

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
5 ~~section~~sections 43-12.1-16 and 50-30-02 of the North Dakota Century Code, relating to
6 definitions, individuals exempt from regulation by the state board of nursing, ~~and~~ delegation of
7 medication administration, and the health care trust fund; and to provide ~~for application an~~
8 appropriation.

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

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

12 **Definitions.**

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

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

1 4. "Medication assistant" means an individual who is registered on the nurse aide registry
2 and who has successfully completed the requirements of a department-approved
3 medication assistant program for a specific employment setting. A medication
4 assistant may be designated a medication assistant I or a medication assistant II.

5 5. "Nurse aide" means an individual who is registered on the nurse aide registry and who
6 has successfully completed the competency requirements identified by the department
7 to provide nursing or nursing-related services to an individual in a health care facility or
8 other setting.

9 6. "Nurse aide registry" means a listing of individuals who the department has
10 determined have successfully completed the requirements established by the
11 department to be designated as certified nurse aide, home health aide, nurse aide, or
12 medication assistant.

13 **Nurse aide registry - Rules.**

14 1. The department shall establish and administer a nurse aide registry. The registry must
15 include disciplinary findings, including findings of abuse, neglect, or misappropriation
16 of property, and must include the eligibility of the individual to be employed.

17 2. The health council shall adopt rules to regulate and register an individual who receives
18 compensation for engaging in the provision of nursing or nursing-related services to an
19 individual in a health care facility or other setting. The rules do not apply to a licensed
20 health care professional practicing within the scope of that profession, an unlicensed
21 assistive person under chapter 43-12.1, or a volunteer in the course of providing
22 services without pay. In developing the rules, the health council shall consult with the
23 state board of nursing and other key stakeholders.

24 3. The rules required under subsection 2 must include the regulation of certified nurse
25 aides, home health aides, medication assistants, and nurse aides. For each category
26 of regulated individuals, the rules must address:

27 a. Nurse aide registry requirements;

28 b. Training and competency requirements;

29 c. Approval of training programs;

30 d. Initial registration and renewal of registration of individuals who have met training
31 and competency requirements;

1 e. Reporting and investigation of complaints regarding individuals on the registry;
2 and

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

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

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

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

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

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

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

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

27 **43-12.1-16. Delegation of medication administration.**

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

30 **SECTION 5.** Section 43-12.1-16.1 of the North Dakota Century Code is created and
31 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.** The state department of health shall implement and~~
5 ~~administer the registration of unlicensed assistive persons as provided under section 2 of this~~
6 ~~Act within the limits of the budget requested by the department. The department may not add~~
7 ~~any full-time equivalent positions to assist with the implementation and administration of the~~
8 ~~registration of unlicensed assistive persons.~~

9 **SECTION 6. AMENDMENT.** Section 50-30-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **50-30-02. North Dakota health care trust fund created - Uses - Continuing**
12 **appropriation.**

13 1. There is created in the state treasury a special fund known as the North Dakota health
14 care trust fund. The fund consists of revenue received from government nursing
15 facilities for remittance to the fund under former section 50-24.4-30. The department
16 shall administer the fund. The state investment board shall invest moneys in the fund
17 in accordance with chapter 21-10, and the income earned must be deposited in the
18 North Dakota health care trust fund. All moneys deposited in the North Dakota health
19 care trust fund are available to the department for:

- 20 a. Transfer to the long-term care facility loan fund, as authorized by legislative
21 appropriation, for making loans pursuant to the requirements of this chapter.
22 b. Payment, as authorized by legislative appropriation, of costs of other programs
23 authorized by the legislative assembly.
24 c. Repayment of federal funds, which are appropriated and may be spent if the
25 United States department of health and human services determines that funds
26 were inappropriately claimed under former section 50-24.4-30.

27 d. **Operation and maintenance of the nurse aide registry.**

28 2. The department shall continue to access the intergovernmental transfer program if
29 permitted by the federal government and if use of the program is found to be
30 beneficial.

1 3. Moneys in the fund may not be included in draft appropriation acts under section
2 54-44.1-06, except for the operation and maintenance of the nurse aide registry as
3 provided for in this section.

4 **SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the state
5 department of health operating fund in the state treasury, not otherwise appropriated, the sum
6 of \$130,000, or so much of the sum as may be necessary, to the state department of health for
7 the purpose of maintaining a nurse aide registry, for the biennium beginning July 1, 2011, and
8 ending June 30, 2013. This appropriation includes funding for an additional one and one-half
9 full-time equivalent positions provided to the state department of health to maintain the nurse
10 aide registry.

11 **SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the health care
12 trust fund in the state treasury, not otherwise appropriated, the sum of \$155,000, or so much of
13 the sum as may be necessary, to the state department of health for the purpose of one-time
14 costs to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending
15 June 30, 2013.