

Sixty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2353

Introduced by

Senators J. Lee, Burckhard, Heckaman

Representatives Nathe, J. Nelson, Sanford

1 A BILL for an Act to create and enact chapter 43-63 of the North Dakota Century Code, relating
2 to uniform regulation of occupations and professions; ~~to amend and reenact subsection 4 of~~
3 ~~section 54-10-01 and section 54-10-27 of the North Dakota Century Code, relating to duties of~~
4 ~~the state auditor; to provide a penalty; and~~ to provide for a legislative management study; ~~and to~~
5 ~~provide an effective date.~~

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

7 **SECTION 1.** Chapter 43-63 of the North Dakota Century Code is created and enacted as
8 follows:

9 **43-63-01. Definitions.**

10 As used in this chapter:

- 11 1. "Board" means a board, commission, or other agency of state government created or
12 identified in this title to regulate an occupation or profession.
- 13 2. ~~"Foreign license" means a license, certificate, permit, or similar authorization to~~
14 ~~practice an occupation or profession which is issued by a government agency in~~
15 ~~another state or jurisdiction that imposes requirements for obtaining and maintaining a~~
16 ~~license to practice the same occupation or profession.~~
- 17 ~~3. "Foreign practitioner" means an individual who holds and maintains a foreign license~~
18 ~~in good standing to engage in an occupation or profession in a state or jurisdiction~~
19 ~~other than this state and who is not the subject of a pending disciplinary action in any~~
20 ~~state or jurisdiction.~~
- 21 ~~4. "Good standing" means a foreign practitioner holds a foreign license that is not issued~~
22 ~~on a temporary or restricted basis, is not encumbered or on probation, and is not~~
23 ~~suspended or revoked.~~

~~5. "Occupation or profession" means activity for which a license is required from a board or similar activity for which a foreign license is required in another state or jurisdiction.~~

43-63-02. Boards - Duties - Powers.

Notwithstanding law to the contrary:

1. A board shall:

a. ~~Adopt rules to implement this chapter.~~

~~b. Establish a fee schedule designed to fund the activities of the board.~~

~~e.b. Meet at the call of the presiding officer, but not fewer than twice per year.~~

~~d. Establish and implement a strategic plan to regulate occupations and professions in the least restrictive manner appropriate to protect public health and safety.~~

~~e.c. Keep divided and may not commingle board funds and any professional association funds submitted to the board.~~

2. A board may:

a. Establish continuing education requirements, which may include board-approval requirements.

b. Provide professional education for licensees or individuals who may be interested in pursuing the regulated occupation or profession.

~~**43-63-03. Board membership - Appointment - Terms.**~~

~~Notwithstanding law to the contrary:~~

~~1. The governor shall appoint the members of a board.~~

~~a. The regular term of a board member is three years and begins on August first following the appointment. An individual may not serve more than two consecutive full terms as a member on a board, after which an individual may not be reappointed until the expiration of three years.~~

~~b. A board member serves at the pleasure of governor. Upon the expiration of a term, a board member shall continue to serve until the governor makes an appointment to fill that position.~~

~~c. In addition to any professional requirements, a board member must be at least eighteen years old and must be a resident of this state.~~

~~d. Each board must have at least five and no more than thirteen voting members, at least two of whom must serve as lay members.~~

1 ~~2. Each member of a board, except for a state employee serving as ex officio member, is~~
2 ~~entitled to receive from the board compensation of one hundred seventy-seven dollars~~
3 ~~per day spent in actual attendance at board meetings and reimbursement for mileage~~
4 ~~and travel expenses at the same rate as provided for state employees and officials.~~

5 ~~3. Each member of a board shall maintain the qualifications for appointment for the~~
6 ~~duration of the appointment.~~

7 ~~**43-63-04. Regulation - Terms of licensure - Renewal.**~~

8 ~~Notwithstanding law to the contrary:~~

9 ~~1. A license issued by the board is valid through December thirty-first of the year of~~
10 ~~issuance.~~

11 ~~2. Annually, a licensee may renew a license upon:~~

12 ~~a. Submitting fees for licensure renewal in an amount established by the board.~~

13 ~~b. Submitting proof of completion of six hours of continuing education.~~

14 ~~3. A licensee that does not renew a license timely may not practice in this state until the~~
15 ~~license is renewed or reissued. Through March thirty-first of the year of licensure, a~~
16 ~~professional may renew a license without incurring additional renewal expenses. After~~
17 ~~March thirty-first of the year of licensure, a board may charge a late fee for licensure~~
18 ~~renewal. If a professional fails to renew a license before the end of the year of~~
19 ~~licensure, the board may require the professional to reapply for future licensure.~~

20 ~~**43-63-05. Licensure of foreign practitioners.**~~

21 ~~Notwithstanding law to the contrary, a board shall issue a license to an applicant who is a~~
22 ~~foreign practitioner, unless the board determines the issuance of the license would jeopardize~~
23 ~~the health and safety of the residents of this state. If the board determines licensure under this~~
24 ~~section would jeopardize the health and safety of the residents of this state, the board may deny~~
25 ~~the application or may issue a provisional license, issue a restricted license, or otherwise~~
26 ~~authorize limited practice to protect the health and safety of the residents of this state.~~

27 ~~**43-63-06**~~**43-63-03. Board training.**

28 ~~Annually, the attorney general shall conduct online or in person training for new board~~
29 ~~members. The training must include information regarding open meetings and open records,~~
30 ~~lobbying, and conflicts of interest. During the first year of eachthe initial term a board member~~

1 serves, the board member shall attend this training and after that first year, the board member
2 may attend this training.

3 ~~— **43-63-07. Board - Grievances.**~~

4 ~~— The governor, in consultation with the attorney general, shall establish a grievance~~
5 ~~procedure for addressing a grievance against a board. The attorney general shall investigate~~
6 ~~and work to resolve complaints regarding board conduct.~~

7 ~~— **43-63-08. Discipline - Penalty.**~~

8 ~~— Notwithstanding law to the contrary:~~

9 ~~— 1. A board shall conduct a disciplinary proceeding in accordance with chapter 28-32.~~

10 ~~— 2. A board may deny, limit, revoke, encumber, or suspend a license; may reprimand,~~

11 ~~place on probation, or otherwise discipline a licensee; may deny admission to~~

12 ~~licensure or examination; require evidence of evaluation or treatment; or issue a~~

13 ~~nondisciplinary letter of concern to a licensee if the person:~~

14 ~~—— a. Has been arrested for, charged with, convicted by a court of, or has entered a~~

15 ~~plea of nolo contendere to a crime in any jurisdiction which relates adversely to~~

16 ~~the practice of the occupation or profession and has not demonstrated sufficient~~

17 ~~rehabilitation.~~

18 ~~—— b. Has been the subject of a disciplinary action in a foreign jurisdiction relating to~~

19 ~~the practice of the occupation or profession.~~

20 ~~—— c. Has violated this chapter or rules adopted under this chapter.~~

21 ~~—— d. Has engaged in a practice inconsistent with the person's occupational or~~

22 ~~professional standards.~~

23 ~~— 3. It is a class B misdemeanor for a person to willfully practice an occupation or~~

24 ~~profession in violation of this chapter or employ a person to practice an occupation or~~

25 ~~profession in violation of this chapter.~~

26 ~~— **SECTION 2. AMENDMENT.** Subsection 4 of section 54-10-01 of the North Dakota Century~~
27 ~~Code is amended and reenacted as follows:~~

28 ~~— 4. Perform or provide for performance audits of state agencies, including occupational~~

29 ~~and professional boards, or the agencies' blended component units or discreetly~~

30 ~~presented component units, as determined necessary by the state auditor or the~~

31 ~~legislative audit and fiscal review committee. A performance audit must be done in~~

1 ~~accordance with generally accepted auditing standards applicable to performance-~~
2 ~~audits. The state auditor may not hire a consultant to assist with conducting a~~
3 ~~performance audit of a state agency or occupational or professional board without the~~
4 ~~prior approval of the legislative audit and fiscal review committee. The state auditor~~
5 ~~shall notify an agency or board of the need for a consultant before requesting approval~~
6 ~~by the legislative audit and fiscal review committee. The agency that is or board~~
7 ~~audited shall pay for the cost of any consultant approved.~~

8 ~~— **SECTION 3. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is-~~
9 ~~amended and reenacted as follows:~~

10 ~~— **54-10-27. Occupational and professional boards -- Audits and reports.**~~

11 ~~— The governing board of any~~

12 ~~— 1. Biennially, the state auditor shall conduct annual audits of occupational or professional~~
13 ~~board shall provide for an audit once every two years by a certified public accountant~~
14 ~~or licensed public accountant. The accountant conducting the audit shall submit the~~
15 ~~audit report to the state auditor's office. If the report is in the form and style prescribed~~
16 ~~by the state auditor, the state auditor may not audit that board. An occupational or~~
17 ~~professional board may request the state auditor to conduct its audit, and if the state~~
18 ~~auditor agrees to conduct the audit, the boards. The state auditor shall deposit the fees~~
19 ~~charged to the occupational or professional board into the state auditor operating~~
20 ~~account.~~

21 ~~— 2. Instead of providing for an audit every two years, an occupational or professional~~
22 ~~board that has less than two hundred thousand dollars of annual receipts may submit~~
23 ~~an annual report to the state auditor. The report must contain the information required~~
24 ~~by the state auditor. The state auditor also may make any additional examination or~~
25 ~~audit determined necessary in addition to the annual report. WhenIf a report is not~~
26 ~~filed, the state auditor may charge the occupational or professional board an amount~~
27 ~~equal to the fair value of the additional examination or audit and any other services~~
28 ~~rendered. The state auditor may charge an occupational or professional board a fee~~
29 ~~not to exceed fifty dollars an hour for the costs of reviewing the annual report.~~

30 ~~— 3. If an audit report or annual report shows the amount of the unobligated and~~
31 ~~undesignated balance of a board's operating fund exceeds two hundred fifty thousand~~

~~dollars, the report must include a statement from the board regarding the board's
future plans for this excess amount.~~

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - OCCUPATIONAL AND

PROFESSIONAL REGULATION. During the 2019-20 interim, the legislative management shall consider studying the state's system for regulating occupations and professions, including consideration of the powers, duties, and membership of occupational and professional boards; qualification, appointment, removal, compensation, and reimbursement of occupational and professional board members; occupational and professional board membership representation of the occupations and professions the board regulates; occupational and professional licensure and license renewal requirements; grievance procedures against occupational and professional boards; audit and performance audit requirements for occupational and professional boards; and disciplinary actions initiated by occupational and professional boards. The study must include reports from the job service North Dakota workforce development council on the status of its study of the state's occupational licensing system and consultation with occupational and professional boards. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

~~— **SECTION 5. EFFECTIVE DATE.** Sections 1, 2, and 3 of this Act become effective
January 1, 2022.~~