

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2114

Introduced by

Industry, Business and Labor Committee

(At the request of the Board of Nursing)

1 A BILL for an Act to amend and reenact sections 43-12.1-02, 43-12.1-03, 43-12.1-04,
2 43-12.1-05, 43-12.1-07, 43-12.1-08, 43-12.1-09, 43-12.1-10, 43-12.1-11, 43-12.1-13,
3 43-12.1-14, 43-12.1-15, and 43-12.1-16 of the North Dakota Century Code, relating to specialty
4 nursing practice, unlicensed assistive personnel, persons exempt from licensure, residency
5 requirements for nursing practice, compensation of board members, disciplinary procedures,
6 and the expiration date of the authority of a licensed nurse to delegate medication
7 administration.

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

9 **SECTION 1. AMENDMENT.** Section 43-12.1-02 of the 1999 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **43-12.1-02. Definitions.** In this chapter, unless the context or subject matter otherwise
12 requires:

- 13 1. "Advanced practice registered nurse" means a person who holds a current license
14 to practice in this state as an advanced practice registered nurse and either has a
15 graduate degree with a nursing focus or has completed the educational
16 requirements in effect when the person was initially licensed.
- 17 2. "Board" means the North Dakota board of nursing.
- 18 3. "Licensed practical nurse" means a person who holds a current license to practice
19 in this state as a licensed practical nurse and either has an associate degree with
20 a major in nursing or has completed the educational requirements in effect when
21 the person was initially licensed.
- 22 4. "Nurse" means any person currently licensed as an advanced practice registered
23 nurse, registered nurse, or licensed practical nurse.

5. ~~"Nurse assistant" means a person who is authorized by the board to perform nursing tasks delegated and supervised by a licensed nurse.~~

6. "Nursing" means the performance of acts utilizing specialized knowledge, skills, and abilities for people in a variety of settings. Nursing includes the following acts, which may not be deemed to include acts of medical diagnosis or treatment or the practice of medicine as defined in chapter 43-17:

- a. The maintenance of health and prevention of illness.
- b. Diagnosing human responses to actual or potential health problems.
- c. Providing supportive and restorative care and nursing treatment, medication administration, health counseling and teaching, case finding and referral of persons who are ill, injured, or experiencing changes in the normal health processes.
- d. Administration, teaching, supervision, delegation, and evaluation of health and nursing practices.
- e. Collaboration with other health care professionals in the implementation of the total health care regimen and execution of the health care regimen prescribed by a health care practitioner licensed under title 43.

~~7.~~ 6. "Prescriptive practices" means assessing the need for drugs, immunizing agents, or devices and writing a prescription to be filled by a licensed pharmacist.

~~8.~~ 7. "Registered nurse" means a person who holds a current license to practice in this state as a registered nurse and either has a baccalaureate degree with a major in nursing or has completed the educational requirements in effect when the person was initially licensed.

8. "Specialty practice registered nurse" means a person who holds a current license to practice in this state as a specialty practice registered nurse and has the educational preparation and national certification within a defined area of nursing practice.

9. "Transitional practical nurse license" means a license issued by the board to a person who meets all of the requirements for licensure by endorsement as a licensed practical nurse, except the educational requirements.

10. "Transitional registered nurse license" means a license issued by the board to a person who meets all of the requirements for licensure by endorsement as a registered nurse, except the educational requirements.

11. "Unlicensed assistive person" means an assistant to the nurse who regardless of title is authorized by the board to perform nursing interventions delegated and supervised by a licensed nurse.

SECTION 2. AMENDMENT. Section 43-12.1-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-03. License required - Title - Abbreviation. Any person who provides nursing care to a resident of this state must hold a current license or registration issued by the board. It is unlawful for a person to practice nursing, offer to practice nursing, assist in the practice of nursing, or use any title, abbreviation, or designation to indicate that the person is practicing nursing or assisting in the practice of nursing in this state unless that person is currently licensed or registered under this chapter. A currently licensed advanced practice registered nurse or specialty practice registered nurse may use titles approved by the board; a currently licensed registered nurse may use the abbreviation "R.N."; a currently licensed practical nurse may use the abbreviation "L.P.N."; and ~~a nurse assistant~~ an unlicensed assistive person with current registration may use the title identified by the employer. A person may not use the title "nurse" or be referred to as a "nurse" unless licensed by the board.

SECTION 3. AMENDMENT. Section 43-12.1-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-04. (Effective through July 31, 2001) Persons exempt from provisions of chapter. This chapter does not apply to:

1. Persons who perform nursing ~~tasks~~ interventions in cases of emergency or disaster.
2. Students practicing nursing as a part of a board-approved nursing education program.
3. Legally licensed nurses of another state employed in this state by the United States government or any of its bureaus, divisions, or agencies.
4. A nurse licensed by another state or Canada, whose employment requires the nurse to accompany and care for a patient in transit for health care.

5. A nurse licensed by another state whose employment by a resident of that state requires the nurse to accompany and care for the resident in North Dakota.
6. A person who performs nursing tasks for a family member.
7. A person who is not licensed under this chapter and who renders assistance pursuant to chapter 23-27.
8. A person licensed or registered under this title and carrying out the therapy or practice for which the person is licensed or registered.
9. A person who provides medication administration according to individual needs and as a part of an individual habilitation or case plan within a residential treatment center for children licensed under chapter 25-03.2, a treatment or care center for developmentally disabled persons licensed under chapter 25-16, or a residential child care facility licensed under chapter 50-11.

(Effective after July 31, 2001) Persons exempt from provisions of chapter. This chapter does not apply to:

1. Persons who perform nursing ~~tasks~~ interventions in cases of emergency or disaster.
2. Students practicing nursing as a part of a board-approved nursing education program.
3. Legally licensed nurses of another state employed in this state by the United States government or any of its bureaus, divisions, or agencies.
4. A nurse licensed by another state or Canada, whose employment requires the nurse to accompany and care for a patient in transit for health care.
5. A nurse licensed by another state whose employment by a resident of that state requires the nurse to accompany and care for the resident in North Dakota.
6. A person who performs nursing tasks for a family member.
7. A person who is not licensed under this chapter and who renders assistance pursuant to chapter 23-27.
8. A person licensed or registered under this title and carrying out the therapy or practice for which the person is licensed or registered.
9. A person who provides medications, other than by the parenteral route:

- a. Within residential treatment centers for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
 - b. Within treatment or care centers for developmentally disabled persons licensed under chapter 25-16;
 - c. Within group homes, residential child care facilities, and adult foster care facilities licensed under section 50-11-01 or North Dakota Administrative Code chapter 75-03-16; or
 - d. Within human service centers licensed under chapter 50-06.
10. A nurse currently licensed to practice nursing by another jurisdiction:
- a. Whose practice in another state requires that nurse to attend orientation, meetings, or continuing education in North Dakota;
 - b. Who serves as a guest lecturer or short-term consultant; or
 - c. Who provides evaluation undertaken on behalf of an accrediting organization.

SECTION 4. AMENDMENT. Section 43-12.1-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-05. Board of nursing - Composition - Term of office. There is a state board of nursing whose members must be appointed by the governor which must consist of five registered nurses, three licensed practical nurses, and one public member. Each board member must be appointed for a term of four years. No appointee may be appointed for more than two consecutive terms. An appointment for an unexpired term of more than eighteen months will constitute a full term. Terms of nurse board members must be evenly distributed to allow two licensed nurse board members to be appointed or reappointed each year. ~~The members of the board holding office on August 1, 1995, may continue to serve as members for their respective terms.~~

SECTION 5. AMENDMENT. Section 43-12.1-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-07. Compensation of board members. ~~In addition to the expenses incurred while engaged in the performance of the duties of office, each board member shall receive a per diem fee not to exceed ninety dollars for each day of service.~~ A member of the board is entitled to receive compensation in an amount fixed by the board for each day or portion of a day the member is actually engaged in the performance of official duties and such mileage

1 reimbursement as is provided for in section 54-06-09. In addition, the member is entitled to
2 reimbursement for actual and necessary expenses in the amounts provided by law for state
3 officers in section 44-08-04. All funds collected or received by the board must be deposited
4 and disbursed in accordance with section 54-44-12.

5 **SECTION 6. AMENDMENT.** Section 43-12.1-08 of the 1999 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **43-12.1-08. Powers and duties of the board.** The board shall regulate the practice of
8 nursing to assure that qualified competent practitioners and high quality standards are
9 available. Regulation of the profession of nursing must ensure that no person may practice or
10 offer to practice nursing or use titles of advanced practice registered nurse, registered nurse,
11 licensed practical nurse, ~~nurse assistant~~ or unlicensed assistive person, or titles of a similar
12 nature which denote the practice of nursing to the general public unless licensed or registered
13 as provided in this chapter. The board shall:

- 14 1. Enforce the provisions of this chapter. The board has all of the duties, powers,
15 and authority specifically granted by and necessary for the enforcement of this
16 chapter.
- 17 2. Adopt rules necessary to administer this chapter.
- 18 3. Appoint and employ a qualified registered nurse to serve as executive director and
19 approve any additional staff positions necessary to administer this chapter.
- 20 4. Establish fees and receive all moneys collected under this chapter and authorize
21 all expenditures necessary to conduct the business of the board. Any balance of
22 fees after payment of expenditures must be used to administer this chapter.
- 23 5. Establish qualifications for nursing licensure and registration.
- 24 6. Establish standards for nursing education and practice and:
 - 25 a. Collaborate and consult with the appropriate nursing organizations and other
26 affected parties in the establishment of the standards; and
 - 27 b. Consult with the medical profession in the establishment of prescriptive
28 practice standards for advanced practice registered nurses. Prescriptive
29 practices must be consistent with the scope of practice of the advanced
30 practice registered nurse and include evidence of a collaborative agreement
31 with a licensed physician.

7. Periodically review and approve nursing education programs.
8. License and register applicants and renew and reinstate licenses and registrations.
9. Establish standards for assessing the competence of licensees and registrants continuing in or returning to practice.
10. Collect and analyze data regarding nursing education, nursing practice, and nursing resources.
11. Issue limited licenses to individuals requiring accommodation to practice nursing.
12. Establish confidential programs for the rehabilitation of nurses with workplace impairments.
13. Discipline applicants, licensees, and registrants for violating this chapter.
14. Establish a nursing student loan program funded by license fees to encourage persons to enter and advance in the nursing profession.
15. Establish a registry of persons licensed or registered by the board.
16. Collaborate and consult with the North Dakota nurses association, North Dakota licensed practical nurses association, and other nursing specialty groups prior to the adoption of rules.
17. Report annually to the governor and nursing profession regarding the regulation of nursing in the state.
18. Conduct and support projects pertaining to nursing education and practice.
19. Notify the board of pharmacy on an annual basis, or more frequent basis if necessary, of advanced practice registered nurses authorized to write prescriptions.
20. Adopt rules to allow nurses licensed by another state to receive short-term clinical education in North Dakota health care facilities.

SECTION 7. AMENDMENT. Section 43-12.1-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-09. Licensure - Registration. Each applicant who successfully meets the requirements of this section is entitled to initial licensure or registration as follows:

1. An applicant for licensure by examination to practice as a registered nurse or licensed practical nurse shall:

- 1 a. Submit a completed application and appropriate fee as established by the
2 board;
- 3 b. Submit an official transcript showing completion of a board-approved nursing
4 education program preparing for the level of licensure sought; and
- 5 c. Pass an examination approved by the board.
- 6 2. An applicant for licensure by endorsement to practice as a registered nurse or
7 licensed practical nurse shall:
 - 8 a. Submit a completed application and appropriate fee as established by the
9 board;
 - 10 b. Submit an official transcript showing completion of a nursing education
11 program equal to or exceeding the requirements for nursing education
12 programs in place in this state at the time the applicant qualified for initial
13 licensure;
 - 14 c. Submit proof of initial licensure by examination with the examination meeting
15 the state requirements for licensure examinations in effect at the time the
16 applicant qualified for initial licensure; and
 - 17 d. Submit evidence of current unencumbered licensure in another state or
18 territory or meet continued competency requirements as established by the
19 board.
- 20 3. If an applicant for licensure by endorsement does not meet the educational
21 requirements for the appropriate level of licensure as established by the board, a
22 transitional license may be issued. A transitional license may be issued and
23 renewed according to board rules. Renewal requires proof of progression towards
24 meeting the ~~educational~~ academic requirements of thirty hours of continuing
25 education activity.
- 26 4. An applicant for licensure as an advanced practice registered nurse shall:
 - 27 a. Submit a completed application and appropriate fee as established by the
28 board;
 - 29 b. Submit evidence of appropriate education and current certification in an
30 advanced nursing role by a national nursing organization meeting criteria as
31 established by the board; and

c. Possess or show evidence of application for a current unencumbered registered nurse license.

5. An applicant for licensure as an advanced practice registered nurse who completed an advanced nursing education program and was licensed or certified in advanced practice by another state before January 1, 2001, or who completed an advanced nursing education program and was licensed or certified as a women's health care nurse practitioner by another state before January 1, 2007, may apply for and receive an advanced practice license if that person meets the requirements that were in place in this state at the time the applicant qualified for initial advanced practice licensure in that state.

6. An applicant for ~~nurse assistant~~ unlicensed assistive person registration shall:

- a. Submit a completed application and the appropriate fee as established by the board; and
- b. Provide verification of appropriate training ~~and~~ evidence of certification or evaluation in the performance of basic nursing tasks interventions.

7. An applicant for licensure as a specialty practice registered nurse shall:

- a. Submit a completed application and appropriate fees as established by the board;
- b. Submit evidence of appropriate education and current certification in a specialty nursing role by a national nursing organization meeting criteria as established by the board; and
- c. Possess or show evidence of application for a current unencumbered registered nurse license.

SECTION 8. AMENDMENT. Section 43-12.1-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-10. License - Registration - Renewal.

- 1. A current license to practice as an advanced practice registered nurse, specialty practice registered nurse, registered nurse, or licensed practical nurse must be issued upon proof that the applicant meets all requirements for licensure ~~and is a resident of North Dakota or upon verification of employment in North Dakota or by a federal agency.~~ If a person does not renew a license before its expiration date,

the license may be reinstated if that person meets the requirements set by the board.

2. ~~A nurse assistant~~ An unlicensed assistive person may renew registration upon submission of a renewal application, appropriate fee established by the board and documentation of competency by the employer or evidence of certification or evaluation. A lapsed ~~nurse assistant~~ unlicensed assistive person registration may be renewed upon submission of the application, payment of the appropriate fee established by the board, and documentation of competency or evidence of certification or evaluation.

SECTION 9. AMENDMENT. Section 43-12.1-11 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-11. Duties of licensees and registrants. Each person licensed or registered by the board shall provide information requested by the board at the time of renewal. Each person licensed or registered by the board shall report to the board any knowledge of the performance by others of those acts or omissions that are violations of this chapter or grounds for disciplinary action as set forth in section 43-12.1-14. Each ~~licensed nurse~~ licensee or registrant shall report to the board any judgment or settlement in a professional or occupational malpractice action to which the licensee or registrant is a party. Any person, other than a licensee or registrant alleged to have violated this chapter, participating in good faith in making a report, assisting in an investigation, or furnishing information to an investigator, is immune from any civil or criminal liability that otherwise may result from reporting required by this section. For the purpose of any civil or criminal proceeding the good faith of any person required to report under this section is presumed.

SECTION 10. AMENDMENT. Section 43-12.1-13 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-13. Disciplinary proceedings. Disciplinary proceedings under this chapter must be conducted in accordance with chapter 28-32. ~~Fees of up to one thousand dollars for~~ each separate violation or the assessment of costs and disbursements, or both, may be imposed against a respondent in addition to any licensure or registration sanctions the board may impose. An appeal from the final decision of the board may be taken to the district court of Burleigh County under chapter 28-32. The board shall furnish to the boards of nursing of other

states by means including the data bank of the national council of state boards of nursing, to data banks as required by federal law and to health care agencies of this state, a list of the names and addresses of licensees or registrants who have been disciplined by the board.

SECTION 11. AMENDMENT. Section 43-12.1-14 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-14. Grounds for discipline - Penalties. The board may ~~suspend, revoke, place on probation, refuse to issue or renew a license, or reprimand a licensee or registrant if the licensee or registrant~~ deny, limit, revoke, probate, encumber, or suspend any license or registration to practice nursing issued by the board or applied for in accordance with this chapter; reprimand, place on probation, or otherwise discipline a licensee, registrant, or applicant; deny admission to licensure or registration examination; provide an alternative to discipline in situations involving impairments of chemical dependency or psychiatric or physical disorders; or require evidence of evaluation and treatment, upon proof that the person:

1. Has been arrested, charged, or convicted by a court, or has entered a plea of nolo contendere to a crime in any jurisdiction that relates adversely to the practice of nursing and the licensee or registrant has not demonstrated sufficient rehabilitation under section 12.1-33-02.1;
2. Has been disciplined by a board of nursing in another jurisdiction, or has had a license or registration to practice nursing or to assist in the practice of nursing or to practice in another health care occupation or profession denied, revoked, suspended, or otherwise ~~restricted~~ sanctioned;
3. Has engaged in any practice inconsistent with the standards of nursing practice;
4. Has obtained or attempted to obtain by fraud or deceit a license or registration to practice nursing, or has submitted to the board any information that is fraudulent, deceitful, or false;
5. ~~Is unfit or incompetent to practice nursing by reason of negligence, patterns of behavior, or other causes as established under rules adopted by the board~~ Has engaged in a pattern of practice or other behavior that demonstrates professional misconduct;
6. Has diverted or attempted to divert supplies, equipment, drugs or controlled substances for personal use or unauthorized use;

7. Has practiced nursing in this state without a current license or as otherwise prohibited by this chapter;
8. Has failed to report any violation of this chapter or rules adopted under this chapter; or
9. Has failed to ~~meet the duties of a licensee or registrant under this chapter~~ observe and follow the duly adopted standards, policies, directives, and orders of the board, or has violated any other provision of this chapter.

SECTION 12. AMENDMENT. Section 43-12.1-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-15. Violation - Penalties. A person may not:

1. Buy or sell, fraudulently obtain, or furnish any questions and answers used in the licensing examination for nurses, or assist others in the performance of these acts.
2. Buy or sell, fraudulently obtain, or furnish any record which might enable a person to obtain a license in this state or assist others in the performance of these acts.
3. Practice as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse through use of a transcript from a school of nursing, diploma, certificate of registration, license, or record which was fraudulently created or obtained.
4. Practice as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse as defined by this chapter unless licensed to do so.
5. Conduct any education program preparing a person for nursing licensure or registration unless the program has been approved or accepted by the board.
6. Employ a person to practice nursing or perform nursing ~~tasks~~ interventions unless the person is licensed or registered by the board.

Any violation of this chapter is a class B misdemeanor.

SECTION 13. AMENDMENT. Section 43-12.1-16 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-12.1-16. (~~Effective through July 31, 2001~~) Delegation of medication administration. A licensed nurse may delegate medication administration to a person exempt under subsection 9 of section 43-12.1-04.