

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative DeKrey

1 A BILL for an Act to amend and reenact section 43-28-25 of the North Dakota Century Code,
2 relating to the use of mercury in dental amalgams.

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

4 **SECTION 1. AMENDMENT.** Section 43-28-25 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-28-25. Unlawful acts - Penalty.** It is a class A misdemeanor:

- 7 1. For any dentist, dental hygienist, legal entity, or unlicensed person, who owns,
8 operates, or controls any room or office where dental work of any kind is done or
9 contracted for, to employ, keep, or retain any unregistered dentist, dental hygienist,
10 dental assistant, or other unregistered persons to do any dental work whatsoever,
11 except as otherwise provided by statute or rule.
- 12 2. For any dentist to help or assist any unlicensed person to perform any act or
13 operation that is defined as the practice of dentistry.
- 14 3. For any dentist to advise or direct patients to dental laboratories or dental
15 laboratory technicians for any dental service, or to advise or direct patients to deal
16 directly with laboratories or dental laboratory technicians.
- 17 4. For any dentist to work or cooperate with dental laboratories that advertise for
18 public patronage by delegating work to such laboratories in return for the reference
19 of laboratory patrons for professional services.
- 20 5. For any dentist to use the services of any person or legal entity not licensed to
21 practice dentistry in this state, to construct, alter, repair, or duplicate any denture,
22 plate, partial plate, bridge, splint, or orthodontic or prosthetic appliance, without first
23 furnishing such unlicensed person a written prescription on forms prescribed by the
24 board which must contain:

- 1 a. The name and address of such unlicensed person;
- 2 b. The patient's name or number and, in the event such number is used, the
- 3 name of the patient must be written upon the duplicate copy of such
- 4 prescription retained by the dentist;
- 5 c. The date on which it was written;
- 6 d. A prescription of the work to be done, with diagram, if necessary;
- 7 e. A specification of the type and quality of materials to be used; and
- 8 f. The signature of the dentist and the number of the dentist's North Dakota
- 9 license.

10 Such unlicensed person shall retain the original prescription and the dentist shall
11 retain a duplicate copy thereof for inspection by the board or the board's agent for
12 two years.

13 6. For any dentist:

- 14 a. To use the service of any unlicensed persons without first having furnished
- 15 the unlicensed person such prescription;
- 16 b. To fail to retain a duplicate copy thereof for two years; or
- 17 c. To refuse to allow the board or the board's agent to inspect such prescription
- 18 during the two-year period of time.

19 7. For any unlicensed person:

- 20 a. To perform any such service without first having obtained such prescription;
- 21 b. To fail to retain the original thereof for two years; or
- 22 c. To refuse to allow the board or the board's agent to inspect it during such
- 23 two-year period of time.

24 8. For any person:

- 25 a. To falsely claim or pretend to be a graduate from any dental college or the
- 26 holder of any diploma or degree from such college;
- 27 b. To practice any fraud and deceit either in obtaining a license or a certificate of
- 28 registration;
- 29 c. To falsely claim or pretend to have or hold a license or certificate of
- 30 registration from the board to practice dentistry; or

- 1 d. To practice dentistry in this state without a license and certificate of
2 registration.
- 3 9. For any person, except a North Dakota licensed practicing dentist, to own more
4 than forty-nine percent of an office practice or business at which the practice of
5 dentistry is performed. This provision does not apply to a board-approved medical
6 clinic, hospital, or public health setting with which a dentist is associated; a
7 board-approved nonprofit organization created to serve the dental needs of an
8 underserved population; or the heir or personal representative of a deceased
9 dentist. The heir or personal representative may operate an office under the name
10 of the deceased dentist for a period of not longer than two years from the date of
11 the dentist's death.
- 12 10. For any dentist to knowingly use dental amalgams that contain mercury.
- 13 11. The board may institute a civil action for an injunction prohibiting violations of this
14 section without proof that anyone suffered actual damages.