - REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME STATE

1. A licensee can hold a multistate license, issued by the licensee's home state, in only one member state at any given time.
2. If a licensee changes the licensee's home state by moving between two member states:
 - a. The licensee immediately shall apply for the reissuance of the licensee's multistate license in the licensee's new home state. The licensee shall pay all applicable fees and notify the previous home state in accordance with the rules of the commission.
 - b. Upon receipt of an application to reissue a multistate license, the new home state shall verify the multistate license is active, unencumbered, and

eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the previous home state will be deactivated and all member states notified in accordance with the rules adopted by the commission.

- c. Before the reissuance of the multistate license, the new home state shall conduct a criminal history records check of the licensee. The criminal history record check procedure must include the submission of fingerprints or other biometric-based information by an applicant for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.
 - d. If required for initial licensure, the new home state may require completion of jurisprudence requirements in the new home state.
 - e. Notwithstanding any other provision of this compact, if a licensee does not meet the requirements of this compact for the reissuance of a multistate license by the new home state, the licensee is subject to the new home state's requirements for the issuance of a single state license in that state.
3. If a licensee changes the licensee's primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the licensee is subject to the state requirements for the issuance of a single state license in the new home state.
4. This compact may not interfere with a licensee's ability to hold a single state license in multiple states. For the purposes of this compact, a licensee may have only one home state, and only one multistate license.
5. This compact may not interfere with the requirements established by a member state for the issuance of a single state license.

ARTICLE VIII - MILITARY FAMILIES

An active military member or an active military member's spouse shall designate a home state where the individual has a multistate license. The individual may retain the individual's home state designation during the period the military member is on active duty.

ARTICLE IX - ADVERSE ACTIONS

1. In addition to the other powers conferred by state law, a remote state may:
 - a. Take adverse action against a regulated social worker's multistate authorization to practice only within that member state, and issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. A subpoena issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state must be enforced in the latter state by a court of competent jurisdiction, according to the practice and procedure of that court applicable to a subpoena issued in proceedings pending before the court. The issuing licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located.

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- b. Only the home state has the power to take adverse action against a regulated social worker's multistate license.
 2. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as the home state would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state law to determine appropriate action.
 3. The home state shall complete any pending investigation of a regulated social worker who changes their home state during the course of the investigation. The home state also has the authority to take appropriate action and promptly shall report the conclusion of the investigation to the administrator of the data system. The administrator of the data system promptly shall notify the new home state of any adverse actions.
 4. A member state may recover the costs of an investigation and disposition of a case resulting from an adverse action taken against a regulated social worker from the regulated social worker against which the action was taken, if otherwise allowed by state law.
 5. A member state may take adverse action based on the factual findings of another member state, if the member state follows its own procedures for taking the adverse action.
 6. Joint investigations.
 - a. In addition to the authority granted to a member state by its respective social work practice act or other applicable state law, any member state may participate with another member state in joint investigations of licensees.
 - b. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.
 7. If adverse action is taken by the home state against the multistate license of a regulated social worker, the regulated social worker's multistate authorization to practice in all other member states must be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against the license of a regulated social worker must include a statement that the regulated social worker's multistate authorization to practice is deactivated in all member states until all conditions of the decision, order, or agreement are satisfied.
 8. If a member state takes adverse action, the member state promptly shall notify the administrator of the data system. The administrator of the data system promptly shall notify the home state and all other member states of any adverse actions by remote states.
 9. This compact does not override a member state's decision that participation in an alternative program may be used in lieu of adverse action.
 10. This compact does not authorize a member state to demand the issuance of a subpoena for attendance and testimony of witnesses or the production of evidence from another member state for lawful actions within that member state.

11. This compact does not authorize a member state to impose discipline against a regulated social worker who holds a multistate authorization to practice for lawful actions within another member state.

ARTICLE X - ESTABLISHMENT OF SOCIAL WORK LICENSURE COMPACT COMMISSION

1. The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the social work licensure compact commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission must come into existence on or after the effective date of the compact as provided in article XIV.
2. Membership, voting, and meetings.
 - a. Each member state has one delegate who is selected by that member state's state licensing authority.
 - b. The delegate must be:
 - (1) A current member of the state licensing authority at the time of appointment, who is a regulated social worker or public member of the state licensing authority; or
 - (2) An administrator of the state licensing authority or the state licensing authority's designee.
 - c. The commission shall establish a term of office for delegates by rule or bylaw and may establish term limits by rule or bylaw.
 - d. The commission may recommend removal or suspension of any delegate from office.
 - e. A member state's state licensing authority shall fill any delegate vacancy on the commission within sixty days of the vacancy.
 - f. Each delegate is entitled to one vote on all matters before the commission requiring a vote by commission delegates.
 - g. A delegate shall vote in person or by any other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.
 - h. The commission shall meet at least once during each calendar year. Additional meetings may be held as provided in the bylaws. The commission may meet by telecommunication, video conference, or other similar electronic means.
3. The commission has the power to:
 - a. Establish the fiscal year of the commission;
 - b. Establish code of conduct and conflict of interest policies;

- c. Establish and amend rules and bylaws;
- d. Maintain its financial records in accordance with the bylaws;
- e. Meet and take actions consistent with the provisions of this compact, the commission's rules, and the bylaws;
- f. Initiate and conclude legal proceedings or actions in the name of the commission, provided the standing of any state licensing board to sue or be sued under applicable law is not affected;
- g. Maintain and certify records and information provided to a member state as the authenticated business records of the commission, and designate an agent to do so on the commission's behalf;
- h. Purchase and maintain insurance and bonds;
- i. Borrow, accept, or contract for services of personnel, including employees of a member state;
- j. Conduct an annual financial review;
- k. Hire employees, elect or appoint officers, fix compensation, define duties, grant the appropriate individuals the authority to carry out the purpose of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
- l. Assess and collect fees;
- m. Accept all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; if the commission avoids any appearance of impropriety or conflict of interest;
- n. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest in the property;
- o. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- p. Establish a budget and make expenditures;
- q. Borrow money;
- r. Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and any other interested persons designated in this compact and the bylaws;
- s. Provide and receive information from, and cooperate with, law enforcement agencies;
- t. Establish and elect an executive committee, including a chair and a vice chair;

- u. Determine whether a state's adopted language is so materially different from the model compact language that the state would not qualify for participation in the compact; and
 - v. Perform any other function as may be necessary or appropriate to achieve the purpose of this compact.
- 4. The executive committee.
 - a. The executive committee may act on behalf of the commission according to this compact and may:
 - (1) Oversee the day-to-day activities of the administration of the compact, including enforcement of and compliance with the compact, its rules and bylaws, and any other duties as deemed necessary;
 - (2) Recommend to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees;
 - (3) Ensure compact administration services are appropriately provided, including by contract;
 - (4) Prepare and recommend the budget;
 - (5) Maintain financial records on behalf of the commission;
 - (6) Monitor compact compliance of member states and provide compliance reports to the commission;
 - (7) Establish additional committees as necessary;
 - (8) Exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and
 - (9) Undertake any other duties as provided in the rules or bylaws of the commission.
 - b. The executive committee must be composed of no more than eleven members, including:
 - (1) The chair and vice chair of the commission, who are voting members of the executive committee;
 - (2) Five voting members from the current membership of the commission, elected by the commission; and
 - (3) Up to four ex officio, nonvoting members from four recognized national social work organizations, selected by their respective organizations.
 - c. The commission may remove any member of the executive committee as provided in the commission's bylaws.
 - d. The executive committee shall meet at least annually.

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- (1) Executive committee meetings must be open to the public, except the executive committee may meet in a closed, nonpublic meeting as provided in subdivision b of subsection 6.
 - (2) The executive committee shall give seven days' notice of meetings, posted on its website and as determined to provide notice to individuals with an interest in the business of the commission.
 - (3) The executive committee may hold a special meeting in accordance with paragraph 2 of subdivision a of subsection 6.
 5. The commission shall adopt and provide to the member states an annual report.
 6. Meetings of the commission.
 - a. All meetings must be open to the public, except the commission may meet in a closed, nonpublic meeting as provided in subdivision b.
 - (1) Public notice for all meetings of the full commission must be given in the same manner as required under the rulemaking provisions in article XII, except the commission may hold a special meeting as provided in paragraph 2.
 - (2) The commission may hold a special meeting when the commission must meet to conduct emergency business by giving forty-eight hours' notice to all commissioners, on the commission's website, and other means as provided in the commission's rules. The commission's legal counsel shall certify the commission's need to meet qualifies as an emergency.
 - b. The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:
 - (1) Noncompliance of a member state with its obligations under the compact;
 - (2) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees;
 - (3) Current or threatened discipline of a licensee by the commission or by a member state's licensing authority;
 - (4) Current, threatened, or reasonably anticipated litigation;
 - (5) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 - (6) Accusing a person of a crime or formally censuring a person;
 - (7) Trade secrets or commercial or financial information that is privileged or confidential;

- (8) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (9) Investigative records compiled for law enforcement purposes;
 - (10) Information related to any investigative report prepared by or on behalf of or for use by the commission or other committee charged with the responsibility of investigation or determination of compliance issues under this compact;
 - (11) Matters specifically exempted from disclosure by federal or member state law; or
 - (12) Other matters as adopted by the commission by rule.
- c. If a meeting, or portion of a meeting, is closed, the presiding officer shall state the meeting will be closed and reference each relevant exempting provision, which must be recorded in the minutes.
- d. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons the actions were taken, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

7. Financing of the commission.

- a. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
- b. The commission may accept any and all appropriate revenue sources as provided in subdivision m of subsection 3.
- c. The commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom the commission grants a multistate license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states must be allocated based on a formula the commission shall adopt by rule.
- d. The commission may not incur obligations before securing the funds required to meet those obligations. The commission may not pledge the credit of any of the member states, except by and with the authority of the member state.
- e. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission are subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review must be included in the annual report of the commission.

8. Qualified immunity, defense, and indemnification.

- a. The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities.
 - (1) This subdivision may not be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct by that person.
 - (2) The procurement of insurance of any type by the commission may not compromise or limit the immunity granted under this subsection.
- b. The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities. This subsection may not be construed to prohibit that person from retaining their own counsel at their own expense and that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.
- c. The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct by that person.
- d. This compact may not be construed to limit the liability of a licensee for professional malpractice or misconduct, which is solely governed by any other applicable state laws.
- e. This compact may not be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.
- f. This compact may not be construed to be a waiver of sovereign immunity by the member states or by the commission.

ARTICLE XI - DATA SYSTEM

- 1. The commission shall provide for the development, maintenance, operation, and utilization of a coordinated data system.

2. The commission shall assign each applicant for a multistate license a unique identifier, as determined by the rules of the commission.
3. Notwithstanding any other provision of state law, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:
 - a. Identifying information;
 - b. Licensure data;
 - c. Adverse actions against a license and information related thereto;
 - d. Nonconfidential information related to alternative program participation, the beginning and ending dates of the participation, and other information related to the participation not made confidential under member state law;
 - e. Any denial of an application for licensure, and the reason for the denial;
 - f. The presence of current significant investigative information; and
 - g. Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.
4. The records and information provided to a member state under this compact or through the data system, when certified by the commission or an agent of the commission, constitutes the authenticated business records of the commission, and is entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a member state.
5. Current significant investigative information pertaining to a licensee in any member state only will be available to other member states. It is the responsibility of the member states to report any adverse action against a licensee and to monitor the database to determine whether adverse action has been taken against a licensee. Adverse action information pertaining to a licensee in any member state will be available to any other member state.
6. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.
7. Any information submitted to the data system that is subsequently expunged under federal law or the laws of the member state contributing the information must be removed from the data system.

ARTICLE XII - RULEMAKING

1. The commission shall adopt reasonable rules to effectively and efficiently implement and administer the purpose and provisions of the compact. A rule is invalid if a court of competent jurisdiction holds the rule is invalid because the commission exercised its rulemaking authority in a manner beyond the scope and purpose of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

2. The rules of the commission have the force of law in each member state. If the rules of the commission conflict with the laws of the member state that establish the member state's laws, regulations, and applicable standards that govern the practice of social work as held by a court of competent jurisdiction, the rules of the commission are ineffective in that state to the extent of the conflict.
3. The commission shall exercise its rulemaking powers under the criteria provided in this section and the rules adopted thereunder. Rules are binding on the day following adoption or the date specified in the rule or amendment, whichever is later.
4. If a majority of the legislatures of the member states reject a rule or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then the rule has no further force and effect in any member state.
5. Rules must be adopted at a regular or special meeting of the commission.
6. Before the adoption of a proposed rule, the commission shall hold a public hearing and allow individuals to provide oral and written comments.
7. Before the adoption of a proposed rule by the commission, and at least thirty days before the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:
 - a. On the website of the commission or other publicly accessible platform;
 - b. To persons who have requested notice of the commission's notices of proposed rulemaking; and
 - c. In other ways as the commission may by rule specify.
8. The notice of proposed rulemaking must include:
 - a. The time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;
 - b. If the hearing is held via telecommunication, video conference, or other electronic means, the mechanism for access to the hearing in the notice of proposed rulemaking;
 - c. The text of the proposed rule and the reason for the rule;
 - d. A request for comments on the proposed rule from any interested person; and
 - e. The manner in which interested persons may submit written comments.
9. All hearings will be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule must be available to the public.

10. This article may not be construed to require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.
11. The commission shall, by majority vote of all members, take final action on the proposed rule based on the rulemaking record and the full text of the rule.
 - a. The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.
 - b. The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule and reasons for substantive changes not made that were recommended by commenters.
 - c. The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection 12, the effective date of the rule may not be sooner than thirty days after issuing the notice that the commission adopted or amended the rule.
12. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with forty-eight hours' notice, with opportunity to comment, provided the usual rulemaking procedures provided in the compact and in this section is to be applied retroactively to the rule as soon as reasonably possible, no later than ninety days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:
 - a. Meet an imminent threat to public health, safety, or welfare;
 - b. Prevent a loss of commission or member state funds;
 - c. Meet a deadline for the adoption of a rule that is established by federal law or rule; or
 - d. Protect public health and safety.
13. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the commission's website. The revision is subject to challenge by any person for a period of thirty days after posting. The revision may be challenged if the revision results in a material change to a rule. A challenge must be made in writing and delivered to the commission before the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.
14. A member state's rulemaking requirements do not apply under this compact.

ARTICLE XIII - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

1. Oversight.

- a. The executive and judicial branches of state government in each member state shall effectuate this compact and take all actions necessary and appropriate to implement the compact.
 - b. Except as otherwise provided in this compact, venue is proper and judicial proceedings by or against the commission must be brought in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent the commission adopts or consents to participate in alternative dispute resolution proceedings. This article may not affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any similar matter.
 - c. The commission is entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and has standing to intervene in the proceeding for all purposes. Failure to provide the commission service of process renders a judgment or order void as to the commission, this compact, or adopted rules.
2. Default, technical assistance, and termination.
 - a. If the commission determines a member state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall provide written notice to the defaulting state. The notice of default must describe the default, the proposed means of curing the default, and any other action the commission may take, and must offer training and specific technical assistance regarding the default.
 - b. The commission shall provide a copy of the notice of default to the other member states.
 3. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges, and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
 4. Termination of membership in the compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority, and each of the member states' state licensing authority.
 5. A state that has its membership terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations extending beyond the effective date of termination.
 6. Upon the termination of a state's membership from this compact, that state immediately shall provide notice to all licensees within that state of the termination. The terminated state shall continue to recognize all licenses granted under this compact for a minimum of six months after the date of the notice of termination.

7. The commission may not incur any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.
8. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission's principal office is located. The prevailing party must be awarded all costs of the litigation, including reasonable attorney's fees.
9. Dispute resolution.
 - a. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact which arise among member states and between member and nonmember states.
 - b. The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
10. Enforcement.
 - a. By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the United States district court for the District of Columbia or the federal district where the commission's principal office is located to enforce compliance with the provisions of the compact and its adopted rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all costs of the litigation, including reasonable attorney's fees. The remedies herein may not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal law or the defaulting member state's law.
 - b. A member state may initiate legal action against the commission in the United States district court for the District of Columbia or the federal district where the commission's principal office is located to enforce compliance with the provisions of the compact and its adopted rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all costs of the litigation, including reasonable attorney's fees.
 - c. Only a member state may enforce this compact against the commission.

ARTICLE XIV - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

1. The compact is effective on the date on which the compact statute is enacted into law in the seventh member state.
 - a. On or after the effective date of the compact, the commission shall convene and review the enactment of each of the first seven member states, known as the charter member states, to determine if the statute enacted by each charter member state is materially different than the model compact statute.

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- (1) A charter member state whose enactment is found to be materially different from the model compact statute is entitled to the default process in accordance with article XIII.
 - (2) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states is fewer than seven.
 - b. Member states enacting the compact subsequent to the seven initial charter member states are subject to the process provided in subdivision u of subsection 3 of article X to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.
 - c. All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact before the effective date of the compact or the commission coming into existence must be considered to be actions of the commission unless specifically repudiated by the commission.
 - d. Any state that joins the compact after the commission's initial adoption of the rules and bylaws is subject to the rules and bylaws as they exist on the date the compact becomes law in that state. Any rule that has been adopted previously by the commission has the full force and effect of law on the day the compact becomes law in that state.
 2. Any member state may withdraw from this compact by enacting a statute repealing the compact.
 - a. A member state's withdrawal may not take effect until one hundred eighty days after enactment of the repealing statute.
 - b. Withdrawal may not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact before the effective date of withdrawal.
 - c. Upon the enactment of a statute withdrawing from this compact, a state immediately shall provide notice of the withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, the withdrawing state shall continue to recognize all licenses granted under this compact for a minimum of one hundred eighty days after the date of the notice of withdrawal.
 3. This compact may not be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.
 4. This compact may be amended by the member states. An amendment to this compact may not become effective and binding upon any member state until the amendment is enacted into the laws of all member states.

ARTICLE XV - CONSTRUCTION AND SEVERABILITY

1. This compact and the commission's rulemaking authority must be liberally construed so as to effectuate the purpose, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the adoption of rules may not be construed to limit the commission's rulemaking authority solely for those purposes.
2. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability of the compact to any other government, agency, person, or circumstance may not be affected thereby.
3. Notwithstanding subsection 2, the commission may deny a state's participation in the compact or, in accordance with the requirements of subsection 2 of article XIII, terminate a member state's participation in the compact, if the commission determines a constitutional requirement of a member state is a material departure from the compact. If this compact is held to be contrary to the constitution of any member state, the compact must remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

**ARTICLE XVI - CONSISTENT EFFECT
AND CONFLICT WITH OTHER STATE LAWS**

1. A licensee providing services in a remote state under a multistate authorization to practice shall adhere to the laws and regulations, including laws, regulations, and applicable standards, of the remote state where the client is located at the time care is rendered.
2. This compact may not prevent the enforcement of any other law of a member state that is not inconsistent with the compact.
3. Any law, statute, regulation, or other legal requirement in a member state in conflict with the compact is superseded to the extent of the conflict.
4. All permissible agreements between the commission and the member states are binding in accordance with the terms of the agreement.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 404

SENATE BILL NO. 2223

(Senators Barta, Axtman, Burckhard)
(Representatives Bahl, Frelich)

AN ACT to create and enact chapter 43-44.1 of the North Dakota Century Code, relating to adoption of the dietitian licensure compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 43-44.1 of the North Dakota Century Code is created and enacted as follows:

43-44.1-01. Dietitian licensure compact.

The dietitian licensure compact is entered with all states legally joining the compact, in the form substantially as follows:

ARTICLE I - PURPOSE

1. The purpose of this compact is to facilitate interstate practice of dietetics with the goal of improving public access to dietetic services. This compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure, while also providing for licensure portability through a compact privilege granted to qualifying professionals.
2. This compact is designed to achieve the following objectives:
 - a. Increase public access to dietetic services;
 - b. Provide opportunities for interstate practice by licensed dietitians who meet uniform requirements;
 - c. Eliminate the necessity for licenses in multiple states;
 - d. Reduce the administrative burden on member states and licensees;
 - e. Enhance the ability of member states to protect the public's health and safety;
 - f. Encourage the cooperation of member states in regulating the multistate practice of licensed dietitians;
 - g. Support relocating active military members and the member's spouse;
 - h. Enhance the exchange of licensure, investigative, and disciplinary information among member states; and

- i. Vest all member states with the authority to hold a licensed dietitian accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered.

ARTICLE II - DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions apply:

1. "ACEND" means the accreditation council for education in nutrition and dietetics or its successor organization.
2. "Active military member" means any individual with full-time duty status in the active armed forces of the United States, including members of the national guard and reserve.
3. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing authority or other authority against a licensee, including actions against an individual's license or compact privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a licensee's authorization to practice, including issuance of a cease and desist action.
4. "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a licensing authority.
5. "CDR" means the commission on dietetic registration or its successor organization.
6. "Charter member state" means any member state that enacted this compact by law before the effective date specified in article XII.
7. "Compact commission" means the government agency whose membership consists of all states that have enacted this compact, which is known as the dietitian licensure compact commission, as described in article VIII, and which shall operate as an instrumentality of the member states.
8. "Compact privilege" means a legal authorization, which is equivalent to a license, permitting the practice of dietetics in a remote state.
9. "Continuing education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and completion of, educational and professional activities relevant to practice or area of work.
10. "Current significant investigative information" means investigative information that:
 - a. A licensing authority, after a preliminary inquiry that includes notification and an opportunity for the subject licensee to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - b. Indicates that the subject licensee represents an immediate threat to public health and safety regardless of whether the subject licensee has been notified and had an opportunity to respond.

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11. "Data system" means a repository of information about licensees, including continuing education, examination, licensure, investigative, compact privilege, and adverse action information.
 12. "Encumbered license" means a license in which an adverse action restricts a licensee's ability to practice dietetics.
 13. "Encumbrance" means a revocation or suspension of, or any limitation on a licensee's full and unrestricted practice of dietetics by a licensing authority.
 14. "Executive committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, this compact, and the compact commission.
 15. "Home state" means the member state that is the licensee's primary state of residence or that has been designated pursuant to article XI.
 16. "Investigative information" means information, records, and documents received or generated by a licensing authority pursuant to an investigation.
 17. "Jurisprudence requirement" means an assessment of an individual's knowledge of the state laws and regulations governing the practice of dietetics in the state.
 18. "License" means an authorization from a member state to either:
 - a. Engage in the practice of dietetics, including medical nutrition therapy; or
 - b. Use the title "dietitian", "licensed dietitian", "licensed dietitian nutritionist", "certified dietitian", or other title describing a substantially similar practitioner as the compact commission may further define by rule.
 19. "Licensee" or "licensed dietitian" means an individual who currently holds a license and who meets all of the requirements outlined in article IV.
 20. "Licensing authority" means the board or agency of a state, or equivalent, that is responsible for the licensing and regulation of the practice of dietetics.
 21. "Member state" means a state that has enacted the compact.
 22. "Practice of dietetics" means the synthesis and application of dietetics as defined by state law and regulations, primarily for the provision of nutrition care services, including medical nutrition therapy, in person or via telehealth, to prevent, manage, or treat diseases or medical conditions, and promote wellness.
 23. "Registered dietitian" means an individual who:
 - a. Has completed applicable education, experience, examination, and recertification requirements approved by CDR;
 - b. Is credentialed by CDR as a registered dietitian or a registered dietitian nutritionist; and
 - c. Is legally authorized to use the title registered dietitian or registered dietitian nutritionist and the corresponding abbreviations "RD" or "RDN".

- 24. "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise a compact privilege.
- 25. "Rule" means a regulation promulgated by the compact commission which has the force of law.
- 26. "Single state license" means a license issued by a member state within the issuing state and does not include a compact privilege in any other member state.
- 27. "State" means any state, commonwealth, district, or territory of the United States of America.
- 28. "Unencumbered license" means a license that authorizes a licensee to engage in the full and unrestricted practice of dietetics.

ARTICLE III - STATE PARTICIPATION IN THE COMPACT

- 1. To participate in the compact, a state shall currently:
 - a. License and regulate the practice of dietetics; and
 - b. Have a mechanism in place for receiving and investigating complaints about licensees.
- 2. A member state shall:
 - a. Participate fully in the compact commission's data system, including using the unique identifier as defined in rules;
 - b. Notify the compact commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee;
 - c. Implement or utilize procedures for considering the criminal history record information of applicants for an initial compact privilege. These procedures must include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;
 - (1) A member state shall fully implement a criminal history record information requirement, within a time frame established by rule, which includes receiving the results of the federal bureau of investigation record search, and shall use those results in determining compact privilege eligibility.
 - (2) Communication between a member state and the compact commission or among member states regarding the verification of eligibility for a compact privilege may not include any information received from the federal bureau of investigation relating to a federal criminal history record information check performed by a member state.
 - d. Comply with and enforce the rules of the compact commission;

- e. Require an applicant for a compact privilege to obtain or retain a license in the licensee's home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws; and
 - f. Recognize a compact privilege granted to a licensee who meets all of the requirements outlined in article IV under the terms of the compact and rules.
- 3. Member states may set and collect a fee for granting a compact privilege.
 - 4. Individuals not residing in a member state shall continue to be able to apply for a member state's single state license as provided under the laws of each member state. However, the single state license granted to these individuals may not be recognized as granting a compact privilege to engage in the practice of dietetics in any other member state.
 - 5. Nothing in this compact may affect the requirements established by a member state for the issuance of a single state license.
 - 6. The compact commission may not define the requirements for the issuance of a single state license to practice dietetics. The member states shall retain sole jurisdiction over the provision of these requirements.

ARTICLE IV - COMPACT PRIVILEGE

- 1. To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:
 - a. Satisfy one of the following:
 - (1) Hold a valid current registration that gives the applicant the right to use the term registered dietitian; or
 - (2) Complete all of the following:
 - (a) An education program which is either:
 - [1] A master's degree or doctoral degree that is programmatically accredited by ACEND or a dietetics accrediting agency recognized by the United States department of education, which the compact commission may by rule determine, and from a college or university accredited at the time of graduation by the appropriate regional accrediting agency recognized by the council on higher education accreditation and the United States department of education; or
 - [2] An academic degree from a college or university in a foreign country equivalent to the degree described in subparagraph (a) that is programmatically accredited by ACEND or a dietetics accrediting agency recognized by the United States department of education, which the compact commission may by rule determine.
 - (b) A planned, documented, supervised practice experience in dietetics that is programmatically accredited by ACEND or a

dietetics accrediting agency recognized by the United States department of education, which the compact commission may by rule determine and which involves at least one thousand hours of practice experience under the supervision of a registered dietitian or a licensed dietitian.

- (c) Successful completion of either the registration examination for dietitians administered by CDR or a national credentialing examination for dietitians approved by the compact commission by rule, with completion occurring no more than five years before the date of the licensee's application for initial licensure and accompanied by a period of continuous licensure thereafter, all of which may be further governed by the rules of the compact commission.
- b. Hold an unencumbered license in the home state;
- c. Notify the compact commission that the licensee is seeking a compact privilege within a remote state;
- d. Pay any applicable fees, including any state fee, for the compact privilege;
- e. Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and
- f. Report to the compact commission any adverse action, encumbrance, or restriction on a license taken by any nonmember state within thirty days from the date the action is taken.
2. The compact privilege is valid until the expiration date of the home state license. To maintain a compact privilege, renewal of the compact privilege must be congruent with the renewal of the home state license as the compact commission may define by rule. The licensee shall comply with the requirements of subsection 1 of article IV to maintain the compact privilege in the remote state.
3. A licensee exercising a compact privilege shall adhere to the laws and regulations of the remote state. Licensees must be responsible for educating themselves on, and complying with, all state laws relating to the practice of dietetics in the remote state.
4. Notwithstanding anything to the contrary provided in this compact or state law, a licensee exercising a compact privilege may not be required to complete continuing education requirements required by a remote state. A licensee exercising a compact privilege only is required to meet any continuing education requirements as required by the home state.

ARTICLE V - OBTAINING A NEW HOME STATE LICENSE BASED ON A COMPACT PRIVILEGE

1. A licensee may hold a home state license, which allows for a compact privilege in other member states, in only one member state at a time.
2. If a licensee changes home state by moving between two member states:

- a. The licensee shall file an application for obtaining a new home state license based on a compact privilege, pay all applicable fees, and notify the current and new home state in accordance with the rules of the compact commission.
 - b. Upon receipt of an application for obtaining a new home state license by virtue of a compact privilege, the new home state shall verify that the licensee meets the criteria in article IV via the data system, and require that the licensee complete:
 - (1) A federal bureau of investigation fingerprint-based criminal history record information check;
 - (2) Any other criminal history record information required by the new home state; and
 - (3) Any jurisprudence requirements of the new home state.
 - c. The former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the compact commission.
 - d. Notwithstanding any other provision of this compact, if the licensee cannot meet the criteria in article IV, the new home state may apply its requirements for issuing a new single state license.
 - e. The licensee shall pay all applicable fees to the new home state to be issued a new home state license.
3. If a licensee changes the licensee's state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria shall apply for issuance of a single state license in the new state.
 4. Nothing in this compact may interfere with a licensee's ability to hold a single state license in multiple states; however, for the purposes of this compact, a licensee may have only one home state license.
 5. Nothing in this compact may affect the requirements established by a member state for the issuance of a single state license.

ARTICLE VI - ACTIVE MILITARY MEMBERS OR THE MEMBER'S SPOUSE

An active military member, or the member's spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty.

ARTICLE VII - ADVERSE ACTIONS

1. In addition to the other powers conferred by state law, a remote state must have the authority, under state due process law, to:
 - a. Take adverse action against a licensee's compact privilege within that member state; and

- b. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state must be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure applicable to subpoenas issued in proceedings pending before that court. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.
- 2. Only the home state may have the power to take adverse action against a licensee's home state license.
- 3. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.
- 4. The home state shall complete any pending investigations of a licensee who changes home states during the course of the investigations. The home state must have authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.
- 5. A member state, if otherwise permitted by state law, may recover from the affected licensee the costs of investigations and dispositions of cases resulting from any adverse action taken against that licensee.
- 6. A member state may take adverse action based on the factual findings of another remote state, provided that the member state follows its own procedures for taking the adverse action.
- 7. Joint investigations:
 - a. In addition to the authority granted to a member state by its respective state law, any member state may participate with other member states in joint investigations of licensees.
 - b. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint investigations initiated under the compact.
- 8. If adverse action is taken by the home state against a licensee's home state license resulting in an encumbrance on the home state license, the licensee's compact privilege in all other member states must be revoked until all encumbrances have been removed from the home state license. All home state disciplinary orders that impose adverse action against a licensee must include a statement that the licensee's compact privileges are revoked in all member states during the pendency of the order.
- 9. Once an encumbered license in the home state is restored to an unencumbered license, as certified by the home state's licensing authority, the licensee shall meet the requirements of subsection 1 of article IV and follow the administrative requirements to reapply to obtain a compact privilege in any remote state.

10. If a member state takes adverse action, the member state promptly shall notify the administrator of the data system. The administrator of the data system promptly shall notify the other member states of any adverse actions.
11. Nothing in this compact may override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

ARTICLE VIII - ESTABLISHMENT OF THE DIETITIAN LICENSURE COMPACT COMMISSION

1. The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the dietitian licensure compact commission. The compact commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The compact commission shall come into existence on or after the effective date of the compact as set forth in article XII.
2. Membership, voting, and meetings.
 - a. Each member state must have and be limited to one delegate selected by that member state's licensing authority.
 - b. The delegate must be the primary administrator of the licensing authority or the licensing authority's designee.
 - c. The compact commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.
 - d. The compact commission may recommend removal or suspension of any delegate from office.
 - e. A member state's licensing authority shall fill any vacancy of its delegate occurring on the compact commission within sixty days of the vacancy.
 - f. Each delegate must be entitled to one vote on all matters before the compact commission requiring a vote by the delegates.
 - g. Delegates shall meet and vote by the means set forth in the bylaws. The bylaws may provide for delegates to meet and vote in-person or by telecommunication, video conference, or other means of communication.
 - h. The compact commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The compact commission may meet in-person or by telecommunication, video conference, or other means of communication.
3. The compact commission has the power to:
 - a. Establish the fiscal year of the compact commission;
 - b. Establish code of conduct and conflict of interest policies;
 - c. Establish and amend rules and bylaws;

- d. Maintain the commission's financial records in accordance with the bylaws;
- e. Meet and take actions consistent with the provisions of this compact, the compact commission's rules, and the bylaws;
- f. Initiate and conclude legal proceedings or actions in the name of the compact commission, provided that the standing of any licensing authority to sue or be sued under applicable law may not be affected;
- g. Maintain and certify records and information provided to a member state as the authenticated business records of the compact commission, and designate an agent to do so on the compact commission's behalf;
- h. Purchase and maintain insurance and bonds;
- i. Borrow, accept, or contract for services of personnel, including employees of a member state;
- j. Conduct an annual financial review;
- k. Hire employees, elect or appoint officers, fix compensation, define duties, grant those individuals appropriate authority to carry out the purposes of the compact, and establish the compact commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
- l. Assess and collect fees;
- m. Accept all appropriate donations, grants of money, other sources of revenue, equipment, supplies, materials, services, and gifts, and receive, utilize, and dispose of the same provided that at all times the compact commission shall avoid any actual or appearance of impropriety or conflict of interest;
- n. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;
- o. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
- p. Establish a budget and make expenditures;
- q. Borrow money;
- r. Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and other interested persons as may be designated in this compact or the bylaws;
- s. Provide and receive information from, and cooperate with, law enforcement agencies;
- t. Establish and elect an executive committee, including a chair and a vice chair;

- u. Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and
 - v. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.
4. The executive committee.
- a. The executive committee must have the power to act on behalf of the compact commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee shall include:
 - (1) Overseeing the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other duties as deemed necessary;
 - (2) Recommending to the compact commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees;
 - (3) Ensuring compact administration services are provided appropriately, including by contract;
 - (4) Preparing and recommending the budget;
 - (5) Maintaining financial records on behalf of the compact commission;
 - (6) Monitoring compact compliance of member states and providing compliance reports to the compact commission;
 - (7) Establishing additional committees as necessary;
 - (8) Exercising the powers and duties of the compact commission during the interim between compact commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the compact commission by rule or bylaw; and
 - (9) Other duties as provided in the rules or bylaws of the compact commission.
 - b. The executive committee must be composed of nine members:
 - (1) The chair and vice chair of the compact commission, which must be voting members of the executive committee;
 - (2) Five voting members from the current membership of the compact commission, elected by the compact commission;
 - (3) One ex officio, nonvoting member from a recognized professional association representing dietitians; and
 - (4) One ex officio, nonvoting member from a recognized national credentialing organization for dietitians.

- c. The compact commission may remove any member of the executive committee as provided in the compact commission's bylaws.
 - d. The executive committee shall meet at least annually.
 - (1) Executive committee meetings must be open to the public, except that the executive committee may meet in a closed, nonpublic meeting as provided in subdivision b of subsection 6.
 - (2) The executive committee shall give thirty days notice of its meetings, posted on the website of the compact commission and as determined to provide notice to persons with an interest in the business of the compact commission.
 - (3) The executive committee may hold a special meeting in accordance with paragraph 2 of subdivision a of subsection 6.
5. The compact commission shall adopt and provide to the member states an annual report.
6. Meetings of the compact commission.
- a. All meetings must be open to the public, except that the compact commission may meet in a closed, nonpublic meeting as provided in subdivision b of subsection 6.
 - (1) Public notice for all meetings of the full compact commission must be given in the same manner as required under the rulemaking provisions in article X, except that the compact commission may hold a special meeting as provided in paragraph 2 of subdivision a of subsection 6.
 - (2) The compact commission may hold a special meeting when it must meet to conduct emergency business by giving twenty-four hours notice to all member states, on the compact commission's website, and other means as provided in the compact commission's rules. The compact commission's legal counsel shall certify that the compact commission's need to meet qualifies as an emergency.
 - b. The compact commission or the executive committee or other committees of the compact commission may convene in a closed, nonpublic meeting for the compact commission or executive committee or other committees of the compact commission to receive legal advice or to discuss:
 - (1) Noncompliance of a member state with its obligations under the compact;
 - (2) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees;
 - (3) Current or threatened discipline of a licensee by the compact commission or by a member state's licensing authority;
 - (4) Current, threatened, or reasonably anticipated litigation;

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- (5) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 - (6) Accusing a person of a crime or formally censuring a person;
 - (7) Trade secrets or commercial or financial information that is privileged or confidential;
 - (8) Information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (9) Investigative records compiled for law enforcement purposes;
 - (10) Information related to any investigative reports prepared by or on behalf of or for use of the compact commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;
 - (11) Matters specifically exempted from disclosure by federal or member state law; or
 - (12) Other matters as specified in the rules of the compact commission.
- c. If a meeting or portion of a meeting is closed, the presiding officer shall state the meeting will be closed and reference each relevant exempting provision and the reference must be recorded in the minutes.
- d. The compact commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken and the reasons for taking the action, including a description of the views expressed. The documents considered in connection with an action must be identified in the minutes. The minutes and documents of a closed meeting must remain under seal, subject to release only by a majority vote of the compact commission or order of a court of competent jurisdiction.
7. Financing of the compact commission.
- a. The compact commission shall pay, or provide for the payment of, the reasonable expenses of the commission's establishment, organization, and ongoing activities.
 - b. The compact commission may accept all appropriate revenue sources as provided in subdivision m of subsection 3.
 - c. The compact commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a compact privilege to cover the cost of the operations and activities of the compact commission and its staff which must, in a total amount, be sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states must be allocated based upon a formula that the compact commission shall promulgate by rule.

- d. The compact commission may not incur an obligation before securing the funds adequate to meet the obligation, nor shall the compact commission pledge the credit of any of the member states, except by and with the authority of the member state.
 - e. The compact commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the compact commission must be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the compact commission must be subject to an annual financial review by a certified or licensed public accountant and the report of the financial review must be included in and become part of the annual report of the compact commission.
8. Qualified immunity, defense, and indemnification.
- a. The members, officers, executive director, employees, and representatives of the compact commission must be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of compact commission employment, duties, or responsibilities provided that nothing in this subdivision may be construed to protect the individual from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that individual. The procurement of insurance of any type by the compact commission may not compromise or limit the immunity granted hereunder.
 - b. The compact commission shall defend any member, officer, executive director, employee, and representative of the compact commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of compact commission employment, duties, or responsibilities, or as determined by the compact commission that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of compact commission employment, duties, or responsibilities provided that nothing herein may be construed to prohibit that individual from retaining the individual's own counsel at the individual's own expense and provided further that the actual or alleged act, error, or omission did not result from that individual's intentional, willful, or wanton misconduct.
 - c. The compact commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the compact commission for the amount of any settlement or judgment obtained against that individual arising out of any actual or alleged act, error, or omission that occurred within the scope of compact commission employment, duties, or responsibilities, or that the individual had a reasonable basis for believing occurred within the scope of compact commission employment, duties, or responsibilities provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that individual.

- d. Nothing herein may be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which must be governed solely by any other applicable state laws.
- e. Nothing in this compact may be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.
- f. Nothing in this compact may be construed to be a waiver of sovereign immunity by the member states or by the compact commission.

ARTICLE IX - DATA SYSTEM

- 1. The compact commission shall provide for the development, maintenance, operation, and utilization of a coordinated data system.
- 2. The compact commission shall assign each applicant for a compact privilege a unique identifier, as determined by the rules.
- 3. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the compact commission, including:
 - a. Identifying information;
 - b. Licensure data;
 - c. Adverse actions against a license or compact privilege and information related to the adverse action;
 - d. Nonconfidential information related to alternative program participation, the beginning and ending dates of the participation, and other information related to the participation not made confidential under member state law;
 - e. Any denial of application for licensure, and the reason for the denial;
 - f. The presence of current significant investigative information; and
 - g. Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the compact commission.
- 4. The records and information provided to a member state pursuant to this compact or through the data system, when certified by the compact commission or an agent of the commission, shall constitute the authenticated business records of the compact commission, and must be entitled to any associated hearsay exception in a relevant judicial, quasi-judicial, or administrative proceeding in a member state.
- 5. Current significant investigative information pertaining to a licensee in any member state will be available only to other member states.
- 6. It is the responsibility of the member states to report any adverse action against a licensee and to monitor the data system to determine whether any

adverse action has been taken against a licensee. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

7. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.
8. Any information submitted to the data system which is subsequently expunged pursuant to federal law or the laws of the member state contributing the information must be removed from the data system.

ARTICLE X - RULEMAKING

1. The compact commission shall promulgate reasonable rules to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule has no force or effect if a court of competent jurisdiction holds the rule is invalid because the compact commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted under the compact, or based upon another applicable standard of review.
2. The rules of the compact commission must have the force of law in each member state, provided that if the rules conflict with the laws or regulations of a member state that relate to the procedures, actions, and processes a licensed dietitian is permitted to undertake in that state and the circumstances under which the licensed dietitian may do so, as held by a court of competent jurisdiction, the rules of the compact commission are ineffective in that state to the extent of the conflict.
3. The compact commission shall exercise its rulemaking powers pursuant to the criteria and rules set forth and adopted under this section. Rules become binding on the day following adoption or as of the date specified in the rule or amendment, whichever is later.
4. If a majority of the legislatures of the member states rejects a rule or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then the rule has no further force and effect in any member state.
5. Rules must be adopted at a regular or special meeting of the compact commission.
6. Before adoption of a proposed rule, the compact commission shall hold a public hearing and allow individuals to provide oral and written comments, data, facts, opinions, and arguments.
7. Before adoption of a proposed rule by the compact commission, and at least thirty days in advance of the meeting at which the compact commission will hold a public hearing on the proposed rule, the compact commission shall provide a notice of proposed rulemaking:
 - a. On the website of the compact commission or other publicly accessible platform;

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- b. To persons who have requested notice of the compact commission's notices of proposed rulemaking; and
 - c. In such other way as the compact commission may by rule specify.
8. The notice of proposed rulemaking must include:
- a. The time, date, and location of the public hearing at which the compact commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting at which the compact commission will consider and vote on the proposed rule;
 - b. If the hearing is held via telecommunication, video conference, or other means of communication, the compact commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;
 - c. The text of the proposed rule and the reason for the rule;
 - d. A request for comments on the proposed rule from any interested person; and
 - e. The manner in which interested persons may submit written comments.
9. All hearings will be recorded. A copy of the recording and all written comments and documents received by the compact commission in response to the proposed rule must be available to the public.
10. Nothing in this section may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the compact commission at hearings required by this section.
11. The compact commission shall, by majority vote of all members, take final action on the proposed rule based on the rulemaking record and the full text of the rule.
- a. The compact commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.
 - b. The compact commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.
 - c. The compact commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection 12 of article X, the effective date of the rule must be no sooner than thirty days after issuing the notice that the commission adopted or amended the rule.
12. Upon determination that an emergency exists, the compact commission may consider and adopt an emergency rule with twenty-four hours notice and with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- a. Meet an imminent threat to public health, safety, or welfare;
 - b. Prevent a loss of compact commission or member state funds;
 - c. Meet a deadline for the promulgation of a rule that is established by federal law or rule; or
 - d. Protect public health and safety.
13. The compact commission or an authorized committee of the compact commission may direct revision to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revision must be posted on the website of the compact commission. The revision must be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the compact commission before the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the compact commission.
14. A member state's rulemaking requirements may not apply under this compact.

ARTICLE XI - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

1. Oversight.

- a. The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement this compact.
- b. Except as otherwise provided in this compact, venue is proper and judicial proceedings by or against the compact commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the compact commission is located. The compact commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.
- c. The compact commission must be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in that proceeding for all purposes. Failure to provide the compact commission service of process shall render a judgment or order void as to the compact commission, this compact, or promulgated rules.

2. Default, technical assistance, and termination.

- a. If the compact commission determines a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the compact commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the compact commission may take and shall offer training and specific technical assistance regarding the default.

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- b. The compact commission shall provide a copy of the notice of default to the other member states.
 3. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges, and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
 4. Termination of membership in the compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the compact commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's licensing authority, and each of the member states licensing authority.
 5. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
 6. Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees within that state of the termination. The terminated state shall continue to recognize all compact privileges granted pursuant to this compact for a minimum of six months after the date of the notice of termination.
 7. The compact commission may not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the compact commission and the defaulting state.
 8. The defaulting state may appeal the action of the compact commission by petitioning the United States district court for the District of Columbia or the federal district where the compact commission has its principal offices. The prevailing party must be awarded all costs of the litigation, including reasonable attorney's fees.
 9. Dispute resolution.
 - a. Upon request by a member state, the compact commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.
 - b. The compact commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
 10. Enforcement.
 - a. By supermajority vote, the compact commission may initiate legal action against a member state in default in the United States district court for the District of Columbia or the federal district where the compact commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is

necessary, the prevailing party must be awarded all costs of the litigation, including reasonable attorney's fees. The remedies herein may not be the exclusive remedies of the compact commission. The compact commission may pursue any other remedies available under federal or the defaulting member state's law.

- b. A member state may initiate legal action against the compact commission in the United States district court for the District of Columbia or the federal district where the compact commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of the litigation, including reasonable attorney's fees.
- c. No party other than a member state may enforce this compact against the compact commission.

ARTICLE XII - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

- 1. The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state.
 - a. On or after the effective date of the compact, the compact commission shall convene and review the enactment of each of the first seven member states, "charter member states", to determine if the statute enacted by each charter member state is materially different than the model compact statute.
 - (1) A charter member state whose enactment is found to be materially different from the model compact statute must be entitled to the default process set forth in article XI.
 - (2) If any member state is later found to be in default, is terminated, or withdraws from the compact, the compact commission shall remain in existence and the compact shall remain in effect even if the number of member states is less than seven.
 - b. Member states enacting the compact subsequent to the seven initial charter member states must be subject to the process set forth in subdivision u of subsection 3 of article VIII to determine if the member state's enactments are materially different from the model compact statute and whether the member states qualify for participation in the compact.
 - c. All actions taken for the benefit of the compact commission or in furtherance of the purposes of the administration of the compact before the effective date of the compact or the compact commission coming into existence must be considered to be actions of the compact commission unless specifically repudiated by the compact commission.
 - d. Any state that joins the compact subsequent to the compact commission's initial adoption of the rules and bylaws is subject to the rules and bylaws as the rules and bylaws exist on the date on which the compact becomes law in that state. Any rule that has been adopted previously by the compact commission must have the full force and effect of law on the day the compact becomes law in that state.

2. Any member state may withdraw from this compact by enacting a statute repealing the compact.
 - a. A member state's withdrawal may not take effect until one hundred eighty days after enactment of the repealing statute.
 - b. Withdrawal may not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact before the effective date of withdrawal.
 - c. Upon the enactment of a statute withdrawing from this compact, a state immediately shall provide notice of the withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, the withdrawing state shall continue to recognize all compact privileges granted pursuant to this compact for a minimum of one hundred eighty days after the date of the notice of withdrawal.
3. Nothing contained in this compact may be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.
4. This compact may be amended by the member states. No amendment to this compact may become effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE XIII - CONSTRUCTION AND SEVERABILITY

1. This compact and the compact commission's rulemaking authority must be liberally construed so as to effectuate the purposes and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules may not be construed to limit the compact commission's rulemaking authority solely for those purposes.
2. The provisions of this compact must be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.
3. Notwithstanding subsection 2, the compact commission may deny a state's participation in the compact or, in accordance with the requirements of subsection 2 of article XI, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact must be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

**ARTICLE XIV - CONSISTENT EFFECT AND
CONFLICT WITH OTHER STATE LAWS**

1. Nothing herein may prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.
2. Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.
3. All permissible agreements between the compact commission and the member states are binding in accordance with the terms of the agreement.

Approved March 19, 2025

Filed March 20, 2025

CHAPTER 405

SENATE BILL NO. 2071

(Industry and Business Committee)
(At the request of the Board of Counselor Examiners)

AN ACT to amend and reenact section 43-47-03 of the North Dakota Century Code, relating to the duties and responsibilities of the board of counselor examiners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-47-03 of the North Dakota Century Code is amended and reenacted as follows:

43-47-03. Duties and responsibilities of board.

In addition to the duties set forth elsewhere in this chapter, the board shall:

1. Publish an annual list of the names and addresses of all persons licensed under this chapter.
2. Approve and administer an examination for counselors.
3. Set, by rule, and collect a fee for ~~the~~:
 - a. ~~The~~ filing of each application for a license under this chapter ~~and set, by rule, and collect a fee for the~~;
 - b. ~~The~~ renewal of a license under this chapter;
 - c. ~~The provision of a duplicate license under this chapter; and~~
 - d. ~~Technology services.~~
4. Deposit and disburse all fees and moneys collected by the board in accordance with section 54-44-12.
5. Establish continuing education requirements for license renewal.
6. Issue provisional or probationary licenses.
7. Establish a code of ethics for the practice of counseling.
8. Adopt rules as necessary to carry out the provisions of this chapter.

Approved March 18, 2025

Filed March 18, 2025

CHAPTER 406

SENATE BILL NO. 2395

(Senator Hogue)

AN ACT to create and enact a new chapter to title 43 of the North Dakota Century Code, relating to universal licensure and board operations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 43 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Applicant" means an individual who has submitted a completed application, including all documentation and fees necessary for the board to consider licensing the individual.
2. "Application" means the process and all required documentation necessary for the board to consider licensure of the applicant.
3. "Board" means a board, commission, or other agency of state government, excluding the secretary of state, created or identified in this title to regulate a particular occupation or profession, the education standards and practices board, and the state board of law examiners.
4. "Effective interstate compact" means the minimum number of states necessary for the interstate compact to become operative have enacted the interstate compact.
5. "Interstate compact" means a legislative enactment to recognize and facilitate the portability of occupational licenses across state lines.
6. "License" means the authorization by a board or the supreme court to practice an occupation or profession under state law or any other authority by which individuals are licensed in the state.
7. "Occupation or profession" means activity for which a license is required from a board or the supreme court or similar activity for which a license is required in another state or jurisdiction.
8. "Out-of-state licensee" means an individual who holds a license, certificate, permit, or similar authorization to practice an occupation or profession, which is issued by a government agency in another state or jurisdiction in the United States which imposes requirements for obtaining and maintaining the license, certificate, or permit, which are comparable to the requirements imposed in this state to obtain and maintain a license to practice the same profession or occupation.

9. "Routine application" means an application that meets all the requirements for licensure with no derogatory or adverse information in the application.

Universal licensure.

1. Unless the board is part of an effective interstate compact, an executed license transfer, existing interstate mobility, or reciprocity agreement with another state, a board shall issue a license to an out-of-state licensee applicant to practice in this state if, upon application to the board, the applicant:
 - a. Actively has used the license for two of the three years immediately preceding submitting an application under this section;
 - b. Provides or demonstrates competency and education in the profession or occupation through methods determined by the board;
 - c. Has not committed any act that constitutes grounds for refusal, suspension, or revocation of a license to practice that profession or occupation in this state unless the board determines, in its discretion, the act is not an impediment to the granting of a license to practice in this state;
 - d. Has not been disciplined in any jurisdiction in which the individual has held a license within the last ten years;
 - e. Is not under an active investigation by another licensing or disciplinary authority or law enforcement authority in a state, federal, or foreign jurisdiction;
 - f. Submits to a state and federal criminal background check, paid for by the applicant, and conducted in the manner provided under section 12-60-24 if required by the board and the board has statutory authority to repeat the background check; and
 - g. Pays the fees established by the board.
2. Subdivision f of subsection 1 does not apply to the state board of law examiners, which may conduct a character and fitness investigation.

Board operations.

1. A board shall issue a license within ten business days to an individual who submits a complete, unencumbered, routine application. This section does not apply to processing applications through an effective interstate compact or an executed license transfer agreement. Boards subject to an effective interstate compact shall issue a license in a timely manner.
2. A board may grant authority to staff or selected board members to issue a provisional or temporary license between board meetings to an applicant seeking permanent state licensure if the application is routine, complete, and meets all the requirements for licensure. To the extent this provision conflicts with any existing limitations on such delegated authority, this provision supersedes those limitations.
3. The licensing application form must be made available electronically.

4. As part of a complete application, a board may require an individual seeking licensure in this state to pass a jurisprudence examination on North Dakota law applicable to the licensed profession. If the examination is a requirement for licensure, and the examination is administered by the board, the examination must be made available at least once per month. The board may adopt limits on examination attempts.
5. By July thirty-first of 2026 and 2027, on forms developed by the department of labor and human rights, each board shall report to the labor commissioner data on the number of licenses granted, number of licenses denied, number of licenses that were not issued within the ten-day timeline, and reason for the delay for licenses issued after the ten-day timeline.
6. Unless already a member of an effective interstate compact, a board shall annually review available interstate compacts in professions it regulates to determine whether joining the interstate compact would be in the best interest of the profession and state, giving consideration to workforce shortages and evolving trends in occupation licensure and technology. The review must be noted clearly in the board's agenda and meeting minutes and the board must provide the labor commissioner with a copy of the considered compact and the board's reason for determining that entering the interstate compact was not in the best interests of the profession.
7. A board may contract with an entity, another board, or an individual to obtain administrative and support services to assist in the operation of the board.
8. Unless otherwise specifically authorized by other laws, rules of the board, or national standards to practice, all continuing education requirements for licensure renewal must include the ability to complete all required continuing education hours by virtual or remote means.
9. A board may assist in providing education or resources for a licensee or an individual interested in pursuing the regulated occupation or profession.
10. Unless otherwise provided by law, the governor shall appoint members of a board and may remove members for cause, misconduct, incapacity, or neglect of duty. After expiration of a term, a board member may continue to serve until the governor makes an appointment to fill the position.
11. An applicant aggrieved by a licensure delay first shall try to resolve the matter with the board. If the matter cannot be resolved, the applicant may bring the matter to the office of the governor. Each board shall provide information on its website or initial licensure application regarding how to contact the office of the governor if a matter between the applicant and the board cannot be resolved.

Approved April 3, 2025

Filed April 3, 2025

CHAPTER 407

SENATE BILL NO. 2042

(Workforce Development Committee)
(At the request of the North Dakota Board of Medicine)

AN ACT to create and enact a new subsection to section 43-58-03.1 and section 43-60-06.1 of the North Dakota Century Code, relating to obtaining criminal history record checks for naturopathic doctors and genetic counselors; and to amend and reenact subdivision d of subsection 2 of section 12-60-24 of the North Dakota Century Code, providing authority to complete the background checks with the bureau of criminal investigation to complete the criminal history record checks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁷ **SECTION 1. AMENDMENT.** Subdivision d of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- d. The North Dakota board of medicine for licenses or disciplinary investigations under ~~section~~sections 43-17-07.1, 43-58-03.1, and 43-60-06.1, except that criminal history record checks need not be made unless required by the board.

SECTION 2. A new subsection to section 43-58-03.1 of the North Dakota Century Code is created and enacted as follows:

The board may require an applicant for licensure or a licensee who is the subject of a disciplinary investigation to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with the criminal history record check are the responsibility of the licensee or applicant.

SECTION 3. Section 43-60-06.1 of the North Dakota Century Code is created and enacted as follows:

43-60-06.1. Criminal history record checks.

The board may require an applicant for licensure or a licensee who is the subject of a disciplinary investigation to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with the criminal history record check are the responsibility of the licensee or applicant.

Approved March 18, 2025

Filed March 18, 2025

¹⁷⁷ Section 12-60-24 was also amended by section 1 of House Bill No. 1075, chapter 114, and section 1 of Senate Bill No. 2073, chapter 115.

CHAPTER 408

SENATE BILL NO. 2040

(Human Services Committee)

(At the request of the North Dakota Board of Medicine)

AN ACT to amend and reenact subsection 2 of section 43-60-02 and subsection 1 of section 43-60-03 of the North Dakota Century Code, relating to the ordering of genetic testing by genetic counselors and examinations required for genetic counseling licensure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 43-60-02 of the North Dakota Century Code is amended and reenacted as follows:

2. Genetic testing may be ~~provided~~ordered by a licensed genetic counselor ~~only when ordered by or in coordination with~~ a North Dakota licensed health care provider acting within the provider's scope of practice and privileged to do so. ~~The referring or primary provider shall maintain supervision of patient care and the licensed genetic counselor shall provide reports to the referring or primary health care provider ordering such testing.~~Nothing in this chapter authorizes a genetic counselor to practice medicine, including treatment or medical management of a patient. If, in the course of providing genetic counseling to a client, a genetic counselor finds any indication of a disease or condition that requires medical assessment or treatment, the genetic counselor shall refer the client to a provider licensed to practice medicine.

SECTION 2. AMENDMENT. Subsection 1 of section 43-60-03 of the North Dakota Century Code is amended and reenacted as follows:

1. An applicant for licensure under this chapter shall pay any filing fee and file an application, on forms provided by the board, to the satisfaction of the board that the applicant is of good moral character and satisfies all of the requirements of this chapter, including:
 - a. Education at one of the following levels:
 - (1) Master of science degree from a genetic counseling training program that is accredited by the ABGC or an ABGC-approved equivalent organization and approved by the board; or
 - (2) Doctoral degree from a medical genetics training program that is accredited by the ABMG and approved by the board; and
 - b. Successful completion of all requirements of the certification examination within a period not to exceed ~~four~~five years from initial examination to successful completion and with no more than three attempts unless an exception is approved by rule adopted by the board;
 - c. Physical, mental, and professional capability for the practice of genetic counseling in a manner acceptable to the board; and

- d. A history free of any finding by the board, by any other state licensing board, or by any court of competent jurisdiction which would constitute grounds for disciplinary action under this chapter. The board may modify this restriction for cause.

Approved March 17, 2025

Filed March 18, 2025