

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1488

Introduced by

Representatives N. Johnson, Conrad, Hofstad

Senators Dever, Erbele, Warner

1 A BILL for an Act to create and enact chapter 43-32.1 of the North Dakota Century Code,
2 relating to authorizing medical psychologists to prescribe drugs; to amend and reenact section
3 39-06-07.2, subsection 1 of section 43-15-01, section 43-15-31.1, subsection 4 of section
4 43-15-31.5, and sections 43-32-17 and 43-32-32 of the North Dakota Century Code, relating to
5 department of transportation advice from medical psychologists and prescriptive authority of
6 medical psychologists; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 39-06-07.2 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **39-06-07.2. Medical advice - Use by director.**

- 11 1. The director is authorized to seek professional medical advice from any physician,
12 medical psychologist, or optometrist authorized to practice in this state and to use
13 that advice in decisions made by the director in regard to the issuance, renewal,
14 suspension, revocation, or cancellation of driver's licenses pursuant to this chapter.
15 The advice may be received in any manner deemed advisable by the director or
16 the director's authorized agent.
- 17 2. In addition to advice sought and received pursuant to subsection 1, the director
18 may consider information and advice received from an individual applicant's or
19 driver's personal physician, medical psychologist, or optometrist. Any examination
20 and report requested by the applicant or driver or required to be taken and
21 provided by the director pursuant to this chapter must be at the expense of the
22 applicant or driver.

1 3. Any physician, medical psychologist or optometrist providing advice to the director
2 or director's authorized agent pursuant to subsection 1 shall incur no liability for
3 any opinion, recommendation, or advice provided.

4 4. Advice and information received by the director or director's authorized agent
5 pursuant to subsection 1 which relates to an individual applicant or driver is for the
6 confidential use of the director or director's authorized agent in making decisions
7 on the individual's qualifications as a driver, and the information may not be
8 divulged to any person or used in evidence in any trial or proceeding except in
9 matters concerning the individual's qualifications to receive or retain a driver's
10 license.

11 5. General advice and information received by the director or director's authorized
12 agent pursuant to this section, in addition to other sources of information, may be
13 used by the director in the adoption of administrative rules concerning medical
14 criteria for driver licensing.

15 **SECTION 2. AMENDMENT.** Subsection 1 of section 43-15-01 of the North Dakota
16 Century Code is amended and reenacted as follows:

17 1. "Administration" means the direct application of a drug to the body of a patient.

18 a. The term includes:

19 (1) The emergency maintenance of a drug delivery device used in home
20 infusion therapy by a qualified home pharmacist when nursing service
21 is not available;

22 (2) Immunization and vaccination by injection of an individual who is more
23 than eighteen years of age, upon an order by a physician or nurse
24 practitioner authorized to prescribe such a drug or by written protocol
25 with a physician or nurse practitioner; and

26 (3) Provision of drugs by subcutaneous, intradermal, and intramuscular
27 injection to an individual who is more than eighteen years of age upon
28 the order of a physician, medical psychologist, or nurse practitioner
29 authorized to prescribe such a drug.

30 b. The term does not include the regular ongoing delivery of a drug to the patient
31 in a health care setting and other parenteral administration of a drug.

1 **SECTION 3. AMENDMENT.** Section 43-15-31.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-15-31.1. Patient profile record system.** A patient profile record system must be
4 maintained in all pharmacies for ~~persons~~ individuals for whom prescriptions are dispensed.
5 The patient profile record system must be devised so as to enable the immediate retrieval of
6 information necessary to enable the dispensing pharmacist to identify previously dispensed
7 medication at the time a prescription is presented for dispensing. One profile card may be
8 maintained for all members of a family living at the same address and possessing the same
9 family name.

10 The following information must be recorded:

- 11 1. The family name and the first name of the ~~person~~ individual for whom the
12 medication is intended, which is the patient.
- 13 2. The address of the patient.
- 14 3. An indication of the patient's age group, e.g., infant, child, adult.
- 15 4. The original date the medication is dispensed pursuant to the receipt of a
16 ~~physician's~~ prescriber's prescription.
- 17 5. The number or designation identifying the prescription.
- 18 6. The prescriber's name.
- 19 7. The name, strength, and quantity of the drug dispensed.
- 20 8. The initials of the dispensing pharmacist, and the date of dispensing medication as
21 a renewal (refill) if said initials and such date are not recorded on the back of the
22 original prescription.

23 The pharmacist shall attempt to ascertain and shall record any allergies and
24 idiosyncrasies of the patient and any chronic conditions which may relate to drug utilization as
25 communicated to the pharmacy by the patient.

26 Upon receipt of a prescription, a pharmacist must examine the patient's profile record
27 before dispensing the medication to determine the possibility of a harmful drug interaction or
28 reaction. Upon recognizing a potential harmful reaction or interaction, the pharmacist shall take
29 appropriate action to avoid or minimize the problem which shall, if necessary, include
30 consultation with the ~~physician~~ prescriber.

1 A patient profile record must be maintained for a period of not less than five years from
2 the date of the last entry in the profile record.

3 **SECTION 4. AMENDMENT.** Subsection 4 of section 43-15-31.5 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 4. Requirements for content of ~~physician~~ prescriber orders and protocols.

6 **SECTION 5. AMENDMENT.** Section 43-32-17 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-32-17. License required for practice - Titles.**

- 9 1. Except as otherwise provided under this chapter, a person may not engage in the
10 practice of psychology or represent that person to be a psychologist in this state
11 unless that person is an individual who is licensed as a psychologist under this
12 chapter. Except as otherwise provided by this chapter, a person may not engage
13 in the practice of industrial-organizational psychology or represent that person to
14 be an industrial-organizational psychologist in this state unless that person is an
15 individual who is licensed as a psychologist or an industrial-organizational
16 psychologist under this chapter. A psychologist may not prescribe drugs unless
17 the psychologist is a medical psychologist who holds a certificate granting
18 prescriptive authority under chapter 43-32.1.
- 19 2. A psychologist may use the title "psychologist" or similar title in conjunction with the
20 practice of psychology. An industrial-organizational psychologist may use the title
21 "industrial psychologist", "organizational psychologist", or "industrial-organizational
22 psychologist" in conjunction with the practice of industrial-organizational
23 psychology. An industrial-organizational psychologist may not use the title
24 "psychologist" or similar title representing that the individual is licensed as a
25 psychologist.

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

28 **43-32-32. Drugs - Medicine.** ~~This~~ Except as provided under chapter 43-32.1, this
29 chapter may not be construed as permitting a licensee to administer or prescribe drugs; or in
30 any manner engage in the practice of medicine as defined by the laws of this state.

1 **SECTION 7.** Chapter 43-32.1 of the North Dakota Century Code is created and
2 enacted as follows:

3 **43-32.1-01. Definitions.** As used in this chapter, unless the context requires
4 otherwise:

- 5 1. "Board" means the North Dakota state board of psychologist examiners.
- 6 2. "Clinical experience" means a period of supervised clinical training and practice
7 during which clinical diagnosis and intervention are learned and are conducted and
8 supervised as part of the training program.
- 9 3. "Controlled substance" has the same meaning as provided under section
10 19-03.1-01.
- 11 4. "Drug" has the same meaning as provided under section 19-02.1-01 to the extent
12 the drug is customarily used in or related to the diagnosis or treatment of a mental,
13 behavioral, cognitive, or emotional disorder.
- 14 5. "Medical psychologist" means a psychologist who holds in good standing a
15 certificate granting prescriptive authority issued by the board.
- 16 6. "Medicine" has the same meaning as provided under section 43-15-01, to the
17 extent the medicine is customarily used in or related to the diagnosis or treatment
18 of a mental, behavioral, cognitive, or emotional disorder.
- 19 7. "Prescription" means an order for a drug; laboratory test; or any medicine, device,
20 or treatment, including a controlled substance.
- 21 8. "Prescriptive authority" means the authority to prescribe, administer, discontinue,
22 or distribute without charge a drug or controlled substance recognized in or
23 customarily used in the diagnosis, treatment, and management of an individual
24 with a psychiatric, a mental, a cognitive, a nervous, an emotional, or a behavioral
25 disorder, or other procedure directly related thereto which is within the scope of the
26 practice of psychology in accordance with rules adopted by the board.
- 27 9. "Psychologist" has the same meaning as provide under section 43-32-01.

28 **43-32.1-02. Certification.** The board shall issue certificates of prescriptive authority,
29 including developing and implementing procedures for reviewing education and training
30 credentials for the certification process which are in accordance with the current standards of
31 professional practice.

1 **43-32.1-03. Qualification.** An applicant who applies for a certificate of prescriptive
2 authority shall demonstrate all of the following by official transcript or other official evidence
3 satisfactory to the board:

4 1. The applicant must be a psychologist at the doctoral level who is board-authorized
5 to provide health care services as a psychologist.

6 2. As defined by the board, taking into consideration the established policies of the
7 American psychological association for educating and training psychologists in
8 preparation for prescriptive authority, the applicant must have:

9 a. Completed an organized sequence of study in an organized program offering
10 intensive didactic education that includes the following core areas of
11 instruction:

12 (1) Basic life science;

13 (2) Neurosciences;

14 (3) Clinical and research pharmacology and psychopharmacology;

15 (4) Clinical medicine and pathophysiology;

16 (5) Physical assessment and laboratory exams;

17 (6) Clinical pharmacotherapeutics; and

18 (7) Research, professional, ethical, and legal issues;

19 b. The didactic portion of the education must consist of an appropriate number of
20 didactic hours to ensure acquisition of the necessary knowledge and skills to
21 prescribe in a safe and effective manner; and

22 c. Obtained relevant clinical experience sufficient to attain competency in the
23 psychopharmacological treatment of a diverse patient population under the
24 direction of qualified practitioners as determined by the board.

25 3. The applicant must have passed an examination developed by a nationally
26 recognized body which is approved by the board.

27 **43-32.1-04. Renewal.** The board shall adopt rules establishing the method and
28 qualifications for the renewal of a certificate of prescriptive authority. Renewal must take place
29 at the time of or in conjunction with the annual renewal of a license under chapter 43-32. Each
30 applicant for renewal of a certificate of prescriptive authority shall present the board with
31 satisfactory evidence demonstrating the completion of twenty contact hours of board-approved

continuing education instruction relevant to prescriptive authority during the previous period of certification.

43-32.1-05. Prescribing practices.

1. A medical psychologist may prescribe, administer, discontinue, and distribute without charge, a drug or controlled substance recognized in or customarily used in the diagnosis, treatment, and management of an individual with a psychiatric, mental, cognitive, nervous, emotional, or behavioral disorder which is relevant to the practice of psychology or to other procedures directly related to the practice of psychology which are within the scope of the practice of psychology in accordance with rules adopted by the board.

2. A psychologist may not issue a prescription unless the psychologist holds a valid certificate of prescriptive authority issued under this chapter or the psychologist is acting within the scope of another profession that is authorized to issue a prescription.

3. A prescription issued by a medical psychologist must comply with all applicable state and federal laws and regulations and must be identified as written by a medical psychologist in a manner as determined by the board.

4. A medical psychologist shall maintain in a patient's record a record of all the patient's prescriptions.

5. A medical psychologist may not delegate the authority to prescribe drugs.

43-32.1-06. Controlled substances - Records. A medical psychologist who is authorized to prescribe a controlled substance shall timely file with the board the medical psychologist's drug enforcement agency registration and the North Dakota state controlled and dangerous substances license number. The board shall maintain current records of every medical psychologist, including the drug enforcement agency registration and number.

43-32.1-07. Board powers and duties. The board shall adopt rules relating to denying, modifying, suspending, and revoking the prescriptive authority issued under this chapter or the license issued under chapter 43-32 held by a medical psychologist. The board may require remediation of any deficiencies in the training or practice pattern of a medical psychologist when, in the judgment of the board, the deficiencies could reasonably be expected to jeopardize the health, safety, or welfare of the public.