

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1091
(Human Services Committee)
(At the request of the State Board of Nursing)

AN ACT to amend and reenact sections 43-12.1-02, 43-12.1-03, 43-12.1-05, 43-12.1-06, 43-12.1-08, 43-12.1-09, 43-12.1-09.1, 43-12.1-11, 43-12.1-13, and 43-12.1-14 and subsection 1 of section 43-12.1-17 of the North Dakota Century Code, relating to definitions concerning advanced practice registered nurses, licensed practical nurses, registered nurses, and specialty practice registered nurses, license and registration requirements, composition of the state board of nursing, qualifications of state board of nursing members, duties of the state board of nursing, initial licensure and registration, criminal history record checks, duties of licensees and registrants, disciplinary proceedings, and nursing education programs; and to repeal sections 43-12.1-18 and 43-12.1-20 of the North Dakota Century Code, relating to nursing practice standards and continuing education requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-02. Definitions.

In this chapter, unless the context otherwise requires:

1. "Advanced practice registered nurse" means an individual who holds a current license to practice in this state as an advanced practice registered nurse within one of the roles of certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or certified clinical nurse specialist, and who functions in one of the population foci as approved by the board.
2. "Board" means the North Dakota board of nursing.
3. "Licensed practical nurse" means an individual who holds a current license to practice in this state as a licensed practical nurse and who practices dependently under the supervision of a registered nurse, specialty practice registered nurse, advanced practice registered nurse, or licensed practitioner.
4. "Nurse" means an individual who is currently licensed as an advanced practice registered nurse, specialty practice registered nurse, registered nurse, or licensed practical nurse.
5. "Nursing" means the performance of acts utilizing specialized knowledge, skills, and abilities for people in a variety of settings. The term includes the following acts, which may not be deemed to include acts of medical diagnosis or treatment or the practice of medicine as defined in chapter 43-17:
 - a. The maintenance of health and prevention of illness.
 - b. Diagnosing ~~Assessing~~ and diagnosing human responses to actual or potential health problems.
 - c. Providing supportive and restorative care and nursing treatment, medication administration, health counseling and teaching, case finding and referral of individuals who are ill, injured, or experiencing changes in the normal health processes.

- d. Administration, teaching, supervision, delegation, and evaluation of health and nursing practices.
 - e. Collaboration with other health care professionals in the implementation of the total health care regimen and execution of the health care regimen prescribed by a health care practitioner licensed under the laws of this state.
6. "Prescriptive practices" means assessing the need for drugs, immunizing agents, or devices and writing a prescription to be filled by a licensed pharmacist.
 7. "Registered nurse" means an individual who holds a current license to practice in this state as a registered nurse and who practices nursing independently and interdependently through the application of the nursing process.
 8. "Specialty practice registered nurse" means an individual who holds a current license to practice in this state as a specialty practice registered nurse and who has current certification from a national certifying body in a specific area of nursing practice.
 9. "Unlicensed assistive person" means an assistant to the nurse, ~~other than an individual who is registered on the state department of health nurse aide registry;~~ who regardless of title is authorized by the board to perform nursing interventions delegated and supervised by a nurse.

SECTION 2. AMENDMENT. Section 43-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-03. License or registration required - Title - Abbreviation.

Any person who provides nursing care to a resident of this state must hold a current license or registration issued by the board. It is unlawful for a person to practice nursing, offer to practice nursing, assist in the practice of nursing, or use any title, abbreviation, or designation to indicate that the person is practicing nursing or assisting in the practice of nursing in this state unless that person is currently licensed or registered under this chapter. ~~A currently licensed advanced practice registered nurse or specialty practice registered nurse may use titles approved by the board.~~ An advanced practice registered nurse shall use the abbreviation "APRN" and may use the applicable role designation of certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or certified clinical nurse specialist inclusive of population foci. A currently licensed specialty practice registered nurse shall use the abbreviation "SPRN"; a currently licensed registered nurse may shall use the abbreviation "R.N."; a currently licensed practical nurse may shall use the abbreviation "L.P.N."; and an unlicensed assistive person with current registration may use the title identified by the employer. A person may not use the title "nurse" or be referred to as a "nurse" unless the person is currently licensed by the board or exempt under section 43-12.1-04.

SECTION 3. AMENDMENT. Section 43-12.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-05. Board of nursing - Composition - Term of office.

There is a state board of nursing whose members must be appointed by the governor which must consist of five registered nurses, ~~three~~ one advanced practice registered nurse, two licensed practical nurses, and one public member. Each board member must be appointed for a term of four years. No appointee may be appointed for more than two consecutive terms. An appointment for an unexpired term of more than eighteen months will constitute a full term. Terms of nurse board members must be evenly distributed to allow two licensed nurse board members to be appointed or reappointed each year.

SECTION 4. AMENDMENT. Section 43-12.1-06 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-06. Qualifications of board members.

1. Each registered nurse must be an eligible voting resident of this state, possess an unencumbered registered nurse license under this chapter, and be currently engaged in practice as a registered nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
2. Each licensed practical nurse must be an eligible voting resident of this state, possess an unencumbered practical nurse license under this chapter, and be currently engaged in practice as a licensed practical nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
3. Each advanced practice registered nurse must be an eligible voting resident of this state, possess an unencumbered advanced practice registered nurse license under this chapter, and be currently engaged in practice as an advanced practice registered nurse.
- ~~3.4.~~ Each public member must be an eligible voting resident of this state and have no employment, professional license, or financial interest with any health care entity.
- 4.5. Each member appointed to the board shall maintain the qualifications for appointment for the duration of the appointment. The governor may remove any member of the board for cause upon recommendation of two-thirds of the members of the board.

SECTION 5. AMENDMENT. Section 43-12.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-08. Duties of the board.

1. The board shall regulate the practice of nursing. ~~Regulation of the practice of nursing must ensure that a person may not practice or offer to practice nursing or use titles of advanced practice registered nurse, specialty practice registered nurse, registered nurse, licensed practical nurse, or unlicensed assistive person, or titles of a similar nature which denote the practice of nursing to the general public unless licensed or registered as provided in this chapter.~~
2. The board shall:
 - a. Enforce this chapter.
 - b. Adopt and enforce administrative rules necessary to administer this chapter after collaborating and consulting with North Dakota nursing ~~associations~~organizations and other affected parties.
 - c. Appoint and employ a registered nurse to serve as executive director and approve any additional staff positions necessary to administer this chapter.
 - d. Establish fees and receive all moneys collected under this chapter and authorize all expenditures necessary to conduct the business of the board. Any balance of fees after payment of expenditures must be used to administer this chapter.
 - e. Collect and analyze data regarding nursing education, nursing practice, and nursing resources.
 - f. Issue and renew limited licenses or registrations to individuals requiring accommodation to practice nursing or assist in the practice of nursing.
 - g. ~~Establish confidential programs for the rehabilitation of nurses with workplace impairments.~~

- h. Establish a nursing student loan program funded by license fees to encourage individuals to enter and advance in the nursing profession.
- i.h. Establish a registry of individuals licensed or registered by the board.
- j.i. Report annually to the governor and nursing profession regarding the regulation of nursing in the state.
- k.j. Conduct and support projects pertaining to nursing education and practice.
- l. ~~Notify the board of pharmacy on an annual basis, or more frequent basis if necessary, of advanced practice registered nurses authorized to write prescriptions.~~
- m.k. Adopt and enforce administrative rules to allow nurses licensed by another state to receive short-term clinical education in North Dakota health care facilities.
 - l. License qualified applicants for nurse licensure.
 - m. Register qualified applicants for the unlicensed assistive person registry.
 - n. Adopt and enforce rules for continuing competence of licensees and registrants.
 - o. Adopt and enforce rules for nursing practices.
 - p. Issue practice statements regarding the interpretation and application of this chapter.

SECTION 6. AMENDMENT. Section 43-12.1-09 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-09. Initial licensure and registration.

1. The board shall license nurses and register ~~nursing~~ and unlicensed assistive person applicants. The board shall adopt and enforce administrative rules establishing qualifications for initial nursing licensure and unlicensed assistive person registration and for issuing limited licenses and registrations pursuant to subsection 3.
2. Each applicant who successfully meets the requirements of this section is entitled to initial licensure or registration as follows:
 - a. An applicant for licensure by examination to practice as a registered nurse or licensed practical nurse shall:
 - (1) Submit a completed application and appropriate fee as established by the board.
 - (2) Submit an official transcript ~~showing that verifies~~ completion of an a board-approved in-state nursing education program that prepares the graduate for the level of licensure sought; or a board-approved submit an official transcript that verifies completion of an out-of-state nursing education program preparing that is approved by the state board of nursing of the jurisdiction in which the program is headquartered and that prepares the graduate for the level of licensure sought. The board shall adopt rules establishing standards for the approval of out-of-state nursing education programs. ~~These standards for out-of-state programs must include consideration of whether the program is accredited by the national league for nursing accrediting commission, incorporated, or the commission on collegiate nursing education and whether the program meets the requirements of the state in which the program is provided.~~
 - (3) Pass an examination approved by the board.

- b. An applicant for licensure by endorsement to practice as a registered nurse or licensed practical nurse shall:
- (1) Submit a completed application and appropriate fee as established by the board.
 - (2) Submit an official transcript ~~showing that verifies~~ completion of a nursing education program approved by the state board of nursing of the jurisdiction in which the program is headquartered and preparing the graduate for the level of licensure sought.
 - (3) Submit proof of initial licensure by examination with the examination meeting North Dakota requirements for licensure examinations in effect at the time the applicant qualified for initial licensure.
 - (4) Submit evidence of current unencumbered licensure in another state or jurisdiction or meet continued competency requirements as established by the board.
 - (5) Notwithstanding the foregoing requirements of this subdivision, if an applicant for licensure as a licensed practical nurse is not required to meet any additional academic educational requirements for licensure as a licensed practical nurse if the applicant has been licensed in another state as a licensed practical nurse based upon completion of a registered nurse education program and if the applicant has had at least twenty-four months of unencumbered practice as a licensed practical nurse in another state within the five-yearfour-year period immediately preceding the application, ~~then the applicant is not required to meet any additional educational requirements for licensure as a licensed practical nurse.~~
- c. An applicant for licensure as an advanced practice registered nurse shall:
- (1) Submit a completed application and appropriate fee as established by the board.
 - (2) Submit evidence of appropriate education and current certification in an advanced nursing role by a national nursing organization meeting criteria as established by the board. An advanced practice registered nurse applicant must have a graduate degree with a nursing focus or must have completed the educational requirements in effect when the applicant was initially licensed.
 - (3) Possess or show evidence of application for a current unencumbered registered nurse license.
- d. An applicant for licensure as an advanced practice registered nurse who completed an advanced nursing education program and was licensed or certified in advanced practice ~~by another state before January 1, 2001, or who completed an advanced nursing education program and was licensed or certified as a women's health care nurse practitioner by another state before January 1, 2007~~December 31, 2015, may apply for and receive an advanced practice license if that applicant meets the requirements that were in ~~place in this state~~effect at the time the applicant qualified for initial advanced practice licensure ~~in that state~~.
- e. An applicant for unlicensed assistive person registration shall:
- (1) Submit a completed application and the appropriate fee as established by the board.
 - (2) Provide verification of appropriate training or evidence of certification or evaluation in the performance of basic nursing interventions.
- f. An applicant for licensure as a specialty practice registered nurse shall:

- (1) Submit a completed application and appropriate fee as established by the board.
- (2) Submit evidence of appropriate education and current certification in a specialty nursing role by a national nursing organization meeting criteria as established by the board. A specialty practice registered nurse applicant must have the educational preparation and national certification within a defined area of nursing practice.
- (3) Possess or show evidence of application for a current unencumbered registered nurse license.

3. For good cause shown, the board may issue a limited license or registration to an applicant.

SECTION 7. AMENDMENT. Section 43-12.1-09.1 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-09.1. Nursing licensure or registration - Criminal history record checks.

The board ~~may~~shall require each applicant for initial ~~or renewed~~ nursing licensure and registration ~~to submit to a statewide and nationwide criminal history record check. The board may require any licensee or registrant who is renewing a license~~ or registration and any licensee or registrant who is the subject of a disciplinary investigation or proceeding to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant, licensee, or registrant. The board may grant a nonrenewable temporary permit to an applicant for initial or renewed license or registration who submits to a criminal history record check as required by this chapter if the applicant has met all other licensure or registration requirements in accordance with subsection 2 of section 43-12.1-09.

SECTION 8. AMENDMENT. Section 43-12.1-11 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-11. Duties of licensees and registrants.

Each individual licensed or registered by the board shall provide information requested by the board at the time of renewal or reactivation. Each individual licensed or registered by the board shall report to the board any knowledge of the performance ~~by others~~ of those acts or omissions that are violations of this chapter or grounds for disciplinary action as set forth in section 43-12.1-14. Each licensee or registrant shall report to the board any judgment or settlement in a professional or occupational malpractice action to which the licensee or registrant is a party. Any person, other than a licensee or registrant alleged to have violated this chapter, participating in good faith in making a report, assisting in an investigation, or furnishing information to an investigator, is immune from any civil or criminal liability that otherwise may result from reporting required by this section. For the purpose of any civil or criminal proceeding the good faith of any person required to report under this section is presumed.

SECTION 9. AMENDMENT. Section 43-12.1-13 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-13. Disciplinary proceedings.

Disciplinary proceedings under this chapter must be conducted in accordance with chapter 28-32. Fees for each separate violation or the assessment of costs and disbursements, or both, may be imposed against a respondent in addition to any licensure or registration sanctions the board may impose. An appeal from the final decision of the board may be taken to the district court of Burleigh County under chapter 28-32. The board shall furnish to ~~the boards of nursing of other states by means including the data bank of the national council of state boards of nursing, to data banks as required by federal law and to health care agencies of this state,~~ the required state and federal databanks a list of ~~the names and addresses of licensees or registrants~~ individuals who have been disciplined by the board.

SECTION 10. AMENDMENT. Section 43-12.1-14 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-14. Grounds for discipline - Penalties.

The board may deny, limit, revoke, encumber, or suspend any license or registration to practice nursing issued by the board or applied for in accordance with this chapter; reprimand, place on probation, or otherwise discipline a licensee, registrant, or applicant; deny admission to licensure or registration examination; ~~provide an alternative to discipline in situations involving impairments of chemical dependency or psychiatric or physical disorders;~~ require evidence of evaluation and treatment; or issue a nondisciplinary letter of concern to a licensee, registrant, or applicant, upon proof that the person:

1. Has been arrested, charged, or convicted by a court, or has entered a plea of nolo contendere to a crime in any jurisdiction that relates adversely to the practice of nursing and the licensee or registrant has not demonstrated sufficient rehabilitation under section 12.1-33-02.1;
2. Has been disciplined by a board of nursing in another jurisdiction, or has had a license or registration to practice nursing or to assist in the practice of nursing or to practice in another health care occupation or profession denied, revoked, suspended, or otherwise sanctioned;
3. Has engaged in any practice inconsistent with the standards of nursing practice;
4. Has obtained or attempted to obtain by fraud or deceit a license or registration to practice nursing, or has submitted to the board any information that is fraudulent, deceitful, or false;
5. Has engaged in a pattern of practice or other behavior that demonstrates professional misconduct;
6. Has diverted or attempted to divert supplies, equipment, drugs, or controlled substances for personal use or unauthorized use;
7. Has practiced nursing or assisted in the practice of nursing in this state without a current license or registration or as otherwise prohibited by this chapter;
8. Has failed to report any violation of this chapter or rules adopted under this chapter; or
9. Has failed to observe and follow the duly adopted standards, policies, directives, and orders of the board, or has violated any other provision of this chapter.

SECTION 11. AMENDMENT. Subsection 1 of section 43-12.1-17 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall adopt and enforce administrative rules establishing standards for in-state nursing education programs leading to initial or advanced licensure. ~~A nursing education program may not be provided in this state unless the board has approved the program.~~ In-state programs must be approved by the board. Out-of-state programs must be approved by the state board of nursing of the jurisdiction in which the program is headquartered. The board shall approve, review, and reapprove nursing education programs in this state. The board may not require a statement of intent as part of the approval process under this section.

SECTION 12. REPEAL. Sections 43-12.1-18 and 43-12.1-20 of the North Dakota Century Code are repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1091.

House Vote: Yeas 92 Nays 1 Absent 1

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State