

Sixty-second  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1041

Introduced by

Legislative Management

(Long-Term Care Committee)

1 A BILL for an Act to create and enact a new chapter to title 23, subsection 13 to section  
2 43-12.1-04, and section 43-12.1-16.1 of the North Dakota Century Code, relating to a nurse  
3 aide registry, individuals exempt from regulation by the state board of nursing, and supervision  
4 of nursing interventions; to amend and reenact subsection 9 of section 43-12.1-02 and section  
5 43-12.1-16 of the North Dakota Century Code, relating to definitions, individuals exempt from  
6 regulation by the state board of nursing, and delegation of medication administration; and to  
7 provide ~~for application~~ an appropriation.

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

9 **SECTION 1.** A new chapter to title 23 of the North Dakota Century Code is created and  
10 enacted as follows:

11 **Definitions.**

12 As used in this chapter, unless the context otherwise requires, the following definitions  
13 apply:

- 14 1. "Certified nurse aide" means an individual who is registered on the nurse aide registry  
15 and who has either successfully completed the requirements for the  
16 department-approved training and competency evaluation program or has successfully  
17 completed the requirements of the department-approved competency evaluation  
18 program.
- 19 2. "Department" means the state department of health.
- 20 3. "Home health aide" means an individual who is registered on the nurse aide registry  
21 and who renders personal related service under the supervision of a registered  
22 professional nurse.
- 23 4. "Medication assistant" means an individual who is registered on the nurse aide registry  
24 and who has successfully completed the requirements of a department-approved

- 1           medication assistant program for a specific employment setting. A medication  
2           assistant may be designated a medication assistant I or a medication assistant II.  
3        5. "Nurse aide" means an individual who is registered on the nurse aide registry and who  
4           has successfully completed the competency requirements identified by the department  
5           to provide nursing or nursing-related services to an individual in a health care facility or  
6           other setting.  
7        6. "Nurse aide registry" means a listing of individuals who the department has  
8           determined have successfully completed the requirements established by the  
9           department to be designated as certified nurse aide, home health aide, nurse aide, or  
10          medication assistant.

11        **Nurse aide registry - Rules.**

- 12        1. The department shall establish and administer a nurse aide registry. The registry must  
13           include disciplinary findings, including findings of abuse, neglect, or misappropriation  
14           of property, and must include the eligibility of the individual to be employed.  
15        2. The health council shall adopt rules to regulate and register an individual who receives  
16           compensation for engaging in the provision of nursing or nursing-related services to an  
17           individual in a health care facility or other setting. The rules do not apply to a licensed  
18           health care professional practicing within the scope of that profession, an unlicensed  
19           assistive person under chapter 43-12.1, or a volunteer in the course of providing  
20           services without pay. In developing the rules, the health council shall consult with the  
21           state board of nursing and other key stakeholders.  
22        3. The rules required under subsection 2 must include the regulation of certified nurse  
23           aides, home health aides, medication assistants, and nurse aides. For each category  
24           of regulated individuals, the rules must address:  
25           a. Nurse aide registry requirements;  
26           b. Training and competency requirements;  
27           c. Approval of training programs;  
28           d. Initial registration and renewal of registration of individuals who have met training  
29           and competency requirements;  
30           e. Reporting and investigation of complaints regarding individuals on the registry;  
31           and

1           f. A disciplinary process for a validated finding of abuse, neglect, or  
2           misappropriation of resident or client property and for other misconduct that has  
3           the potential to be harmful to a resident or client by an individual on the nurse  
4           aide registry.

5           4. The department may ~~not charge~~ collect registration fees under this chapter ~~for initial~~  
6           registration or renewal of registration of an individual's registration status on the nurse  
7           aide registry, consistent with federal prohibition of charging an individual for initial  
8           registration or renewal of registration as a certified nurse aide from the individual or the  
9           individual's employer.

10          5. Registration fees collected by the department must be deposited in the department's  
11          operating account.

12          **SECTION 2. AMENDMENT.** Subsection 9 of section 43-12.1-02 of the North Dakota  
13 Century Code is amended and reenacted as follows:

14          9. "Unlicensed assistive person" means an assistant to the nurse, other than an  
15          individual who is registered on the state department of health nurse aide registry under  
16          section 1 of this Act, who regardless of title is authorized by the board to perform  
17          nursing interventions delegated and supervised by a nurse.

18          **SECTION 3.** Subsection 13 to section 43-12.1-04 of the North Dakota Century Code is  
19 created and enacted as follows:

20          13. An individual who is registered on the state department of health nurse aide registry  
21          under section 1 of this Act, including a certified nurse aide, home health aide, nurse  
22          aide, and medication assistant.

23          **SECTION 4. AMENDMENT.** Section 43-12.1-16 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25          **43-12.1-16. Delegation of medication administration.**

26          A licensed nurse may delegate medication administration to a person exempt under  
27 ~~subsections~~subsections 9 and 13 of section 43-12.1-04.

28          **SECTION 5.** Section 43-12.1-16.1 of the North Dakota Century Code is created and  
29 enacted as follows:

1        **43-12.1-16.1. Supervision and delegation of nursing interventions.**

2        A nurse may supervise and delegate nursing interventions to an individual exempt under  
3 subsection 13 of section 43-12.1-04.

4        **SECTION 6. APPLICATION**~~APPROPRIATION~~. ~~The state department of health shall~~  
5 ~~implement and administer the registration of unlicensed assistive persons as provided under~~  
6 ~~section 2 of this Act within the limits of the budget requested by the department. The~~  
7 ~~department may not add any full-time equivalent positions to assist with the implementation and~~  
8 ~~administration of the registration of unlicensed assistive persons.~~ There is appropriated out of  
9 any moneys in the state department of health operating fund in the state treasury, not otherwise  
10 appropriated, the sum of \$240,000, or so much of the sum as may be necessary, to the state  
11 department of health for the purpose of maintaining a nurse aide registry, for the biennium  
12 beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an  
13 additional one and one-half full-time equivalent positions provided to the state department of  
14 health to maintain the nurse aide registry.

15        **SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the general  
16 fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the  
17 sum as may be necessary, to the state department of health for the purpose of one-time costs  
18 to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30,  
19 2013. One-time funding amounts are not a part of the entity's base budget for the 2013-15  
20 biennium. The state department of health shall report to the appropriations committees of the  
21 sixty-third legislative assembly on the use of this one-time funding, for the biennium beginning  
22 July 1, 2011, and ending June 30, 2013.