



# North Dakota State Board of Dental Examiners

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## Senate Workforce Development Committee

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Fort Lincoln Room: State Capitol

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Testimony of the North Dakota State Board of Dental Examiners

In Support of SB 2217

### I. Introduction and Background

Chair Wobbema and members of the Senate Workforce Development Committee, my name is David Schaibley, and I'm the Executive Director of the North Dakota State Board of Dental Examiners. I am here today providing the Dental Board's testimony on SB 2217. Through this Bill, which the Board put together with input from its stakeholders and the valuable support and sponsorship of Senator Cleary, the Board proposes changes to North Dakota Century Code chapters 43-20 and 43-28—the statutes related to the practice of dentistry.

As with nearly all professions and sectors of the economy, dental offices are struggling to find enough employees. This places stress on small business-owning dentists, their staff, and on patients—who experience longer wait times for appointments. Board members feel the impact of these constraints on a daily basis because they own dental offices, and they work as dentists, hygienists, and assistants. They don't lose sight of that when stepping into their role on the Board—where they are obligated to regulate dentistry in ways that assure safe, quality dental care.

Board members also recognize that over the last several sessions, legislators have directed all licensing boards to thoroughly assess their laws to determine if any statutes or rules might be unnecessarily exacerbating workforce shortages and to ensure the laws are updated and effective.

As a result, even before the 2023 Legislative Session ended the Dental Board began doing extensive outreach to state and national associations, our licensees, academicians, fellow state agencies, and others to gather their perspectives on our

statutes and rules. With that broad input in hand, the Board studied each law to assess whether they regulate only as far as necessary, and assessed whether any might be modified or eliminated—while still ensuring safe, quality patient care.

Through that review the Board identified scores of possible changes it wanted to recommend in both statute and rule. The Board then promptly initiated rulemaking in early 2024. Examples of that are new rules allowing dental assistants to safely carry out substantially more tasks than previously allowed, creating new categories of assistants, and creating new pathways to licensure. Those new rules took effect on October 1, 2024, and had an immediate workforce impact by freeing up dentists and hygienists to provide more complex patient cares—which in turn allowed dental offices to treat more patients every day.

During the same time that the Board was engaged in rulemaking, it was also assessing its two chapters of Century Code to determine if changes could be made there. This Bill is the result of that nearly two-year process.

## **II. Key Changes and an Overview of SB 2217**

My testimony will first highlight what we see as the most imperative or impactful changes and then to provide an overview of each section of the Bill. If you have questions or would like me to expand upon anything at any point, please let me know.

### **A. Key Changes**

1. Implementing language that will allow the Board to make use of an existing statute related to professional health programs. P12; L 13-24.
2. Confirming the Board's power to issue volunteer licenses to retired dentists and hygienist. P5; L 1 and P13; L8.
3. Clarifying the streamlined pathway to licensure for those who hold licenses issued by other states. P14; L29.
4. Allowing dental hygienists to administer local anesthetic to minors. P7; L26.
5. Removing conflicting language in the section regulating Board member appointment. P10.

## **B. Section-by-Section Overview**

### **Section 1**

Providing definitions of terms used in N.D.C.C. § 43-20-13.2.

### **Section 2**

Clarifying that individuals can apply for more than just a license. Licensees can apply for advanced duty permits, too (e.g., anesthesia permits). P2; L9.

Clarifying fee authority. Specifically, the Board works to react quickly to workforce needs. In 2024 it recognized the need for a new radiology registrant. The resulting cost of revising software and administrative processes was significant. While moving through rulemaking, we were informed that our authority to assess fees was so limited that we could not assess a fee to offset any of the costs. This language would allow fees to be assessed by rule if approved by the Administrative Rules Committee. P2; L20.

Removing outdated language that required applications to be submitted at least thirty days prior to Board meetings so they could be reviewed by the Board at the next meeting. The Board no longer follows that inefficient process. Instead, applications can be submitted any time, and can be approved between Board meetings. P2; L14.

### **Section 3**

Eliminating outdated language dating from when the Board administered dental hygiene credential examinations. It no longer administers these exams. P3; L10.

### **Section 4**

Eliminating ambiguous language implying that if a licensee decided to not renew their license due to retirement, moving, etc., the Board would revoke the license. That is not the case. Revocation only results from disciplinary proceedings. P4; L2.

Extending the time during which expired licenses can be renewed. P4; L11-16

## **Section 5**

Confirming the process by which hygienists licensed in other states or who were previously licensed in North Dakota may obtain volunteer licenses so they can more readily participate in charitable work in our state.

## **Section 6**

Revising ambiguous language related to levels of supervision dentists provide.

## **Section 7**

Aligning the statute with the North Dakota Human Rights Act and the Americans with Disabilities Act. Clarifies that substance use and mental health conditions of a hygienist or assistant do not automatically become grounds for possible disciplinary action, but only if those conditions materially limit competency. P6; L9-16.

Clarifying various grounds for discipline of hygienists and assistants. P7; L5.

## **Section 8**

As currently written, this statute prohibits hygienists from diagnosing patients or creating treatment planning. That prohibition stays in place. Input was received during recent rulemaking that this language could be written more clearly.

## **Section 9**

Eliminating a prohibition that prevents hygienists from injecting local anesthetic into any patient under the age of 18. The suggested change would allow a hygienist to inject local anesthetic to those under 18 if the dentist has assessed the situation, hygienist, and patient, and provided approval.

## **Section 10 (comparable to Section 6)**

Revising ambiguous language related to levels of supervision.

### **Section 11**

Clarifying the titles of dental assistants. P8; L13.

Extending the time during which expired licenses can be renewed. P8; L 27-31.

Confirming the Board's authority to audit continuing education. P9; L9.

### **Section 12 (comparable to Section 2 regulating hygienists and assistants)**

Clarifying that individuals can apply for more than just becoming an assistant. If they have more advanced training that was not part of their initial education, they can apply for more advanced duties such as anesthesia permits, sealant endorsements, etc.

### **Section 13**

Clarifying the titles of dental assistants.

### **Section 14**

As discussed in the Key Provisions portion of my testimony, these changes revise language related to Board member terms without increasing the time Board members can serve. P10; L16-19.

### **Section 15**

Confirming that the criteria for being appointed to a Board member position apply throughout a Board member's entire term.

### **Section 16**

Providing the Board with more flexibility when electing its officers. P11; L5-12.

Removing an outdated definition of a quorum so that a quorum of this Board will be aligned with state open meetings laws. A quorum will now be "one-half or more" per NDCC § 44-04-17.1(15).

### **Section 17**

Sometimes the concerning area of practice is limited to just a narrow part of the dentist's practice. In those cases, the Board works to not restrict the dentist's overall/entire license, but to instead restrict a narrow part of their practice (e.g., their botox permit). The proposed change is designed to reduce ambiguity. P11; L 29.

As discussed in the Key Provisions testimony, this section allows licensees the opportunity to participate in a professional health program. P12; L15.

Allowing the Board to seek monetary fines as part of licensee discipline. As set forth in NDCC § 43-28-18.2(5), all discipline can only be invoked after a hearing under NDCC ch. 28-32 and if then ordered by an Administrative Law Judge after a hearing, or if agreed to by the licensee. P 12; L 23.

### **Section 18**

Eliminating language that could potentially conflict with state open records laws and confirming that the Board's records are governed by open records law—N.D.C.C. ch. 44-04.

### **Section 19 (comparable to Section 5 regulating hygienists)**

Confirming the process by which dentists licensed in other states or who were previously licensed in North Dakota may obtain volunteer licenses so they can more readily participate in charitable work.

### **Section 20 (comparable to Section 2 regulating hygienists and assistants)**

Removing outdated language that requires applications to be submitted at least thirty days prior to Board meetings in order to be reviewed by the full Board. The Board no longer follows that inefficient process. Instead, applications can be submitted any time, and can be approved between Board meetings. P13; L15-23.

Clarifying fee authority. Specifically, the Board works to react quickly to workforce needs. In 2024 it recognized the need for a new radiology registrant. The resulting cost of revising software and administrative processes was significant. While moving through rulemaking, we were informed that our authority to assess fees was so limited that we could not assess a fee to offset any of the costs. This language would allow fees to be assessed by rule if approved by the Administrative Rules Committee. P2; L20.

### **Section 21**

Clarifying that regardless of the title used (license, registration, permit, privilege, endorsement), those who stopped practicing for five years or more must inform the Board before they resume practice. This allows the Board to assess whether the dentists' skills have deteriorated to the extent that patient safety would be at risk.

### **Section 22**

Confirming that dentists licensed have a streamlined pathway to licensure in North Dakota.

### **Section 23 (comparable to Section 4 regulating hygienists and assistants)**

Allowing those whose license has expired to renew their license for up to one year from expiration. P15; L5-24.

Eliminating ambiguous language that seemed to imply that a license would be revoked by the Board merely due to non-renewal of a license, as opposed to disciplinary reasons. P15; L 10

### **Section 24 (comparable to Section 7 regulating hygienists and assistants)**

Aligning the statute with the North Dakota Human Rights Act and the Americans with Disabilities Act. Clarifies that substance use and mental health conditions of a hygienist or assistant do not automatically become grounds for possible disciplinary action, but only if those conditions materially limit competency. P16; L10-14.

Clarifying grounds for discipline of a dentist. P17; L6 through P 18; L 19. A key aspect is designed to strengthen laws related to a common consumer concern about delays in obtaining their patient files. P17; L 20-29.

### **Section 25**

Requiring licensees to make the Board aware of any arrests or criminal charges so it can monitor any circumstances that could impact patient safety.

### **Section 26**

Allowing the Board to more efficiently and thoroughly investigate complaints into allegations against dental professionals. P19; L 22.

Allowing an Administrative Law Judge to award costs in circumstances where the investigation was unnecessarily prolonged or costly. P 20; L 13-23.

### **Section 27**

In dire circumstances where patient safety is at imminent risk, the existing statute allows the Board to suspend a license before holding a hearing. A great deal of proof and due process is in place to ensure the Board uses that authority carefully. The existing language contains several ambiguities that these revisions seek to clarify—without changing the application of the law.

## **III. Conclusion**

In conclusion, the Board anticipates that passage of this Bill will have a positive impact on workforce and the Board's operational efficiencies, while not risking patient safety or reducing the quality of care.

Dental offices will benefit because they will be able to hire licensed professionals more readily.



Dentists will benefit by being able to confidentially access a professional health care program, thus increasing the likelihood they will remain healthy, and their small businesses will remain in operation.

Patients will benefit because these changes are being proposed in ways that continue to ensure patient safety, and they will be able to more readily access care and more timely obtain their dental records.

All dental professionals and patients will benefit from the administrative changes that are expected to increase Board efficiencies—allowing the Board to more effectively serve the public and the dental community.

The Board greatly appreciates your time and consideration of these proposed changes, and welcomes any questions. Thank you.

**Prepared and Presented by:**

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