

Fifty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2163

Introduced by

Industry, Business and Labor Committee

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

1 A BILL for an Act to amend and reenact subsection 9 of section 43-17-31, sections 43-17-31.1
2 and 43-17-32.1, and subsection 1 of section 43-17.1-02 of the North Dakota Century Code,
3 relating to references to commission on medical competency, ex parte temporary suspension
4 orders issued by the state board of medical examiners, and investigative panels of the state
5 board of medical examiners.

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

7 **SECTION 1. AMENDMENT.** Subsection 9 of section 43-17-31 of the 1999 Supplement
8 to the North Dakota Century Code is amended and reenacted as follows:

9 9. The violation of any provision of a medical practice act or the rules and regulations
10 of the board, or any action, stipulation, condition, or agreement imposed by the
11 board or ~~the commission on medical competency~~ its investigative panels.

12 **SECTION 2. AMENDMENT.** Section 43-17-31.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-17-31.1. Costs of prosecution - Disciplinary proceedings.** In any order or
15 decision issued by the board in resolution of a disciplinary proceeding in which disciplinary
16 action is imposed against a physician, the board may direct any physician to pay the board a
17 sum not to exceed the reasonable and actual costs, including attorney's fees, incurred by the
18 board and ~~the commission on medical competency~~ its investigative panels in the investigation
19 and prosecution of the case. When applicable, the physician's license may be suspended until
20 the costs are paid to the board.

21 **SECTION 3. AMENDMENT.** Section 43-17-32.1 of the 1999 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **43-17-32.1. Temporary suspension - Appeal.**

1. When, based on verified evidence, the board has probable cause to believe that the suspension of a physician's license is required to reasonably protect the public from imminent or critical harm, the board may order a temporary suspension ex parte.
2. An ex parte temporary suspension remains in effect for not more than sixty days, unless otherwise terminated by the board or extended by agreement of the parties.
3. The board shall ~~set the date of a full hearing for suspension or revocation of the physician's license for~~ conduct a hearing on the merits of the allegations to determine what disciplinary action, if any, shall be taken against the physician who is the subject of the ex parte suspension. That hearing must be held not later than sixty fifty days from the issuance of the ex parte temporary suspension order unless an extension of time has been agreed to by the parties to the action. Within three days after the issuance of the ex parte suspension order the board shall serve the physician with a copy of the order along with a copy of the complaint and notice of the date set for the full hearing.
4. The physician may appeal the ex parte temporary suspension order prior to the full hearing. For purposes of appeal, the district court shall decide whether the board acted reasonably or arbitrarily. The court shall give priority to the appeal for prompt disposition thereof.

SECTION 4. AMENDMENT. Subsection 1 of section 43-17.1-02 of the 1999

Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. For the purpose of investigating complaints or other information that might give rise to a disciplinary proceeding against a physician, a physician assistant, or a fluoroscopy technologist, the president of the board must designate two investigative panels, each comprised of five members of the board, ~~excluding the president.~~ Four members of each panel must be physician members of the board. One member of each panel must be a public member of the board. ~~In addition, the~~ The president of the board shall serve on ~~both~~ neither investigative ~~panels~~ panel.